

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

Richardson, et al.

Plaintiffs,

v.

Trump, et al.

Defendants.

Case No. 20-cv-2262

[PROPOSED] ORDER

1. Forthwith and no later than 9:00 p.m. today, the Postal Service shall redistribute to all Division Directors and Plant Managers the “Extraordinary Measures - Return Ballot Mail Processing Policy,” dated October 28, 2020, which provided specific guidance in administering and managing Mail Processing for the last week of the 2020 Election.
 - a. When recirculating the policy, the Postal Service shall indicate that it is doing so to reiterate that all processing facilities must abide by the requirements of that policy to expedite the treatment of ballots, and that it is recirculating this policy at the instruction of a federal district court.
 - b. The Postal Service shall also reinforce its instruction that the identified “special procedures must be put in place to ensure we deliver every ballot possible by the cutoff time on Election Day (except in Louisiana where ballots should be delivered by Monday, November 2). This instruction applies even in “postmarking” states that may allow for later delivery.”
 - c. USPS shall use the Express Mail Network on Monday, Tuesday, and after Election Day to expedite ballots out of local service area to ensure timely delivery of ballots, unless there is a faster surface option through existing transportation.
 - d. The Postal Service shall also reinforce that all ballots with a local destination must be cleared and processed on the same day or no later than the next morning for delivery to local offices, from now through at least November 7, 2020 and, if operationally necessary for timely mail delivery by the relevant state deadline , up through the final deadline for mail ballot receipt in each state.

- e. The Postal Service shall also reinforce that upon entry, all origin processing plants must apply a legible postmark to every ballot reflecting the date the ballot was collected if it does not already have one.
 - f. The Postal Service shall also note that the chart attached to the policy has been replaced by the “State Deadlines for Return Delivery of Mail Ballots” chart attached to this Order as Exhibit 1.
 - g. USPS shall issue a targeted written communication, and make all reasonable efforts to orally convey, to Division Directors and Plant Managers that serve Minnesota, New Jersey, North Carolina, and Pennsylvania that the chart of state deadlines distributed on October 28 has been replaced with the document attached as Exhibit 1; reiterating the importance of processing all election ballots in these states by the “Election Day Deadline;” and reiterating that they should rely on the extended deadline only for ballots that come into their possession after Election Day.
2. In addition to the daily “all clear” certification, Plant Managers are required to certify by 10:00 AM local time on Monday, November 2, 2020, that the ballot mail is clear to the delivery office and/or local pickup per the special Sunday processing instructions.
 3. In addition, Plant Managers are required to certify by 10:00 AM local time on Monday, November 2, 2020 and Tuesday, November 3, 2020 that they have complied with the measures identified in paragraphs 1.c and 1.d above.
 4. Postal Service management shall make all reasonable efforts to convey orally the requirements in paragraphs 1 and 2 of this Order to the relevant managerial and supervisory personnel in the following Districts as soon as practicable following the issuance of this order: Greater S. Carolina, Greensboro, Houston, Mid-Carolinas, Central Pennsylvania, Kentuckiana, Detroit, Greater Indiana, Northern New England, Colorado/Wyoming, Greater Michigan, Oklahoma, and Philadelphia Metropolitan.
 5. No later than 9:00 a.m. tomorrow, the Postal Service shall distribute to all local offices a written communication reiterating the following Postal Service policy: **Every** election ballot that is not sent to a processing facility must be postmarked or cancelled at the Post Office or local delivery unit, **regardless** of the postage payment method or indicia on the mailpieces. This includes any ballots that are stamped, metered, permitted, Business Reply Mail, Qualified Business Reply Mail, Courtesy Reply Mail, Postage Validation Imprinter (PVI) labeled postage, Self-Service Kiosk (SSK) labeled postage, and any other method of paying postage. Even short paid ballots and ballots without postage must be postmarked (postage collection will happen later).
 6. USPS shall continue to make all reasonable efforts to ensure retail facilities are complying with the October 20, 2020 Retail and Delivery Extraordinary Measures

memorandum (ECF No. 33-11), including the provisions related to postmarking, and the October 30, 2020 Order of the Court, and that processing facilities and local offices are complying with this Order.

It is **SO ORDERED** this ____ day of _____, 2020.

The Honorable Emmet G. Sullivan
United States District Judge

Exhibit 1

State Deadlines for Return Delivery of Mail Ballots
(as of October 23, 2020)

Following up on previous Election Mail Guidance, **the Postal Service must make every reasonable effort, including the extraordinary measures that we previously communicated, to ensure that completed ballots are delivered to the appropriate board of election (BOE) by the applicable state deadline set forth in column 2 below, “Election Day Deadline.”**

If you have ballots that were not delivered by Election Day, November 3, some states allow the ballots to be counted if the BOE receives them by the deadlines set forth in column 3, “Extended Deadline.” In these states, the Postal Service must make every reasonable effort, including the extraordinary measures that were previously communicated, to ensure that the remaining ballots that were not delivered by the “Election Day Deadline” are delivered to the appropriate BOE as quickly as possible and no later than the applicable “Extended Deadline” set forth in column 3.

State	Election Day Deadline <i>(all efforts should be made to return ballots by this deadline)</i>	Extended Deadline <i>(if you have ballots that were not delivered by the Election Day Deadline, all efforts should be made to return them by this extended deadline)</i>
Alabama	12:00 noon on Election Day (postmarked by November 2)	n/a
Alaska	Election Day (presumably close of polls)	November 13 (if postmarked by Election Day)
Arizona	7:00 pm on Election Day	n/a
Arkansas	7:30 pm on Election Day	n/a
California	Close of polls on Election Day	November 20 (if postmarked by Election Day)
Colorado	7:00 pm on Election Day	n/a
Connecticut	Close of polls on Election Day	n/a
Delaware	Close of polls on Election Day	n/a
District of Columbia	Election Day (presumably close of polls)	November 13 (if postmarked by Election Day)
Florida	7:00 pm on Election Day	n/a
Georgia	Close of polls on Election Day	n/a
Hawaii	Close of polls on Election Day	n/a
Idaho	8:00 pm on Election Day	n/a
Illinois	Close of polls on Election Day	November 17 (if postmarked by Election Day)

Indiana	12:00 noon on Election Day	n/a
Iowa	Close of polls on Election Day	November 9 by 12:00 noon or the time for canvass, whichever is earlier (if postmarked by November 2)
Kansas	Close of polls on Election Day	November 6 (if postmarked by Election Day)
Kentucky	6:00 pm on Election Day	November 6 (if postmarked by Election Day)
Louisiana	4:30 pm on November 2	n/a
Maine	Close of polls on Election Day	n/a
Maryland	8:00 pm on Election Day	November 13 by 10:00 am (if postmarked by Election Day)
Massachusetts	Close of polls on Election Day	November 6 (if postmarked by Election Day)
Michigan	8:00 pm on Election Day	n/a
Minnesota	Election Day (presumably close of polls)	To reiterate, all efforts should <i>first</i> be made to ensure the return of completed ballots by the Election Day deadline in column 2. It is possible, but not certain, that ballots returned by November 10 will be counted, if postmarked by Election Day.
Mississippi	Election Day (presumably close of polls)	November 10 (if postmarked by Election Day)
Missouri	Close of polls on Election Day	n/a
Montana	8:00 pm on Election Day	n/a
Nebraska	Close of polls on Election Day	n/a
Nevada	Close of polls on Election Day	November 10 by 5:00 pm (if postmarked by Election Day) or November 6 (if unpostmarked)
New Hampshire	5:00 pm on Election Day	n/a
New Jersey	Close of polls on Election Day	November 5, if postmarked by Election Day. It is also possible, but not certain, that unpostmarked ballots returned by November 5 will be counted and postmarked ballots returned by November 10 will be counted.
New Mexico	7:00 pm on Election Day	n/a
New York	Close of polls on Election Day	November 10 (if postmarked by Election Day) or November 4 (if unpostmarked)

North Carolina	5:00 pm on Election Day	November 6 by 5:00 pm, if postmarked by Election Day. It is also possible, but not certain, that postmarked ballots will be counted if they are returned by November 12 at 5:00 pm.
North Dakota	Election Day (presumably close of polls; may need to be postmarked before Election Day)	November 9, in time for the county canvass (if postmarked by November 2)
Ohio	Close of polls on Election Day	November 13 (if postmarked by November 2)
Oklahoma	7:00 pm on Election Day	n/a
Oregon	8:00 pm on Election Day	n/a
Pennsylvania	8:00 pm on Election Day	To reiterate, all efforts should <i>first</i> be made to ensure the return of completed ballots by the Election Day deadline in column 2. It is possible, but not certain, that ballots returned by November 6 will be counted (if postmarked by Election Day or lacking a postmark).
Rhode Island	Close of polls on Election Day	n/a
South Carolina	Close of polls on Election Day	n/a
South Dakota	Close of polls on Election Day	n/a
Tennessee	Close of polls on Election Day	n/a
Texas	Close of polls on Election Day	November 4 by 5:00 pm (if postmarked by Election Day)
Utah	Election Day (presumably close of polls; may need to be postmarked before Election Day)	November 10-17, depending on date of county canvass (if postmarked by November 2)
Vermont	Close of polls on Election Day	n/a
Virginia	Close of polls on Election Day	November 6 by 12:00 noon (if postmarked by Election Day)
Washington	8:00 pm on Election Day	November 23 (if postmarked by Election Day)
West Virginia	November 4	November 9 (if postmarked by Election Day)
Wisconsin	8:00 pm on Election Day	n/a
Wyoming	7:00 pm on Election Day	n/a