

implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2019–1072; Product Identifier 2019–NM–181–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by March 2, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category, variable numbers QB065, QD191, QD192, QD402, QD403, QD407, and QD410.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by reports of nuisance stick shaker activation while the airplane accelerated to cruise speed at the top of climb. This AD was also prompted by an investigation of those reports that revealed that the angle of attack (AOA) (also known

as angle of airflow) sensor vanes could not prevent the build-up of ice, causing the AOA sensor vanes to become immobilized, which resulted in nuisance stick shaker activation. The FAA is issuing this AD to address ice buildup in the AOA sensor faceplate and vane, which may immobilize the AOA sensor vanes, and could result in inaccurate or unreliable AOA sensor data being transmitted to airplane systems and consequent loss of controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

Except as specified in paragraph (h) of this AD: Within 36 months after the effective date of this AD or at the applicable times specified in paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin 727–34A0247, Revision 1, dated October 1, 2019, whichever occurs first, do all applicable actions identified as “RC” (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 727–34A0247, Revision 1, dated October 1, 2019.

(h) Exceptions to Service Information Specifications

Where Boeing Alert Service Bulletin 727–34A0247, Revision 1, dated October 1, 2019, uses the phrase “the original issue date of this service bulletin,” this AD requires using “the effective date of this AD.”

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 727–34A0247, dated January 2, 2019.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: 9-ANM-LAACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the

certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as specified by paragraph (h) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled “RC Exempt,” then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(k) Related Information

(1) For more information about this AD, contact Jeffrey W. Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; fax: 562–627–5210; email: Jeffrey.W.Palmer@faa.gov.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110 SK57, Seal Beach, CA 90740 5600; telephone 562 797 1717; internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on January 3, 2020.

John Piccola, Jr.,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2020–00448 Filed 1–16–20; 8:45 am]

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AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 205

RIN 0412–AA99

Equal Participation of Faith-Based Organizations in USAID’s Programs and Activities: Implementation of Executive Order 13831

AGENCY: U.S. Agency for International Development (USAID).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend USAID’s regulations to implement Executive Order 13831, “Establishment of a White House Faith and Opportunity Initiative.” Among

other changes, this rule proposes to provide clarity regarding the rights and obligations of faith-based organizations that are participating in USAID's programs, and is intended to ensure that the Agency's implements its programs and activities in a manner consistent with the requirements of Federal law, including the First Amendment to the Constitution and the Religious Freedom Restoration Act (RFRA).

DATES: Comments must be received no later than February 18, 2020.

ADDRESSES: Address all comments concerning this notice to Brian Klotz, Deputy Director, Center for Faith and Opportunity Initiatives, USAID, Room 6.07-017, 1300 Pennsylvania Avenue NW, Washington, DC 20523-6601. Submit comments, identified by title of the action and Regulatory Information Number (RIN), by any of the following methods:

1. Through the Federal eRulemaking Portal at <http://www.regulations.gov> by following the instructions for submitting comments.

2. By mail, addressed to USAID, Center for Faith and Opportunity Initiatives, Room 6.07-100, 1300 Pennsylvania Avenue NW, Washington, DC 20523-6601.

FOR FURTHER INFORMATION CONTACT: Kirsten Evans, Telephone: 202-712-5975, or Email: kevans@usaid.gov.

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through one of the methods specified in the **ADDRESSES** section above. All submissions must include the title of the action and the RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

Please note that USAID recommends sending all comments to the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID in Washington, DC.

All comments will be available at <http://www.regulations.gov> for public review without change, including any personal information provided. We recommend that you do not submit information that you consider Confidential Business Information (CBI) or any information otherwise protected from disclosure by statute.

USAID will only address substantive comments on the rule. USAID might not consider comments that are insubstantial or outside the scope of the proposed rule.

B. Request for Comments

USAID requests comments on its proposed rule to amend USAID's regulations to implement Executive Order 13831, "Establishment of a White House Faith and Opportunity Initiative."

Background

Shortly after taking office in 2001, President George W. Bush signed Executive Order ("E.O.") 13199, Establishment of White House Office of Faith-based and Community Initiatives, 66 FR 8499 (January 29, 2001). That E.O. sought to ensure that "private and charitable groups, including religious ones . . . have the fullest opportunity permitted by law to compete on a level playing field" in the delivery of social services. To do so, it created the White House Office of Faith-Based and Community Initiatives, which had primary responsibility to "establish policies, priorities, and objectives for the Federal Government's comprehensive effort to enlist, equip, enable, empower, and expand the work of faith-based and other community organizations to the extent permitted by law."

On December 12, 2002, President Bush signed E.O. 13279, Equal Protection of the Laws for Faith-Based and Community Organizations, 67 FR 77141 (December 12, 2002). E.O. 13279 set forth the principles and policy-making criteria to guide Federal Departments and Agencies in formulating and implementing policies with implications for faith-based and other community organizations, to ensure equal protection of the laws for them, to expand opportunities for them, and to strengthen their capacity to meet social needs in America's communities. In addition, E.O. 13279 directed specified heads of Departments and Agencies to review and evaluate existing policies that had implications for faith-based and community organizations relating to their eligibility for Federal financial assistance for social-service programs and, where appropriate, to implement new policies consistent with, and necessary to further, the fundamental principles and policy-making criteria articulated in the Order. Consistent with E.O. 13279, USAID promulgated regulations, and published its final rule on participation by religious organizations in the Agency's programs on October 20, 2004, codified at Parts 202, 205, and 211 of Title 22 of the Code of Federal Regulations (CFR).

President Obama maintained President Bush's program, but modified

it in certain respects. Shortly after taking office, President Obama signed E.O. 13498, Amendments to Executive Order 13199 and Establishment of the President's Advisory Council for Faith-Based and Neighborhood Partnerships, 74 FR 6533 (February 9, 2009). This E.O. changed the name of the White House Office of Faith-Based and Community Initiatives to the White House Office of Faith-Based and Neighborhood Partnerships, and it created an Advisory Council that subsequently submitted recommendations regarding the work of the Office.

On November 17, 2010, President Obama signed E.O. 13559, Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations, 75 FR 71319 (November 17, 2010). E.O. 13559 made various changes to E.O. 13279, including making minor and substantive textual changes to the fundamental principles and adding a provision that awards must be free of political interference and not be based on religious affiliation or lack thereof. The President tasked an interagency working group with developing model regulatory changes to implement E.O. 13279 as amended by E.O. 13559, including provisions that clarified the prohibited uses of direct financial assistance, allowed religious social-service providers to maintain their religious identities, and distinguished between direct and indirect assistance.

Following the work of the interagency working group, USAID published a final rule in the **Federal Register** on April 4, 2016 (81 FR 19355), that amended language in Part 205.1 of Title 22 of the CFR to reflect the following changes: (1) Clarifying restricted uses of funding; (2) detailing the application of restrictions to recipients of sub-awards; and, (3) emphasizing that awards must not be based on political interference or on religious affiliation or lack thereof. In a separate rulemaking published in the **Federal Register** on June 29, 2016 (81 FR 42245), USAID further amended language in Part 205.1 of Title 22 of the CFR to allow for the possibility of USAID support, where otherwise consistent with law and jurisprudence on the Establishment Clause of the First Amendment of the Constitution, for activities that involved the overseas acquisition, rehabilitation, or construction of structures used for explicitly religious activities.

President Trump has given new direction to the program established by President Bush and continued by President Obama. On May 4, 2017, President Trump issued E.O. 13798, Presidential Executive Order Promoting

Free Speech and Religious Liberty, 82 FR 21675 (May 4, 2017). E.O. 13798 states that “Federal law protects the freedom of Americans and their organizations to exercise religion and participate fully in civic life without undue interference by the Federal Government. The executive branch will honor and enforce those protections.” It directed the Attorney General to “issue guidance interpreting religious liberty protections in Federal law.” Pursuant to this instruction, the Attorney General, on October 6, 2017, issued the Memorandum for All Executive Departments and Agencies titled, “Federal Law Protections for Religious Liberty,” 82 FR 49668 (October 26, 2017) (“Attorney General’s Memorandum on Religious Liberty”).

The Attorney General’s Memorandum on Religious Liberty emphasized that individuals and organizations do not give up religious-liberty protections by providing government-funded social services, and that “government may not exclude religious organizations as such from secular aid programs . . . when the aid is not being used for explicitly religious activities such as worship or proselytization.” *Id.* at p. 2.

On May 3, 2018, President Trump signed E.O. 13831, Executive Order on the Establishment of a White House Faith and Opportunity Initiative, 83 FR 20715 (May 3, 2018), amending E.O. 13279 as amended by E.O. 13559, and other related Executive Orders. Among other things, E.O. 13831 changed the name of the “White House Office of Faith-Based and Neighborhood Partnerships,” as established in E.O. 13498, to the “White House Faith and Opportunity Initiative”; changed the way the Initiative is to operate; directed Federal Departments and Agencies with “Centers for Faith-Based and Community Initiatives” to change those names to “Centers for Faith and Opportunity Initiatives”; and ordered that Departments and Agencies without a Center for Faith and Opportunity Initiatives designate a “Liaison for Faith and Opportunity Initiatives.” E.O. 13831 also eliminated the alternative-provider requirement and the requirement of notice thereof in E.O. 13559.

Overview of the Proposed Rule

USAID proposes to amend Part 205 of Title 22 of the CFR to implement E.O. 13831, “Partnerships With Faith-Based and Other Neighborhood Organizations,” and amend the current regulations to conform more closely with jurisprudence on the First Amendment of the Constitution; relevant Federal statutes, such as the

Religious Freedom Restoration Act (RFRA) of 1993; E.O. 13279, as amended by E.O.s 13559 and 13831; and the Attorney General’s Memorandum on Religious Liberty.

The Agency proposes to amend its regulations to make clear that a faith-based organization that participates in Agency-funded programs or services shall retain its autonomy, religious character, and independence.

The proposed rule would also clarify that a faith-based organization that receives financial assistance from USAID may use space in its facilities, without concealing, altering, or removing religious art, icons, scriptures, or other religious symbols.

In addition, the proposed rule would clarify that none of the guidance documents USAID uses in administering its financial assistance shall require faith-based organizations to provide assurances or notices when the Agency does not impose similar requirements on secular organizations. The proposed rule would clarify that a faith-based organization that participates in a Federally funded program retains its independence from the U.S. Government and may continue to carry out its mission consistent with religious-freedom protections in Federal law, including the Free Speech and Free Exercise Clauses of the First Amendment to the Constitution.

This rule proposes to require that the Agency’s notices or announcements of award opportunities include language to clarify that faith-based organizations are eligible on the same basis as any other organization and subject to the protections and requirements of Federal law.

Explanations for the Proposed Amendments to Part 205 of Title 22 of the CFR

Section 205.1

Grants and Cooperative Agreements

USAID proposes to change Section 205.1(a) to clarify the text by eliminating extraneous language and to state explicitly the applicability of the First Amendment and the RFRA, under which accommodations for faith-based organizations could be available. *See, e.g.,* Attorney General’s Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017). The provision also makes clear that neither USAID nor entities that make and administer sub-awards of USAID funds may discriminate for, or against, an organization on the basis of the organization’s religious exercise or affiliation. The existing regulation included a similar statement, but

referred to “religious character,” rather than “religious exercise,” and USAID believes the latter term offers additional clarity, as it has a more well-developed meaning in Federal law. In addition, in § 205.1(a) and throughout, the Agency uses the term “Faith-based organizations,” rather than “religious organizations,” to align its regulations with the terms used in E.O. 13831.

USAID proposes to change § 205.1(c) to align it more closely with the First Amendment and the RFRA by providing more detail about the autonomy that a faith-based organization retains while participating in U.S. Government programming. *See, e.g.,* E.O. 13279, 67 FR 77141 (December 12, 2002), as amended by E.O. 13831, 83 FR 20715 (May 8, 2018); the Attorney General’s Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

USAID proposes to change § 205.1(f) to clarify the text and align it more closely with the First Amendment and the RFRA by emphasizing that the Agency shall not require notices and assurances of faith-based organizations if it does not also require them of secular organizations, and by clarifying that USAID may not disqualify faith-based organizations from participating in its programs on the basis of, *inter alia*, their religious exercise. *See, e.g., Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017); Attorney General’s Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

USAID proposes to change Section 205.1(g) to emphasize alignment with the First Amendment of the Constitution and the RFRA, and to provide greater clarity about the scope of protection in that provision. *See, e.g.,* E.O. 13279, 67 FR 77141 (December 12, 2002), as amended by E.O. 13831, 83 FR 20715 (May 8, 2018); Attorney General’s Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

USAID proposes to add § 205.1(l) to align the text more closely with the First Amendment by making clear that these provisions related to non-discrimination toward faith-based organizations should not be construed to advantage or disadvantage historically recognized religions or sects over other religions or sects. *See, e.g., Larson v. Valente*, 456 U.S. 228 (1982); Attorney General’s Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

Regulatory Certifications

E.O. 12866 and 13563: Regulatory Planning and Review

USAID has drafted this Notice of Proposed Rule-Making (NPRM) in

accordance with E.O. 13563 of January 18, 2011, 76 FR 3821, Improving Regulation and Regulatory Review, and E.O. 12866 of September 30, 1993, 58 FR 51735, Regulatory Planning and Review. E.O. 13563 directs Federal Departments and Agencies, to the extent permitted by law, to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; tailor the regulation to impose the least burden on society, consistent with obtaining the regulatory objectives; and, in choosing among alternative regulatory approaches, select those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits and costs are difficult to quantify and provides that, where appropriate and permitted by law, Departments and Agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Under E.O. 12866, the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of E.O. 12866 defines a “significant regulatory action” as an action likely to result in a regulation that may:

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities (also referred to as an “economically significant” regulation);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Department or Agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues that arise out of legal mandates, the President’s priorities, or the principles stated in E.O. 12866.

OMB/OIRA has determined that this proposed rule is a significant, but not an economically significant, regulatory action subject to review by OMB under Section 3(f) of E.O. 12866. Accordingly, OMB has reviewed this proposed rule.

The Agency has also reviewed these regulations under E.O. 13563, which supplements and reaffirms the principles, structures, and definitions that govern regulatory review

established in E.O. 12866. To the extent permitted by law, Section 1(b) of E.O. 13563 requires that a Department or Agency:

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance that regulated entities must adopt; and

(5) Identify and assess available alternatives to direct regulation, including by providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Section 1(c) of E.O. 13563 (76 FR 3821, January 18, 2011) also requires a Department or Agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” *Id.* OMB/OIRA has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.” (Memorandum for the Heads of Executive Departments and Agencies, and of Independent Regulatory Agencies, from Cass R. Sunstein, Administrator, OMB/OIRA, Re: E.O. 13563, “Improving Regulation and Regulatory Review”, at 1 [Feb. 2, 2011], available at: <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2011/m11-10.pdf>).

USAID is issuing these proposed regulations upon a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, the Agency selected the approach that maximizes net benefits. In accordance with E.O.s 12866 and 13563, the Agency has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. As the proposed action does not create any additional requirements, the potential

costs associated with this regulatory action are negligible. In terms of benefits, USAID recognizes a non-quantifiable benefit to religious liberty that comes from conforming its regulations more closely to First Amendment jurisprudence. The Agency also recognizes a non-quantifiable benefit that comes from increased clarity in the regulatory requirements that apply to organizations that are operating social-service programs funded by the Federal Government. The Agency invites comment on any additional costs and benefits associated with this rulemaking and any data by which it could quantify such costs or benefits.

E.O. 13771: Reducing Regulation and Controlling Regulatory Costs

President Trump issued E.O. 13771, entitled, “Reducing Regulation and Controlling Regulatory Costs,” on January 30, 2017 (82 FR 9339, February 3, 2017). Section 2(a) of E.O. 13771 requires a Department or Agency, unless prohibited by law, to identify at least two existing regulations to repeal when it publicly proposes for notice and comment, or otherwise promulgates, a new regulation. In furtherance of this requirement, Section 2(c) of E.O. 13771 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations (OMB’s interim guidance, issued on April 5, 2017, <https://www.whitehouse.gov/the-press-office/2017/04/05/memorandum-implementing-executive-order-13771-titled-reducing-regulation> explains that for Fiscal Year 2017 the above requirements only apply to each new “significant regulatory action that imposes costs”). This proposed rule is expected to be a deregulatory action under E.O. 13771.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Section 601–612 of Title 5 of the United States Code [U.S.C.]), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires a Department or Agency to prepare a regulatory-flexibility analysis of any rule subject to the requirements of notice-and-comment rulemaking under the Administrative Procedure Act (Section 553 of Title 5 of the U.S.C.) or any other statute, unless the Department or Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

USAID has determined that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, the Agency has not prepared a regulatory-flexibility analysis.

E.O. 12988: Civil Justice Reform

USAID and OMB have reviewed this proposed rule in accordance with E.O. 12988, “Civil Justice Reform.” The provisions of this proposed rule will not have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with such provision, or which otherwise impede their full implementation. The rule will not have retroactive effect.

E.O. 13175: Consultation and Coordination With Indian Tribal Governments

USAID and OMB have reviewed this rule in accordance with the requirements of E.O. 13175, “Consultation and Coordination with Indian Tribal Governments.” E.O. 13175 requires Federal Departments and Agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Agency has assessed the impact of this rule on Indian tribes and determined it does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175.

Executive Order 13132: Federalism

E.O. 13132 directs that, to the extent practicable and permitted by law, a Department or Agency shall not promulgate any regulation that has federalism implications, that imposes substantial direct compliance costs on State and local governments, that is not required by statute, or that preempts State law, unless the Department or Agency meets the consultation and funding requirements of Section 6 of the E.O. Because each change proposed by this rule does not have federalism implications as defined in the E.O., does not impose direct compliance costs on State and local governments, is required by statute, or does not preempt State law within the meaning of the E.O., the Agency has concluded that compliance

with the requirements of Section 6 of the E.O. is not necessary.

Plain-Language Instructions

USAID makes every effort to promote clarity and transparency in its rulemaking. In any regulation, there is a tension between drafting language that is simple and straightforward and drafting language that gives full effect to issues of legal interpretation. The Agency is proposing a number of changes to this regulation to enhance its clarity and satisfy the Federal Government’s plain-language requirements. If any commenter has suggestions for how the Agency could write the regulation more clearly, please provide comments by using the contact information provided in the introductory section of this proposed rule entitled, **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This proposed rule does not contain any new or revised “collection[s] of information” as defined by the Paperwork Reduction Act of 1995 Section 3501 of Title 44 of the U.S.C. *et seq.*

Unfunded Mandates Reform Act

Section 4(2) of the Unfunded Mandates Reform Act of 1995 (Section 1503(2) of Title 2 of the U.S.C.), excludes from coverage under that Act any proposed or final Federal regulation that “establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability.” Accordingly, this rulemaking is not subject to the provisions of the Unfunded Mandates Reform Act.

List of Subjects in 22 CFR Part 205

Foreign aid, Grant programs, Non-profit organizations.

Accordingly, for the reasons set forth in the preamble, USAID proposes to amend Part 205 of Chapter II of Title 22 of the CFR as follows:

PART 205—PARTICIPATION BY RELIGIOUS ORGANIZATIONS IN USAID PROGRAMS

■ 1. The authority citation for part 205 continues to read as follows:

Authority: 22 U.S.C. 2381(a).

■ 2. In § 205.1, revise paragraphs (a), (c), (f), (g), and add paragraph (l) to read as follows:

§ 205.1 Grants and cooperative agreements.

(a) Faith-based organizations are eligible, on the same basis as any other organization and considering any reasonable accommodation, as is consistent with federal law, the Attorney General’s Memorandum of October 6, 2018 (Federal Law Protections for Religious Liberty), and the Religion Clauses of the First Amendment to the U.S. Constitution, to participate in any USAID program for which they are otherwise eligible. In the selection of service-providers, neither USAID nor entities that make and administer sub-awards of USAID funds shall discriminate for, or against, an organization on the basis of the organization’s religious exercise or affiliation. Notices or announcements of award opportunities shall include language to indicate that faith-based organizations are eligible on the same basis as any other organization and subject to the protections and requirements of federal law. As used in this section, the term “program” refers to federally funded USAID grants and cooperative agreements, including sub-grants and sub-agreements. The term also includes grants awarded under contracts. As used in this section, the term “grantee” includes a recipient of a grant or a signatory to a cooperative agreement, as well as sub-recipients of USAID assistance under grants, cooperative agreements, and contracts.

* * * * *

(c) A faith-based organization that applies for, or participates in, USAID-funded programs or services (including through a prime award or sub-award) will retain its autonomy, religious character, and independence, and may continue to carry out its mission consistent with religious freedom protections in federal law, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from USAID (including through a prime award or sub-award) to support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), or in any other manner prohibited by law. Among other things, a faith-based organization that receives financial assistance from USAID may use space in its facilities, without concealing, altering, or removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization that receives financial assistance from USAID retains its authority over its

internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

* * * * *

(f) No grant document, contract, agreement, covenant, memorandum of understanding, policy, or regulation used by USAID shall require faith-based organizations to provide assurances or notices where the Agency does not require them of non-faith-based organizations. Any restrictions on the use of grant funds shall apply equally to faith-based and non-faith-based organizations. All organizations that participate in USAID's programs (including through a prime award or sub-award), including faith-based ones, must carry out eligible activities in accordance with all program requirements and other applicable requirements that govern the conduct of USAID-funded activities, including those that prohibit the use of direct financial assistance from USAID to engage in explicitly religious activities. No grant document, contract, agreement, covenant, memorandum of understanding, policy, or regulation used by USAID shall disqualify faith-based organizations from participating in USAID's programs because such organizations are motivated or influenced by religious faith to provide social services or other assistance, or because of their religious exercise or affiliation.

(g) A religious organization does not forfeit its exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-1, when the organization receives financial assistance from USAID. An organization that qualifies for such exemption may select its employees on the basis of their acceptance of, and/or adherence to, the religious tenets of the organization.

* * * * *

(l) Nothing in this section shall be construed in such a way as to advantage, or disadvantage, faith-based organizations affiliated with historic or well-established religions or sects in comparison with other religions or sects.

Brian Klotz,

Deputy Director, Center for Faith and Opportunity Initiatives.

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DEPARTMENT OF JUSTICE

28 CFR Part 38

[Docket No. OAG 166; AG Order No. 4596-2019]

RIN 1105-AB58

Equal Participation of Faith-Based Organizations in Department of Justice's Programs and Activities: Implementation of Executive Order 13831

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The rule proposes to amend Department of Justice ("Department") regulations on equal treatment for faith-based and other neighborhood organizations and to implement Executive Order 13831 (Establishment of a White House Faith and Opportunity Initiative). Among other changes, this rule proposes changes to provide clarity about the rights and obligations of faith-based organizations participating in Department programs, clarify the Department's guidance documents for financial assistance in regard to faith-based organizations, and eliminate certain requirements for faith-based organizations that no longer reflect executive branch guidance. This proposed rulemaking is intended to ensure that the Department's social service programs are implemented in a manner consistent with the requirements of Federal law, including the First Amendment to the Constitution and the Religious Freedom Restoration Act.

DATES: Comments must be received by the Department on or before February 18, 2020.

ADDRESSES: To ensure proper handling of comments, please reference Docket No. OAG 166 on all electronic and written correspondence. The Department encourages the electronic submission of all comments through <http://www.regulations.gov> using the electronic comment form provided on that site. For easy reference, an electronic copy of this document is also available at that website. It is not necessary to submit paper comments that duplicate the electronic submission, as all comments submitted to <http://www.regulations.gov> will be posted for public review and are part of the official docket record. However, should you wish to submit written comments through regular or express mail, they should be sent to Robert Davis, Acting Director, Office of Communications, Office of Justice

Programs, 810 7th St. NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT:

Robert Davis, Acting Director, Office of Communications, Office of Justice Programs, 810 7th St. NW, Washington, DC 20531, 202-307-0703.

SUPPLEMENTARY INFORMATION:

I. Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Information made available for public inspection includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you wish to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not wish it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information that you do not want posted online in the first paragraph of your comment and identify what information you want the agency to redact. Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online.

If you wish to submit confidential business information as part of your comment but do not wish it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, the agency may choose not to post that comment (or to post that comment only partially) on <http://www.regulations.gov>. Confidential business information identified and located as set forth above will not be placed in the public docket file, nor will it be posted online.

If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

II. Background

Shortly after taking office in 2001, President George W. Bush signed Executive Order 13199, Establishment of White House Office of Faith-Based and Community Initiatives, 66 FR 8499