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This comment is made with regard to the proposed changes pursuant to E.O. 14168, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," namely: *the Department updated the form to replace the term "gender" with "sex."* Consistent with the E.O., the revised DS-82 will request the applicant's biological sex at birth, male "M" or female "F."

First, I believe the proposed changes to this rule derived from the above referenced EO to be both arbitrary and capricious, as well as detrimental both to affected individuals and to the orderly process of maintaining passport controls for American citizens exiting and entering the country and identifying themselves as such. Notwithstanding the unsupported assertions of the EO itself with regard to individuals being unable to define themselves and live as a gender different from their assigned sex at birth... there factually does exist in this country and in this world a relatively small but significant number of individuals who identify as a gender different from the one assigned to them at birth, whether that be the 'opposite' gender marker to that at birth (i.e., trans), or not identifying fully with either gender binary (i.e., non-binary or genderqueer) and therefore desiring the 'X' marker available on passports under current administrative procedures and rules.

I believe the proposed change to the rules to be arbitrary and capricious because it is being implemented based on a hastily drafted EO which has quite properly been lambasted for not being based in either biological or sociological fact. The EO completely ignores the existence of intersex individuals not fitting a grade school level binary of XX or XY chromosomes, or the fact that phenotypically speaking EVERYONE is female from conception up until about 6 to 7 weeks of gestation... so it is easily interpreted as defining ALL persons as female since it references biological sex at *conception* as the basis for an immutable sex and gender assignment, whereas as referenced above up until 6 or 7 weeks of gestation no embryo is male in terms of phenotypical expression.

This is further highlighted by the fact that the State Department is reported to have started implementation of the change IN ADVANCE OF THIS PUBLIC COMMENT STAGE OF THE FINAL RULE MAKING PROCESS. This seems to a layman to be in direct contravention of the process for amending existing rules under the Administrative Procedures Act.

The harm done by this proposed (but actually prematurely implemented) rule change is two-fold:

- 1) Individuals who are trans or nonbinary would be forced to carry passports where the gender/sex marker does not match their lived experience, or in many cases their external appearance post transition. Not only is there substantial evidence that psychological and emotional harm may arise from this, but it will interfere with their use of passports for their intended purposes of exit/entry and identification, as markers will not correspond in many cases with appearance or with state-issued ID which may still reflect their preferred gender assignment.
- 2) The government's administration of passport provision and renewal, as well as customs and border controls, will be hampered for these same reasons.

Accordingly, my comment on the proposed rule change is not to make or implement it.