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President Biden Suspends Bulk Power System Executive Order; Directs Agencies to Address Public Health- and Climate-Related Rules

Renewable Energy Insights

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On January 20, 2021, President Joseph Biden issued Executive Order No. 13990 ("Executive Order"), which, among other things, suspended Executive Order 13920, "Securing the United States Bulk-Power System" ("Executive Order 13920") until April 20, 2021 and directed all executive departments and agencies to review and take action to address all actions taken during former-President Donald Trump's tenure in office that conflict with President Biden's stated goals of improving public health, environmental protection, reducing greenhouse gas emissions, bolstering resilience to the impacts of climate change, and confronting the climate crisis.

In the Executive Order, President Biden suspended Executive Order No. 13920 for 90 days, until April 20, 2021. During such time, the Secretary of Energy and the Director of the Office of Management and Budget ("OMB") are required to jointly consider whether to recommend a replacement order. Executive Order 13920 was initially issued on May 1, 2020 by former-President Trump, and prohibited federal agencies and U.S. persons from acquiring, importing, transferring, or installing bulk-power system electric equipment that poses an "undue" or "unacceptable" risk to the United States and over which a "foreign adversary" or a national thereof has an interest (see May 5, 2020 edition of the [WER](#)).

In the Executive Order, President Biden stated that it would be the policy of his administration to, among other things, improve public health, protect the environment, reduce greenhouse gas emissions, bolster resilience to the impacts of climate change, and confront the climate crisis. In order to bring that about, President Biden required the heads of all agencies to review any existing regulations, orders, guidance documents, policies, or other similar actions promulgated, issued, or adopted during former-President Trump's time in office that are inconsistent with the environmental goals set forth in the Executive Order, and to suspend, revise, or rescind such actions if so. Heads of agencies are required to submit to the Director of the OMB a preliminary list of any proposed actions that would be subject to OMB review by (i) February 19, 2021, if such actions would be completed by December 31, 2021 or (ii) April 20, 2021, if such actions would be completed by 2025. In addition, the heads of federal agencies are also required to provide both the above information and any proposed actions that would not be subject to OMB review to the National Climate Advisor.

Further, the Executive Order included specific agency actions for which there are distinct timelines by which the

heads of the appropriate agencies are to propose suspensions, revisions, or rescissions, as follows:

- By March 2021, any proposed major revisions to the following final rules, with all other revisions due by June 2021:
 - “Energy Conservation Program for Appliance Standards: Procedures for Use in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment,” and
 - “Energy Conservation Program for Appliance Standards: Procedures for Evaluating Statutory Factors for Use in New or Revised Energy Conservation Standards”;
- By April 2021, actions taken pursuant to the final rule:
 - “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program”;
- By May 2021, any actions taken pursuant to the final rules:
 - “Final Determination Regarding Energy Efficiency Improvements in the 2018 International Energy Conservation Code (IECC),” and
 - “Final Determination Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IES Standard 90.1-2016: Energy Standard for Buildings, Except Low-Rise Residential Buildings”;
- By July 2021, actions taken pursuant to the final rule:
 - “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks”;
- By August 2021, actions taken pursuant to the final rule:
 - “National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review”;
- By September 2021, actions taken pursuant to the final rule:
 - “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration”; and
- As soon as possible, actions taken pursuant to the final rules:
 - “Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process,” and
 - “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information.”

President Biden also ordered:

- the Secretary of the Interior to review various monument boundaries and conditions established during former-President Trump's tenure in office in order to determine whether such boundaries of such monuments should be restored and to place a temporary moratorium on all federal government activities related to the Coastal Plain Oil and Gas Leasing Program and further review and analyze the program;
- the reinstatement of certain restrictions on oil and gas drilling in Arctic waters and the Bering Sea the establishment of the Northern Bering Sea Climate Resilience Area;
- the creation of an interagency working group to analyze the social cost of greenhouse gases; and
- the revocation of the Presidential Permit granted to TransCanada Keystone Pipeline, LP that allowed for the construction, connection, operation, and maintenance of the Keystone XL Pipeline.

A copy of the Executive Order is available [here](#).

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