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The supporting statement given for the changes to this document includes the following justification for complying with an executive order:

"The U.S. Passport conforms with the standards set by the E.O. and the International Civil Aviation Organization, which among other things determine the various fields on the passport's biographical data page. Consistent with the E.O., the revised DS-11 will request the applicant's biological sex at birth, male "M" or female "F." "

As given, this is in violation of ICAO Doc 9303-4 section 4, which explicitly specifies "X" as a valid option for the visual inspection zone of a passport (it also specifies using "<" in the machine-readable section for similar cases). In addition, it makes no mention of "biological" sex or sex "at birth". Nor is this information required in any of the biometric data for an eMRTD (ref: ICAO TR - 39794-5).

In addition, the 9303 standards also mandate compliance with the guidance given by the "ICAO TRIP Guide on Evidence of Identity", which details how a State will verify someone is who they say they are. One major portion of this is ensuring that the identity in question is actually used by the applicant, what the ICAO calls a "social footprint". To quote:

"The social footprint is based on the premise that everyone has dealings with a variety of organizations in their daily life, many of whom maintain records about this engagement that are publicly available. A person's social footprint builds up over time, and the continuity and longevity of identity-related information is a valuable element of the EOI approach. It covers life events and how a person interacts with society, and can include details of education and qualifications, electoral roll, employment history, driver licenses and tax numbers, healthcare and interactions with organizations such as banks, utilities and public authorities. This can also extend to an applicant's digital footprint, whether that be social media or utilising IP address."

For many transgender Americans, decades of their lives have been spent living as an identity that does not match that assigned at birth. Requiring these individuals to essentially resurrect a long-unused identity for purposes of getting a passport is not only an unreasonable burden, one could argue that it opens the door for potential fraud and abuse akin to scammers using the identities of dead people.