



441 G St. N.W.
Washington, DC 20548

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February 17, 2026

The Honorable James E. Risch
Chairman
The Honorable Jeanne Shaheen
Ranking Member
Committee on Foreign Relations
United States Senate

The Honorable Brian J. Mast
Chairman
The Honorable Gregory W. Meeks
Ranking Member
Committee on Foreign Affairs
House of Representatives

Subject: *Department of State: Combating Discriminatory Equity Ideology in Foreign Assistance Rules*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of State (State) entitled “Combating Discriminatory Equity Ideology in Foreign Assistance Rules” (RIN: 1400-AG26). We received the rule on January 30, 2026. It was published in the *Federal Register* on January 27, 2026. 91 Fed. Reg. 3345. The effective date of the rule is February 26, 2026.

This rule adds a new award term for grants, cooperative agreements, and voluntary contributions entitled “Combating Discriminatory Equity Ideology in Foreign Assistance.” According to State, the award term imposes certain requirements relating to discriminatory equity ideology on foreign nongovernmental organizations (NGOs), United States NGOs, international organizations, foreign governments, and parastatals. 91 Fed. Reg. 3345.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date does not apply, however, if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. *Id.* § 808(2). According to State, this rule is exempt from the notice and comment procedures found at 5 U.S.C. § 553 because it falls into the Administrative Procedure Act’s exceptions for rules involving foreign affairs functions of the United States, as well as those involving grants. 91 Fed. Reg. 3352; 5 U.S.C. § 553(a)(1)–(2). Therefore, State concluded it had good cause not to delay the effective date of the rule 60 days.

Enclosed is our assessment of State’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions

about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me at (202) 512-8156.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large, looped initial 'S'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Alice Kottmyer
Attorney-Adviser
Department of State

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF STATE
ENTITLED
“COMBATING DISCRIMINATORY EQUITY IDEOLOGY IN FOREIGN ASSISTANCE RULES”
(RIN: 1400-AG26)

(i) Cost-benefit analysis

The Department of State (State) prepared an analysis of the costs and benefits for this rule. See 91 Fed. Reg. 3345, 3350–3351 (Jan. 27, 2026). State estimated that the rule will impose one-time familiarization costs of \$16,035,000, and annual costs related to training and compliance monitoring of \$114,052,700. *Id.* at 3351. According to State, non-quantifiable benefits of the rule include protecting American taxpayers from supporting discriminatory equity ideology, directly or indirectly, advancing the foreign policy interests of the United States not to support discriminatory practices or anti-American ideologies, and to ensure foreign assistance programs and foreign partners are not undermining the laws and values of foreign nations or pressuring such nations to support discriminatory equity ideology. *Id.* at 3350. Furthermore, according to State, the restrictions on unlawful diversity, equity, and inclusion-related discrimination ensure broader access to foreign assistance programs by program recipients and secure merit-based opportunity for employees of recipients of foreign assistance. *Id.* at 3350–3351.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

According to State, this rule is exempt from the notice and comment requirements of the Administrative Procedure Act (APA) as a matter related to grants and foreign affairs functions, 5 U.S.C. § 553(a)(1)–(2), and thus it does not provide a regulatory flexibility analysis under the RFA. See 91 Fed. Reg. 3351.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

State determined that this rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. See 91 Fed. Reg. 3351.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

State noted that this rule is published without prior notice and comment or a delayed effective date. 91 Fed. Reg. 3350. According to State, because the rule involves a matter relating to grants, it is exempt from the rulemaking requirements of the APA found at 5 U.S.C. § 553. 5 U.S.C. § 553(a)(2); 91 Fed. Reg. 3350. In addition, State determined that this rule is exempt because it involves the foreign affairs functions of the United States. 5 U.S.C. § 553(a)(1); 91 Fed. Reg. 3350.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

State determined that this rule contains information collection requirements under the Act. 91 Fed. Reg. 3352.

Statutory authorization for the rule

State promulgated this rule pursuant to section 301 of title 5, and sections 1461, 2151, 2451, and 2651a of title 22, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

State noted that the rule is significant under the Order and that it was submitted to the Office of Management and Budget for review. See 91 Fed. Reg. 3350

Executive Order No. 13132 (Federalism)

State determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. See 91 Fed. Reg. 3351.