

SECURING THE UNITED STATES BULK-POWER
SYSTEM

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN EXECUTIVE ORDER DECLARING A NATIONAL EMERGENCY TO DEAL WITH THE THREAT POSED BY THE UNRESTRICTED ACQUISITION OR USE IN THE UNITED STATES OF BULK-POWER SYSTEM ELECTRIC EQUIPMENT DESIGNED, DEVELOPED, MANUFACTURED, OR SUPPLIED BY PERSONS OWNED BY, CONTROLLED BY, OR SUBJECT TO THE JURISDICTION OR DIRECTION OF FOREIGN ADVERSARIES, PURSUANT TO 50 U.S.C. 1621(a); PUBLIC LAW 94-412, SEC. 201(a); (90 STAT. 1255) AND 50 U.S.C. 1703(b); PUBLIC LAW 95-223, SEC. 204(b); (91 STAT. 1627)



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THE WHITE HOUSE,
Washington, DC, May 1, 2020.

Hon. NANCY PELOSI,
Speaker of the House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code, I hereby report that I have issued an Executive Order declaring a national emergency to deal with the threat posed by the unrestricted acquisition or use in the United States of bulk-power system electric equipment designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries.

Foreign adversaries are increasingly creating and exploiting vulnerabilities in the United States bulk-power system. The bulk-power system provides the electricity that supports our national defense, our vital emergency services, our critical infrastructure, our economy, and our way of life. The bulk-power system is a target of those seeking to commit malicious acts against the United States and its people, including malicious cyber activities. Although maintaining an open investment climate in bulk-power system electric equipment, and in the United States economy more generally, is important for the overall growth and prosperity of the United States, such openness must be balanced with the need to protect our Nation against a critical national security threat. To deal with this threat, additional steps are required to protect the security, integrity, and reliability of bulk-power system electric equipment used in the United States.

The Executive Order prohibits certain future transactions involving bulk-power system electric equipment where the Secretary of Energy (Secretary), in coordination with the Director of the Office of Management and Budget and in consultation with the Secretary of Defense, the Secretary of Homeland Security, the Director of National Intelligence, and, as appropriate, the heads of other executive departments and agencies (agencies), has determined that:

(i) the transaction involves bulk-power system electric equipment designed, developed, manufactured, or supplied, by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary; and

(ii) the transaction:

(A) poses an undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of the bulk-power system in the United States;

(B) poses an undue risk of catastrophic effects on the security or resiliency of United States critical infrastructure or the economy of the United States; or

(C) otherwise poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.

The Executive Order also establishes a Task Force on Federal Energy Infrastructure Procurement Policies Related to National Security.

I have delegated to the Secretary the authority to take such actions, including directing the timing and manner of the cessation of pending and future transactions prohibited pursuant to the Executive Order, adopting appropriate rules and regulations, and employing all other powers granted to the President by IEEPA, as may be necessary to implement the Executive Order. The heads of all agencies, including the Board of Directors of the Tennessee Valley Authority, are directed to take all appropriate measures within their authority to implement the provisions of the Executive Order.

I am enclosing a copy of the Executive Order I have issued.

Sincerely,

DONALD J. TRUMP.

EXECUTIVE ORDER

SECURING THE UNITED STATES BULK-POWER SYSTEM

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, find that foreign adversaries are increasingly creating and exploiting vulnerabilities in the United States bulk-power system, which provides the electricity that supports our national defense, vital emergency services, critical infrastructure, economy, and way of life. The bulk-power system is a target of those seeking to commit malicious acts against the United States and its people, including malicious cyber activities, because a successful attack on our bulk-power system would present significant risks to our economy, human health and safety, and would render the United States less capable of acting in defense of itself and its allies. I further find that the unrestricted acquisition or use in the United States of bulk-power system electric equipment designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries augments the ability of foreign adversaries to create and exploit vulnerabilities in bulk-power system electric equipment, with potentially catastrophic effects. I therefore determine that the unrestricted foreign supply of bulk-power system electric equipment constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, which has its source in whole or in substantial part outside the United States. This threat exists both in the case of individual acquisitions and when acquisitions are considered as a class. Although maintaining an open investment climate in bulk-power system electric equipment, and in the United States economy more generally, is important for the overall growth and prosperity of the United States, such openness must be balanced with the need to protect our Nation against a critical national security threat. To address this threat, additional steps are required to protect the security, integrity, and reliability of bulk-power system electric equipment used in the United States. In light of these findings, I hereby declare a national emergency with respect to the threat to the United States bulk-power system.

Accordingly, I hereby order:

Section 1. Prohibitions and Implementation. (a) The following actions are prohibited: any acquisition, importation, transfer, or installation of any bulk-power system electric equipment (transaction) by any person, or with respect to any property, subject to

the jurisdiction of the United States, where the transaction involves any property in which any foreign country or a national thereof has any interest (including through an interest in a contract for the provision of the equipment), where the transaction was initiated after the date of this order, and where the Secretary of Energy (Secretary), in coordination with the Director of the Office of Management and Budget and in consultation with the Secretary of Defense, the Secretary of Homeland Security, the Director of National Intelligence, and, as appropriate, the heads of other executive departments and agencies (agencies), has determined that:

(i) the transaction involves bulk-power system electric equipment designed, developed, manufactured, or supplied, by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary; and

(ii) the transaction:

(A) poses an undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of the bulk-power system in the United States;

(B) poses an undue risk of catastrophic effects on the security or resiliency of United States critical infrastructure or the economy of the United States; or

(C) otherwise poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.

(b) The Secretary, in consultation with the heads of other agencies as appropriate, may at the Secretary's discretion design or negotiate measures to mitigate concerns identified under section 1(a) of this order. Such measures may serve as a precondition to the approval by the Secretary of a transaction or of a class of transactions that would otherwise be prohibited pursuant to this order.

(c) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

(d) The Secretary, in consultation with the heads of other agencies as appropriate, may establish and publish criteria for recognizing particular equipment and particular vendors in the bulk-power system electric equipment market as pre-qualified for future transactions; and may apply these criteria to establish and publish a list of pre-qualified equipment and vendors. Nothing in this provision limits the Secretary's authority under this section to prohibit or otherwise regulate any transaction involving pre-qualified equipment or vendors.

Sec. 2. Authorities. (a) The Secretary is hereby authorized to take such actions, including directing the timing and manner of the cessation of pending and future transactions prohibited pursuant to section 1 of this order, adopting appropriate rules and regulations, and employing all other powers granted to the President by IEEPA as may be necessary to implement this order. The heads of all agencies, including the Board of Directors of the Tennessee Valley Authority, shall take all appropriate measures within their author-

ity as appropriate and consistent with applicable law, to implement this order.

(b) Rules and regulations issued pursuant to this order may, among other things, determine that particular countries or persons are foreign adversaries exclusively for the purposes of this order; identify persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries exclusively for the purposes of this order; identify particular equipment or countries with respect to which transactions involving bulk-power system electric equipment warrant particular scrutiny under the provisions of this order; establish procedures to license transactions otherwise prohibited pursuant to this order; and identify a mechanism and relevant factors for the negotiation of agreements to mitigate concerns raised in connection with subsection 1(a) of this order. Within 150 days of the date of this order, the Secretary, in consultation with the Secretary of Defense, the Secretary of Homeland Security, the Director of National Intelligence, and, as appropriate, the heads of other agencies, shall publish rules or regulations implementing the authorities delegated to the Secretary by this order.

(c) The Secretary may, consistent with applicable law, redelegate any of the authorities conferred on the Secretary pursuant to this section within the Department of Energy.

(d) As soon as practicable, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Interior, the Secretary of Homeland Security, the Director of National Intelligence, the Board of Directors of the Tennessee Valley Authority, and the heads of such other agencies as the Secretary considers appropriate, shall:

(i) identify bulk-power system electric equipment designed, developed, manufactured, or supplied, by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary that poses an undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of the bulk-power system in the United States, poses an undue risk of catastrophic effects on the security or resiliency of United States critical infrastructure or the economy of the United States, or otherwise poses an unacceptable risk to the national security of the United States or the security and safety of United States persons; and

(ii) develop recommendations on ways to identify, isolate, monitor, or replace such items as soon as practicable, taking into consideration overall risk to the bulk-power system.

Sec. 3. Task Force on Federal Energy Infrastructure Procurement Policies Related to National Security. (a) There is hereby established a Task Force on Federal Energy Infrastructure Procurement Policies Related to National Security (Task Force), which shall work to protect the Nation from national security threats through the coordination of Federal Government procurement of energy infrastructure and the sharing of risk information and risk management practices to inform such procurement. The Task Force shall be chaired by the Secretary or the Secretary's designee.

(b) In addition to the Chair of the Task Force (Chair), the Task Force membership shall include the following heads of agencies, or their designees:

- (i) the Secretary of Defense;
 - (ii) the Secretary of the Interior;
 - (iii) the Secretary of Commerce;
 - (iv) the Secretary of Homeland Security;
 - (v) the Director of National Intelligence;
 - (vi) the Director of the Office of Management and Budget;
- and
- (vii) the head of any other agency that the Chair may designate in consultation with the Secretary of Defense and the Secretary of the Interior.
- (c) The Task Force shall:
- (i) develop a recommended consistent set of energy infrastructure procurement policies and procedures for agencies, to the extent consistent with law, to ensure that national security considerations are fully integrated across the Federal Government, and submit such recommendations to the Federal Acquisition Regulatory Council (FAR Council);
 - (ii) evaluate the methods and criteria used to incorporate national security considerations into energy security and cybersecurity policymaking;
 - (iii) consult with the Electricity Subsector Coordinating Council and the Oil and Natural Gas Subsector Coordinating Council in developing the recommendations and evaluation described in subsections (c)(i) through (ii) of this section; and
 - (iv) conduct any other studies, develop any other recommendations, and submit any such studies and recommendations to the President, as appropriate and as directed by the Secretary.
- (d) The Department of Energy shall provide administrative support and funding for the Task Force, to the extent consistent with applicable law.
- (e) The Task Force shall meet as required by the Chair and, unless extended by the Chair, shall terminate once it has accomplished the objectives set forth in subsection (c) of this section, as determined by the Chair, and completed the reports described in subsection (f) of this section.
- (f) The Task Force shall submit to the President, through the Chair and the Director of the Office of Management and Budget:
- (i) a report within 1 year from the date of this order;
 - (ii) a subsequent report at least once annually thereafter while the Task Force remains in existence; and
 - (iii) such other reports as appropriate and as directed by the Chair.
- (g) In the reports submitted under subsection (f) of this section, the Task Force shall summarize its progress, findings, and recommendations described in subsection (c) of this section.
- (h) Because attacks on the bulk-power system can originate through the distribution system, the Task Force shall engage with distribution system industry groups, to the extent consistent with law and national security. Within 180 days of receiving the recommendations pursuant to subsection (c)(i) of this section, the FAR Council shall consider proposing for notice and public comment an amendment to the applicable provisions in the Federal Acquisition

Regulation to implement the recommendations provided pursuant to subsection (c)(i) of this section.

Sec. 4. Definitions. For purposes of this order, the following definitions shall apply:

(a) The term “bulk-power system” means (i) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (ii) electric energy from generation facilities needed to maintain transmission reliability. For the purpose of this order, this definition includes transmission lines rated at 69,000 volts (69 kV) or more, but does not include facilities used in the local distribution of electric energy.

(b) The term “bulk-power system electric equipment” means items used in bulk-power system substations, control rooms, or power generating stations, including reactors, capacitors, substation transformers, current coupling capacitors, large generators, backup generators, substation voltage regulators, shunt capacitor equipment, automatic circuit reclosers, instrument transformers, coupling capacity voltage transformers, protective relaying, metering equipment, high voltage circuit breakers, generation turbines, industrial control systems, distributed control systems, and safety instrumented systems. Items not included in the preceding list and that have broader application of use beyond the bulk-power system are outside the scope of this order.

(c) The term “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

(d) The term “foreign adversary” means any foreign government or foreign non-government person engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or its allies or the security and safety of United States persons.

(e) The term “person” means an individual or entity.

(f) The term “procurement” means the acquiring by contract with appropriated funds of supplies or services, including installation services, by and for the use of the Federal Government, through purchase, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated.

(g) The term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 5. Recurring and Final Reports to the Congress. The Secretary is hereby authorized to submit recurring and final reports to the Congress regarding the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 6. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

THE WHITE HOUSE, *May 1, 2020*.

