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Currents of Control: What the New Executive Order on Bulk-Power System Equipment Means for Your Business

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KEY POINTS

- Executive Order 14420, signed August 26, 2026, authorizes DOE to prohibit transactions involving foreign-produced bulk-power system electric equipment linked to Covered Foreign Entities, including Chinese companies, when DOE determines the transaction poses an unacceptable national security risk.
- The Order applies to high-voltage infrastructure operating at or above 69 kV and covers not only physical equipment — including transformers, inverters, generators, and BESS — but also associated software, firmware, and remote-access capabilities.
- DOE has 120 days to publish implementing regulations that will define Covered Foreign Entities, establish licensing procedures, and create pre-qualified vendor lists; until those rules are published, no individual transactions are formally prohibited.
- Prohibition authority extends retroactively to already-installed equipment, and DOE may require disconnection or removal of existing Covered Equipment after weighing effects on reliability and continuity of service.
- Companies should immediately conduct supply chain audits, review EPC and financing contracts for change-in-law and force majeure provisions, and participate in the DOE rulemaking to shape Covered Foreign Entity definitions and licensing criteria.

On August 26, 2026, President Donald Trump signed Executive Order 14420 (the Order), invoking the national emergency authority under the International Emergency Economic Powers Act (IEEPA) to address perceived national security risks posed by foreign-produced bulk-power system electric equipment. The Order directs the Department of Energy (DOE) to craft rules within 120 days that will prohibit certain transactions involving such equipment, including imposing conditions on existing installations or potentially even requiring removal of existing equipment. The Order also mandates updates to the Federal Acquisition Regulation (FAR) to leverage federal government contracting authorities to the same ends. This alert explains what the Order does, identifies key open questions, and outlines practical steps companies should take now.

WHY NOW?

This type of regulatory regime has been in the works for years, but the government was unable to decide on the best mechanism to implement it. Now, the artificial intelligence (AI) boom has made the imperative for action stronger than ever.

The Order cites the potential for digital backdoors that could allow remote access and sabotage, a threat the

administration says has become more acute given the rapid growth of data centers, AI, and advanced manufacturing that have increased U.S. dependence on reliable electricity and the equipment needed to produce and distribute it.

This is not a new idea — far from it. The Order follows and expands upon Executive Order 13920 (EO 13920) from May 2020, which targeted similar vulnerabilities but was never implemented in full before being suspended in January 2021 as one of President Joe Biden's first acts in office. Under EO 13920, DOE issued a December 2020 order prohibiting a limited number of utilities from acquiring, importing, transferring, or installing certain bulk power system electric equipment linked to China. Upon suspending that initiative, DOE put out a request for information seeking "to develop a strengthened and administrable strategy to address the security of the U.S. energy sector." In the intervening years, modest steps were taken by the Federal Energy Regulatory Commission (FERC) and the North American Electric Reliability Corporation (NERC) to begin to highlight the need for national security-based risk assessments in procurement by U.S. energy companies.

As we discussed last year, there were indications that the Commerce Department's Information and Communications Technology and Services (ICTS) office may take the lead in regulating this space after the suspension of the DOE-led framework under EO 13920. We explored in a recent article the apparent sidelining of the ICTS office at Commerce so far by this administration. The Order shifts the primary regulatory responsibility to DOE; yet, it echoes the broad authorizing language underlying the ICTS regime, which was also used in EO 13920.

WHAT THE ORDER PROHIBITS

The Order prohibits any acquisition, importation, transfer, or installation of foreign-produced bulk-power system electric equipment (each, a Transaction) where:

- The Transaction involves any property in which a foreign country or national thereof has any interest;
- The Transaction was initiated after August 26, 2026; and
- DOE determines that:
  - The equipment (or any critical component, software, firmware, digital service, maintenance service, or remote-access capability associated with it) was designed, developed, manufactured, or supplied by a person owned by, controlled by, or subject to the jurisdiction or direction of a Covered Foreign Entity (defined below); and
  - The Transaction poses an undue risk of sabotage, subversion, unauthorized access, malicious remote action, or supply disruption; poses an undue risk of catastrophic effects on U.S. critical infrastructure or the economy; or otherwise poses an unacceptable risk to national security or the safety of U.S. persons.

The prohibitions that DOE will draft may apply retroactively, even where a contract was in place before the Order's issuance.

SCOPE: WHAT IS COVERED

DOE may prohibit a Transaction under the Order only when all four of the following elements are present: (1) it involves the bulk-power system; (2) it involves Covered Equipment; (3) that equipment has a connection to a Covered Foreign Entity; and (4) DOE determines there is an unacceptable risk to national security arising from the Transaction. We explain each of these key concepts below.

BULK-POWER SYSTEM

The Order applies only to high-voltage infrastructure (operating at or above 69 kilovolts (kV)). Local distribution facilities (the lines and equipment that deliver electricity to homes and businesses) are expressly excluded. In practical terms, this means the Order targets not only transmission lines and substations but also power generating stations and their control systems. Notably, the Order's definition of "bulk-power system" expressly encompasses "electric energy from generation facilities needed to maintain electric system reliability," meaning generation resources (including battery energy storage systems (BESS) that interconnect at transmission-level voltages) are within scope.

COVERED EQUIPMENT

The Covered Equipment list is expansive, but applies only to items used in the bulk-power system, such as substations, control rooms, and/or power generating stations (*i.e.*, equipment operating within the 69 kV-and-above system). The same types of equipment used in other contexts — such as water systems, industrial facilities, or commercial buildings — are generally outside scope. Covered equipment includes:

- Substation transformers and voltage regulators;
- Large and small generators, backup generators, and generation turbines;
- Grid-connected and utility-scale inverters;
- Battery energy storage systems (BESS);
- Uninterruptible power supply systems supporting critical infrastructure;
- Industrial control systems (*e.g.*, remote terminal units, programmable logic controllers, and intelligent electronic devices), distributed control systems, and safety instrumented systems — but only when used within the bulk-power system, not in water, industrial, or other non-grid applications;
- Protective relaying, metering equipment, and circuit breakers; and
- Current coupling capacitors, instrument transformers, and automatic circuit reclosers.

The Order does not stop at physical hardware. It covers any "critical component, software, firmware, digital service, maintenance service, or remote-access capability associated with" covered equipment. In practical terms, this means that if a piece of covered equipment relies on software or firmware to operate, or is serviced or monitored remotely, those digital elements are themselves also within scope — regardless of where the physical hardware was manufactured. For example, an inverter assembled in the U.S. but running foreign-developed firmware, or maintained remotely by a foreign-controlled vendor, could be treated as Covered Equipment because of its digital dependency.

The Order states that items not on the preceding list, or that have broader commercial applications unrelated to the bulk-power system, "are outside the scope of this order." However, this exclusion is narrower than it first appears. The Order also grants agencies discretion to "consider associated software and firmware, remote access capabilities, lifecycle maintenance and update mechanisms, and other supply chain dependencies that could present an unacceptable risk to the bulk-power system" when determining whether equipment falls within scope. This open-ended "other supply chain dependencies" language could function as a catch-all that preserves DOE's ability to reach equipment not expressly enumerated if it determines the item presents an unacceptable supply chain risk to the grid.

COVERED FOREIGN ENTITY

The Order does not prohibit all foreign-sourced bulk-power system equipment. It prohibits Transactions involving Covered Equipment that is designed, developed, manufactured, or supplied by a person owned by, controlled by, or subject to the jurisdiction or direction of a Covered Foreign Entity.

A Covered Foreign Entity is broadly defined to mean:

- Any country subject to a U.S. arms embargo or other restrictions under the International Traffic in Arms Regulations (ITAR), which includes China, or that DOE determines is engaged in conduct detrimental to U.S. national security or foreign policy; *or*
- Any person owned by, controlled by, or subject to the jurisdiction or direction of the government of such a country.

Based on this definition, all Chinese companies, and many non-Chinese companies with links to China (*e.g.*, ownership or control) are potentially within the Order's reach.

INDUSTRY IMPACT BY SEGMENT

The Order's broad definitions of Covered Equipment and Covered Foreign Entity create significant exposure across the energy sector, with the degree of risk varying by supply chain structure. BESS faces among the highest risks, as the global BESS supply chain is dominated by Chinese manufacturers. Even BESS systems assembled domestically frequently incorporate Chinese-origin cells and battery management systems, although tax credits and DOE and Department of Defense/War funding have resulted in more recent non-China-associated domestic BESS and supply chain production. Utility-scale solar faces similar exposure through covered inverters and the Order's inclusion of associated software, firmware, and remote access capabilities. Wind is better positioned, because some of the major turbine original equipment manufacturers are European-headquartered — though Chinese market share in this sector has skyrocketed in recent years. Moreover, the broad definition of Covered Foreign Entity and DOE's discretion to designate additional countries mean a broader scope of foreign companies could potentially be swept in.

CONTRACTING AND COST ALLOCATION RISK

For new projects, not all standard financing agreements, engineering, procurement, and construction (EPC) contracts, and equipment supply agreements specifically account for IEEPA-based prohibition orders. Force majeure clauses typically require that the triggering event be unforeseeable. Many EPC agreements and others contain change-in-law provisions that may be triggered by the Order; however, whether this Order triggers such a provision under a particular contract will depend.

For existing installations, the Order grants DOE authority to impose conditions up to and including disconnection and removal of already-installed Covered Equipment, but requires DOE to "consider effects on reliability and safety, the availability of secure replacements, and continuity of essential service". Alternatively, DOE may impose graduated conditions on already-installed equipment, including requirements to: (i) identify and inventory Covered Equipment; (ii) isolate or monitor the equipment; or potentially (iii) disconnect, replace, or remove it.

Developers, finance parties, equipment suppliers, and asset owners should audit active and draft contracts for

regulatory change-in-law provisions, force majeure definitions, equipment substitution rights, and indemnification provisions. New contracts should explicitly allocate IEEPA prohibition risk.

The financing market has been here before: following the issuance of EO 13920 in 2020, tax equity investors and construction lenders began requiring developers to fund potential equipment replacement reserves and submit to cybersecurity audit conditions — contractual provisions that remain embedded in many project financing documents today. Those reserves were typically structured as conditional obligations, triggered upon either: (i) a government determination or order requiring removal or replacement of installed equipment; or (ii) a regulatory change that renders existing equipment noncompliant. Because the Order grants DOE authority to order disconnection and replacement of Covered Equipment, and because the implementing regulations (due within 120 days) may designate specific equipment or vendors as prohibited, both trigger mechanisms are now implicated. Lenders and tax equity investors are likely to impose similar (and potentially more stringent) requirements on new financing going forward.

MITIGATION, LICENSING, AND PRE-QUALIFICATION

The Order provides three relief mechanisms:

1. **Mitigation Agreements.** DOE may impose mitigation measures as a precondition for approving an otherwise-prohibited Transaction. This mirrors the Commerce ICTS framework, existing procedures used by the Federal Communications Commission (FCC) under its "Covered List," as well as the Committee on Foreign Investment in the U.S. (CFIUS) mitigation framework, providing for a case-by-case national security review process for some Transactions. At the same time, the Nuclear Regulatory Commission (NRC) has established a new framework for assessing and mitigating foreign ownership, control, or domination (FOCD) in the nuclear power generation sector.
2. **Licenses.** Rules and regulations issued under the Order may establish procedures to license otherwise-prohibited Transactions – providing a potential pathway for companies with existing supplier relationships to seek specific authorization.
3. **Pre-Qualified Vendor/Equipment Lists.** DOE may establish criteria and publish lists of pre-qualified vendors and equipment that are exempt from the prohibition. This is a functionally similar trusted supplier framework to what Commerce's ICTS office has at its disposal, and to what the FCC has recently been implementing for its "Covered List" process.

None of these pathways are operational yet. All depend on regulations that DOE must publish within 120 days of the Order.

REGULATORY TIMELINE AND WHAT COMES NEXT

The Order contains several deadlines that will define when the framework becomes fully operational:

Deadline	Requirement
As soon as practicable	DOE must identify covered at-risk equipment already in the U.S. bulk-power system and submit recommendations to the President.
120 days (by late December 2026)	DOE must publish implementing regulations, including definitions of Covered Foreign Entities, licensing procedures, and pre-qualification criteria.
180 days (by late February 2027)	DOE must submit recommended FAR revisions to prioritize U.S.-manufactured energy infrastructure in federal procurement.

270 days (by late May 2027)	FAR Council must consider proposing notice-and-comment rulemaking to implement DOE's FAR recommendations.

The 120-day rulemaking deadline is the most critical. Until regulations are published, the prohibition framework exists but DOE has not yet made the specific country and entity determinations needed to enforce it against individual Transactions. This creates a window, but not a safe harbor.

WHAT THE ORDER DOES NOT ANSWER: KEY OPEN QUESTIONS

The Order leaves several critical questions unresolved that parties must monitor as regulations develop:

1. WHICH SPECIFIC COUNTRIES ARE COVERED FOREIGN ENTITIES?

The Order defines Covered Foreign Entities by reference to U.S. arms-embargoed countries under the ITAR and an open-ended DOE determination authority. It remains to be seen whether any additional countries may be designated under this authority.

2. WHAT CONSTITUTES "OWNERSHIP," "CONTROL," OR "SUBJECT TO JURISDICTION OR DIRECTION"?

These terms are not defined in the Order, but there are resources casting light on the meaning of these terms in the ICTS context in particular. A supplier with minority foreign investment, a joint venture partner, or a company subject to foreign government data-sharing laws (*e.g.*, China's National Intelligence Law) may fall within scope depending on how the implementing regulations define these terms.

3. DOES "FOREIGN-PRODUCED" SWEEP IN DUAL-SOURCED OR PARTIALLY ASSEMBLED EQUIPMENT?

The Order defines "foreign-produced" as not manufactured, produced, or assembled in the U.S. This is a simplified initial standard with no substantial transformation or *de minimis* content nuances at this stage. Equipment assembled in the U.S. from foreign-manufactured components may be outside scope — but the Order also covers "critical components" of Covered Equipment, creating potential overlap.

Additional open questions (including DOE's review timeline for Transaction-specific determinations, the treatment of pending Transactions, and enforcement procedures) will need to be addressed in the implementing regulations.

The Order intersects with existing regulatory frameworks (NERC Critical Infrastructure Protection supply chain standards, FERC jurisdiction, One Big Beautiful Bill foreign entity of concern restrictions, domestic content and Section 45X requirements, tariffs, and Agricultural Foreign Investment Disclosure Act reporting) that impose distinct and potentially overlapping sourcing and disclosure obligations. Until the regulations are published, companies face the challenge of charting compliance across all of these frameworks without clear agency guidance on how they interact.

RECOMMENDED IMMEDIATE STEPS

Companies across the energy sector should take the following actions now, without waiting for the 120-day regulations:

1. Conduct a supply chain audit. Identify all bulk-power system electric equipment currently in service or under contract that was designed, manufactured, or supplied by entities with ties to China or other covered (or potentially covered) countries.

2. Review pending procurement and contracts. Any Transaction initiated after August 26, 2026, is potentially subject to a prohibition if DOE makes the requisite determinations. Contracts in negotiation should be reviewed for Covered Foreign Entity exposure. Consider whether Transactions can be structured to fall outside the definition of "foreign-produced."

3. Preserve transaction records. Document when transactions were initiated relative to the Order's effective date. The "initiated after" threshold may become a significant factual issue in enforcement proceedings.

4. Engage in the rulemaking. The 120-day regulation and the subsequent FAR process are both subject to notice and comment. Industry participation in these processes will shape how the Covered Foreign Entity definition, licensing procedures, and pre-qualification criteria are drawn.

5. Evaluate mitigation strategies. If a supplier relationship involves Covered Foreign Entity exposure, begin exploring whether mitigation agreements, software security controls, or sourcing alternatives can address the underlying concern — and position the company for a favorable licensing determination.

The policy trajectory is clear: the federal government is moving toward a trusted-supplier model for bulk-power system equipment. Companies that begin compliance planning now — including supply chain audits, contract reviews, and engagement in the upcoming rulemakings — will be best positioned when the implementing regulations take effect.

For questions about the implications of Executive Order 14420 for your business, or for assistance with supply chain audits, contract review, or rulemaking engagement, please contact a member of Troutman Pepper Locke's Sanctions + Trade Controls Practice Group or Energy Industry Group.

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