

designated items to a complete review. The assessors may review nonconformity resolutions, verify reported changes in the laboratory's personnel, facilities or operations, or evaluate proficiency testing activities, when appropriate.

■ 8. Revise § 285.14 to read as follows:

**§ 285.14 Criteria for accreditation.**

The requirements for laboratories to be recognized by the National Voluntary Laboratory Accreditation Program as competent to carry out tests and/or calibrations are contained in NIST Handbook 150, *NVLAP Procedures and General Requirements* (incorporated by reference, see § 285.16).

■ 9. Revise § 285.15(b) to read as follows:

**§ 285.15 Obtaining documents.**

(b) Copies of all ISO/IEC documents are available for purchase from the American National Standards Institute's eStandards Store at <http://webstore.ansi.org>. You may inspect copies of all applicable ISO/IEC documents at the National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Room B119, Gaithersburg, MD. For access to the NIST campus, please contact NVLAP by phone at 301-975-4016 or by email at [NVLAP@nist.gov](mailto:NVLAP@nist.gov) to obtain instructions for visitor registration.

■ 10. Add § 285.16 to read as follows:

**§ 285.16 Incorporation by reference.**

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at National Institute of Standards and Technology, National Voluntary Laboratory Accreditation Program (NVLAP), National Institute of Standards and Technology, 100 Bureau Drive, Room B119, Gaithersburg, MD and is available from the source(s) listed in the following paragraph(s). It is also available for inspection at the National Archives and Records Administration (NARA). For access to the NIST campus, please contact NVLAP by phone at 301-975-4016 or by email at [NVLAP@nist.gov](mailto:NVLAP@nist.gov) to obtain instructions for visitor registration. For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

(a) National Institute of Standards and Technology (NIST), U.S. Department of Commerce, 100 Bureau Drive, Room

B119, Gaithersburg, MD, 301-975-4016 [NVLAP@nist.gov](mailto:NVLAP@nist.gov), [www.nist.gov/publications/](http://www.nist.gov/publications/).

(1) NIST Handbook 150, *National Voluntary Laboratory Accreditation Program Procedures (NVLAP) and General Requirements*, authored by Dana S. Leaman and Bethany Hackett, 2020 Edition, August 2020, 2020 (NVLAP Procedures and General Requirements) <https://nvlpubs.nist.gov/nistpubs/hb/2020/NIST.HB.150-2020.pdf>; into §§ 285.8(a) and § 285.14.

(2) [Reserved]

(b) [Reserved]

Kevin A. Kimball,  
Chief of Staff.

[FR Doc. 2020-18294 Filed 9-23-20; 8:45 am]

BILLING CODE 3510-13-P

**DEPARTMENT OF COMMERCE**

**15 CFR Chapter VII**

[Docket Number 200917-0247]

RIN 0605-XD009

**Identification of Prohibited Transactions To Implement Executive Order 13942 and Address the Threat Posed by TikTok and the National Emergency With Respect to the Information and Communications Technology and Services Supply Chain**

**AGENCY:** Office of the Secretary, U.S. Department of Commerce.

**ACTION:** Identification of prohibited transactions.

**SUMMARY:** Pursuant to Executive Order 13942, the Secretary of Commerce is publishing the list of prohibited transactions by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd. (a.k.a. Zìjié Tiàodòng), Beijing, China, or its subsidiaries, including TikTok Inc., in which any such company has any interest, to address the national emergency with respect to the information and communications technology and services supply chain declared in Executive Order 13873, May 15, 2019 (Securing the Information and Communications Technology and Services Supply Chain), and particularly to address the threat identified in Executive Order 13942 posed by mobile application TikTok.

**DATES:** Transactions identified in paragraph 1 below will be prohibited at 11:59 p.m. eastern standard time on September 27, 2020; transactions identified in paragraphs 2, 3, 4, and 5 below will be prohibited at 11:59 p.m.

eastern standard time on November 12, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Kathy Smith, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1859.

*For media inquiries:* Meghan Burris, Director, Office of Public Affairs, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4883.

**SUPPLEMENTARY INFORMATION:** In Executive Order 13873 of May 15, 2019 (Securing the Information and Communications Technology and Services Supply Chain), the President found that foreign adversaries are increasingly creating and exploiting vulnerabilities in information and communications technology and services (ICTS), which store and communicate vast amounts of sensitive information, facilitate the digital economy, and support critical infrastructure and vital emergency services, in order to commit malicious cyber-enabled actions, including economic and industrial espionage against the United States and its people. The President further found that the unrestricted acquisition or use in the United States of ICTS 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 ICTS, with potentially catastrophic effects, and thereby constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and declared a national emergency with respect to this threat. The President directed that additional steps are required to protect the security, integrity, and reliability of ICTS provided and used in the United States.

On August 6, 2020, in Executive Order 13942 (Addressing the Threat Posed by TikTok, and Taking Additional Steps To Address the National Emergency With Respect to the Information and Communications Technology and Services Supply Chain), the President further found that the spread in the United States of mobile applications developed and owned by companies in the People's Republic of China (China) continues to threaten the national security, foreign policy, and economy of the United States. The President directed that action must be taken to address the threat posed by the mobile application TikTok.

Pursuant to Executive Order 13942, any transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd. (a.k.a. Zìjié Tiàodòng), Beijing, China, or its subsidiaries, including TikTok Inc., in which any such company has any interest, as identified by the Secretary of Commerce (Secretary) within 45 days from the date of Executive Order 13942, shall be prohibited to the extent permitted under applicable law. This Identification of Prohibited Transactions implements that directive by the President.

### Identifying Prohibited Transactions

#### Definitions

*Content delivery service* means a service that copies, saves, and delivers content, for a fee, from geographically dispersed servers to end-users for the purposes of enabling faster delivery of content.

*Entity* means a government or instrumentality of such government, partnership, association, trust, joint venture, corporation, group, subgroup, or other organization, including an international organization.

*Information and communications technology or services* means any hardware, software, or other product or service primarily intended to fulfill or enable the function of information or data processing, storage, retrieval, or communication by electronic means, including transmission, storage, and display.

*Internet hosting service* means a service through which storage and computing resources are provided to an individual or organization for the accommodation and maintenance of one or more websites or internet services. Services may include but are not limited to file hosting, domain name server hosting, cloud hosting, and virtual private server hosting.

*Internet transit service* means a service where a network operator provides connectivity, transport and routing for another network, enabling them to reach broader portions of the internet. A transit provider's routers also announce to other networks that they can carry traffic to the network that has purchased transit.

*Mobile application* means a software application designed to run on a mobile device such as a phone, tablet, or watch.

*Mobile application store* means any online marketplace where users can download, or update, and install software applications to a mobile device.

*Peering* means a relationship between internet service providers (ISP) where

the parties directly interconnect to exchange internet traffic, most often on a no-cost basis.

*Person* means an individual or entity.

*Subsidiary* means a company that is owned or controlled by a parent or holding company.

*Transaction* means any acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service.

### Identification of Prohibited Transactions

Pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701, et seq., Executive Order 13873 (84 FR 22689, May 15, 2019), and as set forth and provided for in Executive Order 13942 (85 FR 48637, August 6, 2020), the Secretary has identified the following prohibited transactions:

Any transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd. (a.k.a. Zìjié Tiàodòng), Beijing, China, or its subsidiaries, including TikTok Inc., in which any such company has any interest, involving:

1. Any provision of services, occurring on or after 11:59 p.m. eastern standard time on September 27, 2020, to distribute or maintain the TikTok mobile application, constituent code, or application updates through an online mobile application store, or any online marketplace where mobile users within the land or maritime borders of the United States and its territories may download or update applications for use on their mobile devices;

2. Any provision of internet hosting services, occurring on or after 11:59 p.m. eastern standard time on November 12, 2020, enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;

3. Any provision of content delivery network services, occurring on or after 11:59 p.m. eastern standard time on November 12, 2020, enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;

4. Any provision of directly contracted or arranged internet transit or peering services, occurring on or after 11:59 p.m. eastern standard time on November 12, 2020, enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;

5. Any utilization, occurring on or after 11:59 p.m. eastern standard time on November 12, 2020, of the TikTok mobile application's constituent code, functions, or services in the functioning of software or services developed and/or accessible within the land and maritime borders of the United States and its territories; or

6. Any other transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd., or its subsidiaries, including TikTok Inc., in which any such company has any interest, as may be identified at a future date under the authority delegated under Executive Order 13942.

The identified prohibitions herein only apply to the parties to business-to-business transactions, and apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to Executive Order 13942, and notwithstanding any contract entered into or any license or permit granted before the date of Executive Order 13942.

These identified prohibitions do not apply to:

(1) Payment of wages, salaries, and benefit packages to employees or contractors;

(2) The exchange between or among TikTok mobile application users of personal or business information using the TikTok mobile application;

(3) Activities related to mobile applications intended for distribution, installation or use outside of the United States by any person, including but not limited to any person subject to U.S. jurisdiction, and all ancillary activities, including activities performed by any U.S. person, which are ordinarily incident to, and necessary for, the distribution, installation, and use of mobile applications outside of the United States; or

(4) The storing of TikTok mobile application user data in the United States.

Nothing in this Identification of Prohibited Transactions shall prohibit any transaction necessary to effectuate the divestment required by Order of August 14, 2020 (85 FR 51297) (Regarding the Acquisition of Musical.ly by ByteDance Ltd.). Any other transaction with ByteDance Ltd. or its subsidiaries is permitted under Executive Order 13942, as implemented by the Secretary, unless identified as prohibited or otherwise contrary to law.

### Authority

International Emergency Economic Powers Act, 50 U.S.C. 1701, et seq.;

National Emergencies Act, 50 U.S.C. 1601 *et seq.*; Executive Order 13942, Addressing the Threat Posed by TikTok, August 6, 2020; Executive Order 13873, Securing the Information and Communications Technology and Services Supply Chain, May 15, 2019.

**Dated: September 21, 2020**

This document of the Department of Commerce was signed on September 21, by Wilbur Ross, Secretary of Commerce. That document with the original signature and date is maintained by the Department of Commerce. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned Department of Commerce Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Commerce. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 22, 2020.

**Asha Mathew,**

*Federal Register Liaison Officer, U.S. Department of Commerce.*

[FR Doc. 2020-21193 Filed 9-22-20; 1:30 pm]

**BILLING CODE 3510-20-P**

## TENNESSEE VALLEY AUTHORITY

### 18 CFR Part 1301

**RIN 3316-AA23**

#### **Promoting the Rule of Law Through Improved Agency Guidance Documents**

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Direct final rule.

**SUMMARY:** The Tennessee Valley Authority (TVA) issues this final rule to implement procedures for the issuance of TVA guidance documents in accordance with Executive Order 13891. This final rule would, among other things, establish internal agency requirements for guidance documents, as well as public engagement procedures surrounding guidance documents.

**DATES:** This final rule is effective October 26, 2020. The comment period will conclude on October 26, 2020. Subject to review of the public comments received, TVA may delay the final effective date and, if so, will publish a document in the **Federal Register** to that effect.

#### **FOR FURTHER INFORMATION CONTACT:**

Robin M. Daugherty, 423-751-3207, Email: [rmdaugherty@tva.gov](mailto:rmdaugherty@tva.gov), Mail address: Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6 Knoxville, TN 37902.

#### **SUPPLEMENTARY INFORMATION:**

TVA issues this final rule to incorporate into the Code of Federal Regulations a new 18 CFR 130.70 Subpart F, which would implement the requirements of Executive Order 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents.” 84 FR 55235 (October 9, 2019) (E.O. 13891). E.O. 13891 requires agencies to provide more transparency around the issuance and use of guidance documents, including by promulgating procedures to increase public involvement in the TVA guidance document process. As noted in E.O. 13891, the Administrative Procedure Act (APA) generally requires agencies to provide public notice of proposed regulations, allow interested parties an opportunity to comment, consider and respond to significant comments, and publish final regulations in the **Federal Register** (See 5 U.S.C. 553). Such regulations, also known as legislative rules, have the force and effect of law and are legally binding upon the public. In addition to legislative rules, agencies may clarify existing obligations of regulated entities through nonbinding guidance documents, which the APA exempts from notice-and-comment requirements. (5 U.S.C. 553(b)(A)). E.O. 13891 defines “guidance document” as “an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation,” with a few noted exceptions listed in E.O. 13891, the APA and associated regulation. Guidance documents do not have the force and effect of law, and are intended only to provide clarity to the public of existing statutory and regulatory obligations. However, as noted in E.O. 13891, some agency guidance documents may impose obligations beyond those required by statute or regulation, or carry a threat of enforcement if the guidance is not followed by regulated parties. Additionally, the public may not have sufficient notice of guidance documents, which are not always published in the **Federal Register** or distributed to all regulated parties. See 84 FR 55235. Accordingly, E.O. 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for

current guidance documents, by requiring agencies to establish procedures to allow the public to comment on significant guidance documents, and authorizing the public to petition the agency to withdraw or modify guidance documents. Moreover, E.O. 13891 requires agencies to clearly state in their guidance documents that such guidance Does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. This final rule would implement the requirements of E.O. 13891. This final rule would apply to all TVA guidance documents, which TVA proposes to define in the same manner as that term is defined in E.O. 13891, the APA and associated regulations, and OMB memo M-20-02 Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, Dominic J. Mancini, OIRA Acting Director (Oct. 31, 2019). The final rule would also adopt the same definition of “significant guidance document” as that term is defined in E.O. 13891 Section 2. In accordance with E.O. 13891, TVA will require that all TVA guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public regarding existing statutory and regulatory requirements. Moreover, TVA guidance documents will be required to be written clearly, and to refrain from using mandatory language, such as the terms “shall” or “must.” If a guidance document purports to describe, approve, or recommend specific conduct that is beyond what is required by existing statute, legislative or judicial rule, TVA’s final regulation would require that TVA’s guidance document will not be used as an independent basis for enforcement. TVA also proposes in this new rule to require that all TVA guidance documents be reviewed and cleared by the Office of the General Counsel before public availability. Additionally, the final rule would require that significant guidance documents be approved by the TVA Board of Directors or by delegation to a TVA Executive. This will ensure that the requirements and intent of E.O. 13891 are met, and that guidance documents are issued in accordance with relevant laws and regulations.

The final rule also provides procedures for the public to petition the agency to modify or withdraw guidance documents. With this final rule, TVA