

# **Ballot Mail for Federal Elections**

## **Public Comments**

On March 31, 2026, President Trump signed Executive Order 14399, "Ensuring Citizenship Verification and Integrity in Federal Elections." On June 2, 2026, as directed by the order, the United States Postal Service published a proposed rule, "Ballot Mail for Federal Elections," in the Federal Register.

The proposal would establish new nationwide requirements governing the preparation and handling of ballot mail for federal elections.

The Postal Service provided a 30-day public comment period, which closed on July 2, 2026. The order directs the Postal Service to issue a final rule, if any, no later than 120 days from the date of the order, which would be on July 29, 2026.

Unlike most federal agencies, the Postal Service does not publish the comments it receives in response to proposed rules. This compilation brings together comments that were made publicly available by their authors or obtained from other public sources.

Of the twenty-two comments included in this document, all but two oppose the proposed rule. The exceptions are the comments submitted by the attorneys general of several Republican-led states and America First Legal (with several recommendations for revision).

The letter signed by 47 United States senators was not released as a public comment submitted in response to the Federal Register notice. It is included because it addresses the proposed rule and was made public during the comment period.

The comments are reproduced as they appear on the original source websites. The other contents — issues, authorities, and introductory pages preceding each comment — have been prepared by the editor and may contain errors. This compilation will be updated if additional comments become available.

Compiled and edited by  
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July 15, 2026

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# Principal Issues

**Administrative Procedure Act.** Whether the Postal Service was required to follow notice-and-comment rulemaking procedures or whether it remains exempt under 39 U.S.C. § 410(a). Discussed by Stephen A. Raher (194), Law Forward (154), Democratic Attorneys General (50), and other commenters.

**Ballot design standards.** Proposed requirements for Official Election Mail logos, automation-compatible envelopes, Intelligent Mail barcodes, and mandatory mailpiece design review. Discussed by Federal Register Notice (1), House Democratic Leadership and Members of Congress (7), King County Elections (97), and other commenters.

**Ballot tracking and Intelligent Mail barcodes.** Required use of uniquely serialized Intelligent Mail barcodes to identify and track individual ballot envelopes throughout the mailstream. Discussed by Federal Register Notice (1), House Democratic Leadership and Members of Congress (7), King County Elections (97), and other commenters.

**Constitutional authority over federal elections.** Whether the Constitution assigns authority over federal election administration to the states and Congress rather than the Executive Branch or the Postal Service. Discussed by House Democratic Leadership and Members of Congress (7), United States Senators (32), Democratic Attorneys General (50), and other commenters.

**Election administration.** The effect of the proposed rule on the responsibilities and discretion of state and local election officials. Discussed by Steve Hobbs, Washington Secretary of State (92), King County Elections (97), Jefferson County Clerk and Recorder (Colorado) (104), and other commenters.

**Elections Clause.** The constitutional allocation of authority over the time, place, and manner of federal elections. Discussed by House Democratic Leadership and Members of Congress (7), United States Senators (32), Law Forward (154), and other commenters.

**Executive Order 14399.** The Executive Order directing the Postal Service to undertake this rulemaking and establish new federal ballot-mail standards. Discussed by Federal Register Notice (1), House Democratic Leadership and Members of Congress (7), Republican Attorneys General (79), America First Legal (160), and other commenters.

**Federal Ballot Mail Portal.** Proposed Postal Service portal for transmitting voter information and ballot-mail data between election officials and USPS. Discussed by Federal Register Notice (1), King County Elections (97), House Democratic Leadership and Members of Congress (7), and other commenters.

**Postal Regulatory Commission advisory opinion (39 U.S.C. § 3661).** Whether the proposal constitutes a nationwide change in postal services requiring an advisory opinion before implementation. Discussed by Stephen A. Raher (194), Law Forward (154), Democratic Attorneys General (50), and other commenters.

**Postal Service neutrality.** Whether the proposal would transform the Postal Service from a neutral carrier of election mail into an active participant in election administration. Discussed by National Association of Letter Carriers (130), American Postal Workers Union (118), Economic Policy Institute (206), and other commenters.

**Postal Service statutory authority.** Whether the Postal Reorganization Act authorizes the Postal Service to establish nationwide requirements governing the preparation, acceptance, and transmission of federal ballot mail. Discussed by House Democratic Leadership and Members of Congress (7), Republican Attorneys General (79), America First Legal (160), Stephen A. Raher (194), and other commenters.

**Privacy and voter information.** Collection, transmission, protection, and potential disclosure of voter names, addresses, ballot identifiers, and related election information. Discussed by House Democratic Leadership and Members of Congress (7), Steve Hobbs, Washington Secretary of State (92), Coalition Against Domestic Violence et al. (185), American Association of People with Disabilities (180), and other commenters.

**Rejection of ballot mail.** Proposed authority for the Postal Service to reject or return ballot mail that fails to comply with federal mailing requirements. Discussed by Federal Register Notice (1), House Democratic Leadership and Members of Congress (7), Jefferson County Clerk and Recorder (Colorado) (104), and other commenters.

**Separation of powers.** Whether the Executive Branch may direct the Postal Service to regulate election administration without congressional authorization. Discussed by House Democratic Leadership and Members of Congress (7), United States Senators (32), Democratic Attorneys General (50), Law Forward (154), and other commenters.

**State authority over elections.** The respective roles of the states, Congress, and the Postal Service in administering federal elections. Discussed by House Democratic Leadership and Members of Congress (7), Steve Hobbs, Washington Secretary of State (92), King County Elections (97), Jefferson County Clerk and Recorder (Colorado) (104), and other commenters.

**Timing and implementation.** Whether the proposal could reasonably be implemented before the 2026 federal election without disrupting election administration. Discussed by Democratic Governors (42), Steve Hobbs, Washington Secretary of State (92), King County Elections (97), Jefferson County Clerk and Recorder (Colorado) (104), and other commenters.

**UOCAVA ballots.** Whether military and overseas ballots should remain exempt from the proposed requirements and whether those exemptions are adequate. Discussed by Federal Register Notice (1), Republican Attorneys General (79), and other commenters.

**Universal service and nondiscrimination.** Whether the proposal is consistent with the Postal Service's universal service obligation and statutory duty not to discriminate among users of the mail. Discussed by House Democratic Leadership and Members of Congress (7), National Association of Letter Carriers (130), American Postal Workers Union (118), Economic Policy Institute (206), and other commenters.

**Voter disenfranchisement.** Whether the proposal would prevent eligible voters from successfully casting ballots through the mail. Discussed by Democratic Governors (42), National Women's Law Center (141), Akron Urban League (170), American Association of People with Disabilities (180), Coalition Against Domestic Violence et al. (185), and other commenters.

**Voting accessibility.** The impact of the proposal on voters with disabilities, survivors of domestic violence, military and overseas voters, rural voters, and other populations that rely heavily on voting by mail. Discussed by National Women's Law Center (141), Partnership for Inclusive Disaster Strategies (173), American Association of People with Disabilities (180), Coalition Against Domestic Violence et al. (185), and other commenters.

# Principal Authorities

## Constitutional Authorities

**U.S. Constitution, Article I, § 4, cl. 1 (Elections Clause).** Assigns primary authority over the time, place, and manner of federal elections to the states, subject to alteration by Congress. Cited by House Democratic Leadership and Members of Congress (7), United States Senators (32), Democratic Attorneys General (50), Law Forward (154), among others.

**U.S. Constitution, Article I, § 8, cl. 7 (Postal Clause).** Grants Congress authority to establish post offices and regulate the postal system. Cited by House Democratic Leadership and Members of Congress (7), Stephen A. Raher (194), among others.

**U.S. Constitution, Article II.** Defines the powers of the Executive Branch and is cited in arguments that the President lacks constitutional authority to regulate federal elections through executive action. Cited by House Democratic Leadership and Members of Congress (7), Democratic Attorneys General (50), among others.

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## Federal Statutes

**Administrative Procedure Act, 5 U.S.C. §§ 551–706.** Establishes federal rulemaking procedures and standards for judicial review of agency action. Cited by Stephen A. Raher (194), Law Forward (154), Democratic Attorneys General (50), among others.

**Help America Vote Act of 2002.** Establishes minimum national standards for election administration and voting systems. Cited by House Democratic Leadership and Members of Congress (7), Democratic Attorneys General (50), National Women's Law Center (141), among others.

**National Voter Registration Act of 1993.** Establishes federal requirements governing voter registration for federal elections. Cited by House Democratic Leadership and Members of Congress (7), Democratic Attorneys General (50), Law Forward (154), among others.

**Privacy Act of 1974.** Regulates the collection, maintenance, use, and disclosure of personally identifiable information by federal agencies. Cited by House Democratic Leadership and Members of Congress (7), Steve Hobbs, Washington Secretary of State (92), Coalition Against Domestic Violence et al. (185), among others.

**Americans with Disabilities Act.** Prohibits discrimination against individuals with disabilities in public services and programs. Cited by American Association of People with Disabilities (180), Partnership for Inclusive Disaster Strategies (173), among others.

**Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).** Protects absentee voting rights of members of the armed forces and United States citizens residing overseas. Cited by Federal Register Notice (1), House Democratic Leadership and Members of Congress (7), Republican Attorneys General (79), among others.

**Violence Against Women Act.** Includes protections relevant to survivors of domestic violence, including privacy and safety concerns implicated by voter registration and ballot mail. Cited by National Women's Law Center (141), Coalition Against Domestic Violence et al. (185), among others.

**Voting Rights Act of 1965.** Prohibits discrimination in voting and protects equal access to the electoral process. Cited by House Democratic Leadership and Members of Congress (7), Democratic Attorneys General (50), Akron Urban League (170), among others.

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## Executive Authority

**Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*.** Directed the Postal Service to initiate this rulemaking and establish new federal ballot-mail standards. Cited by Federal Register Notice (1), House Democratic Leadership and Members of Congress (7), Republican Attorneys General (79), America First Legal (160), among others.

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## Postal Authorities

**Postal Reorganization Act of 1970.** Established the modern United States Postal Service as an independent establishment of the executive branch and defines its powers, duties, and public mission. Cited by House Democratic Leadership and Members of Congress (7), National Association of Letter Carriers (130), American Postal Workers Union (118), Stephen A. Raher (194), among others.

**Domestic Mail Manual.** Contains the Postal Service's regulations governing the preparation, acceptance, and handling of mail, including Election Mail standards. Cited by Federal Register Notice (1), American Postal Workers Union (118), National Association of Letter Carriers (130), among others.

**39 U.S.C. § 101.** Establishes the Postal Service's basic public service mission and universal service obligation. Cited by House Democratic Leadership and Members of Congress (7), National Association of Letter Carriers (130), American Postal Workers Union (118), Stephen A. Raher (194), among others.

**39 U.S.C. § 401.** Grants the Postal Service general powers, including authority to adopt regulations necessary to carry out its statutory functions. Cited by Federal Register Notice (1), Republican Attorneys General (79), America First Legal (160), Stephen A. Raher (194), among others.

**39 U.S.C. § 403.** Defines the Postal Service's operational duties, including prompt, reliable, efficient, and nondiscriminatory service. Cited by House Democratic Leadership and Members of Congress (7), National Association of Letter Carriers (130), American Postal Workers Union (118), Economic Policy Institute (206), among others.

**39 U.S.C. § 404.** Enumerates the Postal Service's specific powers over the collection, transportation, and delivery of mail. Cited by Federal Register Notice (1), Republican Attorneys General (79), America First Legal (160), Stephen A. Raher (194), among others.

**39 U.S.C. § 3661.** Requires the Postal Service to obtain an advisory opinion from the Postal Regulatory Commission before implementing certain nationwide changes in postal services. Cited by Stephen A. Raher (194), Law Forward (154), Democratic Attorneys General (50), National Association of Letter Carriers (130), among others.

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## Judicial Decisions

***Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1 (2013).** Held that the Elections Clause gives Congress paramount authority to regulate the time, place, and manner of federal elections within the constitutional framework. Cited by House Democratic Leadership and Members of Congress (7).

***Buchanan v. United States Postal Service.*** Addresses the Postal Service's requirement to request an advisory opinion from the Postal Regulatory Commission under 39 USC 3661. Cited by Democratic Attorneys General (75), Stephen A. Raher (194).

***Ex parte Jackson*, 96 U.S. 727 (1878).** Recognized Congress's broad constitutional authority to regulate the postal system and determine what may be carried in the mails. Cited by House Democratic Leadership and Members of Congress (7).

***West Virginia v. EPA*, 597 U.S. 697 (2022).** Held that agencies require clear congressional authorization before exercising powers of extraordinary political or economic significance under the major questions doctrine. Cited by House Democratic Leadership and Members of Congress (7), Law Forward (154), among others.

# FEDERAL REGISTER NOTICE

## Ballot Mail for Federal Elections

June 2, 2026

### Source

<https://www.federalregister.gov/documents/2026/06/02/2026-10968/ballot-mail-for-federal-elections>

### Principal Issues Raised

Mandatory preparation standards for federal ballot mail; required use of the Official Election Mail logo and automation-compatible envelopes; uniquely serialized Intelligent Mail barcodes on outbound and return ballot envelopes; mailpiece-design review; state-specific Mail-In and Absentee Participation Lists; collection of voter names, addresses and associated barcodes through a Federal Ballot Mail Portal; Postal Service verification before acceptance of outbound ballot mail; rejection and return of noncompliant mailings; treatment of primary-election and UOCAVA ballots; voter-data privacy; law-enforcement use of ballot-mail data; and implementation of Executive Order 14399.

### Principal Authorities Cited

Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*; 39 U.S.C. § 401 — General powers of the Postal Service; 39 U.S.C. § 404 — Specific powers of the Postal Service; 39 U.S.C. § 410(a) — Application of other laws; Administrative Procedure Act, 5 U.S.C. § 553; Privacy Act of 1974; Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301 et seq.; 52 U.S.C. §§ 10307 and 20511; 18 U.S.C. § 3061(b); 39 C.F.R. Part 111; and Domestic Mail Manual §§ 703 and 705.

TABLE 1 TO § 165.943—Continued  
[Datum NAD 1983]

| Event                            | Location <sup>1</sup> | Enforcement date and time |
|----------------------------------|-----------------------|---------------------------|
| [Reserved].                      |                       |                           |
| <b>(I) December Safety Zones</b> |                       |                           |
| [Reserved].                      |                       |                           |

<sup>1</sup> Any variation in location will be published in the Notification(s) of Enforcement released in advance of these events.

**John P. Botti,**

*Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Duluth.*

[FR Doc. 2026–10976 Filed 6–1–26; 8:45 am]

**BILLING CODE 9110–04–P**

## POSTAL SERVICE

### 39 CFR Part 111

#### Ballot Mail for Federal Elections

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service is proposing to amend the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), regarding the transmission of mail-in or absentee ballots for federal elections pursuant to its rulemaking authority.

**DATES:** Comments must be received on or before July 2, 2026.

**ADDRESSES:** Mail or deliver written comments to Director, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. Email comments, containing the name and address of the commenter, may be sent to: [PCFederalRegister@usps.gov](mailto:PCFederalRegister@usps.gov), with a subject line of “Ballot Mail.” Faxed comments will not be accepted.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review Monday through Friday, between 8 a.m. and 4 p.m. by calling 202–268–2906.

**FOR FURTHER INFORMATION CONTACT:** Dale Kennedy, (202) 268–6592.

**SUPPLEMENTARY INFORMATION:** All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

The Postal Service is proposing to amend the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) regarding the

transmission of mail-in or absentee ballots for federal elections through the mail, pursuant to its authority under 39 U.S.C. 401 and 404, and consistent with Section 3 of Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*.

#### Background

On March 31, 2026, the President issued Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*, 91 FR 17125 (2026) (“Order”). The Executive Order discusses the importance of additional measures concerning the use of the mails to vote in federal elections, in order to facilitate enforcement of federal law, reduce the risk of fraud, and help protect the integrity of federal elections. Following the issuance of the Order, the Postal Service submitted this proposed rule to the Office of Management and Budget (OMB) for interagency review. Subsequent to that review process, the Postal Service issues this proposed rule regarding the preparation of ballot mail for federal elections to facilitate the enforcement of federal law. The proposed rule would also implement best practices for Postal Service operations regarding ballot mail.

#### Legal Authority and Rationale

The Postal Service is initiating this rulemaking pursuant to its authority to regulate the mails, including under 39 U.S.C. 401 and 404. Section 401 authorizes the Postal Service “to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title.” Section 401 further grants the Postal Service “all other powers incidental, necessary, or appropriate to the carrying on of its functions or the exercise of its specific powers.” Section 404 grants the Postal Service specific powers, including the power “to provide for the collection, handling, transportation, delivery, forwarding, returning, and

holding of mail, and for the disposition of undeliverable mail.”

The proposed rule would apply uniform standards for the mailing of absentee ballots to and from voters, which the Postal Service understands will facilitate the faithful execution of federal law. The Postal Service has the authority to change its regulations to achieve this purpose. *See* 39 U.S.C. 401(2) (noting that the Postal Service can issue regulations as necessary to execute functions assigned to it by law); *see, e.g.*, 52 U.S.C. 10307; 52 U.S.C. 20511; *cf.* 18 U.S.C. 3061(b) (authorizing the Postal Service to investigate crimes regarding “the use of the mails” and other appropriate crimes as determined by agreement with the Attorney General). The regulations as proposed accord with that authority, because as detailed below they set forth mailpiece preparation and data reporting standards that can provide information regarding the sending of ballots through the mails that would be available for use by law enforcement, and are consistent with title 39 of the U.S. Code. Additionally, the proposed changes would implement best practices for Postal Service ballot mailing operations, thereby advancing execution of a key Postal Service function.

The Postal Service therefore proposes to amend DMM Section 705 with the provisions described herein. The DMM is incorporated by reference into 39 CFR 111.1 and 111.3.

#### Proposed Rule

The Postal Service is proposing to add a section to DMM 705, *Advanced Preparation and Special Postage Payment Systems*, that contains the following preparation conditions when mailing ballots for general, special, or run-off federal elections, except that these conditions do not apply to ballots covered under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. 20301 *et seq.*):

#### *Envelope Design and Review Standards*

- DMM 705.24.3 would identify new standards for the envelope design and review for outbound and return ballot

envelopes, which are consistent with the Postal Service's existing recommended best practices. These standards include the use of the official Election Mail logo, automation compatibility, placement of a uniquely serialized Intelligent Mail barcode (IMb) on each outbound and return ballot envelope, and a mailpiece design review.

The mail preparation standards improve the visibility of ballots in the mailstream and are consistent with the Postal Service's current ballot mail preparation recommendations as provided in DMM 703.8.4. The Postal Service currently has resources available to assist with compliance with these standards, which it will continue to make available. An example of a resource currently provided to election officials regarding mailpiece preparation is the "2026–2027 Official Election Mail Guide (Kit 600)", which is available at <https://about.usps.com/kits/kit600.pdf>.

The Election Mail Logo is an important tool for mailpiece visibility. It allows voters to recognize Election Mail as important and distinct from other mailings, and also serves to identify official Election Mail for Postal Service employees and distinguishes it from the millions of other mailpieces that are processed daily. Certain long-standing Postal Service practices—including the use of Extraordinary Measures during the period of time before elections that are designed to return ballots from voters to election officials faster than the ordinary mail processes would permit—require the Postal Service to be able to visually identify ballots, which the Election Mail Logo facilitates. Incorporating this logo will thus further facilitate the identification of such ballots.

Ensuring ballot mail is "automation compatible" and meets mailpiece design standards means that ballot mail can be processed effectively on the Postal Service's mail processing equipment without unexpected complications or delays in operations, and that the relevant barcodes can be scanned as the piece moves through the mailstream.

Uniquely serialized IMbs facilitate the tracking of individual pieces of Ballot Mail to and from individual voters as the barcodes are scanned on the Postal Service's mail processing equipment. The barcode simplifies data by consolidating information for multiple Postal Service identifiers into one comprehensive location.

#### *Pre-Election Notification of Intent To Use Postal System for Ballot Delivery*

- DMM 705.24.2 would provide for an optional pre-mailing notice that

states may provide to the Postal Service, and facilitate the process for states to enroll individuals with the Postal Service for inclusion on state-specific lists for mail-in and absentee ballot participation.

This provision would allow states to notify the Postal Service of their intent to use the mail to facilitate their election processes. By disclosing relevant points of contact, it will allow the Postal Service to more expeditiously provide technical and other assistance in advance of the election. It will also facilitate the adoption of the new elements of ballot mailing that are proposed in this regulation.

#### *Mail-In and Absentee Participation List*

- DMM 705.24.4 would establish a process by which (1) states (including authorized election officials and their mail service providers) will notify the Postal Service of the individuals to whom they are mailing a mail-in or absentee ballot, along with the unique barcode applied to the outbound and return ballot mail envelope for such individuals such that the name and barcode of the voter will be included on a Mail-In and Absentee Participation List; (2) states (including authorized election officials and their mail service providers) may thereafter add to or modify the list of enrollees until the last day that ballots may be mailed out to individuals under state law; and (3) the Postal Service will provide to each state's chief election official a final State-Specific Mail-In and Absentee Participation List for each state compiling the names of all enrolled individuals in such state, along with the barcodes associated with such individuals' mail-in or absentee ballots.

This provision will help determine adherence to federal law and facilitate law enforcement efforts. For example, the provided lists will evidence how many ballots have been mailed, and allow law enforcement officials to compare the total number of mailed ballots to the total number of received ballots to detect potential issues meriting further investigation. This is accomplished by ensuring that individuals who receive a mail-in or absentee ballot are included on the State-Specific Participation Lists. It is further accomplished by associating the specific barcodes on the ballot envelopes with the intended recipients of ballot mail. As noted above, these barcodes provide visibility into ballot mail transmission based on scan data that is generated as the ballots move through the mail.

Under this proposal, states would retain full control over who would (or

would not) be able to vote by mail in federal elections within each state, as states would control enrollment with the Postal Service for inclusion on the state's Mail-In and Absentee Participation List. States would provide the Postal Service with this information via the Federal Ballot Mail Portal. Once a state has completed its ballot mailings, the Postal Service would compile the information provided by that state and then provide the compiled list to the state as that state's Mail-In and Absentee Participation List. The Postal Service would not change the information provided by the state when compiling the lists. As noted below, the Postal Service would provide technical assistance to states and localities regarding the secure submission of this data.

#### *Ensuring Compliance With New Standards*

- DMM 705.24.5 would establish a verification standard to support transmission of compliant mail-in or absentee ballots.

The proposed rule also implements a verification procedure for compliance with the proposed standards prior to acceptance by the Postal Service of the outbound ballot mailpiece and the blank return ballots included within such mailings. The verification process by the Postal Service would confirm that a state submitted a list consistent with the conditions laid out in the proposed rule, and that the outbound ballot mail, and thus the blank ballot that could be returned by mail, is destined to individuals on the list, by checking the barcodes. The Postal Service would not verify whether individuals should or should not be included on a State's Mail-In and Absentee Participation List. States will retain full control over the content of that list.

The Postal Service is not proposing to apply these standards to primary elections or to UOCAVA ballots. Primary elections largely involve political parties selecting nominees through their chosen procedures, rather than direct election of federal officials, and thus implicate different considerations that bear on the necessity for these provisions. Moreover, UOCAVA is a separate federal statutory scheme with its own requirements, including different timing constraints and deadlines. The Postal Service welcomes comments on these issues, however.

As required under existing postal regulations, mailers must comply with all applicable postal laws and regulations governing mailability and preparation for mailing, as well as

nonpostal laws and regulations on the possession, treatment, transmission, or transfer of particular matter. Coinciding with publication of any final rule, to facilitate compliance by officials mailing ballots to voters, the Postal Service intends to provide further technical instructions regarding barcode creation, service type identifiers, acceptance processes, file preparation, documentation submission, and entry of data into the proposed portal.

The Postal Service will also take steps necessary for the creation of a new system of records notice (“SORN”) in accordance with the Privacy Act. Notice regarding the new SORN is forthcoming.

### Election Mail Practices

The Postal Service will continue to engage with state and local election officials to advise on mailing conditions and best practices. The Postal Service will also continue to offer technical support to election officials and their mail service providers.

Additional information about the Postal Service’s Election Mail practices and procedures, as well as other resources, are available at <https://about.usps.com/what/government-services/election-mail/>.

The proposed rule would not make changes to the Postal Service’s longstanding Election Mail practices concerning the processing and delivery of ballots that enter the mailstream, including completed ballots mailed by voters to election officials. In fact, consistent use of our best practices recommendations will enhance these efforts. For example, the Postal Service will, consistent with prior elections, continue to perform extraordinary measures to deliver completed ballots, and, as previously announced, will issue further guidance on such extraordinary measures prior to the general election on November 3, 2026. Extraordinary measures include steps taken by the Postal Service to accelerate the delivery of Return Ballot Mail beyond the Postal Service’s typical operations and service expectations.

### Request for Comments

Consistent with the Order, the Postal Service is issuing this notice of proposed rulemaking and invites comments on any and all provisions of the proposed DMM addition. During the comment period, the Postal Service plans to work with stakeholder groups to discuss the proposed rule and its implementation.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed

rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the proposed revisions to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

### List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service proposes the following changes to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1):

### PART 111—[AMENDED]

- 1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

- 2. Revise the following sections of *Mailing Standards of the United States Postal Service, Domestic Mail Manual* (DMM), as follows:

### Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

\* \* \* \* \*

### 705 Advanced Preparation and Special Postage Payment Systems

\* \* \* \* \*

[Insert after 705.23 the following:]

### 24.0 Ballot Mail for Federal Elections

#### 24.1 Definitions

For the purposes of Section 705.24, the following definitions apply:

a. *Authorized ballot mailer* means an election official of a state or a political subdivision thereof who is responsible for sending mail-in or absentee ballots to eligible voters of that state or political subdivision; or an individual or entity, such as a mail service provider, that an election official has authorized to send mail-in or absentee ballots by mail on the election official’s behalf.

b. *Ballot Portal User* means the chief election official of each state and any individual or entity, such as a mail service provider or an election official of that state or a political subdivision thereof, authorized by the chief election official to provide information through

the Postal Service Federal Ballot Mail Portal as described in 24.4.2.b.

c. *Mail-in or absentee ballot* means a physical ballot, other than a ballot provided at a designated polling place, that may be used to cast a vote in a federal election. For the purposes of Section 705.24, a mail-in or absentee ballot does not include a ballot mailed under 703.8.8 or 703.8.9.

d. *Outbound Federal Ballot Mail* means any mailpiece containing a mail-in or absentee ballot for a federal election sent from an authorized ballot mailer to an individual voter.

e. *Return Federal Ballot Mail* means any mailpiece containing a mail-in or absentee ballot for a federal election sent from an individual voter to an election office, or an authorized recipient of ballot mail, of a state or a political subdivision thereof.

f. *Federal election* means any general, special, or runoff election for the office of President or Vice President; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress. This definition does not include primary elections.

g. *State* includes all 50 states, as well as the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

h. *Intelligent Mail barcode (IMb)* has the meaning provided in 204.1.2.1.

i. *Official Election Mail logo* is a unique registered trademark designed exclusively for inclusion in the design of Official Election Mail. The conditions of use are provided in Publication 631, *Official Election Mail—Graphic Guidelines and Logos*.

### 24.2 Optional 90-Day Pre-Mailing Notice

A state’s chief election official may notify the Postal Service, no fewer than 90 days prior to a federal election, of its intent to allow for mail-in or absentee ballots in the federal election to be transmitted by the Postal Service. This notification should indicate whether the state intends to submit to the Postal Service the information described in 24.4.2.b to the Postal Service Federal Ballot Mail Portal as set forth in 24.4.2.d.

A state’s failure to provide the optional 90-day notice to the Postal Service under 24.2 will not prevent enrollment under 24.4.

### 24.3 Federal Ballot Mail

#### 24.3.1 Outbound Federal Ballot Mail Envelope Standards

Outbound Federal Ballot Mail must be mailed in an envelope that:

- a. Includes the official Election Mail logo;
- b. Is automation compatible;
- c. Bears a unique IMb with the Delivery Point ZIP Code embedded and a Federal Ballot Mail Service Type Identifier (STID); and
- d. Has undergone review by the Postal Service for mailpiece design and barcode placement.

#### 24.3.2 Return Federal Ballot Mail Envelope Standards

Return Federal Ballot Mail must be mailed in an envelope that:

- a. Includes the official Election Mail logo;
- b. Is automation compatible;
- c. Bears a unique IMb with the Delivery Point ZIP Code embedded and a Federal Ballot Mail STID; and
- d. Has undergone review by the Postal Service for mailpiece design and barcode placement.

#### 24.3.3 Authorized Ballot Mailer Responsibility

Authorized ballot mailers are responsible for barcode creation under 24.3.1 and 24.3.2 as well as envelope design and printing for all ballot mail.

#### 24.3.4 Additional Recommendations

For additional information on the Postal Service's recommendations for all ballot mail, see DMM 703.8.4.

### 24.4 State-Specific Mail-In and Absentee Participation Lists

#### 24.4.1 Postal Service Federal Ballot Portal User Registration

To access the Postal Service Federal Ballot Mail Portal, each Ballot Portal User must have a registered account. Registration must be completed no later than two business days before an Outbound Federal Ballot mailing. The chief election official of each state is responsible for authorizing the Ballot Portal Users for their state including political subdivisions thereof.

#### 24.4.2 Enrollment

- a. Any state that intends to receive mail-in or absentee ballots from individual voters through the Postal Service must ensure that such individuals have been enrolled with the Postal Service for inclusion on the state's Mail-In and Absentee Participation List.

- b. In order for an individual to be enrolled with the Postal Service for inclusion on a state's Mail-In and Absentee Participation List, a Ballot Portal User in that state must provide the following information through the Postal Service Federal Ballot Mail Portal:

1. Name of individual receiving a mail-in or absentee ballot;
  2. Address of individual receiving a mail-in or absentee ballot;
  3. Unique IMb on the Outbound Federal Ballot Mail envelope sent to the individual;
  4. Unique IMb on the Return Federal Ballot Mail envelope sent to the individual; and
  5. Originating election office state.
- c. An individual will be deemed enrolled with the Postal Service for inclusion on a state's Mail-In and Absentee Participation List as of the date that the information in 24.4.2.b is provided.
  - d. Ballot Portal Users must provide the information in 24.4.2.b at least 30 days before the date of the federal election, to the extent practicable, or by the date on which mail-in or absentee ballots may begin to be mailed under state law. Ballot Portal Users may make supplemental submissions to enroll additional individuals or modify prior submissions until the last day that ballots may be mailed out to individuals under state law. A separate submission is required in connection with each Outbound Federal Ballot mailing, regardless of the number of mailpieces in the mailing.
  - e. The information provided in 24.4.2.b must meet the Postal Service's technical specifications for the Federal Ballot Mail Portal.
  - f. Ballot Portal Users must certify to the Postal Service that any mail-in or absentee ballots their state's authorized ballot mailers provide to the Postal Service for mailing meet the standards in 24.3.1 and 24.3.2.

#### 24.4.3 Provision of State-Specific Lists

On or about the date of the federal election, the Postal Service will provide a state-specific Mail-In and Absentee Participant List to each state's chief election official that contains the name and address of each individual in that state who was enrolled through the process set forth in 24.4.2, along with the unique IMb associated with the Outbound and Return Federal Ballot Mail sent to each such individual.

### 24.5 Outbound Federal Ballot Mail Verification

#### 24.5.1 Procedure

Using the information provided in 24.4.2, the Postal Service will review mailings identified as Outbound Federal Ballot Mail prior to acceptance to evaluate whether the mailing meets the standards in 24.3.1 and is being sent to individuals who have been enrolled with the Postal Service for inclusion on

the state's Mail-In and Absentee Participation List, consistent with the technical specifications for the Federal Ballot Mail Portal.

#### 24.5.2 Authorized Verification

Mailings identified as Outbound Federal Ballot Mail are verified by Postal Service employees when presented for acceptance. Consistent with existing Postal regulations regarding commercial postage categories, mailings of Outbound Federal Ballot Mail with 200 or more pieces of Marketing Mail or 500 or more pieces of First-Class Mail must be entered at a facility that performs business mail acceptance functions. Mailings of Outbound Federal Ballot Mail that do not meet this volume threshold must be entered either at a facility that performs business mail acceptance functions or at a Postal Service retail counter. Postal Service personnel are not authorized to open mail sealed against inspection, except under circumstances described in ASM 274. The Postal Service's acceptance of Outbound Federal Ballot Mail does not constitute verified compliance.

#### 24.5.3 Noncompliance

- a. Mailings that do not comply with 24.5.1 and 24.5.2 will not be accepted and will be returned to the authorized ballot mailer. The authorized ballot mailer or Ballot Portal User must address the error(s) before resubmitting the mailing.

- b. Mailings from any authorized ballot mailer for any state that has not submitted a certification pursuant to 24.4.2.f will not be accepted and will be returned to the authorized ballot mailer.

- c. An authorized ballot mailer may request further review by the Postal Service if Outbound Federal Ballot Mail is not accepted.

- d. The Postal Service assumes no responsibility for any outbound ballot mailing presented until it is accepted into the mail. The Postal Service is not responsible for service delays when the Ballot Portal User or authorized ballot mailer does not meet the applicable preparation or entry standards.

- e. Authorized ballot mailers must comply with all applicable postal laws and regulations governing mailability and preparation for mailing, as well as nonpostal laws and regulations on the possession, treatment, transmission, or transfer of particular matter.

### 24.6 Non-Interference With State or Federal Election Laws

This rule relates only to the use of the U.S. Mail. The Postal Service does not purport to alter the eligibility of any

individual to vote under state or federal law. The Postal Service does not have any legal responsibility for management of state voter rolls or administration of federal elections within each state. States are fully responsible for the contents of each State's Mail-In and Absentee Participation List.

**Daria Valan,**

*Attorney, Ethics & Legal Compliance.*

[FR Doc. 2026-10968 Filed 5-29-26; 12:15 pm]

**BILLING CODE 7710-12-P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 195

[Docket No. PHMSA-2025-1271]

RIN 2137-AG22

#### Pipeline Safety: Breakout Tank Inspection Rule

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** Breakout tanks are used to “relieve surges in a hazardous liquid pipeline system” or to “receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.” American Petroleum Institute Standard 653 (API Std 653) sets industry standards for the inspection, repair, alteration, and reconstruction of aboveground storage tanks. PHMSA currently incorporates the 3rd edition of API Std 653 (issued December 2001) by reference into its regulations for breakout tanks. In this rulemaking, PHMSA is proposing to update its regulations for breakout tanks to incorporate the 5th edition of API Std 653 (issued November 2014) by reference. As a key part of this, PHMSA is proposing to authorize the use of risk-based inspection (RBI) procedures for establishing the inspection intervals of in-service breakout tanks.

**DATES:** Comments on this NPRM must be submitted by August 3, 2026. A public meeting of PHMSA's statutory advisory committees will be held on a date to be announced in the **Federal Register**.

**ADDRESSES:** You may submit comments by one of the following methods, identifying docket number PHMSA-2025-1271 on the top of the first page:

- Electronically at <https://www.regulations.gov>. Follow the “submit a comment” instructions.
- Mail and hand delivery to Docket Management System, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001. Hand delivery is available to this address between 9:00 a.m. and 5:00 p.m., Monday through Friday (except Federal holidays). Include two copies if submitting by mail. To receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard.
- By fax to 1-202-493-2251.

Comments may be viewed at <https://www.regulations.gov/docket/PHMSA-2025-1271>. Comments are posted without changes or edits, including any personal information provided. DOT's privacy statement can be reviewed at <https://www.dot.gov/privacy>.

**Confidential Business Information:** 49 CFR 190.343 provides for the submission of Confidential Business Information (CBI) to PHMSA. If your comment contains commercial or financial information that is customarily treated as private and that you actually treat as private, you must clearly designate the submitted comments as CBI, by taking the following steps: (1) mark as “confidential” each page of the original document submission containing CBI; (2) along with the original document, send PHMSA a redacted copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Send submissions containing CBI to Sayler Palabrica at the contact information listed below. Any comment PHMSA receives that is not specifically designated as CBI will be placed in the public docket.

**FOR FURTHER INFORMATION CONTACT:** Sayler Palabrica, Standards and Rulemaking Division, by phone at 202-744-0825 or by email at [sayler.palabrica@dot.gov](mailto:sayler.palabrica@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Executive Summary

API Std 653 sets standards for the inspection, repair, alteration, and reconstruction of aboveground storage tanks. PHMSA currently incorporates the 3rd edition of API Std 653, as issued in December 2001 with addenda and errata through April 2008, by reference into its part 195 regulations for breakout tanks. Breakout tanks are tanks that operators use to “relieve surges in a hazardous liquid pipeline system” or to “receive and store hazardous liquid transported by a pipeline for reinjection

and continued transportation by pipeline.” (49 CFR 195.2).

In this rulemaking, PHMSA is proposing to update its part 195 regulations for breakout tanks to incorporate the 5th edition of API Std 653, as issued in November 2014 with addendums and errata through July 2025, by reference. PHMSA is also proposing to revise § 195.432 to authorize the use of RBI procedures for establishing the inspection intervals of in-service breakout tanks. PHMSA estimates that adopting this proposal will result in cost savings of between \$24.5 to \$125.7 million per year using a three percent discount rate or between \$29.3 to \$150.1 million per year using a seven percent discount rate.

##### II. Background

PHMSA's Federal safety standards at part 195 apply to breakout tanks. Breakout tanks are used by pipeline operators to “relieve surges in a hazardous liquid pipeline system” or to “receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.” (49 CFR 195.2). Breakout tanks are subject to certain specific requirements in part 195, including (1) § 195.205, which prescribes requirements for the repair, alteration, and reconstruction of in-service breakout tanks; (2) § 195.307, which prescribes requirements for pressure testing aboveground breakout tanks; and (3) § 195.432, which prescribes requirements for the inspection of in-service breakout tanks. While not relevant to the proposals at issue in this proceeding, the general requirements in part 195 for pipeline systems and pipeline facilities also apply to breakout tanks, subject to a conflict preemption provision.<sup>1</sup>

PHMSA's regulations for breakout tanks date to the 1969 final rule that prescribed the original version of the part 195 regulations.<sup>2</sup> One of those regulations, codified at § 195.432, established requirements for the inspection of storage vessels. It stated that “[e]ach carrier shall, at intervals not exceeding 12 months, inspect each

<sup>1</sup> 49 CFR 195.1(c) “Breakout tanks that are subject to this part must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies specifically to breakout tanks and a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails.”

<sup>2</sup> *Requirements for Design, Construction, Operation, and Maintenance*, 34 FR 15473 (Oct. 4, 1969).

# HOUSE DEMOCRATIC LEADERSHIP AND MEMBERS OF CONGRESS

July 2, 2026

## Source

[https://case.house.gov/uploadedfiles/letter\\_to\\_usps\\_re\\_ballot\\_mail\\_proposed\\_rule.pdf](https://case.house.gov/uploadedfiles/letter_to_usps_re_ballot_mail_proposed_rule.pdf)

## Principal Issues Raised

State and congressional authority under the Elections Clause; absence of executive authority to regulate federal elections; separation of powers; congressional authority under the Postal Clause; Postal Service independence; USPS statutory authority under the Postal Reorganization Act; the Universal Service Obligation and nondiscrimination among mail users; USPS treatment of ballot mail as nonmailable matter; transformation of USPS from a neutral carrier into an election-administration gatekeeper; implementation and accuracy burdens on state and local election officials; mandatory Intelligent Mail barcodes and envelope redesign; risks to rural and smaller jurisdictions; delays and voter disenfranchisement; voter-data privacy and cybersecurity; and the proposed rule's proximity to the 2026 federal election.

## Principal Authorities Cited

U.S. Constitution, Article I, § 4, cl. 1 — Elections Clause; U.S. Constitution, Article I, § 8, cl. 7 — Postal Clause; U.S. Constitution, Article II; Postal Reorganization Act of 1970; 39 U.S.C. § 101 — Postal policy; 39 U.S.C. § 401 — General powers of the Postal Service; 39 U.S.C. § 403 — General duties of the Postal Service; 39 U.S.C. § 403(c) — Nondiscrimination among users of the mails; 39 U.S.C. § 3001 et seq. — Nonmailable matter; Voting Rights Act of 1965; Uniformed and Overseas Citizens Absentee Voting Act; National Voter Registration Act of 1993; Help America Vote Act of 2002; Privacy Act of 1974; *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1 (2013); *West Virginia v. EPA*, 597 U.S. 697 (2022); *Clinton v. City of New York*, 524 U.S. 417 (1998); *Smiley v. Holm*, 285 U.S. 355 (1932); *Ex parte Siebold*, 100 U.S. 371 (1879); *Ex parte Jackson*, 96 U.S. 727 (1878); and *U.S. Postal Service v. Council of Greenburgh Civic Associations*, 453 U.S. 114 (1981).

**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

July 2, 2026

The Honorable David Steiner  
Postmaster General  
United States Postal Service  
475 L'Enfant Plaza, SW  
Washington, DC 20260

Director  
Product Classification  
United States Postal Service  
475 L'Enfant Plaza SW, Room 4446  
Washington, DC 20260-5015

RE: Proposed Rule—Ballot Mail [2026-10968]

Dear Postmaster General Steiner:

We write in strong opposition to the proposed rule the United States Postal Service (Postal Service) recently published, which seeks to disenfranchise voters and undermine voting by mail in the 2026 elections and beyond. The proposed rule, titled “Ballot Mail for Federal Elections,” is unconstitutional and illegal.<sup>1</sup> We strongly urge the Postal Service to rescind this proposed rule and immediately refuse illegal orders from the President.

**I. The Proposed Rule Usurps the Express Constitutional Authority of the States and Congress and Violates the Separation of Powers**

**A. The Constitution expressly places authority over the time, place, and manner of federal elections with the states and with Congress.**

The Constitution’s text is clear: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations.”<sup>2</sup> Because “Times, Places and Manner” are “comprehensive words,”<sup>3</sup> the “substantive scope” of the states’ and Congress’s authority “is broad.”<sup>4</sup> Among other things, this includes “notices, registration, supervision of

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<sup>1</sup> U.S. Postal Service, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026) (proposed rule) (online at [www.federalregister.gov/documents/2026/06/02/2026-10968/ballot-mail-for-federal-elections](http://www.federalregister.gov/documents/2026/06/02/2026-10968/ballot-mail-for-federal-elections)).

<sup>2</sup> U.S. Const. art. I, § 4, cl. 1. As a practical matter, this has been applied to all federal elections, including presidential elections. See, e.g. *Ex parte Coy*, 127 U.S. 731, 751–52 (1888); *Burroughs v. United States*, 290 U.S. 534, 545 (1934).

<sup>3</sup> *Smiley v. Holm*, 285 U.S. 355, 366 (1932).

<sup>4</sup> *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 8 (2013).

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voting, protection of voters, prevention of fraud and corrupt practices,”<sup>5</sup> and the mechanisms for voting by mail that the Postal Service attempts to regulate with this proposed rule.<sup>6</sup>

Congress therefore has coextensive and preemptive control over these matters even when the states have regulated in the first instance—and when they have not. Thus, as the Supreme Court has explained, Congress’s power over national elections is “paramount,” as the Clause vests in Congress “supervisory control over the subject” and Congress “may make entirely new regulations, or add to, alter, or modify the regulations made by the State.”<sup>7</sup>

Both the executive order and the proposed rule illegally intrude upon this authority. The Postal Service proposes to arrogate to itself the authority to determine whether to deliver ballot mail to either a voter or to an elections office, effectively supplanting state law promulgated under the states’ Elections Clause authority. Any power to preempt or alter such state regulations lies with Congress alone, not the President or the Postal Service.

**B. The federal executive has no constitutional role in regulating federal elections.**

Not only does the Constitution place authority over federal elections with the states and Congress, it excludes the federal executive from this legislative function. The federal executive is mentioned nowhere in the Elections Clause nor in any of the other constitutional clauses concerning regulation of federal elections.<sup>8</sup> Nor is regulation of federal elections mentioned anywhere in the clauses of the Constitution that *do* set out the scope of executive power. The Supreme Court has recognized that this kind of “constitutional silence on” a “profoundly important issue” is “equivalent to an express prohibition” on exercising power.<sup>9</sup>

Whatever authority Article II’s Take Care Clause grants the President, it does not override the express text of the Elections Clause or empower him to make up implied authorities out of whole cloth. That is true no matter how much a President may personally want to “take over” and “nationalize” federal elections.<sup>10</sup> And if the President cannot do it, the Postal Service

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<sup>5</sup> *Smiley v. Holm*, 285 U.S. at 366 (1932).

<sup>6</sup> *Arizona v. Inter Tribal Council*, 570 U.S. at 15.

<sup>7</sup> *Ex parte Siebold*, 100 U.S. 371, 372 (1879); see also *Foster v. Love*, 522 U.S. 67, 69 (1997); *Inter Tribal Council of Ariz.*, 570 U.S. at 8 (recognizing the Elections Clause confers on Congress “the power to alter [state] regulations or supplant them altogether”).

<sup>8</sup> See U.S. Const. art. I, § 4, cl. 1; U.S. Const. art. I, § 2, cl. 2; U.S. Const. art. II, § 1, cl. 2.

<sup>9</sup> *Clinton v. City of New York*, 524 U.S. 417, 439 (1998). Like the presidential actions that the Supreme Court found violated bicameralism and presentment in *Clinton*, the allocation of power to the states and to Congress in the Elections Clause also was “the product of the great debates and compromises that produced the Constitution itself.” *Id.* at 440; see, e.g., 2 Farrand, Records of the Federal Convention of 1787, at 240–42; The Federalist No. 59 (“[T]here were only three ways, in which this power could have been reasonably modified and disposed, that it must either have been lodged wholly in the National Legislature, or wholly in the State Legislatures, or primarily in the latter, and ultimately in the former. The last mode has with reason been preferred by the Convention.”).

<sup>10</sup> Brookings, *Does President Trump Have the Authority to “Nationalize” Voting?* (Feb. 11, 2026) (online at [www.brookings.edu/articles/does-president-trump-have-the-authority-to-nationalize-voting/](http://www.brookings.edu/articles/does-president-trump-have-the-authority-to-nationalize-voting/)).

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certainly cannot absent a statutory grant of authority from Congress on the subject—which the Postal Service lacks.<sup>11</sup>

Only Congress and states have authority to regulate federal elections, not the Executive. When Congress has regulated federal elections in the past, it has done so by statute. The federal statutes that govern federal elections—the Voting Rights Act of 1965, the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), the National Voter Registration Act of 1993 (NVRA), and the Help America Vote Act of 2002 (HAVA)—were each enacted through a deliberative process of bicameral negotiation. Each passed both chambers with bipartisan majorities. Each was signed by a President of one of the two parties, in cooperation with congressional leaders of both. No President has ever asserted independent Article II authority to write new federal election rules—until now.

The proposed rule is simply lawless and ultra vires, both for the President and for the Postal Service. Proceeding to finalize this rule would be an ill-fated attempt to aggrandize the executive at the expense of congressional authority and the Framers’ design.

**C. It is clear from historical practice and Congress’s prior exercise of the Elections Clause that the proposed rule, and its implementation this election year, violate congressional authority and intent.**

When Congress acts under the Elections Clause, it sets out federal requirements precisely while still respecting the principles of federalism that informed the framers’ allocation of power to the states. The NVRA is a good example. That statute sets an exact federal floor for state voter registration deadlines (no more than 30 days before an election) but leaves broad discretion for states to set their own policies within that window.<sup>12</sup> Similarly, the NVRA requires states to create a state-administered centralized database of registered voters and sets forth standards for verifying identity, while leaving to state discretion exactly what forms of verification are acceptable.<sup>13</sup>

Further, any attempt by the Postal Service to implement the proposed rule for the 2026 midterm elections would blatantly contradict Congress’s judgment, exercised repeatedly over decades, that federal preemption of election procedures must not take effect until at least the next election cycle. This enables both election administrators and voters to avoid chaos and confusion, and it enables an orderly transition without undue administrative burdens. This congressional judgment of delayed implementation also protects against undue influence of self-serving political interests that might drive reforms not in the public interest, but in the interest of changing the rules of the game for short-term advantage. The proposed rule’s illegality—and folly—is highlighted by the Postal Service’s rush to rewrite election rules before the fall.

The proposed rule therefore is unconstitutional and contrary to law because it attempts to coerce the states and override the state discretion Congress intentionally preserved, and on a

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<sup>11</sup> Cf. *West Virginia vs. EPA*, 597 U.S. 697, 721 (2022).

<sup>12</sup> 52 U.S.C. § 20503(a).

<sup>13</sup> *Id.* § 20507(a)(1), (5).

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timeline Congress would never have set. Moreover, the proposed rule attempts to set new precise requirements and assert executive authority over subject matter that Congress has already regulated by statute. In an area such as the time, place, and manner of federal elections that the Constitution expressly commits to Congress, the executive cannot end run around the express commitment of authority to Congress simply because the President wants Congress to make different choices.

**D. The proposed rule intrudes into Congress’s express authority under the Postal Clause.**

This rule is doubly problematic under the plain text of Article I as it trespasses not only on the Elections Clause authority of states and Congress but also on Congress’s Postal Clause power to “establish post offices and post roads.”<sup>14</sup> For well over a century, the Supreme Court has recognized Congress’s authority as extremely broad: “The validity of legislation describing what should be carried, and its weight and form, and the charges to which it should be subjected, has never been questioned . . . The power possessed by Congress embraces the regulation of the entire Postal System of the country.”<sup>15</sup> As with the Elections Clause, it is Congress, not the executive, that has authority to determine whether and what mail will be carried, as well as “what shall be excluded.”<sup>16</sup>

Over half a century ago, Congress exercised this authority to structure the Postal Service to have meaningful independence while under the purview of Congress, not as an executive branch agency under the political control of the President. The Postal Reorganization Act of 1970 transformed the agency into an independent entity statutorily charged with providing “prompt, reliable, and efficient services to patrons in all areas and . . . all communities.”<sup>17</sup> Congress granted the Postal Service—and the President—no authority to make their own judgments about who can send and receive mail in general, never mind election mail, when eligibility and administration are constitutionally excluded from the executive branch’s purview. This proposed rule illustrates a danger that Congress guarded against when exercising its express Postal Clause authority over fifty years ago—that the transmittal of mail would not be universal and neutral, but driven by political, policy, or regional biases of whoever happens to be in power.

**II. The Postal Service Is Acting Beyond Its Statutory Authority**

**A. Statutory Authority**

Congress passed the Postal Reorganization Act of 1970, which created the modern Postal Service as an independent entity of the executive branch. Congress developed the Postal Reorganization Act to safeguard quality mail service, ensure self-sufficiency, and provide

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<sup>14</sup> U.S. Const. art I, § 8, cl. 7.

<sup>15</sup> *U.S. Postal Service v. Council of Greenburgh Civic Assoc.*, 453 U.S. 114, 126 (1981) (quoting *Ex parte Jackson*, 96 U.S. 727, 732 (1878)).

<sup>16</sup> *Ex parte Jackson*, 96 U.S. 732 (1878).

<sup>17</sup> 39 U.S.C. § 101(a).

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reasonable rates.<sup>18</sup> The Postal Reorganization Act codified several chapters in Title 39 of the U.S. Code, including the Postal Service’s main policy mandate and general powers.

At its core, Congress authorized the creation and authority of the Postal Service with a statutory universal service obligation (USO), which requires the Postal Service to “provide prompt, reliable, and efficient services to patrons in all areas and [to] render postal services to all communities.”<sup>19</sup> Through its USO, the Postal Service powers communities and links geographic, economic, and cultural divides. Moreover, Congress prohibited the Postal Service from “mak[ing] any undue or unreasonable discrimination among users of the mails.”<sup>20</sup> According to 39 U.S. Code § 101(b), the Postal Service must maximize “effective and regular postal services,” especially to rural America and hard-to-reach areas.<sup>21</sup>

The Postal Service’s statutory authority to adopt and amend rules and regulations “as may be necessary in the execution of its functions under this title and such other functions as may be assigned ... under any provisions of law” does not override constitutional limits.<sup>22</sup> Moreover, no part of Title 39 authorizes or permits the Postal Service to impose these inescapable burdens on election officials and voters.

## **B. Application to Proposed Rule**

The proposed rule “Ballot Mail for Federal Elections” is not authorized by Congress, and it directly undermines all aspects of the statutory USO. This rule would require all mail-in and absentee ballots to be mailed in an envelope with an official election mail logo, to be automation compatible, to have a unique Intelligent Mail barcode (IMb), and to have its design reviewed by the Postal Service. It requires states to provide State Mail-In and Absentee Participation Lists (State Lists) “at least 30 days before the date of the federal election, to the extent practicable, or by the date on which mail-in or absentee ballots may begin to be mailed under state law.” Every State’s chief election official would be required to be registered through the Postal Service’s Federal Ballot Mail Portal before the Postal Service processes outbound ballots. The proposed rule would require states to develop and provide State Lists to the Postal Service to verify that the voter’s information on a mail-in or absentee ballot matches the name and information on the respective State List and to determine whether it can accept and process the mail. It would require any ballot mail that does not comply with this regulation to be returned to sender, and any state that fails to submit the required information would have their ballots withheld by the Postal Service.<sup>23</sup>

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<sup>18</sup> Government Accountability Office, *Statement of William J. Anderson, Director, General Government Division, Before the Committee on Post Office and Civil Service* (Dec. 10, 1981) (online at [www.gao.gov/assets/117/125.pdf](http://www.gao.gov/assets/117/125.pdf)).

<sup>19</sup> 39 U.S.C. § 101(a).

<sup>20</sup> 39 U.S.C. § 403(c).

<sup>21</sup> 39 U.S.C. § 101(b).

<sup>22</sup> 39 U.S.C. § 401.

<sup>23</sup> U.S. Postal Service, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026) (proposed rule) (online at [www.federalregister.gov/documents/2026/06/02/2026-10968/ballot-mail-for-federal-elections](http://www.federalregister.gov/documents/2026/06/02/2026-10968/ballot-mail-for-federal-elections)).

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If enacted, this rule would violate the statutory USO. Mail delivery will be less prompt, less reliable, less efficient, highly irregular, and discriminatory. According to the statutory USO, the Postal Service must maximize “effective and regular postal services” to rural America and hard-to-reach areas.<sup>24</sup> Rural, remote, and small communities—areas that depend heavily on the Postal Service—experience ballot access issues and lack the technical capabilities and resources to rapidly scale up the redesign of ballots with unique IMBs.<sup>25</sup> The Postal Service does not provide any supplemental funding for jurisdictions to change their ballot design. As a result, smaller jurisdictions would have substantially more difficulty complying with the proposed rule, resulting in large amounts of outbound ballots not being processed despite otherwise being lawful mail products.

Congress has not provided the Postal Service with this authority you have now claimed to collect state data, audit ballot mail, and withhold ballot delivery. Congress specifically outlined in the Postal Reorganization Act that the Postal Service must not make any unreasonable discrimination among mail users.<sup>26</sup> Rendering a ballot nonmailable under this rule—that otherwise is an allowable mail product—is in direct contravention of the USO. Moreover, Congress has already specifically identified nonmailable matter by statute.<sup>27</sup> Ballots are not on that list, and the Postal Service has no authority to change the definition of nonmailable matter in this way.

### **III. Proposed Rule Risks Turning the Postal Service into an Election Administration Gatekeeper**

Under the proposed rule the Postal Service would assume an unlawful and unprecedented role in federal election administration, a role it was neither designed nor intended to perform. The proposed rule’s attempt to usurp control over federal elections was crystal clear in the Postmaster General’s congressional testimony last week, where he admitted under oath that the Postal Service would refuse to deliver mail ballots under the proposed rule if a state declines to turn its absentee voter lists over to the federal government.<sup>28</sup>

Dating back more than 150 years, the Postal Service has performed a limited but essential service in elections by acting as a neutral carrier of ballots and other materials.<sup>29</sup> The Elections

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<sup>24</sup> 39 U.S.C. § 101(b).

<sup>25</sup> Aspen Institute, *Supporting Ballot Access in Rural Communities* (Sept. 3, 2025) (online at [www.aspeninc.org/supporting-ballot-access-in-rural-communities/](https://www.aspeninc.org/supporting-ballot-access-in-rural-communities/)); Secure Democracy, *Report Shows Rural Voters Rely on Vote by Mail and Early Voting* (June 23, 2022) (online at <https://securedemocracyusa.org/new-report-rural-voters/>); Center for American Progress, *Enhancing Accessibility in U.S. Elections* (July 8, 2021) (online at [www.americanprogress.org/article/enhancing-accessibility-u-s-elections/](https://www.americanprogress.org/article/enhancing-accessibility-u-s-elections/)).

<sup>26</sup> 39 U.S.C. § 403(c).

<sup>27</sup> See 39 U.S. Code § 3001 *et seq.*

<sup>28</sup> *Postmaster General Confirms Plan to Hold Back Mail Ballots Under Proposed Rule*, New York Times (June 24, 2026) (online at <https://www.nytimes.com/2026/06/24/us/politics/postmaster-mail-ballot-rule-trump-elections.html>).

<sup>29</sup> *Voting by Mail Dates Back to America’s Earliest Years. Here’s How It’s Changed Over the Years*, TIME (Dec. 12, 2023) (online at <https://time.com/5892357/voting-by-mail-history/>).

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Clause of the U.S. Constitution, meanwhile, grants states (subject to congressional override) the power to determine voter eligibility, distribute ballots, and set election procedures.<sup>30</sup> The proposed rule upends the relationship between states and the Postal Service by forcing state election officials to provide voter- and ballot-specific information directly to the Postal Service as a condition of participating in the agency's proposed ballot-mail system—in direct contrast to the purely voluntary election mail best practices previously advocated by the Postal Service.<sup>31</sup>

The proposed rule's requirements would subordinate state and local election officials to a power of compliance. While state and local election officials would remain legally responsible for overseeing elections, this power would in practice be conditioned on compliance with ballot mail standards established and administered by the Postal Service. These changes grant the Postal Service sweeping new powers to determine how elections are administered, without legal justification.<sup>32</sup> In doing so, the proposed rule risks turning the Postal Service from an impartial service provider into a gatekeeper for federal, state, and local elections.

#### **IV. The Proposed Rule Poses Insurmountable Implementation and Accuracy Challenges for Election Administrators**

Even if the Postal Service had legal authority to promulgate this rule—and it does not—the implementation, compliance, and cost challenges would be practically insurmountable for many election administrators. This is true even if the rule did not become effective until next election cycle.

Among other challenges discussed in this comment, the proposed rule would require compliance with currently voluntary ballot-marking practices, for both inbound and outbound election mail. Although certain jurisdictions meet these standards voluntarily, many others do not. These are disproportionately small and rural jurisdictions. As a practical matter, many rural jurisdictions in particular will be unable to implement the proposed requirements on a fall timeline or absent spending taxpayer funds they may not have. For example, many rural election offices do not use an established vendor for their ballot design or printing. These jurisdictions would need to design and order new ballot envelopes before early voting begins, imposing potentially unfunded costs on rural communities that are already deprived of resources due to underfunding of HAVA grants.

The proposed rule's mandate of untested and certainly inaccurate voter lists compounds the compliance burdens and challenges for election administrators and will almost certainly result in disenfranchising American citizens.

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<sup>30</sup> Cornell Law School, *Congress and the Elections Clause* (online at [www.law.cornell.edu/constitution-conan/article-1/section-4/clause-1/congress-and-the-elections-clause](http://www.law.cornell.edu/constitution-conan/article-1/section-4/clause-1/congress-and-the-elections-clause)) (accessed June 24, 2026).

<sup>31</sup> See U.S. Postal Service, *Facilitating the Processing and Delivery of Return Ballots from Voters Using Prepaid Postage* (online at <https://about.usps.com/what/government-services/election-mail/pdf/election-mail-prepaid-reply-mail-info.pdf>) (accessed June 24, 2026).

<sup>32</sup> See U.S. Postal Service, *2026-2027 Official Election Mail Guide* (online at <https://about.usps.com/kits/kit600.pdf>) (accessed June 24, 2026).

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The rule also provides little detail about how the Postal Service will make decisions about which ballots to accept or reject, including who will make those decisions, according to what criteria, and on what timeline. The absence of such details should be independently fatal to the proposed rule, but the need for that explanation is even more critical because neither the Postal Service nor any other federal agency is equipped to handle these tasks in which they have no experience or expertise. This is not a coincidence—in the NVRA and other exercises of Congress’s Elections Clause authority, Congress made clear that responsibility for voter list maintenance lies with the states.

For example, the proposed rule states that ballots the Postal Service determines are not in compliance with the newly mandatory envelope design elements, or that are addressed to individuals not on the proposed rule’s newly mandated eligibility lists “will be returned to the authorized ballot mailer” for the “errors” to be addressed. This would delay delivery in both directions and disenfranchise voters through no fault of their own, or even the election administrator. It’s not clear how or how quickly these “noncompliance” determinations will be made, or how anyone could have the opportunity to cure.

This vagueness about how to comply is problematic enough for election administrators who are under state-law and other obligations to ensure the ability of their eligible residents to vote by mail. It is even worse when the federal government implicitly threatens investigation or prosecution for noncompliance, as the executive order does. Moreover, the vagueness of how the Postal Service plans to implement its new requirements makes it difficult for any commenters to understand the precise impact of the rule on the ability of Americans to vote by mail or offer alternatives.

As in every election year, election administrators must spend the critical period over the summer and early fall preparing for the election with limited time and resources, even under standard and well-worn election procedures. To burden these administrators in the pre-election period with additional, novel requirements to create and comply with new eligibility lists, and to redesign and reprint envelopes, is simply absurd.

## **V. Proposed Rule Creates Timing Risks and Other Burdens for Election Officials and Voters**

The Postal Service claims sweeping new election administration powers under the proposed rule that lack basic constitutional and legal justification. The proposed rule would also in practice impose substantial new administrative obligations on election officials during periods of high pressure and under severe time constraints. To comply with Postal Service requirements, jurisdictions would be required to generate ballots with unique outbound and return IMbs, link those identifiers to individual voters, transmit such information through a Federal Ballot Mail Portal, and maintain participation records based on voter requests. These requirements represent a significant and unfunded expansion of administrative responsibilities beyond those currently imposed under state election laws.

The burden associated with these requirements are particularly acute for smaller jurisdictions, rural election offices, and election administrators operating with limited

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technological resources. Implementing the proposed requirements may require significant investment in new technologies and staff training, with these costs borne exclusively by election officials rather than the Postal Service.<sup>33</sup>

While we agree that barcoding and ballot tracking capabilities are an important recent innovation, such mandatory requirements, implemented hurriedly and without appropriate resources, also introduce multiple new opportunities for delays in the vote-by-mail process. For example, minor errors in voter records or barcode assignments that do not constitute voter fraud or ineligibility would require corrective action for a mail ballot to be delivered by the Postal Service. Given the compressed timelines involved in state election administration, such trivial errors may in practice disenfranchise voters—excluding them from the electoral process entirely.<sup>34</sup> The right to vote is a critical function of democracy and must be protected. This proposed rule would lead to voter suppression and compromise a bedrock of our democracy.<sup>35</sup>

Finally, the proposed rule raises serious administrative and timing concerns given the proximity of the 2026 midterm elections, especially for states that practice universal mail-in voting. With the 2026 midterms just months away, such major changes to election mail requirements would cause significant disruption in preparations at the state and local level. This disruption would be especially acute for states that permit elections to be conducted entirely by mail: California, Colorado, Hawaii, Nevada, Oregon, Utah, Vermont, and Washington state.<sup>36</sup> In the likely event of delays or acute failures in the implementation of the new system, voters who cast their ballot through the mail would be disenfranchised.

Nearly one-third of Americans voted by mail in the last presidential election, and some voter populations historically use mail-in voting at far higher rates, including voters with disabilities and senior voters.<sup>37</sup> Eight states and Washington D.C. send mail-in ballots to every registered voter.<sup>38</sup> The composition of and verification standard for the State Lists will open the door to malicious action or errors through a new point of failure. If the Postal Service has determined that a state has failed to comply with the provisions of this rule, bulk ballots would

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<sup>33</sup> See The Center for Election Innovation and Research, *Who Pays for Election Administration?* (Oct. 2025) (online at <https://electioninnovation.org/research/who-pays-for-election-admin/>); The Center for Election Innovation and Research, *Who Pays for Ballots?* (Oct. 2025) (online at <https://electioninnovation.org/research/who-pays-for-ballots/>); *USPS Mail-In Voting Rules Spark Election Official Concern*, KXAN Austin (June 1, 2026) (online at [www.yahoo.com/news/politics/articles/usps-mail-voting-rules-spark-224142964.html](http://www.yahoo.com/news/politics/articles/usps-mail-voting-rules-spark-224142964.html)).

<sup>34</sup> NAACP, *NAACP Moves to Halt USPS Mail-In Ballot Proposed Rule* (June 3, 2026) (online at <https://naacp.org/articles/naacp-moves-halt-usps-mail-ballot-proposed-rule>).

<sup>35</sup> See Brookings, *Mail Voting in the U.S.: Data Points to Very Low Fraud and Significant Benefits for Voters* (Nov. 6, 2025) (online at [www.brookings.edu/articles/mail-voting-in-the-us-data-points-to-very-low-fraud-and-significant-benefits-to-voters/](http://www.brookings.edu/articles/mail-voting-in-the-us-data-points-to-very-low-fraud-and-significant-benefits-to-voters/)); Brookings, *How Widespread Is Election Fraud in the United States? Not Very* (Oct. 28, 2024) (online at [brookings.edu/articles/how-widespread-is-election-fraud-in-the-united-states-not-very/](http://brookings.edu/articles/how-widespread-is-election-fraud-in-the-united-states-not-very/)).

<sup>36</sup> National Conference of State Legislatures, *Table 18: States with Mostly Mail Elections* (Apr. 6, 2026) (online at [www.ncsl.org/elections-and-campaigns/table-18-states-with-all-mail-elections](http://www.ncsl.org/elections-and-campaigns/table-18-states-with-all-mail-elections)).

<sup>37</sup> States United Democracy Center, *Nearly 1 in 3 Americans Voted by Mail in 2024* (Apr. 13, 2026) (online at <https://statesunited.org/resources/americans-vote-by-mail-2024/>).

<sup>38</sup> *NAACP v. U.S. Postal Serv.*, 496 F. Supp. 3d 1 (D.D.C. 2020).

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be rejected by the Postal Service, potentially compromising the USO. This is yet another example where ballots may be stopped, even with the best intentions, and eligible voters disenfranchised.

## VI. Privacy and Cybersecurity Concerns

Through the President's executive order and proposed rule, the Postal Service is setting new standards for illegal government surveillance and intrusion into Americans' lives.

The proposed rule requires states to provide lists including names and addresses of individuals receiving mail-in or absentee ballots through a new Federal Ballot Mail Portal. The Postal Service, however, has no power to require states to comply with this rule nor collect this type of state-level data. The rule states that the Postal Service will create systems of records notices pursuant to the Privacy Act. However, the proposed rule fails to detail how it will safeguard and protect such sensitive voter information, agency access to such data and information, how such data may be used outside "law enforcement efforts," and the extent to which this data may be shared with other non-governmental organizations.<sup>39</sup>

The proposed rule suggests that State List information may be shared with federal law enforcement efforts. The Postal Service already maintains a wide swath of personal information on individuals present in the United States, but use of that data is highly restricted. Data may only be shared in very limited situations with comprehensive protection of personal information.<sup>40</sup>

This Administration cannot be trusted to safeguard the privacy of sensitive government data. Department of Government Efficiency (DOGE) employees embedded within SSA gained high level access to Americans' sensitive data and violated numerous privacy and cybersecurity laws—including the Federal Information Security Modernization Act, the Privacy Act, and the Computer Fraud and Abuse Act.<sup>41</sup> DOGE employees reportedly gained access and transferred confidential data within the National Labor Relations Board and tried to cover up their actions, in potential violation of the law.<sup>42</sup> A federal judge found that the Office of Personnel Management violated the law when DOGE employees bypassed critical privacy and cybersecurity standards to access sensitive and personal information of millions of federal employees and retirees.<sup>43</sup>

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<sup>39</sup> U.S. Postal Service, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026) (proposed rule) (online at [www.federalregister.gov/documents/2026/06/02/2026-10968/ballot-mail-for-federal-elections](https://www.federalregister.gov/documents/2026/06/02/2026-10968/ballot-mail-for-federal-elections)).

<sup>40</sup> *There Are Rules Governing How USPS Manages Personal Information*, U.S. Postal Service Link (July 29, 2025) (online at <https://news.usps.com/2025/07/29/there-are-rules-governing-how-usps-manages-personal-information/>); U.S. Postal Service, *AS-353, Guide to Privacy, the Freedom of Information Act, and Records Management* (Jan. 2025) (online at [https://about.usps.com/policy/as353\\_pol.pdf](https://about.usps.com/policy/as353_pol.pdf)).

<sup>41</sup> See Letter from Ranking Member Robert Garcia, Committee on Oversight and Government Reform, to The Honorable Frank Bisignano, Social Security Administration (Mar. 9, 2026) (online at <https://oversightdemocrats.house.gov/imo/media/doc/2026-03-09garciatobisignanoletterredogessa.pdf>).

<sup>42</sup> Brookings, *A Whistleblower's Disclosure Details How DOGE May Have Taken Sensitive Labor Data* (Apr. 15, 2025) (online at [www.brookings.edu/articles/privacy-under-siege-doges-one-big-beautiful-database/](https://www.brookings.edu/articles/privacy-under-siege-doges-one-big-beautiful-database/)).

<sup>43</sup> *Judge Finds OPM Broke Law in Granting Data Access to DOGE*, Federal News Network (June 9, 2025) (online at <https://federalnewsnetwork.com/management/2025/06/judge-finds-opm-broke-law-in-granting-data->

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Committee Democrats received reports that members of DOGE were scheming to combine sensitive information held by SSA, the IRS, the Department of Health and Human Services, and other agencies into a single cross-agency master database—without regard for important cybersecurity and privacy considerations, and potentially in violation of the law.<sup>44</sup>

The Postal Service has failed to identify how it would protect and safeguard personal voter information as part of its proposed rule. It has failed to define all law enforcement uses of this data, and any other access to this sensitive information about the American electorate. Taken together, this proposed rule represents another effort by the President Trump's Administration to deepen its surveillance agenda.

## VII. Conclusion

The Postal Service may support the right to vote by effectively and efficiently performing its regular operation, but it has no authority to undermine it. The Postal Service has a constitutional and statutory obligation to transmit mail and not interfere in U.S. elections. To protect the sanctity of our elections, defend the right to vote, safeguard sensitive data, and comply with the law, we urge you to rescind this proposed rule.

Sincerely,



Robert Garcia  
Ranking Member  
Committee on Oversight and  
Government Reform



Joseph D. Morelle  
Ranking Member  
Committee on House  
Administration



Raja Krishnamoorthi  
Member of Congress



Stephen F. Lynch  
Member of Congress



Kevin Mullin  
Member of Congress



Ted W. Lieu  
Member of Congress

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access-to-doge/).

<sup>44</sup> See also Brookings, *Privacy Under Siege: DOGE's One Big Beautiful Database* (June 25, 2025) (online at [www.brookings.edu/articles/privacy-under-siege-doges-one-big-beautiful-database/](http://www.brookings.edu/articles/privacy-under-siege-doges-one-big-beautiful-database/)).

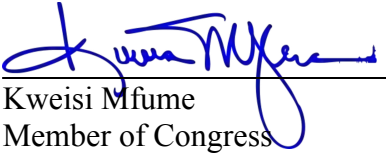
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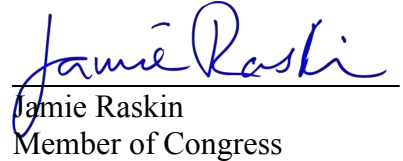
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Member of Congress



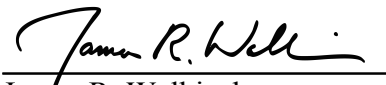
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Member of Congress



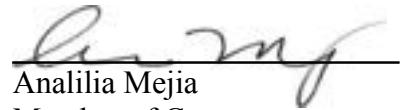
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Jamie Raskin  
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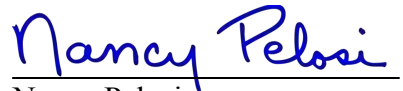
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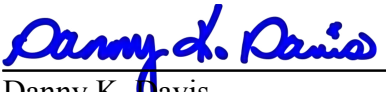
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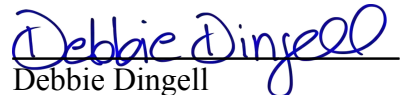
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Member of Congress



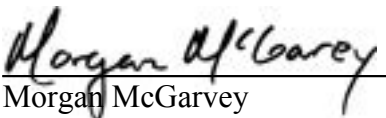
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Danny K. Davis  
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Debbie Dingell  
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Morgan McGarvey  
Member of Congress



Paul D. Tonko  
Member of Congress



Ro Khanna  
Member of Congress



Nanette Diaz Barragán  
Member of Congress

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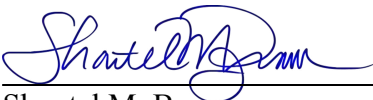
Sydney Kamlager-Dove  
Member of Congress



Dave Min  
Member of Congress



Mike Quigley  
Member of Congress



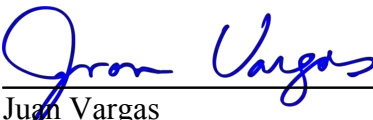
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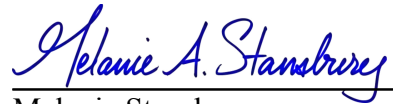
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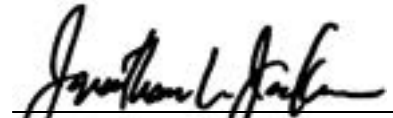
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Member of Congress



Juan Vargas  
Member of Congress



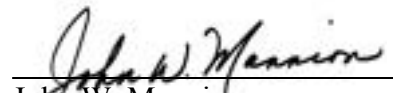
Melanie Stansbury  
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Rashida Tlaib  
Member of Congress



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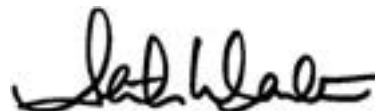


Adam Smith  
Member of Congress

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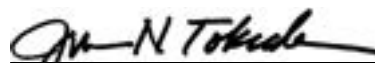
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Seth Moulton  
Member of Congress



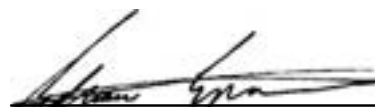
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Jil Tokuda  
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Maxine Waters  
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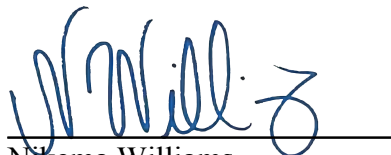
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Member of Congress



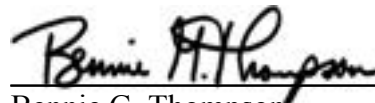
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Member of Congress



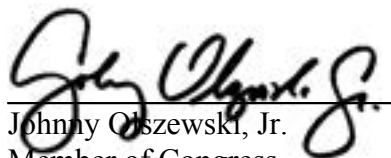
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Nikema Williams  
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Bennie G. Thompson  
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Johnny Olszewski, Jr.  
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Debbie Wasserman Schultz  
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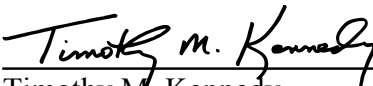
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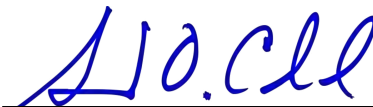
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Mike Levin  
Member of Congress



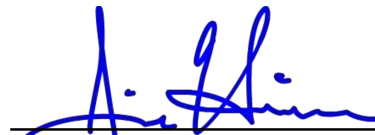
Timothy M. Kennedy  
Member of Congress



Salud Carbajal  
Member of Congress



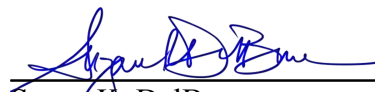
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Member of Congress



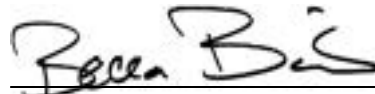
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Suzanne Bonamici  
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Suzan K. DelBene  
Member of Congress



Becca Balint  
Member of Congress



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Member of Congress

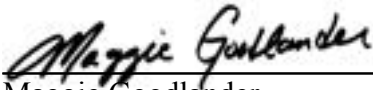


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Member of Congress

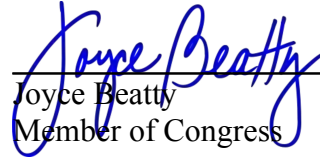


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Joyce Beatty  
Member of Congress



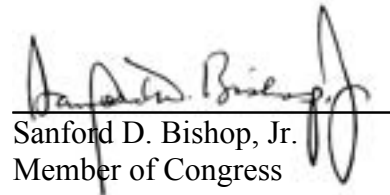
Mark Pocan  
Member of Congress



Mike Thompson  
Member of Congress



J. Luis Correa  
Member of Congress



Sanford D. Bishop, Jr.  
Member of Congress



Jesús G. "Chuy" García  
Member of Congress



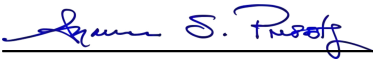
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Member of Congress



Jasmine Crockett  
Member of Congress



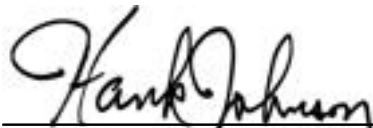
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Member of Congress



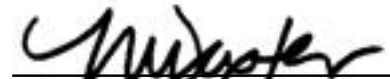
Ayanna Pressley  
Member of Congress



Gwen S. Moore  
Member of Congress



Henry C. "Hank" Johnson, Jr.  
Member of Congress

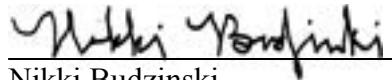


Maxine Dexter, M.D.  
Member of Congress

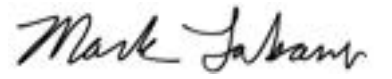
The Honorable David Steiner  
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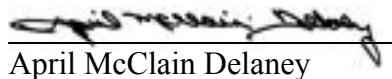
Ed Case  
Member of Congress



Nikki Budzinski  
Member of Congress



MARK TAKANO  
Member of Congress



April McClain Delaney  
Member of Congress



Marc A. Veasey  
Member of Congress



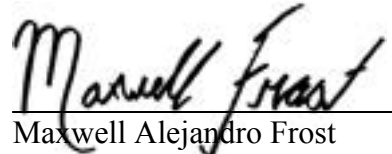
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Member of Congress  
Kansas Third District



Dina Titus  
Member of Congress



Mark DeSaulnier  
Member of Congress



Maxwell Alejandro Frost  
Member of Congress



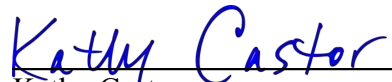
Marilyn Strickland  
Member of Congress



Troy A. Carter, Sr.  
Member of Congress



Robin L. Kelly  
Member of Congress

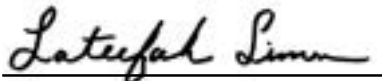


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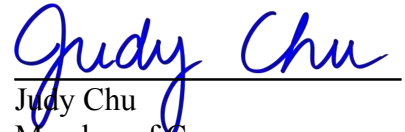


Yvette D. Clarke  
Member of Congress

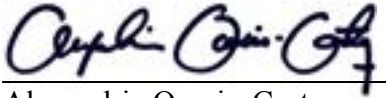
The Honorable David Steiner  
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Lateefah Simon  
Member of Congress



Judy Chu  
Member of Congress



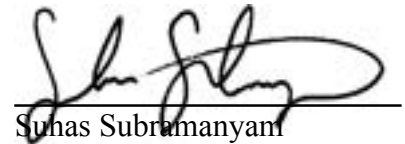
Alexandria Ocasio-Cortez  
Member of Congress



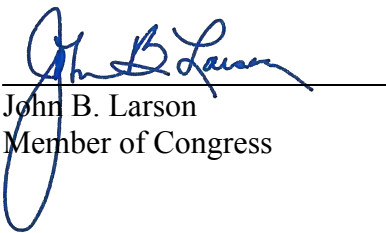
Ilhan Omar  
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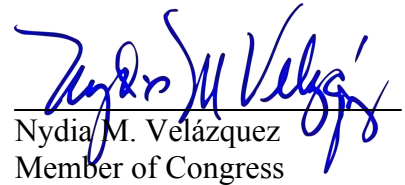
Brittany Pettersen  
Member of Congress



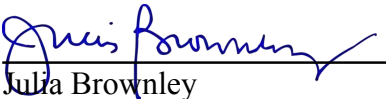
Sunas Subramanyam  
Member of Congress



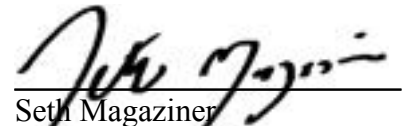
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Member of Congress



Nydia M. Velázquez  
Member of Congress



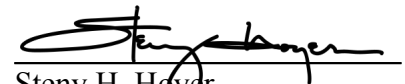
Julia Brownley  
Member of Congress



Seth Magaziner  
Member of Congress



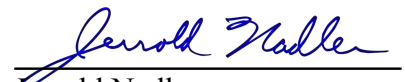
Frederica S. Wilson  
Member of Congress



Steny H. Hoyer  
Member of Congress

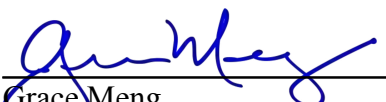


Nellie Pou  
Member of Congress

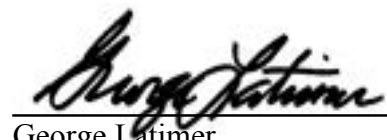


Terrold Nadler  
Member of Congress

The Honorable David Steiner  
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Grace Meng  
Member of Congress

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George Latimer  
Member of Congress

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Doris Matsui  
Member of Congress

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Jake Auchincloss  
Member of Congress

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Angie Craig  
Member of Congress

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Joaquin Castro  
Member of Congress

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Greg Casar  
Member of Congress

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Zoe Lofgren  
Member of Congress

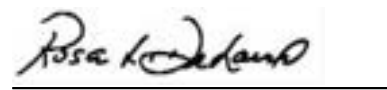
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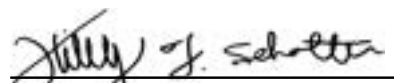
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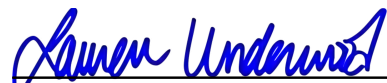
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Adelita S. Grijalva  
Member of Congress

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Rosa L. DeLauro  
Member of Congress

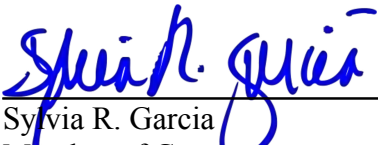
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Hillary J. Scholten  
Member of Congress

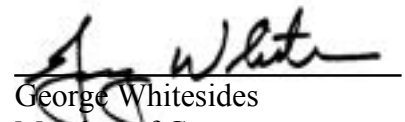
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Lauren Underwood  
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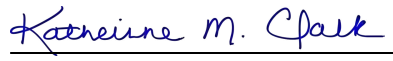
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Sylvia R. Garcia  
Member of Congress

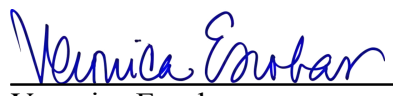
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George Whitesides  
Member of Congress

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Katherine M. Clark  
Member of Congress

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Donald S. Beyer Jr.  
Member of Congress

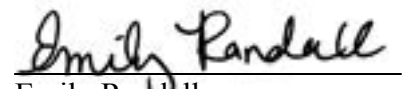
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Veronica Escobar  
Member of Congress

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Robert C. "Bobby" Scott  
Member of Congress

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Lois Frankel  
Member of Congress

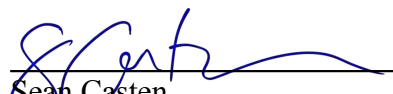
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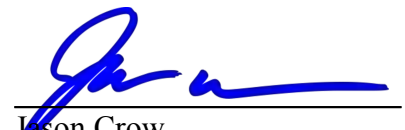
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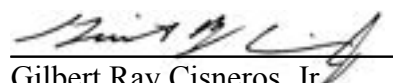
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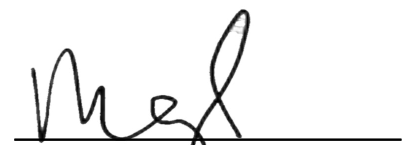
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Jason Crow  
Member of Congress

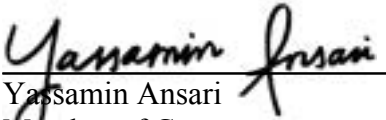
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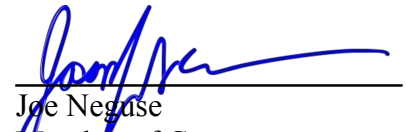
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Member of Congress

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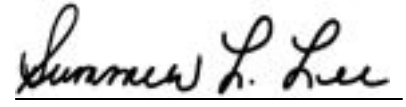
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Member of Congress

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Yassamin Ansari  
Member of Congress

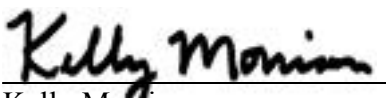
  
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Chrissy Houlahan  
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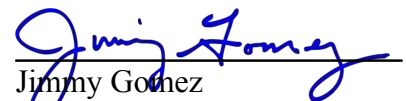
  
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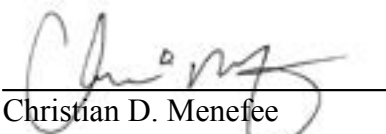
  
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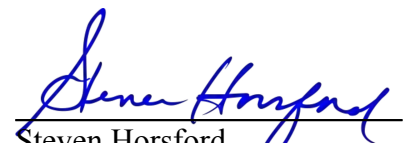
  
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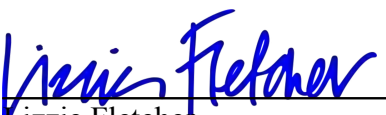
  
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Emilia Strong Sykes  
Member of Congress

  
Jimmy Gomez  
Member of Congress

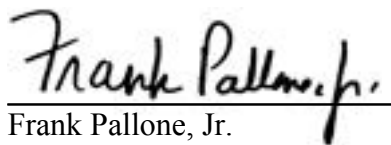
  
Christian D. Menefee  
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Steven Horsford  
Member of Congress  
Nevada's Fourth  
Congressional District

  
Lizzie Fletcher  
Member of Congress

  
Lucy McBath  
Member of Congress

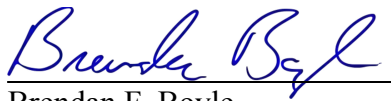
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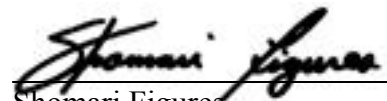
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Member of Congress



Jahana Hayes  
Member of Congress



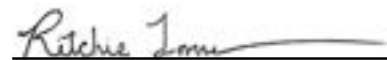
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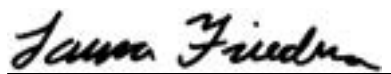
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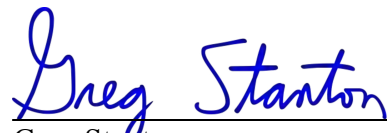
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Ritchie Torres  
Member of Congress



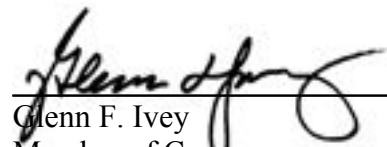
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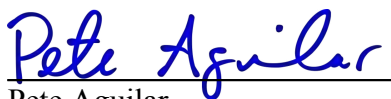
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Member of Congress



Madeleine Dean  
Member of Congress



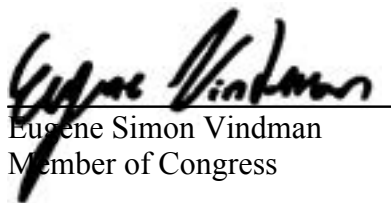
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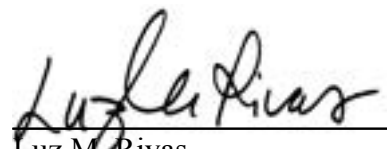
Pete Aguilar  
Member of Congress



Bonnie Watson Coleman  
Member of Congress

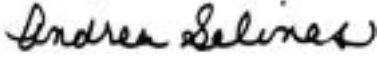


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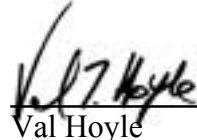


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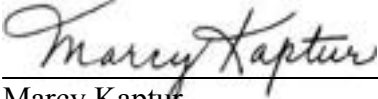
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Andrea Salinas  
Member of Congress



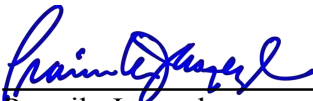
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Member of Congress



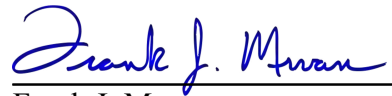
Marcy Kaptur  
Member of Congress



Deborah K. Ross  
Member of Congress



Pramila Jayapal  
Member of Congress



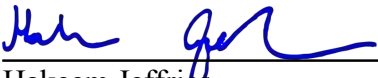
Frank J. Mrvan  
Member of Congress



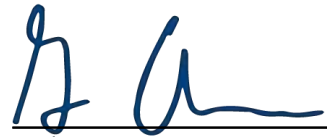
Bill Foster  
Member of Congress



Patrick Ryan  
Member of Congress



Hakeem Jeffries  
Member of Congress



Gabe Amo  
Member of Congress



Sam T. Liccardo  
Member of Congress

cc: The Honorable James Comer, Chairman

The Honorable Bryan Steil, Chairman  
Committee on House Administration

The Honorable Doug Tulino  
Deputy Postmaster General, Chief Operating Officer and Chief Human Resources Officer  
U.S. Postal Service

The Honorable David Steiner  
Page

The Honorable Amber F. McReynolds, Chair  
Board of Governors, U.S. Postal Service

The Honorable Derek T. Kan, Vice Chair  
Board of Governors, U.S. Postal Service

The Honorable Ronald A. Stroman  
Board of Governors, U.S. Postal Service

The Honorable Daniel M. Tangherlini  
Board of Governors, U.S. Postal Service

# UNITED STATES SENATORS

**June 23, 2026**

## **Source**

<https://www.kelly.senate.gov/wp-content/uploads/2026/06/USPS-Letter-0624.pdf>

## **Principal Issues Raised**

Constitutional authority of the states and Congress over federal elections; lack of presidential or Postal Service authority to regulate election administration; USPS independence from White House control; compulsory election-mail specifications; creation of a nationwide absentee-voter list; Postal Service authority to refuse ballot delivery; risk of disenfranchising mail voters; voter privacy; operational and administrative burdens imposed on states and local election officials; mandatory envelope-design and barcode requirements; implementation immediately before the 2026 election; and withdrawal of the proposed rule.

## **Principal Authorities Cited**

U.S. Constitution, Article I, § 4, cl. 1 — Elections Clause; U.S. Constitution, Article I, § 8, cl. 7 — Postal Clause; Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*; Postal Reorganization Act of 1970; 39 U.S.C. § 101 — Postal policy; 39 U.S.C. § 401 — General powers of the Postal Service; 39 U.S.C. § 403 — General duties of the Postal Service; National Voter Registration Act of 1993; Help America Vote Act of 2002; Voting Rights Act of 1965; Uniformed and Overseas Citizens Absentee Voting Act; and the federal litigation challenging Executive Order 14399 and the proposed ballot-mail rule.



June 23, 2026

David Steiner  
Postmaster General  
United States Postal Service  
475 L'Enfant Plaza SW  
Washington, D.C. 20260

The Honorable Amber McReynolds  
Chairwoman, Board of Governors  
United States Postal Service  
475 L'Enfant Plaza SW  
Washington, D.C. 20260

The Honorable Derek Kan  
Vice Chairman, Board of Governors  
United States Postal Service  
475 L'Enfant Plaza SW  
Washington, D.C. 20260

The Honorable Ronald Stroman  
Governor, Board of Governors  
United States Postal Service  
475 L'Enfant Plaza SW  
Washington, D.C. 20260

The Honorable Daniel Tangherlini  
Governor, Board of Governors  
United States Postal Service  
475 L'Enfant Plaza SW  
Washington, D.C. 20260

Dear Postmaster General Steiner, Chairwoman McReynolds, Vice Chairman Kan, Governor Stroman, and Governor Tangherlini:

We write for a second time regarding the unconstitutional and illegal attempt to transform the United States Postal Service (USPS) into an election administration agency controlled by the White House and President Trump. In April, 37 senators wrote to you after President Trump issued his Executive Order directing USPS to issue a rule to establish compulsory specifications for election mail and create a master absentee voter list of millions of American voters – with the power to refuse to deliver their ballots.<sup>1</sup> In that letter we urged you not to implement the President's unconstitutional Executive Order. The Order is a blatant violation of the Constitution, which vests the authority to regulate the time, place, and *manner* of federal elections with the states, subject to alterations made by Congress. We received no response to that letter and USPS is now taking explicit steps to implement the Order. No federal statute vests the President or

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<sup>1</sup> Letter from Senators Gary Peters, Alex Padilla, Dick Durbin, Chuck Schumer, et al. to the United States Postal Service Board of Governors and Postmaster General (Apr. 20, 2026).

USPS with any authority to regulate elections of any kind. Accordingly, multiple states and organizations have filed lawsuits challenging the Executive Order.<sup>2</sup>

Despite these grave and serious legal deficiencies, on June 2, 2026, USPS published a proposed rule that, if finalized, would establish President Trump's control over federal elections and allow USPS to adjudicate who can and cannot vote by mail. This proposed rule risks disenfranchising millions of voters. We again insist that you follow the law, refuse to implement President Trump's Executive Order, and withdraw this presidentially-directed proposed rule.

The right to vote is the most sacred and cherished right of the American people. It is the bedrock of American democracy. The framers of our Constitution understood the dangers of centralizing power over federal elections and accordingly vested the primary authority to regulate the “times, places, and *manner*” of federal elections with the states, subject to alterations by statute enacted by Congress.<sup>3</sup> The Constitution similarly vests the authority to determine the eligibility of voters with the states—not the President, and certainly not with USPS.<sup>4</sup> The Constitution provides no role for USPS in regulating federal elections, and no statute delegates to USPS any authority to regulate elections or voter eligibility. The proposed rule does not grapple with these serious legal deficiencies. The proposal simply cites two sections of the Postal Reorganization Act of 1970 to justify USPS's regulation of federal elections.<sup>5</sup> These sections provide specific postal powers and general authorization to issue regulations but say nothing about regulating federal elections.<sup>6</sup> Indeed, Title 39 explicitly says, “In providing services [...] the Postal Service shall not [...] make any undue or unreasonable discrimination among users of the mails,” – this proposal does the exact opposite.<sup>7</sup>

It is universally understood that the Postal Service *does not* regulate or administer American elections. By statute, USPS is “an independent establishment of the executive branch” and its Board of Governors is protected from arbitrary removal by the President. This independence, which the proposed rule undermines, is the foundation of the nation's trust in USPS's ability to deliver the mail without fear or favor. The Postal Service acknowledged in a rulemaking just last year, “the Postal Service does not administer elections, establish the rules or deadlines that govern elections, *or determine whether or how election jurisdictions utilize the mail.*”<sup>8</sup> This neutral and apolitical role to transmit the mail is critical to ensuring American voters

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<sup>2</sup> *California v. Trump*, No. 1:26-cv-11581 (D. Mass. Apr. 3, 2026); *DSCC v. Trump*, No. 1:26-cv-01114 (D.D.C. June 17, 2026).

<sup>3</sup> U.S. Const. art. I, § 4, cl. 1.

<sup>4</sup> See 39 U.S.C. § 401(2).

<sup>5</sup> See 39 U.S.C. § 401 & § 404.

<sup>6</sup> See *id.*; see also *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (holding that agencies lack authority to regulate a major question unless Congress has granted the agency express statutory authority to do so).

<sup>7</sup> 39 U.S.C. § 403.

<sup>8</sup> United States Postal Service, *Postmarks and Postal Possession*, 90 Fed. Reg. 52883, 52886 (Nov. 24, 2025) (Final Rule).

trust that their ballots will be properly delivered. The proposed rule would fundamentally upend this longstanding and vital role of USPS, transforming them into a federal election administration agency – with frightening authorities to disenfranchise Americans.

The proposed rule USPS issued on June 2 suffers from all the same legal deficiencies of the Executive Order and cannot be lawfully implemented. The proposed rule would illegally condition a state's exercise of its constitutional authority to utilize mail-in ballots on submitting its complete absentee voter rolls to USPS and complying with USPS mandatory election mail specifications. Specifically, the proposal requires any state that permits votes to be cast by mail to submit to USPS each absentee or mail-in voter's name, address, and their unique Intelligent Mail Barcode. The regulation purports to permit only states to control which of their voters are enrolled on the new master list, but this new and unnecessary master list of American voters would then be controlled by USPS and ultimately President Trump.

In addition, the proposed rule requires that all mail ballots comply with new *mandatory* specifications, including that they have an election mail logo, a specific design, automation compatibility, and an Intelligent Mail Barcode unique to each voter. All ballots must also undergo design review by USPS prior to being mailed by an election jurisdiction. While some of these requirements are best practices, their compulsory nature creates new onerous, costly, and unfunded requirements on election jurisdictions that do not currently use these practices nor have the resources to do so. Furthermore, the new mandatory specifications provide the USPS with new and subjective authority to reject ballots, even for a missing or misprinted logo.

Critically, the proposed rule requires USPS to conduct a verification process to ensure that states comply with the regulation's mandates *prior to* USPS accepting ballots and mailing them to voters. For such a consequential regulation of American democracy, the regulation stunningly lacks any detailed information about the process USPS intends to use to verify each piece of outbound election mail. Nevertheless, this new "verification process" empowers USPS to serve as the final arbiter of whether ballots meet the unilateral federal standards and are adequate to be delivered to voters – granting USPS the ultimate authority to decide which Americans can cast a ballot by mail.

What the proposal also makes clear is that if a state chooses not to provide USPS with their voter rolls that state *cannot* mail ballots to their voters, effectively prohibiting vote-by-mail in those states. Even if a state does provide USPS its voter rolls, USPS can still disenfranchise individual voters if their ballots do not meet USPS's demanding requirements. While "neither snow nor rain nor heat nor gloom of night" stops the mail, under the regulation a missing election logo will. Nothing in federal law authorizes USPS to restrict states and voters from using the postal system to mail ballots.

This proposed regulation occurs as the federal government is demanding nearly every state's voter rolls – an effort which has consistently been rejected by federal courts.<sup>9</sup> Creating a master absentee voter list for the entire country is a backdoor mechanism to secure access to these voters' names and addresses. And for states with universal vote-by-mail like California, Colorado, Hawaii, Oregon, Nevada, Utah, and Vermont (in general elections), the proposed regulation is a form of extreme coercion. It creates an untenable scenario, that requires these states to submit their *entire* voter rolls to the federal government or face the prospects of abandoning absentee voting altogether.

Furthermore, the proposed regulation explicitly articulates that one of its purposes is to assist federal law enforcement, raising serious legal and policy questions about how this information will be used. In fact, the Administration has acknowledged in recent court filings that the Department of Homeland Security (DHS) is currently having conversations with the Postal Service on how it could use the new master list of absentee voters and potentially compare it to DHS datasets.<sup>10</sup> Given the ongoing efforts of the Administration to seek voter rolls and put them through U.S. Citizenship and Immigration Services' Systematic Alien Verification for Entitlements (SAVE) Program, this coordination could lead to the USPS data being used in coordination with other risky and unreliable sources of information to disenfranchise American voters or even target voters or election officials for investigation.<sup>11</sup>

The proposed rule also raises serious privacy concerns. Ultimately, the proposed rule seeks to create a centralized national absentee voter database with individualized barcodes connected to the voters' names under the control of the President that contains the voting information of millions of Americans. That information would be ripe for potential abuse or improper disclosure potentially imperiling the integrity of American elections. The proposal provides no discussion of how USPS would safeguard this crucial information and every American's right to a secret ballot. USPS simply states that its explanation of its privacy controls is "forthcoming." Compiling a master list of mail-in and absentee voter data is incredibly dangerous in the modern era.

Lastly, notwithstanding the regulation's major constitutional and legal violations, the proposed timeline and scope is not feasible. The proposed regulation demands that the Postal Service set up an entirely new system and database to process and transmit millions of absentee ballots that is secure and accessible to every American election official, just months prior to a general election. The Postal Service already issued its election mail guidance in January, and

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<sup>9</sup> Brennan Center for Justice, *Tracker of Justice Department Requests for Voter Information* (June 8, 2026) (<https://www.brennancenter.org/our-work/research-reports/tracker-justice-department-requests-voter-information>).

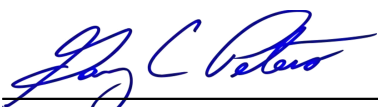
<sup>10</sup> See, e.g., *California v. Trump*, No. 1:26-cv-11581-IT, Doc. 154, 2 (D. Mass. June 5, 2026) (Notice submitted by Defendants); see also *id.*, Doc. 157 (June 8, 2026) (Second Notice submitted by Defendants).

<sup>11</sup> Brief of Senator Alex Padilla and Senator Gary Peters as Amici Curiae in Support of Plaintiffs (September 10, 2025), *League of Women Voters v. Department of Homeland Security*, D.D.C. (No. 1:25-cv-03501).

states and local governments have been planning accordingly – they will have no ability to change course to respond to this rule. This endeavor will also allegedly be accomplished without any dedicated resources or funding at a time when the Postal Service’s finances are under immense strain. In fact, the Postal Service has recently suspended regular retirement contributions and placed limits on all non-essential spending.<sup>12</sup> As such, it is wholly unworkable and impractical.

Accordingly, we insist that the Postal Service abandon this proposed regulation and return to its core mission of providing universal postal services to every American. The Constitution and federal law demand nothing less.

Sincerely,



Gary C. Peters  
United States Senator  
Ranking Member, Committee  
on Homeland Security and  
Governmental Affairs



Alex Padilla  
United States Senator  
Ranking Member, Committee  
on Rules and Administration



Charles E. Schumer  
United States Senator



Angela D. Alsobrooks  
United States Senator



Tammy Baldwin  
United States Senator



Michael F. Bennet  
United States Senator

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<sup>12</sup> See Jory Heckman, *USPS Restricts Nonessential Spending to Delay Running Out of Cash*, Federal News Network (May 27, 2026) (<https://federalnewsnetwork.com/agency-oversight/2026/05/usps-restricts-nonessential-spending-to-delay-running-out-of-cash/>); see also United States Postal Service, *FERS Action - Frequently Asked Questions / Talking Points* (April 2026) (<https://about.usps.com/newsroom/fers-faq-talking-points.pdf>).



Richard Blumenthal  
United States Senator



Lisa Blunt Rochester  
United States Senator



Cory A. Booker  
United States Senator



Maria Cantwell  
United States Senator



Christopher A. Coons  
United States Senator



Catherine Cortez Masto  
United States Senator



Tammy Duckworth  
United States Senator



Richard J. Durbin  
United States Senator



John Fetterman  
United States Senator



Ruben Gallego  
United States Senator



Kirsten Gillibrand  
United States Senator



Margaret Wood Hassan  
United States Senator



Martin Heinrich  
United States Senator



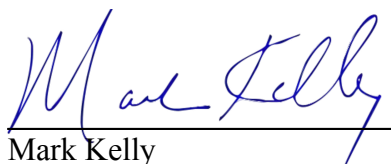
John Hickenlooper  
United States Senator



Mazie K. Hirono  
United States Senator



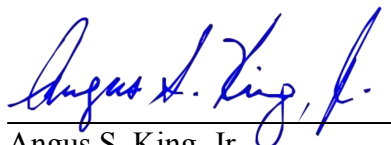
Tim Kaine  
United States Senator



Mark Kelly  
United States Senator



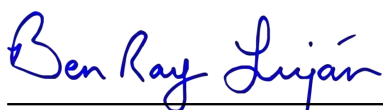
Andy Kim  
United States Senator



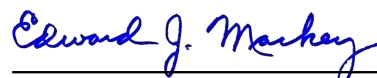
Angus S. King, Jr.  
United States Senator



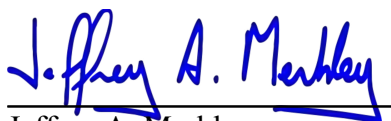
Amy Klobuchar  
United States Senator



Ben Ray Lujan  
United States Senator



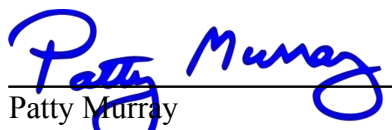
Edward J. Markey  
United States Senator



Jeffrey A. Merkley  
United States Senator



Christopher S. Murphy  
United States Senator



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Patty Murray  
United States Senator

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Jon Ossoff  
United States Senator

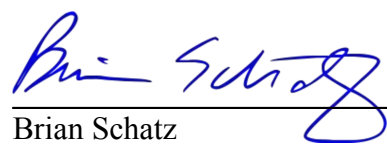
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Jack Reed  
United States Senator

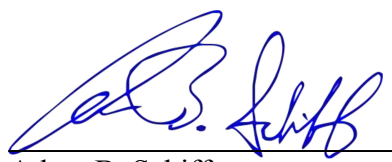
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United States Senator

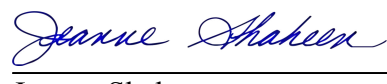
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Bernard Sanders  
United States Senator

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Brian Schatz  
United States Senator

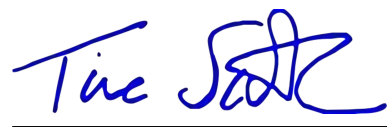
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Adam B. Schiff  
United States Senator

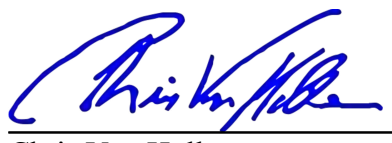
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Jeanne Shaheen  
United States Senator

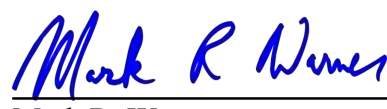
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Elissa Slotkin  
United States Senator

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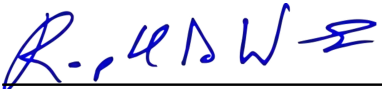
Tina Smith  
United States Senator

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Chris Van Hollen  
United States Senator

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Mark R. Warner  
United States Senator



Raphael Warnock  
United States Senator



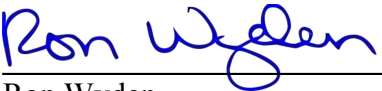
Elizabeth Warren  
United States Senator



Peter Welch  
United States Senator



Sheldon Whitehouse  
United States Senator



Ron Wyden  
United States Senator

# DEMOCRATIC GOVERNORS

July 2, 2026

## Source

<https://govactalliance.org/wp-content/uploads/sites/379/Joint-Sitting-Governors-Comment-USPS.pdf>

## Principal Issues Raised

Constitutional authority of the states to administer federal elections; lack of statutory authority for the Postal Service to regulate election administration; separation of powers; burdens imposed on state and local election officials; mandatory ballot-envelope redesign and Intelligent Mail barcode requirements; creation of state voter participation lists; privacy and cybersecurity concerns; implementation before the 2026 general election; risks of delayed or rejected ballot mail; and voter disenfranchisement.

## Principal Authorities Cited

U.S. Constitution, Article I, § 4 (Elections Clause); U.S. Constitution, Article I, § 8 (Postal Clause); Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*; Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 401, 403, and 404; Voting Rights Act of 1965; National Voter Registration Act of 1993; Help America Vote Act of 2002; Uniformed and Overseas Citizens Absentee Voting Act; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



July 2, 2026

David Steiner  
Postmaster General  
United States Postal Service  
475 L'Enfant Plaza SW  
Washington, D.C. 20260

Dale Kennedy  
Director, Product Classification  
U.S. Postal Service  
475 L'Enfant Plaza SW, Room 4446  
Washington, DC 20260-5015

RE: Proposed Amendment to the Mailing Standards of the United States Postal Service, USPS-2026-1289-0001, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026)

Dear Postmaster General Steiner and Director Kennedy,

We, the undersigned governors, write regarding the unconstitutional and illegal attempt to transform the United States Postal Service (USPS) into an election administration agency controlled by the White House and President Trump. Voting is foundational to our democracy, and our democracy works best when every eligible voter can participate. Yet if this Proposed Rule is implemented, eligible American citizens will be blocked from participating in our elections. The proposal reflects a blatant violation of the Constitution, which vests the authority to regulate the time, place, and manner of federal elections with the states and Congress alone. Indeed, a federal court has already blocked the Executive Order on which this rule is built, holding that USPS has no authority to regulate elections and that the President cannot decide who is eligible

to vote.<sup>1</sup> The right to vote is too important to be sacrificed at the whim of a President; it is the cornerstone of our democracy and ““one of the most sacred parts of our constitution.””<sup>2</sup>

As governors, we represent a diverse array of states and interests. Yet we are united by our commitment to free and fair elections and the careful balance of state and federal authority upon which our country rests. It is for these reasons, and those below, that we voice our opposition to the Postal Service’s unlawful amendment to the Mailing Standards of the USPS Domestic Mail Manual (DMM), regarding the transmission of mail-in and absentee ballots for federal elections (the Proposed Rule). We urge USPS to reclaim its independence and withdraw its Proposed Rule immediately.

## **I. States Safeguard the Integrity and Efficiency of Elections for the Benefit of the Nation**

Our states exercise their delegated authority under the Elections Clause of the Constitution to ensure the integrity and efficiency of federal elections. Through the Elections Clause, the Constitution expressly delegates primary authority over congressional elections to the states, subject to congressional—not Presidential—oversight.<sup>3</sup> The Constitution is clear on this point: “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations.”<sup>4</sup>

The federal executive in general—and USPS in particular—has no constitutional role in setting rules governing election administration beyond the enforcement of laws enacted by Congress pursuant to its Elections Clause authority. Indeed, “executive regulatory authority over federal elections does not appear to have crossed the Framers’ minds.”<sup>5</sup> Neither President Trump nor USPS has authority to override state authority to regulate elections by forcing states to comply with federal dictates or face non-delivery of mail ballots to their voting-eligible residents, as proposed.<sup>6</sup>

Through this framework, our states promote and protect free and fair elections. Because the Constitution has delegated election authority to states since the Founding, states like ours have developed deep practical and institutional expertise in managing the “extraordinarily complicated” task of running statewide elections.<sup>7</sup> The actual work of running these elections is done by state and local officials in the more than

<sup>1</sup> *California v. Trump*, No. 1:26-cv-11581-IT (D. Mass. June 25, 2026), Dkt. No. 191. Specifically, the court found that the President cannot direct and USPS cannot create lists of eligible voters, because the Constitution delegates that authority to the states and the President lacks the authority to determine voter eligibility. *Id.* at 30. (“But the Constitution reserves the power to determine voter eligibility to the States alone.”). In addition, the court held that “USPS lacks authority to promulgate regulations on voting and the EO’s directive that USPS do so constitutes ultra vires executive action,” because the timeline and requirements of the EO violate USPS’s own rulemaking procedure. *Id.* at 31-32. Based on these and other findings, the court enjoined defendants “from implementing or giving effect to Sections 2 and 3 of the [Executive Order]” on which this rulemaking is based, “with respect to the November 3, 2026 or any earlier federal election” in the plaintiff states. *Id.* at 34-36.

<sup>2</sup> *Powell v. McCormack*, 395 U.S. 486, 534 n.65 (1969) (quoting 16 Parl.Hist.Eng. 589–90 (1769)).

<sup>3</sup> *Rucho v. Common Cause*, 588 U.S. 684, 699 (2019).

<sup>4</sup> U.S. Const. art. I, § 4, cl. 1.

<sup>5</sup> *League of United Latin Am. Citizens v. Exec. Off. of the President*, 780 F. Supp. 3d 135, 159 (D.D.C. 2025).

<sup>6</sup> See *Colorado v. DeJoy*, No. 20-cv-2768, 2020 WL 5513567, at \*2 (D. Colo. Sept. 14, 2020) (holding that the Postal Service, as an executive agency of the federal government, does not have authority to override state election laws).

<sup>7</sup> *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of stay).

10,000 jurisdictions across the country.<sup>8</sup> These state and local election officials are dedicated, highly competent, responsible, accountable and transparent. Even in the face of increasing threats and harassment stemming from election misinformation, our state and local officials admirably discharge their duties and ensure that elections are free and fair.

This “dispersed responsibility for running elections also makes it extremely difficult, if not impossible, to rig U.S. elections at the national level.”<sup>9</sup> Our states do not just serve as ‘guard dogs’ for any federal misbehavior. Instead, states remain significantly functionally independent of, and resistant to capture by, the Executive Branch due to a uniquely American mix of tradition, doctrine, and resource constraints. This system makes the risk of partisan capture “far less likely” and acts as a “bulwark against efforts by an authoritarian president to make the overall electoral playing field unfair.”<sup>10</sup>

This state-run electoral system also “allows individual jurisdictions to experiment and innovate—to see how elections might best be run for the state and the locality’s particular circumstances.”<sup>11</sup> Elections require enormous advance preparations by state and local officials, and pose significant logistical challenges that state officials are uniquely qualified and situated to address. Our states admirably discharge their responsibility for establishing “rules that dictate everything from the date on which voters will go to the polls to the dimensions and font of individual ballots.”<sup>12</sup> Our state and local officials exercise their discretion under the Elections Clause to make countless “difficult decisions about how best to structure and conduct elections” that reflect their respective state’s varying needs and priorities.<sup>13</sup>

In our experience, State leadership also increases trust among the electorate. “State run elections mean that voters recognize their neighbors who staff polling stations, trust their state and local election authorities to keep their personally identifying information safe, and believe that they will not be targeted because of what they look like or who they vote for.”<sup>14</sup> Americans view their state and local officials far more positively than federal officials,<sup>15</sup> and that they have substantially more trust and confidence in state and local officials as compared to federal officials.<sup>16</sup> The authority exercised by the states under the Elections Clause serves as a bulwark against the erosion of public confidence in our electoral system, especially in an era of rampant election misinformation and partisanship at the federal level. Many states, including some of our own, have laws that specifically address partisanship, and give both major political parties an equal role in ensuring the integrity of state-run elections.

<sup>8</sup> *Election Administration at State and Local Levels*, Nat’l Conf. of State Legislatures (Jan. 13, 2026), <https://www.ncsl.org/elections-and-campaigns/election-administration-at-state-and-local-levels>.

<sup>9</sup> *Id.*

<sup>10</sup> David Landau, et al., *Federalism, Democracy, and the 2020 Election*, 99 Tex. L. Rev. Online 96, 100, 104 (2021).

<sup>11</sup> *Election Administration at State and Local Levels*, Nat’l Conf. of State Legislatures (Jan. 13, 2026), <https://www.ncsl.org/elections-and-campaigns/election-administration-at-state-and-local-levels>.

<sup>12</sup> *Moore v. Harper*, 600 U.S. 1, 29 (2023).

<sup>13</sup> *Democratic Nat’l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31–32 (2020) (Kavanaugh, J., concurring).

<sup>14</sup> *United States v. Weber*, No. 2:25-cv-09149, 2026 WL 118807, at \*2 (C.D. Cal. Jan. 15, 2026).

<sup>15</sup> Pew Research Center, *On issue after issue, Americans say things are going better locally than nationally*, (Feb. 10, 2025), <https://www.pewresearch.org/short-reads/2025/02/10/on-issue-after-issue-americans-say-things-are-going-better-locally-than-nationally/>.

<sup>16</sup> See Gallup, *Americans Trust Local Government Most, Congress Least* (Oct. 13, 2023), available at <https://news.gallup.com/poll/512651/americans-trust-local-government-congress-least.aspx>.

Thanks to states, the division of authority established by the Elections Clause continues to confer benefits on our nation and citizenry. The primacy of Governors, state legislators, and state elections officials “allows local policies more sensitive to the diverse needs of a heterogeneous society, permits innovation and experimentation, enables greater citizen involvement in democratic processes, and makes government more responsive by putting the States in competition for a mobile citizenry.”<sup>17</sup> This system of electoral federalism is a cornerstone of our democracy. We—as governors and citizens—must defend it.

## II. USPS’s Proposed Rule Would Disenfranchise Voters and Usurp State Authority

USPS’s *Ballot Mail for Federal Elections* rulemaking in furtherance of the President’s illegal March 31, 2026 Executive Order threatens to undermine the Constitution’s careful separation of powers. It is universally understood that neither the Postal Service nor the President may regulate or administer American elections. Yet the Proposed Rule offends that basic constitutional principle of the Elections Clause, and undermines the very structure of our constitutional system.<sup>18</sup> Far from ensuring integrity in federal elections, the Proposed Rule would undermine trust in elections, needlessly complicate voting processes, arbitrarily disenfranchise millions of eligible voters, and undermine states’ constitutional role in ensuring free and fair elections.

The proposal envisions that USPS will issue a rule to establish compulsory specifications for election mail and create an insecure master absentee voter list of millions of Americans—with the unilateral power to refuse to deliver their ballots if a state refuses to collaborate with President Trump’s unlawful directives. Specifically, USPS has threatened to create a state-specific “Mail-in Absentee Participation List” process through a “Federal Ballot Mail Portal,” with no indication of whether or how this information would be safeguarded from cybersecurity threats.<sup>19</sup> States would be required to notify USPS of all individuals to whom they are mailing a mail-in or absentee ballots, along with the unique barcode applied to the outbound and return ballot mail envelopes for such individuals so that the name and barcode of the voter will be included on a “Mail-in and Absentee Ballot List.”<sup>20</sup> USPS would then compile and return a final state-specific Mail-in and Absentee Ballot List to the state’s chief election official.<sup>21</sup> A state may then make supplemental submissions and modifications to its list until the last day that ballots may be mailed out to individuals under state law.<sup>22</sup>

The only way for a voter to be enrolled on USPS’s Mail-In and Absentee Participation List is to be included on the list offered to USPS through these processes.<sup>23</sup> USPS would then use that information to verify ballots sent from election officials to voters before accepting them for mailing.<sup>24</sup> Specifically, USPS would review whether the mailing complies with new envelope standards also included in the Proposed Rule and whether it matches the state-submitted Mail-In and Absentee Participation List and associated barcodes. USPS provides no indication of what form this screening process would take, and how long such a review might last. Nevertheless, the Proposed Rule threatens that noncompliant mailings would not be accepted or transmitted; instead, they would be returned to state or local election officials or vendors. And if a state declines to certify a Mail-In and Absentee Participation List (which no source of federal law requires them

<sup>17</sup> *Arizona State Legislature v. Arizona Indep. Redistricting Comm’n*, 576 U.S. 787, 817 (2015).

<sup>18</sup> *See* The Federalist No. 59 (Alexander Hamilton); *Foster v. Love*, 522 U.S. 67, 69 (1997); *Washington v. Trump*, 814 F. Supp. 3d 1173, 1214 n.57 (W.D. Wash. 2026).

<sup>19</sup> 91 Fed. Reg. 32916.

<sup>20</sup> *Id.* at 32916-18.

<sup>21</sup> *Id.* at 32916.

<sup>22</sup> *Id.* at 32918.

<sup>23</sup> *Id.* at 32916-18.

<sup>24</sup> *Id.* at 32918.

to create), the Proposed Rule prohibits USPS from transmitting *any* outbound federal ballot mail to that state's voters.<sup>25</sup>

The Proposed Rule would thereby require USPS to refuse delivery of otherwise lawfully mailed ballots merely because the voter does not appear on an illegal federal list, without regard for whether the voter is *in fact* eligible to vote. We are unaware, in its 250-year history, of any point at which the Postal Service has refused to deliver properly addressed, stamped, and lawful mail from a government entity. Such a practice would violate the agency's longstanding statutory universal service obligation: 39 U.S.C. § 403(c). Yet the Proposed Rule would make this refusal a USPS policy, leveraging the Postal Service's control over the mail as a tool to punish any State unwilling to cede authority over its electoral system to President Trump by coercing states to relinquish their authority over elections through threats of non-delivery.

These provisions would strip states of their explicit constitutional authority to regulate elections subject only to congressional—not federal executive agency—oversight. In practice, the Proposed Rule will cause confusion among voters and election administrators alike, leading to widespread arbitrary disenfranchisement of eligible voters. If the Proposed Rule is ultimately adopted, it will increase the authority of USPS and the federal executive at the expense of the states, Congress, and the constitutional order that has maintained our electoral democracy for 250 years.

The information contained in the Mail-in and Absentee Ballot Lists envisioned by the Proposed Rule is also likely to be outdated or incorrect by the time of the election, leading to further disenfranchisement. Mail-in and absentee voting ensure that citizens living abroad (including servicemembers stationed overseas), disabled Americans, and those who know they will be traveling at the time of an election, are able to exercise their right to vote. Most states permit no-excuse absentee voting by mail and those that do not either conduct all elections by mail or permit qualified voters to vote by absentee ballot.<sup>26</sup> And many states allow eligible voters to request mail-in ballots shortly before Election Day. Yet the Proposed Rule requires that a state's Mail-in Absentee Participation List must be certified at least 30 days before federal Election Day or by the date on which mail-in or absentee ballots may begin to be mailed under state law.<sup>27</sup> The fact that the Proposed Rule includes procedures that would allow states to modify and update these lists is cold comfort. In our experience as governors, administrative, financial, and technical issues will make it difficult for busy state and local elections officials to do so under the Proposed Rule's timeframes, resulting in effective disenfranchisement of eligible voters.

Finally, the Proposed Rule raises serious privacy concerns. It would build a single national database of millions of voters — their names tied to individualized barcodes, under the control of the President, with no plan to protect it. That information would be ripe for abuse or inappropriate disclosure, risking the integrity of American elections. The Elections Clause vests states and Congress with the power to administer elections to avoid precisely this type of potential federal abuse by “diffuse[ing] government authority to prevent the accumulation of excessive power in any one actor and to encourage different representatives of the people to monitor the exercises of power by the others.”<sup>28</sup>

The Proposed Rule illegally requires USPS to decide who gets to vote using an absentee ballot, displacing state and local election officials who have the constitutional authority—and the necessary experience—to

<sup>25</sup> *Id.*

<sup>26</sup> *States with No-Excuse Absentee Voting*, Nat'l Conf. of State Legislatures (Mar. 10, 2026), <https://www.ncsl.org/elections-and-campaigns/table-1-states-with-no-excuse-absentee-voting>.

<sup>27</sup> 91 Fed. Reg. at 32916.

<sup>28</sup> Jessica Bulman-Pozen, *Federalism as a Safeguard of the Separation of Powers*, 112 Columbia L. Rev. 459, 460 (2012).

regulate balloting procedures. This assertion of authority to regulate mail-in balloting not only violates basic principles of federalism,<sup>29</sup> it also risks disenfranchising the significant number of voters who rely on mail-in balloting to exercise their fundamental right to vote. Yet if this Proposed Rule is implemented, the federal government would decide whose ballot gets delivered and whose gets turned away, blocking eligible American citizens, including deployed servicemembers and disabled voters, from participating in our elections.

### III. States Cannot Wait—the Proposed Rule Must Be Withdrawn Immediately

Election administration is an inherently forward-looking enterprise. It requires many months of advance planning, including updating voter registration databases, programming and testing voting systems, printing ballots and election materials, training poll workers, coordinating with vendors, and educating voters regarding important deadlines. Yet the Proposed Rule requires the Postal Service to set up an entirely new system and database to control millions of absentee ballots just months prior to a general election, which our state and local election officials must then implement on the ground. The Postal Service already issued its election mail guidance in January, and states and local governments have been planning accordingly. All our states' ongoing election preparations would be impacted by the Proposed Rule.

Our state and local officials cannot wait until the eve of the upcoming elections to learn whether they must attempt to comply with the Proposed Rule's unlawful directives. Any uncertainty regarding the need to comply with the Proposed Rule in the face of contradictory state and federal law, or risk non-delivery of ballot mail, will create confusion among our voters and elections officials, and strain limited state and local resources. As such, the Proposed Rule is wholly unworkable and impractical. It should be withdrawn at the earliest opportunity to avoid further irreparable harm to state and local election administration.

### IV. Conclusion

Free and fair elections are the cornerstone of our constitutional system. While we share the USPS's desire to "facilitate enforcement of federal law, reduce the risk of fraud, and help protect the integrity of federal elections,"<sup>30</sup> the Proposed Rule accomplishes none of those aims. It violates USPS's own mandates, federal law, and the Constitution by forcing the Postal Service to assume the role of election administrator. If finalized, this rule will disenfranchise voters and transfer power over elections from our states, where it belongs, to the White House and President Trump.

The Postal Service's job is to deliver the mail, not to decide which Americans get to vote. USPS must abandon this proposed regulation and return to its core mission of serving every eligible voter. The Constitution and federal law demand nothing less.

Respectfully submitted,



Governor JB Pritzker  
State of Illinois



Governor Gavin Newsom  
State of California

<sup>29</sup> *Cook v. Gralike*, 531 U.S. 510, 523 (2001) (Elections Clause grants states "broad power to prescribe the procedural mechanisms for holding congressional elections").

<sup>30</sup> 91 Fed. Reg. 32915.



Governor Ned Lamont  
State of Connecticut



Governor Tim Walz  
State of Minnesota



Governor Kathy Hochul  
State of New York



Governor Josh Shapiro  
Commonwealth of Pennsylvania



Governor Dan McKee  
State of Rhode Island



Governor Bob Ferguson  
State of Washington



Governor Tony Evers  
State of Wisconsin

# DEMOCRATIC ATTORNEYS GENERAL

July 2, 2026

## Source

[https://oag.ca.gov/system/files/attachments/press-docs/20260702\\_MultistateUSPSCommentLetter.pdf](https://oag.ca.gov/system/files/attachments/press-docs/20260702_MultistateUSPSCommentLetter.pdf)

## Principal Issues Raised

Constitutional limits on executive authority over elections; Postal Service authority under the Postal Reorganization Act; interference with state election administration; unlawful conditions on the transmission of ballot mail; privacy implications of mandatory voter-information reporting; burdens on election officials; arbitrary rejection of ballot mail; Administrative Procedure Act concerns; and implementation before the 2026 federal election.

## Principal Authorities Cited

U.S. Constitution, Article I, § 4 (Elections Clause); U.S. Constitution, Article I, § 8 (Postal Clause); Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 401, 403, 404, and 410; Administrative Procedure Act, 5 U.S.C. §§ 551–706; Privacy Act of 1974; Executive Order 14399; Voting Rights Act of 1965; National Voter Registration Act of 1993; Help America Vote Act of 2002; and Uniformed and Overseas Citizens Absentee Voting Act.



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July 2, 2026

### Via Electronic Mail

Director, Product Classification  
U.S. Postal Service  
475 L'Enfant Plaza SW, Room 4446  
Washington, DC 20260-5015  
[PCFederalRegister@usps.gov](mailto:PCFederalRegister@usps.gov)

**Re: Ballot Mail**  
**Federal Register Document No. 2026-10976**

Dear Director:

We, the Attorneys General for California, Massachusetts, Nevada, Washington, Arizona, Colorado, Connecticut, Delaware, District of Columbia, Hawai'i, Illinois, Maine, Maryland, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, and Wisconsin, write in opposition to the United States Postal Service's proposed rule Ballot Mail for Federal Elections, 91 Fed. Reg. 32,915 (proposed June 2, 2026) (to be codified at 39 C.F.R. pt. 111) (Proposed Rule).

The Notice of Proposed Rulemaking should be promptly withdrawn in light of the district court's well-reasoned ruling in *California v. Trump*, Case No. 1:26-cv-11581-IT, 2026 WL 1826490 (D. Mass. June 25, 2026), that the Executive Order mandating the rule was unconstitutional and ultra vires. The Court entered summary judgment in favor of the Plaintiff States and enjoined the United States Postal Service (USPS) from (1) implementing or giving effect to section 3 of Executive Order 14399; and (2) completing rulemaking to promulgate the regulations as outlined in section 3 of that Executive Order, while confining the scope of the injunction to Plaintiff States' elections up to and including November 3, 2026.

The Proposed Rule also presents a striking disregard of federal law. The Proposed Rule is inconsistent with the Constitution's assignment of authority over the manner of elections to States

and Congress. Neither USPS nor the President may unilaterally interfere with States' election regulations or commandeer States in service of a federal data collection program. The Proposed Rule would also violate USPS's governing statutes, exercising authority USPS does not have and imposing restrictions not authorized by Congress. The Proposed Rule would further run afoul of the federal voting laws, including the Help America Vote Act and Voting Rights Act Amendments of 1970, as well as the Privacy Act.

In addition, the Proposed Rule is unlawfully arbitrary and capricious. Its "one size fits all" approach fails to account for the fact that State voting systems are tailored to local circumstances. The Proposed Rule's requirements are also not rationally connected to the purported basis. The purported basis for the rule is reducing the risk of fraud, which robust evidence has shown to be a vanishingly rare phenomenon. There is no reasonable fit between the exceedingly narrow basis and the proposal to indiscriminately reject ballot mail that does not satisfy the Proposed Rule's requirements. The Proposed Rule also does not identify safeguards protecting voters from misuse of the capabilities created by the Intelligent Mail barcode requirement.

And the Proposed Rule is also arbitrary in failing to recognize the substantial reliance interests at stake. States have constructed entire election systems based on existing regulations, and they have even ordered supplies for the 2026 election cycle—including ballot envelopes—based on existing requirements. The Proposed Rule would abruptly upend all the preparation of the States' election officials on July 29, 2026, while those election officials are busy with primary elections and planning for the general election on November 3, 2026.

For each of these reasons, USPS should withdraw the Proposed Rule.

## **I. Background**

On March 31, 2026, President Trump issued Executive Order 14,399, entitled "Ensuring Citizenship Verification and Integrity in Federal Elections" (EO). 91 Fed. Reg. 17,125 (Mar. 31, 2026). In Section 3 of the EO, the President ordered USPS, through the Postmaster General, to act within 60 days to "initiate a proposed rulemaking" that requires (1) ballot mail to carry unique Intelligent Mail barcodes and meet other formatting requirements, and (2) creation of a new system under which voters must be enrolled in a USPS "Mail-In and Absentee Participation List" based on submissions by States. EO § 3(a), (b). The EO further directed that "[a]ny final rule pursuant to [Section 3] shall be issued no later than 120 days from the date of this order." EO § 3(d).

USPS is working to implement the EO by issuing the Proposed Rule as ordered. USPS proposes additions to its Domestic Mail Manual (DMM) to enact two substantive changes to the rules governing delivery of election mail in this country. Specifically, proposed changes to DMM 705.24.3.1–3 set specific requirements for the design of envelopes for outbound federal ballot mail (States mailing voters a mail-in ballot) and return federal ballot mail (voters mailing their ballots to States to cast a vote). Proposed DMM 705.24.4.2 then requires that States intending to receive voters' completed ballots through USPS must ensure that all voters who will be sent a mail ballot are enrolled with USPS's Mail-In and Absentee Participation List. For each voter, States must provide USPS the voter's name, address, and unique Intelligent Mail barcodes for their outbound and return ballot envelopes. *Id.* Under proposed DMM 705.24.5.1–3, ballot mailings that either do

not comply with specified envelope design requirements or are intended for individuals not enrolled in USPS's state-specific Mail-In and Absentee Participation Lists will not be accepted by USPS and will not be delivered to voters.

On June 25, 2026, the District of Massachusetts granted summary judgment to twenty-four Plaintiff States that challenged the EO, many of whom are signatories to this letter. First, and significant to this comment letter, the Court declared unconstitutional the directive in Section 3 of the EO requiring "USPS to compile its own Lists of individuals eligible to vote by mail and prohibit[] the transmission of a mail-in ballot completed by anyone not on USPS' Lists." *California*, 2026 WL 1826490, at \*15. In reaching this conclusion, the Court specifically cited provisions of the Proposed Rule providing that mail ballots "that do not comply with [standards required by the EO] will not be accepted and will be returned to the authorized ballot mailer." *Id.* Second, the Court held that "no law enacted by Congress delegates authority to control mail-in voting to USPS" and that "USPS [thus] lacks statutory authorization to promulgate any binding regulations on mail-in voting." *Id.* Third, the Court held that, to make the changes contemplated by the EO, USPS was required to "submit a proposal to the Postal Regulatory Commission[.]" and that failure to follow USPS rulemaking procedure deprives USPS of legal authority to "require . . . States to use a specific mail-in ballot." *Id.* at \*16. The Court declared Section 3 of the EO legally void as it is ultra vires and unconstitutionally violates the separation of powers. *Id.* at \*17. The Court also enjoined Defendants, including USPS, from (1) implementing or giving effect to the section 3 of Executive Order 14399, and (2) completing rulemaking to promulgate the regulations as outlined in section 3 of that Executive Order, within the twenty-four Plaintiff States. *Id.*

## **II. USPS Should Withdraw the Proposed Rule and Reconsider in Light of *California v. Trump***

The Court's order in *California v. Trump* enjoins Defendants—including USPS—and their employees "from implementing, giving effect to, or enforcing Section 3(b)(i)–(v) or (d) of the EO as to elections mail for elections administered by Plaintiff States and ballot envelopes used by Plaintiff States with respect to the November 3, 2026 or any earlier federal election[.]" The Court further enjoined all Defendants—including USPS—and their employees from "initiating or completing rulemaking to promulgate the specific regulations outlined in Section 3(b)(i)–(v) or (d) of the EO as to elections mail for elections administered by Plaintiff States and ballot envelopes used by Plaintiff States for the November 3, 2026 election, or any earlier election." *Id.* at \*17.<sup>1</sup>

USPS should promptly withdraw the Proposed Rule in light of the Court's ruling. Because the Proposed Rule is unlawful, USPS should not reissue it at all; however, at a minimum any

<sup>1</sup> In addition, the U.S. District Court for the District of Columbia has declared that the standards and procedures set forth in the Proposed Rule would violate a settlement agreement between the parties in *National Association for the Advancement of Colored People v. United States Postal Service*, and has thus enjoined USPS from implementing the standards and procedures described in the Proposed Rule. See *NAACP v. USPS*, No. 20-cv-2295-EGS, Dkt. Nos. 181, 182 (D.D.C. July 1, 2026). Promulgating the Proposed Rule would violate that settlement agreement and the court's injunction.

alternative rule should scrupulously ensure that Plaintiff States in the *California* litigation are not affected by the Proposed Rule for the November 3, 2026, election, or any earlier election.

### **III. The Proposed Rule Is Contrary to Law**

Under the Constitution, States are primarily responsible for regulating the manner of holding elections, subject only to alteration by Congress; neither the President nor USPS have constitutional authority to displace State law. Yet that is precisely what the Proposed Rule would do. It does not propose general rules for the use of mail; it proposes to regulate election materials and only election materials. It asserts federal authority to refuse to deliver State ballots for noncompliance with USPS election mail regulations. And it would conscript States' resources to create a federal list of voters who vote by mail. Neither the President through his EO nor USPS through rulemaking may usurp the constitutional authority of States and Congress in this manner.

#### **A. The Proposed Rule Violates the Constitution**

First and foremost, the regulations outlined in the Proposed Rule are contrary to the Constitution. USPS proposes fundamentally altering and restricting access to postal delivery of mail ballots. But that reaches far beyond the authority conferred on the Executive Branch and USPS and strikes directly at the constitutionally protected right of States to administer elections, including through the provision of mail ballots in accordance with duly enacted state laws. These proposed regulations, which implement the President's unlawful attempt to dictate specific requirements concerning mail balloting in federal elections, are unconstitutional.

The Proposed Rule commandeers the States into enacting an unconstitutional federal data collection program by requiring them to provide USPS with the name, address, and unique Intelligent Mail barcode (IMb) for each voter in order to access constitutionally created postal services. USPS will not accept or deliver ballot mailings that do not conform to the new format requirements or that are addressed to recipients not enrolled in USPS's state-specific Mail-In and Absentee Participation Lists. Thus, USPS seeks to dictate who may participate in the States' mail ballot systems, as set out by state laws, by refusing States' mail access unless they enact (with their own resources) a presidentially ordered federal program. Any claims from USPS that it is not in any way interfering with the States' "administration of federal elections" ring hollow.

##### **1. The President lacks authority to issue the order that mandated this rulemaking**

The Proposed Rule explicitly acknowledges that it was submitted to effectuate the EO. That EO mandates exactly what is now proposed in this rulemaking—namely, that USPS promulgate specific requirements for the design of ballot mail envelopes, as well as rules that require States to submit identifying information for mail voters to USPS, and for USPS to then compile such information into state-specific lists that dictate which voters may be delivered ballot mail. *See* EO § 3(b).

As a constitutional matter, the President has no power to order this rulemaking. States, not the President, have primary authority to regulate federal elections under the U.S. Constitution. *See*

U.S. Const. art. I, § 4, cl. 1; *id.* art. II, § 1, cl. 2, 4. The Supreme Court recently reaffirmed that “the Constitution lodges power over congressional elections in state legislatures ‘primarily’ and in Congress ‘ultimately.’” *Watson v. Republican Nat’l Comm.*, 609 U.S. ---, 2026 WL 1855462, at \*3 (June 29, 2026) (quoting *The Federalist* No. 59, p. 362 (C. Rossiter ed. 1961)). This constitutional grant of power authorizes States to “provide a complete code for [federal] elections, not only as to times and places, but in relation to notices, registration . . . [and] protection of voters,” among other topics. *Smiley v. Holm*, 285 U.S. 355, 366 (1932). States “enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved.” *Id.* In short, they are “given, and in fact exercise a wide discretion” in providing for fair and efficient elections. *United States v. Classic*, 313 U.S. 299, 311 (1941). The Elections Clause further grants Congress the power to “make or alter” regulations of congressional elections. U.S. Const. art. I, § 4, cl. 1. In this way, the Clause “functions as ‘a default provision; it invests the States with responsibility for the mechanics of congressional elections, but only so far as Congress declines to pre-empt state legislative choices.’” *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 9 (2013) (*ITCA*) (quoting *Foster v. Love*, 522 U.S. 67, 69 (1997)). Here, States have set out detailed election procedures allowing for the use of mail balloting, which Congress has not preempted.

The President, by contrast, has no independent authority over elections. The President’s role in election legislation is confined to recommending measures to Congress, U.S. Const., art. II, § 3, and signing or vetoing bills, *id.*, art. I, § 7.<sup>2</sup> Nothing in the Constitution or any federal statute authorizes the federal executive to dictate the type of regulations at issue in this proposed rulemaking. *Georgia v. Meadows*, 88 F.4th 1331, 1346–1347 (11th Cir. 2023) (rejecting position that the federal executive can “interfere[] with state election procedures based solely on the federal executive’s own initiative”); see *League of United Latin Am. Citizens v. Exec. Off. of the President*, 780 F. Supp. 3d 135, 159 (D.D.C. 2025) (observing that executive power over federal elections “does not appear to have crossed the Framers’ minds”). The President thus cannot mandate that States conform to any particular mail ballot envelope design and review process. Nor can he conscript States’ resources to participate in a program of compiling lists of mail voters, or mandate regulation of mail voting that intrudes upon States’ ability to administer elections in accordance with state law that provides for access to mail voting. *California v. Trump*, 786 F. Supp. 3d 359, 373 (D. Mass. 2025) (*California I*); see *Printz v. United States*, 521 U.S. 898, 935 (1997). “The President’s authority to act . . . ‘must stem either from an act of Congress or from the Constitution itself.’” *Medellin v. Texas*, 552 U.S. 491, 524 (2008) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952)). Neither source supports what the President has ordered here.

Because the President lacks authority to direct the changes to the handling of election mail, the EO is not binding on USPS. And USPS’s authority to regulate elections is no broader than the President’s. Like the President, an administrative agency’s power is limited to that conferred to the Executive Branch by the Constitution or delegated by Congress in federal law. See *Main Street Legal Servs., Inc. v. Nat’l Sec. Council*, 811 F.3d 542, 558 (2d Cir. 2016). In this case, not only has Congress *not* authorized USPS to control mail ballots in this way, but the Proposed Rule is

<sup>2</sup> In fact, the President has tried to impose limitations on elections through advocating for restrictions in traditional Congressional legislation, but Congress has repeatedly rejected these efforts.

contrary to USPS's governing statutes, as explained below. *See infra* § III.B. By fundamentally altering how USPS handles mail ballots, the Proposed Rule violates the Constitution's separation of powers. *See Youngstown*, 343 U.S. at 637 (Jackson, J., concurring).

## **2. The Proposed Rule violates the States' constitutional power to regulate and administer elections**

The mail ballot regime set forth in the Proposed Rule violates States' constitutional rights to administer elections in accordance with their own laws. *See ITCA*, 570 U.S. at 8–9 (recognizing States' broad power to regulate federal elections). As noted above, the Constitution explicitly tasks States—and not USPS or the President—with the responsibility to administer federal elections, empowering them to provide a “complete code” of how such elections are run, including how voters cast their ballots. *See Smiley*, 285 U.S. at 366. The States have legislated accordingly. California and Washington, for instance, have adopted universal mail voting systems, wherein every active registered voter is sent a mail ballot. *See* Cal. Elec. Code §§ 3000.5, 3003, 3010, 3011; Wash. Rev. Code §§ 29A.40.010, .091, .170. Other States, like Massachusetts, authorize no-excuse early voting by mail, allowing any qualified voter to request and cast a mail ballot. *See* Mass. St. 2022, c. 92, § 10; Mass. Gen. Laws ch. 54, § 25B(a)(i). Given the constitutionally assigned role that USPS plays in providing critical postal services to the country, *see* U.S. Const. art. I, § 8, cl. 7, the States have built in the provision of such services as central pillars of their mail voting programs.

The Proposed Rule effectively supplants States' decisions about which voters can cast a mail ballot. For instance, proposed DMM 705.24.4.2–3, which governs the process for States to enroll voters on the state-specific Mail-In and Absentee Participation List, will inevitably omit certain voters, denying USPS delivery of ballot mail to voters who are otherwise eligible to cast their vote through the mail. Proposed DMM 705.24.4.2(d) provides that a State must submit to USPS the requisite voter information “at least 30 days before the date of the federal election, to the extent practicable, or by the date on which mail-in or absentee ballots may begin to be mailed under state law.” But States, pursuant to their own duly enacted election rules, permit voters to request a mail ballot (and have that ballot mailed to them) well inside of that window. In California, for example, voters may register and receive a vote-by-mail ballot up to 15 days before the election. Cal. Elec. Code § 2102(a). And California requires that election officials begin mailing voters their ballots no later than 29 days before each election. *Id.* §§ 3001, 3000.5. For that reason, under the proposed restrictions on enrollment in USPS's lists, numerous California voters will likely become ineligible to receive a mail ballot inside of the Proposed Rule's alternative cutoffs.

While proposed DMM 705.24.4.2(d) permits States to “make supplemental submissions to enroll additional individuals or modify prior submissions until the last day that ballots may be mailed out to individuals under state law,” this does not fully remedy the serious risk that eligible voters will be deprived of mail ballots to which they are entitled under state law. Proposed DMM 705.24.5.1 and 705.24.5.3 require that USPS review outbound ballot mail to ensure recipients are enrolled with USPS before accepting and delivering that mail. States are unlikely to be able to make real-time, instantaneous supplemental submissions with each individual change to their respective lists. As a result, many States will inevitably provide supplemental enrollment information, including immediately before or at the deadline for mailing ballots to voters under

state law. In Vermont, for example, voters may request an absentee ballot up to one day before an election. *See* Vt. Stat. Ann. tit. 17, §§ 2531(a), 2539(a)(1). Or consider New Jersey, which requires that county clerks provide eligible voters with a mail ballot by 3:00 p.m. the day before the election if the voter requests the ballot in person. *See* N.J. Stat. Ann. § 19:63-3(d). And in North Carolina, the voter, the voter's near relative, or the voter's verifiable legal guardian may request an absentee ballot by 5:00 p.m. the day before the election. *See* N.C. Gen. Stat. § 163-230.1(b). These quick turnaround times raise the serious risk that USPS will screen out legitimate ballot mail due to the unavoidable delay in the transfer and processing of information by state election officials and USPS.

Additionally, while the Proposed Rule effectuates only the EO's limitations on delivering *outbound* mail ballots, it leaves the door open to future implementation of the EO's prohibition on delivery of completed mail ballots from any voter not on USPS's voter lists. *See* EO § 3(b)(iii); proposed DMM 705.24.4.2(b)(4)) (requiring states to provide the "Unique IMb on the Return Federal Ballot Mail envelope sent to the individual[.]" which could allow USPS to track and refuse to deliver certain voted ballots as well). This, too, would have disastrous effects, misleading voters into believing they are able to cast a mail ballot only for USPS to fail to deliver it. Many voters will remain unaware that their ballot was never delivered, or they will find out too late to correct the error.

Separately, and just as troubling, proposed DMM 705.24.4.3 provides that States will be provided a copy of the state-specific Mail-In and Absentee Participant List "[o]n or about the date of the federal election." This rule affords States little, if any, time to digest state-specific lists containing potentially millions of voters to assess whether all voters eligible to be sent a mail ballot have been included. Nor does it take into account that ballots are mailed in most instances by local election officials, who do not even receive a copy of the list under the Proposed Rule, and are not contemplated by the Proposed Rule to undertake review. Indeed, such an exhaustive review would be functionally impossible in the days before an election or on Election Day. In fact, under the language of the Proposed Rule, it is possible such a list might not arrive until *after* the election, as the term "on or about" does not guarantee delivery *prior* to the election. And yet, the way in which these proposed rules work together apparently contemplates that States will proactively review USPS's lists and submit corrections to "modify prior submissions." *See* Proposed DMM 705.24.4.2(d). Moreover, the late correction of any voter omissions from USPS's lists will both prevent States from sending a mail ballot to those voters and also functionally prevent States from contacting such voters to ensure that they are aware of their omission and ability to cast a ballot in-person.

At bottom, the proposed regulations pertaining to enrollment on the state-specific Mail-In and Absentee Participation Lists will inevitably result in significant numbers of otherwise-eligible voters being unable to receive and cast a ballot through the mail. The Signatory States have each enacted state laws affording some or all voters the right to do so. Because the Proposed Rule undermines and nullifies States' deliberate decisions to administer federal elections, at least in part, through the mail, it is unconstitutional under the Elections Clause of the Constitution.

The Proposed Rule's ballot envelope design requirements run into similar constitutional concerns. The President has no authority to require States to adhere to a particular mail ballot

envelope design and review process. *Meadows*, 88 F.4th at 1346; *California I*, 786 F. Supp. 3d at 373. Nor can he direct USPS to exceed its authority—and nowhere has Congress given USPS the power to countermand a State’s choices in designing its ballot envelopes or in adopting appropriate security procedures for mail ballots. See *City of Providence v. Barr*, 954 F.3d 23, 31 (1st Circ. 2020) (noting that an agency’s power is limited to its statutory authorization). Nothing authorizes the President to issue ballot mail design requirements, nor to force upon States the Proposed Rule’s review process, rendering it unconstitutional. See *Youngstown*, 343 U.S. at 585; *Printz*, 52 U.S. at 935.

The Proposed Rule’s mandates regarding ballot delivery and ballot envelope design also unconstitutionally commandeer State resources in violation of the separation of powers between the federal government and the States. If enacted, the Proposed Rule would hijack the resources of the States to effectuate an unconstitutional federal data collection program by requiring the States to provide USPS with the name, address, and unique Intelligent Mail barcode for each voter. It would further require States to expend resources to conform ballot envelope designs to access postal services. Refusing States access to essential and statutorily guaranteed postal services unless they enact (with their own resources) a presidentially ordered federal program amounts to unlawfully seizing the States’ personnel resources and power over elections. See *California I*, 786 F. Supp. 3d at 373; *Printz*, 521 U.S. at 935.

### **3. The Proposed Rule also violates Congress’s constitutional powers**

For the same reasons, the Proposed Rule unconstitutionally invades Congress’s power to “make or alter” election regulations under the Elections Clause. See U.S. Const. art. I, § 4. Pursuant to that power, Congress has enacted several statutes governing voter registration, voting lists, and absentee voting. None of those laws authorize USPS to play the role that the President and the Proposed Rule set out to accomplish by fiat. In fact, as described below, the Proposed Rule disregards and violates federal voting statutes.

In addition, the Proposed Rule violates Congress’ power over the Postal Service. See U.S. Const. art. I, § 8, cl. 7; *Ex parte Jackson*, 96 U.S. 727, 732 (1877) (Congress has exclusive constitutional power to enact law governing “the entire postal system of the country”); *accord U.S. Postal Serv. v. Council of Greenburgh Civic Ass’ns*, 453 U.S. 114, 121 (1981) (recognizing Congress’s broad power over postal system). Pursuant to its constitutional authority, “Congress effectively mandated certain policies to be followed by the Postal Service, leaving no discretion . . . to do otherwise.” *New York v. Biden*, 636 F. Supp. 3d 1, 25 (D.D.C. 2022) (quotation omitted). However, the Proposed Rule runs contrary to a host of federal statutes governing USPS operations. As detailed more fully below, Congress has not authorized USPS to promulgate any of the requirements now posed in this rulemaking.

In fact, the only statute that assigns *any* role for USPS in voting is the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. § 20302, et seq., which the Proposed Rule explicitly carves out.<sup>3</sup> Specifically, UOCAVA requires that “balloting materials,”

<sup>3</sup> Without that carveout, the Proposed Rule would be directly inconsistent with the requirements of that federal law. However, the carveout cannot rescue the Proposed Rule either

including mail ballots, “shall be carried expeditiously and free of postage[.]” 39 U.S.C. § 3406(a)(1); *see also* 52 U.S.C. §§ 20302(a)(1) (mandating certain procedures for military and overseas voters), 20304(b) (providing that the UOCAVA administrator “shall provide expedited mail delivery service” for UOCAVA ballots). By linking USPS’s obligations under Title 39 to UOCAVA, “Congress has shown that it knows how to” require that USPS treat mail ballots differently. *Lackey v. Stinnie*, 604 U.S. 192, 205 (2025) (quotation omitted). The statute also demonstrates the limited role Congress has assigned to USPS with regard to mail balloting—to carry and deliver such ballots, not to act as a gatekeeper for whose ballots should be delivered. There is nothing in Title 39 that includes anything like the Proposed Rule, which codifies the EO’s appropriation of Congress’s constitutional power over both elections and USPS.

Such statutory violations establish that the Proposed Rule is contrary to law, *see infra* § III.C, further illustrating that what USPS is seeking to do is unconstitutional. Rulemaking by an Executive Branch agency that countermands specific limitations on the agency’s authority enacted by Congress violates the separation of powers.

## **B. The Proposed Rule is Contrary to USPS’s Governing Statutes**

USPS is a “creature[] of statute” that “possess[es] only the authority that Congress has provided.” *Nat’l Fedn. of Indep. Bus. v. Dept. of Lab., OSHA*, 595 U.S. 109, 117 (2022) (*per curiam*); *La. Pub. Serv. Comm’n v. F.C.C.*, 476 U.S. 355, 374 (1986) (“[A]n agency literally has no power to act . . . unless and until Congress confers power upon it.”). USPS’s own interpretation of the scope of its authority to enact the Proposed Rule, as set forth in the preamble, is entitled to no deference. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Notably, when USPS last intruded on state administration of mail voting, a federal court promptly enjoined it. *See Colorado v. DeJoy*, No. 20-cv-2768-WJM-STV, 2020 WL 5513567, at \*2 (D. Colo. Sept. 14, 2020) (restraining USPS’s nationwide vote-by-mail mailer because its instructions conflicted with state election procedures).

The federal law that created and governs USPS is Title 39 of the U.S. Code, as enacted in the Postal Reorganization Act (PRA), Pub. L. No. 91-375, 84 Stat. 719 (1970), and amended by the Postal Accountability and Enhancement Act (PAEA), Pub. L. No. 109-435, 120 Stat. 3198 (2006). Title 39 confers no authority to adopt the nationwide mail ballot administration program described in the Proposed Rule and affirmatively prohibits several of its central features. *See California*, 2026 WL 1826490, at \*15 (“[N]o law enacted by Congress delegates authority to control mail-in voting to USPS.”); *see also Aid Ass’n for Lutherans v. USPS*, 321 F.3d 1166, 1175–76 (D.C. Cir. 2003) (invalidating USPS regulations that changed DMM standards restricting eligibility for a category of mail because the changes exceeded USPS’s statutory authority); *Nat’l Ass’n of Postal Supervisors v. USPS*, 26 F.4th 960, 970–972 (D.C. Cir. 2022) (reaffirming that

because USPS still lacks statutory authorization for its proposed mail ballot regime. The Proposed Rule also does not explain how USPS will even distinguish between ballots that are sent pursuant to UOCAVA and other absentee ballots, revealing an acute risk that the Proposed Rule will conflict with UOCAVA’s mandate and result in erroneous UOCAVA ballot rejection and return. *See* 91 Fed. Reg. at 32,915.

courts can review whether USPS action exceeds the bounds Congress set in Title 39). We address each defect in turn.

## 1. Sections 401 and 404 do not authorize the Proposed Rule

The Notice grounds the Proposed Rule in 39 U.S.C. §§ 401 and 404. 91 Fed. Reg. at 32,915. Neither provision supports it.

Section 401(2) authorizes USPS to adopt only those rules and regulations that are “*not inconsistent with this title*” and that “*may be necessary in the execution of its functions* under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title[.]” 39 U.S.C. § 401(2) (emphasis added). USPS’s power to promulgate regulations is thus doubly limited: a regulation must be necessary to fulfill a function Congress has actually assigned to USPS, and it may not contradict the remainder of Title 39. The Proposed Rule exceeds both limitations.

As shown below, the Proposed Rule is inconsistent with multiple express provisions of Title 39 and it is not “necessary” to any postal function. USPS’s functions are the “collection, handling, transportation, delivery, forwarding, returning, and holding of mail,” 39 U.S.C. § 404(a)(1), all of which are in service of its “basic function”—“the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people[.]” *id.* § 101(a). Compiling rosters of mail voters, operating an enrollment portal for state election data, verifying that ballots are “destined to individuals on the list,” 91 Fed. Reg. at 32,916, and generating compiled participation lists “for use by law enforcement,” *id.* at 32,915, are not functions of collecting, transporting, or delivering mail. They are election administration and investigative data-collection functions that Congress never assigned to USPS—in Title 39 or anywhere else.

No purported basis for the Proposed Rule establishes its necessity for USPS’s functions. For example, the Notice of Proposed Rulemaking explains that the “mailpiece preparation and data reporting standards” provide information “for use by law enforcement” and that the Mail-In and Absentee Participation Lists will “facilitate law enforcement efforts” by allowing “law enforcement officials to compare the total number of mailed ballots to the total number of received ballots to detect potential issues meriting further investigation.” 91 Fed. Reg. at 32,915–916. Generating investigative leads for *other* agencies’ enforcement of *election* law is not a power “incidental, necessary, or appropriate to the carrying on of” USPS’s functions.<sup>4</sup> 39 U.S.C. § 401(10). Notably, the Proposed Rule’s data collection outruns its own stated rationale: comparing the *total* number of ballots mailed against the *total* received—the Notice’s sole law-enforcement illustration—requires only aggregate counts, but the Proposed Rule mandates person-level linkage

<sup>4</sup> This disconnect is no surprise because the Notice ties the Proposed Rule to the President’s Executive Order rather than to any postal function: USPS “understands” from the EO that the Proposed Rule “will facilitate the faithful execution of federal law.” 91 Fed. Reg. at 32,915. But a rule necessary to the EO’s objectives is not a rule necessary to USPS’s functions. *Compare* 91 Fed. Reg. at 32,915, *with* EO, § 1.

of each voter's name and address to the unique Intelligent Mail barcodes on voters' envelopes, proposed DMM 24.4.2.b.

The election crime statutes cited in the Notice of Proposed Rulemaking—concerning criminal prohibitions on voter intimidation and fraudulent registration and voting—fail to supply the missing authority for this sweeping election law enforcement project. *See* 91 Fed. Reg. at 32,915 (citing 52 U.S.C. §§ 10307 & 20511). Those statutes do not expressly confer any enforcement authority on USPS. In fact, Section 11(a) of the Voting Rights Act (cited in the Notice) affirmatively prohibits any “person acting under color of law” to “fail or refuse to permit any person to vote who is entitled to vote” or to “willfully fail or refuse to tabulate, count, and report such person's vote[.]” 52 U.S.C. § 10307(a), yet that is the result of the Proposed Rule for mail voters who are not enrolled on USPS's final State-Specific Mail-In and Absentee Participation List. The reference to 18 U.S.C. § 3061(b) also fares no better because it only grants limited law-enforcement powers to *postal inspectors* regarding crimes involving “the use of mails” and offenses subject to interagency agreement with the Attorney General. But that is not a grant to construct, by regulation, a nationwide investigative data-collection regime cataloguing which Americans vote by mail. If Congress had intended to deputize USPS as an adjunct of federal election law enforcement, it would have said so clearly. *Cf. West Virginia v. EPA*, 597 U.S. 697, 723–25 (2022) (“newfound power” discovered in a “long-extant statute” warrants skepticism); *Biden v. Nebraska*, 600 U.S. 477, 505–506 (2023).

Finally, the Notice's characterization of the Proposed Rule as “implement[ing] best practices for Postal Service ballot mailing operations,” 91 Fed. Reg. at 32,915, cannot support its issuance either. USPS's existing ballot-mail recommendations are voluntary guidance offered in service of delivery. *See* USPS, *Mailing Standards of the United States Postal Service Domestic Mail Manual* 703.8.4 Design, <https://pe.usps.com/text/dmm300/703.htm#ep1174014> (last visited July 1, 2026); USPS, *2026-2027 Official Election Mail Guide Kit 600* (Feb. 2026), <https://about.usps.com/kits/kit600.pdf>. The Proposed Rule transforms them into mandatory conditions of mail *acceptance*, enforced by refusal and return of ballot mailings, proposed DMM 705.24.5.3, and welds them to an enrollment-and-verification regime that has no analogue in any “best practice.” A recommendation about how to prepare an envelope is a postal function. A federal precondition on whether a state's ballots may enter the mail stream at all is not.

## **2. The Federal Ballot Mail Portal, voter enrollment, and participation lists are a prohibited new “nonpostal service”**

In PAEA, Congress expressly stripped USPS of authority to take on new lines of business characterized as “nonpostal services.” *See* 39 U.S.C. § 404(e)(2)–(3). “Nonpostal services” constitute anything that falls outside of the definition of “postal services,” *id.* § 404(e)(1), which in turn is narrowly defined as “the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto[.]” 39 U.S.C. § 102(5). In 2022, Congress delineated permissible non-postal services that allowed USPS to, for example, enter into certain service-related agreements. *See id.* §§ 404(e)(3).

The core of the Proposed Rule has nothing to do with mail delivery, and it overrides Congress's explicit limitation on non-postal services. For example, proposed DMM 705.24.4

would establish (1) a registration system for “Ballot Portal Users”; (2) an “enrollment” system in which States must submit, voter by voter, the name and address of each individual receiving a mail-in or absentee ballot, the unique IMBs on that individual’s outbound and return envelopes, and the originating election office; and (3) a list-compilation and transmission service under which USPS delivers to each State’s chief election official, “[o]n or about the date of the federal election,” a compiled statewide roster of every enrolled voter and the barcodes associated with each voter’s ballot. This state-by-state voter eligibility verification and enrollment system is far outside the definition of “postal services.” Nor is it “ancillary” to mail delivery; USPS has delivered ballots for as long as States have mailed them—including nearly 100 million ballots in the 2024 general election alone—without ever needing to know, in advance and by name, who is eligible under state law to receive and return their ballot, nor playing the role of gatekeeper to the franchise. *See also* 91 Fed. Reg. at 32,916 (Proposed Rule intended to “facilitate law enforcement efforts,” not mail delivery).

The narrow statutory exceptions of nonpostal services that Congress created in 2022 confirm the broad prohibition. Section 404(e)(2) excepts only “nonpostal products or services authorized by chapter 37.” Chapter 37, in turn, authorizes nonpostal services principally through reimbursable agreements with other federal agencies, subject to Postal Regulatory Commission (PRC) oversight. *See* 39 U.S.C. § 3703. No agreements, reimbursements, or PRC process are present here, and State election officials are not federal agencies. That Congress created these specific exceptions shows that when it intends for USPS to engage in non-postal practices, it will specifically so provide. *See Pub. Int. Legal Found., Inc. v. Bellows*, 92 F.4th 36, 48 (1st Cir. 2024) (“[T]he enumeration of specific exclusions from the operation of a statute is an indication that the statute should apply to all cases not specifically excluded.” (quotations omitted)).

### **3. Conditioning mail acceptance on enrollment and certification violates the Universal Service Obligation and the prohibition on discrimination among mail users**

Title 39 commands that USPS “shall provide prompt, reliable, and efficient services to patrons in *all* areas and shall render postal services to *all* communities[.]” 39 U.S.C. § 101(a); that it shall “provide adequate and efficient postal services” and “serve as nearly as practicable the entire population of the United States[.]” *id.* § 403(a); that it give “the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail[.]” *id.* § 101(e); and that, “[i]n providing services . . . [USPS] shall not . . . make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user.” *Id.* § 403(c).

Under proposed DMM 705.24.5.3, an authorized ballot mailer’s mailing “will not be accepted and will be returned” if USPS’s verification concludes the mailing is not being sent to an individual enrolled on a State’s “Mail-In and Absentee Participation List,” proposed DMM 705.24.5.1, or if the state “has not submitted a certification pursuant to 24.4.2.f,” proposed DMM 705.24.3.b. That is a regime of selective refusal of service: identical letters will be accepted or rejected depending on whether the intended recipient’s name appears in a federal database and whether the election official sending it submitted it for federal certification. USPS has not (and cannot) identify a legitimate operational need that justifies this disparity. *Cf. GameFly, Inc. v.*

*Postal Reg. Commn.*, 704 F.3d 145, 149 (D.C. Cir. 2013) (holding that when there is discrimination, there must either be a “remedy [to] all discrimination or [an] expla[nation] why any residual discrimination is due or reasonable under § 403”); *U.S.P.S. v. Postal Reg. Comm’n*, 747 F.3d 906, 910 (D.C. Cir. 2014) (affirming PRC order remedying undue and unreasonable discrimination between mail rates for DVD rental company and video game rental company).<sup>5</sup>

USPS also carries census questionnaires, jury summonses, tax filings, and social security correspondence—government mail that is important, sensitive, and deadline-driven—without conditioning acceptance by USPS on enrollment of the recipients in a federal database. But under the Proposed Rule, only the mailers of ballots—unquestionably “important letter mail” that Congress directed receive “the highest consideration,” 39 U.S.C. § 101(e)—face that condition. That constitutes “undue [and] unreasonable discrimination among users of mail[],” *id.* § 403(c), and a refusal “to render postal services to all communities” in any State that declines, or is unable, to satisfy the enrollment-and-certification conditions, *id.* § 101(a).

#### **4. The Proposed Rule unlawfully creates a new category of nonmailable matter**

USPS’s authority to refuse matter tendered for mailing is governed by a comprehensive statutory scheme. Congress has “carefully defined” the categories of “nonmailable matter,” 39 U.S.C. §§ 3001–3008—hazardous materials, certain solicitations, and the like—and has specified that such matter “shall be disposed of as [USPS] directs,” *id.* § 3001(b). However, USPS “must deliver the mail unless an item is ‘nonmailable’ within the definition of 39 U.S.C. § 3001.” *Bowie v. Williams*, 351 F. Supp. 628, 634 (E.D. Pa. 1972). That principle—that postal officials cannot withhold mail without a statutory basis—is as old as judicial review of postal actions itself. *See Am. Sch. of Magnetic Healing v. McAnnulty*, 187 U.S. 94, 109 (1902) (“His right to exclude letters, or to refuse to permit their delivery to persons addressed, must depend upon some law of Congress, and if no such law exists, then he cannot exclude or refuse to deliver them.”).

Ballots and ballot envelopes appear nowhere in sections 3001–3018. Yet the practical effect of proposed DMM 705.24.5.3 is to render unacceptable—refused and returned to the sender—every ballot mailing from a non-certifying State, every mailing addressed to a voter absent from the Mail-In and Absentee Participation List, and every mailing whose envelope has not undergone review for design and barcode placement. Nothing in Title 39 authorizes USPS to create, by regulation, a new class of “refusable mail” or “conditionally accepted mail” defined by the sender’s noncompliance with a data-reporting regime. That power resides exclusively with Congress. *See Ex parte Jackson*, 96 U.S. 727, 732 (1877) (“The power possessed by Congress embraces the regulation of the entire postal system of the country.”); *Hannegan v. Esquire, Inc.*, 327 U.S. 146, 155–156 (1946) (finding Postmaster General may not impose conditions on mail privileges that Congress has not prescribed).

<sup>5</sup> Whatever the proper forum for enforcing section 403(c) in the first instance, the provision is a substantive command of Title 39 and a regulation that transgresses it is by definition not one “consistent with this title.” 39 U.S.C. § 401(2).

Existing DMM acceptance standards uniformly consider physical standards concerning the mailpiece, not the identity of the mailer.<sup>6</sup> A mailpiece that is not compliant can be cured by re-preparing the piece or paying a different rate; no mailpiece is precluded from the mails on account of who is sending it, who is to receive it, or whether the parties appear in a federal database. In other words, the Proposed Rule regulates access to mail based on identity of the sender and recipient and the mail contents (*i.e.*, a ballot)—which are precisely within the kinds of distinctions that fall within the scope of the nonmailability provisions. *See, e.g.*, 39 U.S.C. §§ 3002 (prohibition of mail containing master vehicle key), 3003 (prohibition on mailing fictitious name or address), 3004 (prohibition on delivery of mail to persons not a resident at the address). In fact, the Supreme Court has made clear that excluding matter from the mails on grounds unrelated to its physical character raises constitutional concerns. *See Lamont v. Postmaster Gen. of U.S.*, 381 U.S. 301, 306–07 (1965) (finding statute that required Postmaster General to detain “communist political propaganda,” notify the recipient, and require the recipient to submit a reply card requesting that the mail be released, violated the First Amendment); *Blount v. Rizzi*, 400 U.S. 410, 416–417 (1971) (finding USPS imposed “procedures designed to deny use of the mails to commercial distributors of obscene literature” violated the First Amendment).

### C. The Proposed Rule is Contrary to Federal Voting Statutes

The Proposed Rule is also directly inconsistent with federal voting statutes.

First, in requiring enrollment in a USPS list as a prerequisite for mail voting, the Proposed Rule conflicts with federal statutes providing for a single, state-maintained voter registration list for federal elections in each State. In exercising its powers under the Elections Clause, Congress expressly left responsibility for carrying out voter registration and maintaining voting lists in the hands of the States, subject to federal standards. 52 U.S.C. §§ 21083(a)(1)(A), 20503(a), 20507. Federal law requires “each State” to “implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level,” with information for each legally registered voter in the State. *Id.* § 21083(a)(1)(A). By law, this state-maintained list “shall serve

<sup>6</sup> *See, e.g.*, USPS, *Mailing Standards of the United States Postal Service Domestic Mail Manual* 102 Elements on the Face of a Mailpiece, <https://pe.usps.com/text/dmm300/102.htm> (last visited July 1, 2026); USPS, *Mailing Standards of the United States Postal Service Domestic Mail Manual* 202 Elements on the Face of a Mailpiece, <https://pe.usps.com/text/dmm300/202.htm> (last visited July 1, 2026) (physical dimensions, machinability, address and postage placement); USPS, *Mailing Standards of the United States Postal Service Domestic Mail Manual* 203 Basic Postage Statement, Documentation, and Preparation Standards, <https://pe.usps.com/text/dmm300/203.htm> (last visited July 1, 2026) (presort and documentation); USPS, *Mailing Standards of the United States Postal Service Domestic Mail Manual* 204 Barcode Standards, <https://pe.usps.com/text/dmm300/204.htm> (last visited July 1, 2026) (barcode quality); USPS, *Mailing Standards of the United States Postal Service Domestic Mail Manual* 233 Prices and Eligibility, <https://pe.usps.com/text/dmm300/233.htm> (last visited July 1, 2026); USPS, *Mailing Standards of the United States Postal Service Domestic Mail Manual* 243 Prices and Eligibility, <https://pe.usps.com/text/dmm300/243.htm> (last visited July 1, 2026) (postage-category eligibility).

as the single system for storing and managing the official list of registered voters throughout the State[.]" and is the "the official voter registration list for the conduct of all elections for Federal office in the State." *Id.* § 21083(a)(1)(A)(i) & (viii). This statutory design necessarily precludes the Proposed Rule's requirement of a second voting list housed in a federal agency and used by that agency to control delivery of ballots. *See* 91 Fed. Reg. at 32,918 (Proposed Rule §§ 24.4.2, 24.4.3, 24.5.1, 24.5.3).

Second, the Proposed Rule violates the Voting Rights Act Amendments of 1970, which protects the rights of voters to access absentee voting in federal elections. 52 U.S.C. § 10502. Congress enacted that law to protect citizens' constitutional right to vote and to move freely across state lines. The statute provides that no U.S. citizen shall "be denied the right to vote" in federal elections "because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election," so long as the citizen has "complied with the requirements *prescribed by the law of such State or political subdivision*" concerning absentee ballots. *Id.* § 10502(c) (emphasis added). Thus, a voter's compliance with state law absentee voting requirements—some of which must conform to federal standards set out in the Act—is the sole prerequisite to absentee voting. The Proposed Rule violates this statute by adding a new USPS enrollment requirement as a necessary precondition to delivering absentee ballots. *See* 91 Fed. Reg. at 32,918 (Proposed Rule §§ 24.4.2, 24.5.1, 24.5.3.a) (requiring mail voters to be enrolled with USPS and providing that USPS will not accept ballot mail if recipients have not been so enrolled). For the same reason, implementation of the Proposed Rule and refusal to transmit ballot mail would also violate the enforcement provisions of the Voting Rights Act. 52 U.S.C. § 10307(a) ("No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of chapters 103 to 107 of this title or is otherwise qualified to vote[.]").

#### **D. The Proposed Rule is Contrary to the Privacy Act**

USPS is subject to the requirements and prohibitions in the Privacy Act, 5 U.S.C. § 552a. *N.L.R.B. v. USPS*, 841 F.2d 141, 145 & n.3 (6th Cir. 1988). Accordingly, it may not adopt regulations that are contrary to the Privacy Act.

Congress passed the Privacy Act "in response to the explosion of computer technology, which allowed for compilation and storage of data in quantities not seen before, coupled with rightful and broad condemnation of government surveillance programs including Watergate and the FBI's COINTELPRO." *Garris v. Fed. Bureau of Investigation*, 937 F.3d 1284, 1295–96 (9th Cir. 2019) (citation omitted). Among other goals, the Act sought to prevent the "collection of protected information not immediately needed, about law-abiding Americans, on the off-chance that Government or the particular agency might possibly have to deal with them in the future." S. Rep. 93-1183.

To that end, the Privacy Act has as one of its strongest protections a prohibition against agencies maintaining records "describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity[.]" 5 U.S.C. § 552a(e)(7).

The Proposed Rule discloses a plan to surveil and collect data regarding ballot mail sent to and from registered voters. The Notice of Proposed Rulemaking reflects that the purpose of the “mailpiece preparation and data reporting standards” is to “provide information regarding the sending of ballots through the mails that would be available for use by law enforcement[.]” 91 Fed. Reg. at 32,915. The Proposed Rule achieves this goal by requiring each piece of ballot mail to have Intelligent Mail barcodes, which is a USPS tracking technology, and to require States to provide data to USPS linking each barcode to an individual voter.<sup>7</sup> 91 Fed. Reg. at 32,917–918 (Proposed Rule §§ 24.3.1, 24.3.2, 24.4.2). This surveillance plan directly follows from the Executive Order that mandated this rulemaking procedure. *See also* EO § 1 (“Secure ballot envelope identifiers provide a reliable, auditable mechanism to enforce Federal law. . . . Unique ballot envelope identifiers, such as bar codes, enable confirmation that only citizens receive and cast ballots, reducing the risk of fraud and protecting the integrity of Federal elections.”).

Voter registration, mail ballot participation, and voting are forms of First Amendment expression. *See Buckley v. Am. Const. L. Found., Inc.*, 525 U.S. 182, 195 (1999) (holding that the choice of whether or not to register “implicates political thought and expression”); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). For this reason, at least one court has held that the First Amendment protections in 5 U.S.C. § 552a(e)(7) bar federal agencies from collecting voter registration lists. *United States v. Weber*, 816 F. Supp. 3d 1168, 1193 (C.D. Cal. 2026). The statute equally bars the collection of data on all mail ballot voters proposed here: the lists that States must provide—on pain of losing the ability to administer their legally mandated mail-voting laws—will reveal citizens’ First Amendment activity regarding the choice to register to vote.

No exception to the bar on collecting records on voters’ First Amendment activity can salvage this new voter-surveillance regime. *See* 5 U.S.C. § 552a(e)(7). The collection of these records is not “expressly authorized by statute,” nor, of course, by the tens of millions of voters who are the object of the surveillance. *See id.* Nor is this sweeping new system to track ballot mail “pertinent to and within the scope of an authorized law enforcement activity.” The Proposed Rule cites USPS’s general statutory authority to investigate and enforce criminal laws. 91 Fed. Reg. at 32,915 (citing 18 U.S.C. § 3061). But that statute enumerates USPS’s powers in subsection (a), and creating a preventive surveillance program is not among them. 18 U.S.C. § 3061(a) (authorizing USPS postal inspectors to serve warrants and subpoenas, make arrests, carry firearms, and “make seizures of property as provided by law”). Nor does a general grant of authority to investigate “criminal matters” grant USPS license to surveil all mail ballots. The unprecedented scale of this data collection reflecting First Amendment activity is not “within the scope” of an “authorized law enforcement activity.” *See* 5 U.S.C. § 552a(e)(7). Accordingly, the Proposed Rule’s mandated data collection regarding voters receiving or sending mail ballots is prohibited by the Privacy Act.

<sup>7</sup> As described in the Notice of Proposed Rulemaking, “[u]niquely serialized IMbs facilitate the tracking of individual pieces of Ballot Mail to and from individual voters as the barcodes are scanned on the Postal Service’s mail processing equipment.” 91 Fed. Reg. at 32,916. Further “these barcodes provide visibility into ballot mail transmission based on scan data that is generated as the ballots move through the mail.” *Id.*

#### **IV. The Proposed Rule Is Arbitrary and Capricious**

An agency's action is arbitrary or capricious if it is "not reasonable and reasonably explained." *Ohio v. EPA*, 603 U.S. 279, 292 (2024). Such action is likewise arbitrary and capricious if the agency fails to "assess whether there were reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns." *Dep't of Homeland Security v. Regents of the Univ. of Calif.*, 591 U.S. 1, 33 (2020).

The Proposed Rule should be withdrawn because it fails both of these tests. The Proposed Rule would arbitrarily interfere with State election administration, imposing an inflexible federal regulatory structure on State and local practices that are tailored to local conditions. It also fails to account for the significant reliance interests of States, which have structured their election systems around existing regulations. And the Proposed Rule is especially arbitrary as applied to the 2026 general election. The arbitrary and capricious impacts should preclude USPS from adopting the Proposed Rule. At an absolute minimum, USPS should delay the effective date until after the 2026 general election.

##### **A. The Proposed Rule Is Not Reasonable or Reasonably Explained**

##### **1. The Proposed Rule arbitrarily imposes a "one size fits all" approach on the States and interferes with their election-administration duties**

To start, the Proposed Rule would be arbitrary and capricious because it would impose a uniform, "one size fits all" federal regulatory approach on the States, which would interfere with their election administration duties without considering the wide diversity of approaches States and localities currently take to discharge those duties. *See Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) ("Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."); *Ryan, LLC v. FTC*, 746 F. Supp. 3d 369, 388 (N.D. Tex. 2024) (finding rule "arbitrary and capricious because it is unreasonably overbroad without a reasonable explanation[, and] imposes a one-size-fits-all approach . . . which fails to establish a 'rational connection between the facts found and the choice made'" (quoting *State Farm*, 463 U.S. at 43)). As explained *supra* § III.B., States have primary constitutional authority and responsibility for regulating federal elections, subject only to preemption by Congress. And state law sets the framework for those elections, including determining when, where, and how eligible voters may request, receive, and cast their mail ballots. But the Proposed Rule would impose a single set of nationwide requirements for mail-in and absentee participation, compliance procedures, and other election mail practices, all without adequate explanation or justification. This not only interferes with States' constitutional authority and existing state law and practice, it also arbitrarily disregards the tremendous variation in mail voting and other election administration practices of the States.

States have a wide range of different practices regarding how mail ballots are requested, provided to eligible voters, and returned by them.<sup>8</sup> The Proposed Rule would arbitrarily impose a nationwide criterion for mail-voter eligibility, based on the USPS mail-voter lists, without any reasoning or justification for that abrupt change. *See Tripoli Rocketry Ass’n, Inc. v. ATF*, 437 F.3d 75, 83 (D.C. Cir. 2006) (“[W]here an agency has articulated no reasoned basis for its decision—where its action is founded on unsupported assertions or unstated inferences—[courts] will not abdicate the judicial duty carefully to review the record to ascertain that the agency has made a reasoned decision based on reasonable extrapolations from some reliable evidence.” (quotations omitted)).

Not only do States (pursuant to their constitutional authority and, depending on the state, consistent with state constitutional mandates<sup>9</sup>) have varying laws, rules, and practices for treatment of mail voting and their election mail, election administration practices vary considerably within their own borders. In many States, authority and responsibility for administering elections is divided and shared among offices and officials at the state, county, and municipal level—with different regional and local experiences leading to varying approaches and practices on mail voting, ballot and envelope design, and other election procedures.<sup>10</sup> This wide array of established election structures and practices has been informed by local experience throughout States of varying size, population, and character. It does not easily lend itself to a “one size fits all” approach of administrative regulation that would require rapid and uniform changes to the collection of distinct state, county, and local policies and practices. The Proposed Rule’s reasoning is insufficient and flawed and it fails to account for these state reliance interests.

<sup>8</sup> *See, e.g., California v. Trump*, Case No. 1:26-cv-11581-IT, Dkt. No. 100-1 (Lean Decl.) ¶¶ 20, 28, 37 (D. Mass. Apr. 23, 2026) (“In California, every active registered voter is mailed a ballot.”) (Attachment 1); *id.*, Dkt. No. 100-2 (Tassinari Decl.) ¶¶ 12–14 (in Massachusetts, elections officials first send mail ballot applications to qualified registered voters upon request and then mail ballots beginning approximately 30 days before election) (Attachment 2); *id.*, Dkt. No. 100-4 (Holmes Decl.) ¶ 46 (“Washington elections officials are required by state law to issue ballots to duly registered voters.”) (Attachment 4); *id.*, Dkt. No. 100-7 (Rosenberg Decl.) ¶¶ 32–33, 41 (Connecticut elections officials issue mail ballots to duly registered voters who request an absentee ballot beginning 31 days before election) (Attachment 7).

<sup>9</sup> *E.g., Mich. Const. Art. II, s. 4(h)* (affording each eligible Michigan voter the constitutional right to vote by mail).

<sup>10</sup> *See, e.g., Lean Decl.* (Attachment 1) ¶¶ 4–6, 11, 21–22, 37, 41, 46–47, 58–59, 63 (California elections administered by state and local officials across 58 counties); *Tassinari Decl.* (Attachment 2) ¶¶ 4, 10, 16, 58, 81–83 (Massachusetts elections conducted by local officials in 351 municipalities); *Holmes Decl.* (Attachment 4) ¶¶ 4–7, 17–18, 32, 35, 39, 55–58 (Washington elections administered jointly between state and local officials, with ballot envelope design and other practices varying across 39 counties); *Rosenberg Decl.* (Attachment 7) ¶¶ 5–10, 21, 23–29, 41, 58, 67–69 (Connecticut elections administered primarily on local level, with ballot envelope design and other practices varying across 169 municipalities); *California v. Trump*, Case No. 1:26-cv-11581-IT, Dkt. No. 100-14 (D. Mass. Apr. 23, 2026) (Linnell Decl.) ¶ 68 (“In Minnesota, as in much of the country, ballot envelopes vary by county.”) (Attachment 14).

The Proposed Rule is also arbitrary because it fails to “examine the relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’” *State Farm*, 463 U.S. at 43 (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962)).

The Proposed Rule does not articulate a satisfactory explanation of the fit between its purported basis and its requirements. According to the Proposed Rule, the creation of the “Mail-In and Absentee Participation Lists” and the use of an envelope barcode tracking system are necessary to “reduce the risk of fraud” and “protect the integrity of federal elections.” Proposed Rule, 91 Fed. Reg. at 32915. The only citation offered in support of this rationale, however, is the EO itself. *Id.* But the EO does not present any evidence of fraud in the existing mail ballot system.<sup>11</sup> In contrast, studies of the issue have demonstrated that voter fraud and non-citizen voting are extremely rare. For example, a Brookings Institute study on mail voting found a minuscule percentage of fraud in a study of four elections, “about four cases of mail voting fraud out of every 10 million mail votes.”<sup>12</sup> With respect to non-citizen voting, a study of 42 jurisdictions with high noncitizen populations found only 30 cases of suspected noncitizen voting in the 2016 Presidential Election across jurisdictions representing 23.5 million votes—a rate of 0.0001 percent.<sup>13</sup> And a 2024 Georgia audit of its voter rolls found only 20 noncitizens out of the state’s 8.2 million voters, only 9 of whom had any record of casting a ballot.<sup>14</sup> It would be arbitrary and capricious for USPS to

<sup>11</sup> Nor does the Proposed Rule offer a factual or legal explanation of why, if these requirements are in fact necessary to protect election integrity, both primary elections and UOCAVA ballots are exempt from its scope. As discussed *supra* in Section II.A.3., the Proposed Rule would violate UOCAVA but for the Proposed Rule’s carveout. Of course, the proposed carveout does not save the Proposed Rule due to its numerous legal flaws, as set out in this comment. And USPS has not admitted this conflict and instead “welcomes comments,” 91 Fed. Reg. at 32,915, on exempting both UOCAVA and primary elections from the Proposed Rule.

<sup>12</sup> See, e.g., Samara Angel, Jonathan Katz & Randi Wright, *Mail Voting in the US: Data Points to Very Low Fraud and Significant Benefits to Voters*, Brookings Inst. (Nov. 6, 2025), <https://www.brookings.edu/articles/mail-voting-in-the-us-data-points-to-very-low-fraud-and-significant-benefits-to-voters/> (finding “an average total mail voting fraud percentage across the 2016, 2018, 2020, and 2022 general elections of only 0.000043%, or about four cases of mail voting fraud out of every 10 million mail votes”); Amy Gardner & Elise Viebeck, *Minuscule Number of Potentially Fraudulent Ballots in States with Universal Mail Voting Undercuts Trump Claims About Election Risks*, Wash. Post (June 8, 2020), [https://www.washingtonpost.com/politics/minuscule-number-of-potentially-fraudulent-ballots-in-states-with-universal-mail-voting-undercuts-trump-claims-about-election-risks/2020/06/08/1e78aa26-a5c5-11ea-bb20-ebf0921f3bbd\\_story.html](https://www.washingtonpost.com/politics/minuscule-number-of-potentially-fraudulent-ballots-in-states-with-universal-mail-voting-undercuts-trump-claims-about-election-risks/2020/06/08/1e78aa26-a5c5-11ea-bb20-ebf0921f3bbd_story.html) (analysis of data collected by three vote-by-mail states found that officials identified just 372 possible cases of double voting or voting on behalf of deceased people out of about 14.6 million votes cast by mail in the 2016 and 2018 general elections, or 0.0025 percent).

<sup>13</sup> Douglas Keith & Myrna Perez, *Noncitizen Voting: The Missing Millions*, BRENNAN CENTER (May 5, 2017), <https://www.brennancenter.org/our-work/research-reports/noncitizen-voting-missing-millions>.

<sup>14</sup> *Georgia citizenship audit finds few noncitizens on voter rolls*, AP (Oct. 23, 2024), <https://apnews.com/article/georgia-noncitizens-voter-rolls-14532ef49b66f9cbf34ff483d2534280>.

rely on a factual premise for which there is no persuasive evidence—that existing federal and state laws do not already protect federal elections against fraud or diminished integrity—to justify a massive new federal surveillance regime. *Ctr. for Auto Safety v. Fed. Highway Admin.*, 956 F.2d 309, 314 (D.C. Cir. 1992).

Further, the Proposed Rule also fails to justify or provide sufficient safeguards related to its Intelligent Mail barcode requirement. Under the requirements of the Proposed Rule, USPS and the federal government would be able to pinpoint ballots being sent to or received from specific voters. The Proposed Rule fails to explain how USPS would prevent abuse of this capability by federal officials, USPS employees, and others who may seek to target election mail to and from specific voters.

## **2. The Proposed Rule arbitrarily gives the States insufficient time to make the changes being imposed**

Any rulemaking regarding ballot mail that takes effect before the November 2026 general election would be arbitrary and capricious. Other commenters have explained the significant difficulties that state and local election officials will face in implementing the change proposed in the Domestic Mail Manual.<sup>15</sup> As a result, making those changes effective just months before the general election—when many election officials have already printed ballot materials or are about to do so in reliance on existing regulations—would be a striking and improper intrusion on the constitutional authority of States to regulate the manner of holding elections. Like the Supreme Court and Congress, USPS should respect States’ constitutional role by delaying implementation of any rule affecting election administration until after the 2026 general election.

The Supreme Court has repeatedly held that federal courts should not alter state election rules on the eve of an election. Under what is known as the *Purcell* principle, the Supreme Court has repeatedly reaffirmed “that federal courts ordinarily should not alter state election laws in the period close to an election.” *Moore v. Harper*, 142 S. Ct. 1089 (2022) (Kavanaugh, J., concurring); *see also, e.g., Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 589 U.S. 423, 424 (2020) (per curiam); *Benisek v. Lamone*, 585 U.S. 155, 160 (2018) (per curiam).

Congress has also recognized the importance of providing States sufficient time to implement federal changes affecting election administration. When Congress adopted the Help America Vote Act of 2002 (HAVA) in October 2002, none of its provisions altering state election administration took effect during the ongoing 2002 election cycle, and many of its provisions had effective dates in 2004 or later. Pub. L. 107-252, §§ 301(d), 302(d), 303(d), 706(d), 804(a), 116 Stat. 1666. When Congress adopted the National Voter Registration Act of 1993 (NVRA) in May 1993, it provided an effective date no earlier than January 1, 1995. Pub. L. 103-31, § 13, 107 Stat. 89. And when adopting the Uniformed and Overseas Citizens Absentee Voting Act in August 1986 (UOCAVA), Congress provided that “[t]he amendments and repeals made by this Act shall apply

<sup>15</sup> *See, e.g.,* Wash. Secretary of State, *Secretary of State Steve Hobbs’ comments on USPS proposed ballot rule* (June 26, 2026), <https://www.sos.wa.gov/about-office/news/2026/secretary-state-steve-hobbs-comments-usps-proposed-ballot-rule>.

with respect to elections taking place after December 31, 1987.” Pub. L. 99-410, § 204, 100 Stat. 930.

USPS should adhere to the same principles as the Supreme Court and Congress. Implementing the proposed changes to the Domestic Mail Manual close in time to the 2026 general election risks the same “disruption” and “unintended and unfair consequences for candidates, political parties, and voters” that underlie the Supreme Court’s admonition against late federal judicial interventions in elections. *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J., concurring). For example, the Proposed Rule identifies situations in which mailings “will not be accepted and will be returned to the authorized ballot mailer.” 91 Fed. Reg. at 32, 918 (Proposed Rule § 24.5.3(a), (b)). Particularly in the period shortly following initial adoption, there is a risk of inadvertent administrative errors by USPS, local election officials, and ballot material vendors. Such inadvertent errors would lead to voters either not receiving ballots or receiving them late, and, absent a delay in the effective date, this would occur in the midst of a high-profile federal general election.

The Proposed Rule presents grave constitutional and practical problems associated with altering rules for ballot mail close in time to an election. Adoption of this Proposed Rule with an effective date before the November 2026 general election would be arbitrary and capricious.

## **B. The Proposed Rule Ignores Considerable Reliance Interests**

When changing course, agencies must “assess whether there were reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns.” *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 33 (2020). Here, in the context of States’ longstanding reliance on USPS to facilitate their mail-voting programs, there is much to consider. Yet USPS has entirely failed to identify, much less address, any of the States’ “legitimate reliance” interests, rendering the Proposed Rule arbitrary and capricious for this reason, as well.

First, as described *supra* § IV.A.1, the Proposed Rule would set a “one size fits all” federal policy, displacing a broad range of established state and local practices driven by the needs of different localities and grounded in reliance on USPS’s dependable transmission of mail and absentee ballots. The Proposed Rule entirely ignores the impact of a uniform policy on these varied practices and is arbitrary and capricious for that reason alone. *See, e.g., Regents of the Univ. of Cal.*, 591 U.S. at 30-31; *Cook County, Illinois v. Wolf*, 962 F.3d 208, 233 (7th Cir. 2020) (agency failed to consider “reliance interests of state and local governments”); *Nat’l Lifeline Ass’n v. Fed. Commc’ns Comm’n*, 921 F.3d 1102, 1114 (D.C. Cir. 2019) (agency failed to consider how regulated entities had “crafted business models and invested significant resources”).

Second, the Proposed Rule would vitiate the preparations that elections officials across the country have already made to plan and implement their mail-voting programs for this election cycle. In so doing, the Proposed Rule conflicts with USPS’s longstanding recognition that clarity and early preparation are essential to reliable transmission of mail and absentee ballots. *See, e.g., USPS, 2026-2027 Official Election Mail Guide Kit 600* at 27 (explaining regulations were updated to clarify the meaning and scope of postmarks). Each federal election year, USPS conducts year-

round preparations for election mail—including internal and external trainings, outreach to election officials, and process testing—and publishes an “Official Election Mail Guide,” known as “Kit 600.” *See id.* The most recent version, published in February 2026, makes no mention of any of the Proposed Rule’s new requirements. Introducing sweeping and novel changes at this point in an election year undermines the reliance that USPS’s guidance was designed to cultivate.

In particular, the list provisions of the Proposed Rule would impose substantial financial and administrative burdens on States that have long organized their election systems around existing mail ballot procedures. States and their localities would be required to provide training and guidance to elections officials, work through USPS’s upload, supplementation, and modification processes, evaluate and investigate discrepancies between the Mail-In and Absentee Participation List and the information the State had submitted, and mount public education campaigns to inform voters about the new list.<sup>16</sup> This would all need to be done while States continue to administer the many other aspects of their elections, under a compressed timeframe that leaves no room for the kind of changes the Proposed Rule would require. Having reasonably relied on current procedures in structuring their budgets, staffing, and election timelines, States would be forced to absorb new costs those plans never contemplated.

All this would have to be done while addressing the ballot envelope requirements of the Proposed Rule, which also disrupts States’ reliance interests. Intelligent Mail barcodes and USPS design review have never been required for mail ballot envelopes. As a result, many States and localities do not currently use Intelligent Mail barcodes,<sup>17</sup> and some do not submit ballot envelopes

<sup>16</sup> For example, in California an analogous statewide public education campaign regarding mail balloting cost more than \$15 million. *See* Lean Decl. (Attachment 1) ¶¶ 50-51.

<sup>17</sup> *See* Lean Decl. (Attachment 1) ¶ 63 (Three counties in California do not currently use Intelligent Mail barcodes for outbound and inbound tracking); Tassinari Decl. (Attachment 2) ¶ 82 (Massachusetts and its municipalities do not use Intelligent Mail barcodes on outbound election mail); Rosenberg Decl. (Attachment 7) ¶¶ 67–68 (“Connecticut municipalities do not currently use Intelligent Mail barcodes on ballot mail. They do, however, utilize other safeguards to ensure the accuracy of absentee ballots. For example, each municipality creates a unique label with a barcode for the absentee ballot envelope (which also has a serial number printed on it).”); Linnell Decl. (Attachment 14) ¶ 66 (“Intelligent Mail barcodes are not required nor to my knowledge used by most Minnesota counties and municipalities . . . .”); *California v. Trump*, Case No. 1:26-cv-11581-IT, Dkt. No. 100-6 (D. Mass. Apr. 23, 2026) (Rudy Decl.) ¶ 70 (“About 23% of Colorado counties do not currently use Intelligent Mail barcodes on ballot mail”) (Attachment 6); *id.*, Dkt. No. 100-8 (Albence Decl.) ¶ 76 (Delaware’s Department of Elections does not currently use piece-level Intelligent Mail barcodes on mail ballot envelopes) (Attachment 8); *id.*, Dkt. No. 100-10 (Flynn Decl.) ¶ 68 (“Maine does not currently use Intelligent Mail barcodes on ballot mail”) (Attachment 10); *id.*, Dkt. No. 100-11 (Berry Decl.) ¶ 102 (Maryland primarily uses Intelligent Mail barcodes, but the barcodes cannot be, and are not, used for web delivery ballots because those are returned in voter-provided materials) (Attachment 11); *id.*, Dkt. No. 100-17 (Stavisky Decl.) ¶ 65 (many local boards of elections in New York State do not currently use Intelligent Mail barcodes on ballot mail) (Attachment 17); *id.*, Dkt. No. 100-19 (Dawon Decl.) ¶¶ 77–78 (some Oregon counties apply an Intelligent Mail barcode to outgoing ballots, but not necessarily to the return envelope and counties that do not use vendors do not currently have a way

for what is presently an optional USPS design review.<sup>18</sup> The Proposed Rule would force many jurisdictions to build new procedures from scratch and implement them unduly quickly.

The burden is particularly acute in the States and localities that have already ordered mail ballot envelopes for the 2026 general election.<sup>19</sup> Many of these orders were placed in reliance on the most recent version of Kit 600, which recommends Intelligent Mail barcodes and its design review process but does not require them. *See* USPS, *2026-2027 Official Election Mail Guide Kit 600* at 4–5. States understandably relied on this “Official Election Mail Guide” when designing and printing mail ballot envelopes, but the Proposed Rule would render many of those materials unusable. Redesigning envelopes, adding barcodes, and navigating the USPS approval process would impose significant additional costs for many jurisdictions. *See California v. Trump*, No. 1:26-cv-11581-IT, Dkt. No. 105 (Plaintiff States’ Statement of Undisputed Material Facts) at ¶ 63 (D. Mass. Apr. 23, 2026) (Attachment 27).<sup>20</sup> Any delays in obtaining barcodes or design approval

to apply barcodes) (Attachment 19); *id.*, Dkt. No. 100-20 (Marks Decl.) ¶ 66 (“More than two dozen Pennsylvania counties, many of them small, rural counties, fulfill ballot requests in-house and do not currently use Intelligent Mail barcodes on ballot mail.”) (Attachment 20); *id.*, Dkt. No. 100-21 (Rock Decl.) ¶¶ 72–73 (Rhode Island uses Intelligent Mail barcodes on envelopes sending ballots to voters, not on provided return envelopes) (Attachment 21); *id.*, Dkt. No. 100-23 (Koski Decl.) ¶¶ 66; *id.*, Dkt. No. 100-24 (Michalowski Decl.) ¶ 69–70 (Attachment 24).

<sup>18</sup> *See* Rosenberg Decl. (Attachment 7) ¶ 68, (“No Connecticut municipality currently submits ballot envelopes to USPS for design review.”); Linnell Decl. (Attachment 14) ¶ 67, (“Minnesota counties and municipalities are not currently required to submit ballot envelopes to USPS for design review.”).

<sup>19</sup> *See* Tassinari Decl. (Attachment 2) ¶ 81 (Massachusetts already has ordered such envelopes at a cost of approximately \$3 million); Holmes Decl. (Attachment 4) ¶ 55 (“Many counties in Washington have already ordered mail ballot envelopes for the 2026 federal election cycle”); Rudy Decl. (Attachment 6) ¶ 69 (most Colorado counties have already purchased mail ballot envelopes); Albence Decl. (Attachment 8) ¶ 75 (“Delaware’s Department of Elections already possesses mail ballot envelopes for the 2026 federal election cycle.”); Flynn Decl. (Attachment 10) ¶ 67 (“Maine has already ordered mail ballot envelopes for the 2026 federal election cycle, at a cost of \$52,040.63.”); Linnell Decl. (Attachment 14) ¶ 65 (“Most local elections offices in Minnesota have already ordered absentee and mail ballot envelopes for the 2026 federal election cycle[.]”); Stavisky Decl. (Attachment 17) ¶ 64 (“Upon information and belief, most New York jurisdictions have already ordered mail ballot envelopes for 2026.”); Dawson Decl. (Attachment 19) ¶ 76 (“Most Oregon counties have already ordered mail ballot envelopes for the 2026 federal election cycle.”); Rock Decl. (Attachment 21) ¶ 71 (“Rhode Island has already ordered mail ballot envelopes for the 2026 federal election cycle, at a cost of over \$50,000.”); Michalowski Decl. (Attachment 24) ¶ 67 (“The Cook County Clerk has already ordered mail ballot envelopes for the 2026 federal election cycle, at a cost of approximately \$300,000.”); *California v. Trump*, Case No. 1:26-cv-11581-IT, Dkt. No. 100-12 (D. Mass. Apr. 23, 2026) (Brater Decl.) ¶ 76 (“It is too late for these local clerks to order additional envelopes for the August primary, and likely too late for them to order additional ones for the November election.”) (Attachment 12).

<sup>20</sup> *See* Tassinari Decl. (Attachment 2) ¶ 82 (requiring small Massachusetts municipalities “to purchase equipment capable of applying an Intelligent Mail barcode would likely deplete their municipal budgets”); Holmes Decl. (Attachment 4) ¶¶ 55, 58 (requiring counties that have already

could disrupt vote-by-mail systems, *see id.* ¶ 64, with the most serious delays threatening States' ability to accept mail-in ballots at all, *see id.* ¶ 65. These harms flow directly from reliance on procedures that have governed election administration for years and that USPS itself reinforced as recently as a few months ago, and the Proposed Rule fails to address them at all.

The scale of the reliance interests and their relation to the right to vote leaves no doubt as to their significance. Each Signatory State allows some or all of their registered voters to receive and return ballots by mail, and in the 2024 general election many millions of voters did so. *See id.* ¶¶ 40, 41. In many States, all or almost all voters vote by mail or absentee ballot. For example, 100% of Oregon voters, 92% of Colorado voters, and 80% of California voters relied on mail or absentee ballots in the 2024 general election. *Id.* ¶ 42. The proposed Mail-In and Absentee Participation List and ballot envelope requirements will therefore functionally prevent a significant portion of the electorate from casting their votes by mail.

Against this backdrop, USPS's failure to acknowledge or assess States' reliance interests is a fundamental failure of reasoned decision-making. The Proposed Rule is therefore arbitrary and capricious.

## **V. The Proposed Rule Fails to Observe USPS Rulemaking Procedure Required by Law**

The Postal Reorganization Act of 1970 provides that USPS must seek an advisory opinion from the PRC whenever “a change in the nature of postal services [] will generally affect service on a nationwide or substantially nationwide basis[.]” 39 U.S.C. 3661(b). USPS must “submit a proposal, within a reasonable time prior to the effective date of such proposal[.]” *Id.* The PRC may not issue that opinion until an on-the-record hearing under sections 556 and 557 of Title 5 of the U.S. Code has been afforded to USPS, mail users, and a PRC officer representing the general public. 39 U.S.C. § 3661(c). This open and deliberative process is consistent with Congress's broader project of “reduc[ing] political influences on [USPS's] operations.” *Flamingo Indus.*, 540 U.S. at 740; *see also Mail Ord. Ass'n of Am. v. USPS*, 986 F.2d 509, 519 (D.C. Cir. 1993) (citation modified) (summarizing Congress's efforts to ensure USPS has “independence from political

ordered ballot envelopes to order replacements “would significantly increase costs to [Washington], which reimburses counties for a pro rata share of election expenses associated with state and federal elections”); Albence Decl. (Attachment 8) ¶¶ 75, 77 (requiring Intelligent Mail barcodes would require Delaware's Department of Elections to adjust the software that the Department currently uses to track absentee ballots and purchase new envelopes, but the Department does not have funds budgeted); Flynn Decl. (Attachment 10) ¶ 68 (using Intelligent Mail barcodes would require additional expenditures for software integrated with the Maine's central voter registration application software and database); Linnell Decl. (Attachment 14) ¶¶ 65, 68 (reprinting Minnesota's envelopes would come at substantial cost and divert critical time and money from other elections administration duties); Stavisky Decl. (Attachment 17) ¶ 66 (delays from ballot design review would force New York state and local election officials to divert critical time and money from other elections administration duties); Rock Decl. (Attachment 21) ¶ 73 (adding Intelligent Mail barcodes on the state-provided return envelopes in which voters submit their mail ballots would cost Rhode Island tens of thousands of dollars that were not budgeted).

pressures” and “seal off [USPS] from partisan political influence”); H.R. Rep. No. 91-1104, at 1 (1970) (Conf. Rep.), as reprinted in 1970 U.S.C.C.A.N. 3649, 3650.

Here, USPS has not sought an advisory opinion, nor can it request an advisory opinion “within a reasonable time” before the proposed effective date, *id.* § 3661(b), and the EO’s self-imposed 120-day implementation deadline—July 29, 2026—cannot truncate a statutory prerequisite. EO § 3(d); *see California*, 2026 WL 1826490, at \*16 (finding “the EO’s directive that USPS require all States to use a specific mail-in ballot is inconsistent with USPS rulemaking procedure”). That USPS has structured this rulemaking such that section 3661 compliance is impossible before the intended effective date compounds the violation rather than excuses it. *See* 39 C.F.R. § Pt. 3020, App. A (pro forma PRC procedural schedule indicates 90 days to issue advisory opinion after process initiated); *see also* 39 C.F.R. § 3020.111(a), (d) (requiring that USPS hold a pre-filing conference before requesting an advisory opinion and provide at least 10 days’ notice before the conference).

The Proposed Rule is a paradigmatic section 3661(b) change. A proposed policy or rule change triggers section 3661(b) review when it: (i) will have a meaningful, quantitative impact on service; (ii) will qualitatively change the nature of postal services; and (iii) is nationwide or substantially nationwide. *See Pennsylvania v. DeJoy*, 490 F. Supp. 3d 833, 884–886 (E.D. Pa. 2020) (citing *Buchanan v. USPS*, 508 F.2d 259, 262–263 (5th Cir. 1975)).

As detailed in the States’ litigation,<sup>21</sup> the Proposed Rule satisfies all three elements. As to quantitative impact, lawful ballot mailings will be delayed or returned outright due to conflicts between the Proposed Rule and state election laws, reducing the availability of mail service for ballot mail—an impact compounded by tight statutory deadlines under which States must transmit ballots and voters must return them. *Cf. Pennsylvania*, 490 F. Supp. 3d at 885 (finding “sharp decrease[] in mail service across the country” showed a quantitative impact); *New York v. Biden*, 636 F. Supp. 3d 1, 21–22 (D.D.C. 2022) (finding impacts on transportation schedule, decline in on-time delivery rates, and removal of high-speed sorting machines constituted meaningful, quantitative impact on service).

The Proposed Rule will likewise have a qualitative impact by instituting a new enrollment and verification regime and dramatically departing from existing postal services, which have long served as the foundation of States’ mail ballot programs and on which voters have long relied. *See Pennsylvania*, 490 F. Supp. 3d at 885–886 (finding the plaintiffs’ evidence that “individual postal customers . . . experience[d] an alteration in the availability of postal services as a result of the changes” showed a qualitative change in postal services). Moreover, election officials fear prosecution for any errors in administering the Proposed Rule. *See* EO, § 2(b).

Finally, any new acceptance conditions for all federal ballot mail are plainly a nationwide change—no geographical area is exempt from the Proposed Rule’s reach. USPS’s failure to submit a proposal to the PRC therefore violates section 3661(b). *See Pennsylvania*, 490 F. Supp. 3d at

<sup>21</sup> *See* Plaintiff States’ Statement of Undisputed Material Facts (Attachment 27) ¶¶ 31–37, 40, 43–46, 52, 58–62, 64.

885–886; *New York*, 636 F. Supp. 3d at 21–22; *Washington v. Trump*, 487 F. Supp. 3d 976, 985 (E.D. Wash. 2020).

## VI. Conclusion

For those reasons, USPS should withdraw the Proposed Rule. The Proposed Rule is unlawful and would be an unprecedented and unacceptable interference with States' control over their elections.

Sincerely,



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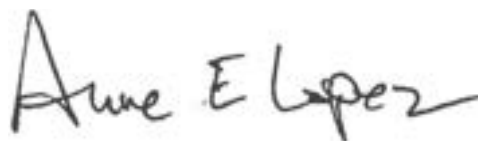
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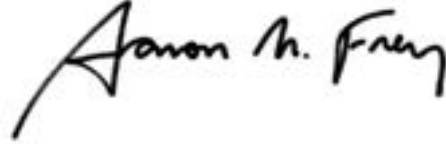
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KWAME RAOUL  
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AARON M. FREY  
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Maryland Attorney General



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Minnesota Attorney General



JENNIFER DAVENPORT  
New Jersey Attorney General



RAÚL TORREZ  
New Mexico Attorney General



LETITIA JAMES  
New York Attorney General



JEFF JACKSON  
North Carolina Attorney General



DAN RAYFIELD  
Oregon Attorney General



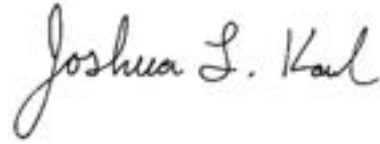
PETER NERONHA  
Rhode Island Attorney General



CHARITY R. CLARK  
Vermont Attorney General

A stylized, handwritten signature in black ink, appearing to read 'Jay Jones', followed by a long horizontal line extending to the right.

JAY JONES  
Virginia Attorney General

A handwritten signature in black ink that reads 'Joshua L. Kaul' in a cursive script.

JOSHUA L. KAUL  
Wisconsin Attorney General

# REPUBLICAN ATTORNEYS GENERAL

July 2, 2026

## Source

<https://www.alabamaag.gov/wp-content/uploads/2026/07/2026.07.02-Ala.-et-al.-Comment-Letter-FINAL.pdf>

## Principal Issues Raised

Support for the proposed rule; Postal Service authority to establish uniform ballot-mail standards; prevention of election fraud; verification of voter eligibility; improved ballot tracking and accountability; standardized ballot-mail preparation; implementation of Executive Order 14399; and preservation of election integrity through consistent nationwide mailing practices.

## Principal Authorities Cited

Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*; Postal Reorganization Act of 1970; 39 U.S.C. §§ 401 and 404; Uniformed and Overseas Citizens Absentee Voting Act; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

STEVE MARSHALL  
ATTORNEY GENERAL

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July 2, 2026

Mr. Dale Kennedy  
Director, Product Classification  
U.S. Postal Service  
475 L'Enfant Plaza SW, Room 4446  
Washington, D.C. 20260-5015  
PCFederalRegister@usps.gov

VIA E-mail

**Re: Comments on Proposed Rule "Ballot Mail for Federal Elections" (FR Doc. 2026-10968)**

Dear Director Kennedy:

On behalf of the States of Alabama, Arkansas, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, South Carolina, and Texas, we write to comment in support of the U.S. Postal Service's proposed rule amending the mailing standards for the transmission of mail-in or absentee ballots for federal elections. We write to make two simple points: First, voter fraud is real, and second, the proposed regulations will help States combat voter fraud and shore up public confidence in elections in ways States could not do acting alone.

**I. States take the lead in securing their own elections but cannot do everything.**

Under the Constitution, States take the lead in regulating elections. *See* U.S. Const. Art. I, §4. And because States "indisputably ha[ve] a compelling interest in preserving the integrity of [their] election process[es]," *Eu v. San Francisco Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989), they routinely enact measures designed to deter and detect voter fraud. *E.g.*, *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 690 (2021); (upholding Arizona's law restricting collection of mail-in ballots). *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008) (upholding Indiana's voter ID law).

States take these actions because voter fraud is both real and a real concern to voters. "Fraud can affect the outcome of a close election, and fraudulent votes dilute the right of citizens to cast ballots that carry appropriate weight." *Brnovich*,

594 U.S. at 672. “Fraud can also undermine public confidence in the fairness of elections and the perceived legitimacy of the announced outcome.” *Id.* Indeed, “an examination of the history of election regulation in this country reveals a persistent battle against two evils: voter intimidation and election fraud.” *Burson v. Freeman*, 504 U.S. 191, 206 (1992) (plurality op.).

These concerns are magnified when it comes to voting by mail. *Cf. Griffin v. Roupas*, 385 F.3d 1128, 1131 (7th Cir. 2004) (“Voting fraud is a serious problem in U.S. elections generally[,] ... and it is facilitated by absentee voting.”). Voting by mail increases the opportunity for fraudulent submissions because “the identity of a person who votes by mail cannot be verified as easily as someone who votes in person.” *Memphis A. Philip Randolph Inst. v. Hargett*, 978 F.3d 378, 382 (6th Cir. 2020). As noted in the landmark study of U.S. elections by President Jimmy Carter and Secretary of State James Baker, “[v]ote buying schemes are far more difficult to detect when citizens vote by mail.” *Brnovich*, 594 U.S. at 685 (quoting Report of the Comm’n on Fed. Election Reform, Building Confidence in U.S. Elections 46 (Sept. 2005)). That makes sense: Voters who vote in person do so from secure, monitored polling locations; voters voting by mail do not. “In this respect absentee voting is to voting in person as a take-home exam is to a proctored one.” *Griffin*, 385 F.3d at 1131.

Sure enough, voting by mail has indeed resulted in fraud and overturned elections. For instance, in one case, a mayoral candidate used an “absentee voter campaign” with “deliberate, intentional, and aggressive practices to assure the votes of handicapped voters.” *Qualkinbush v. Skubisz*, 826 N.E.2d 1181, 1190 (Ill. App. Ct. 2004). The scheme began by “taking absentee ballot applications to voters, helping fill them out, placing applications in envelopes, providing stamps to voters, and mailing applications.” *Id.* at 1188. A campaign staffer encouraged voters to call him once they received their ballot “to assure that he provided assistance to the voters during the voting process itself.” *Id.* at 1190. Targeting “the sick, the infirm and the confused,” he “had the opportunity to tamper with the ballots while assisting the voter in voting” and “when he assumed custody of the ballot” to deliver it. *Id.* The trial court excluded 38 votes from the candidate’s vote total, and the second-place candidate was declared the winner. *Id.* at 1207.

Alabama too has witnessed “well-documented and public cases of voter fraud” using the mail. *Greater Birmingham Ministries v. Sec’y of State for State of Ala.*, 992 F.3d 1299, 1323 (11th Cir. 2021). “One investigation” into voter fraud “revealed that there were people at the polls on election day with a list of voters whose ballots had been fraudulently cast [via mail] and they would chase away these voters when they came to the polls to cast their ballots.” *Id.* at 1305. Other investigations resulted in criminal convictions for fraudulent handling of absentee ballot applications and ballots. *See, e.g., United States v. Smith*, 231 F.3d 800, 805 n.2, 822 (11th Cir. 2000); *Greater Birmingham Ministries v. Sec’y of State for State of Ala.*, 284 F. Supp. 3d 1253, 1257 (N.D. Ala. 2018) (discussing instances of absentee voter fraud, including “voter brokers following mail trucks and removing absentee ballots from mailboxes”); *Ala. State Conf. of NAACP v.*

*Alabama*, 612 F. Supp. 3d 1232, 1305 n.51 (M.D. Ala. 2020) (noting that in one case, “two individuals forged 600 absentee ballots and were convicted on voter-fraud charges in Wilcox County in the wake of the 1994 election,” while in another instance, “a Democratic U.S. Attorney and Republican Alabama Attorney General jointly investigated absentee ballot fraud after five suitcases containing forged absentee ballots were recovered at the Eutaw, Alabama post office on election day in 1994”). More recently, a mayoral election in Brighton, Alabama,<sup>1</sup> and a city council election Bessemer, Alabama,<sup>2</sup> were overturned due to absentee ballot fraud. And just a few months ago, the former mayor of Ft. Deposit, Alabama, and a candidate for the Ft. Deposit city council were arrested and charged with absentee ballot fraud and the election had to be set aside.<sup>3</sup>

All this to say: voter fraud is real, it matters and can change election outcomes, and it undermines public confidence in the integrity of our elections. And while many States work diligently to secure their own elections, there are limits to what they can do. Most obviously, States cannot regulate the U.S. Postal Service because it is a federal agency—yet most mail-in and absentee ballots are transported by the Postal Service. As it is, then, States can have total control of their ballots until they are mailed, but then the chain of custody becomes anyone’s guess—and with it, the opportunity for fraud ripens.

Then there is the freestanding concern that elections that take place in an unsecure manner can undermine public confidence in the election, even if no fraud is discovered. *See Brnovich*, 594 U.S. at 672 (discussing the importance of “public confidence in the fairness of elections and the perceived legitimacy of the announced outcome”). And while Alabama can do all it can to shore up its own elections, it is powerless to do anything when it comes to the perceived legitimacy of other States’ elections—even though, in zero-sum national elections, Alabama voters have real and concrete interests that *all* elections are conducted in a fair and secure manner. Action by the federal government is thus needed and welcomed.

## **II. The proposed regulation will help States secure elections and increase public confidence in the integrity of national elections.**

Given this background, it is easy to see why the undersigned States welcome the Service’s proposed rule. The proposed rule is clear that States would retain “full control over who would (or would not) be able to vote by mail in federal elections within each state,” 91 Fed. Reg. at 32916, and that the Postal Service would simply augment States’ efforts at securing their elections.

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<sup>1</sup> See Final Order, *Cooper v. Brown*, No. 68-CV-2016-900602.00 (Jefferson Cnty. Cir. Ct. Sept. 25, 2017), Doc. 246.

<sup>2</sup> See Final Order on Election Contest, *Porter v. Alexander*, No. 68-CV-2018-900776.00 (Jefferson Cnty. Cir. Ct. Sept. 3, 2021), Doc. 294.

<sup>3</sup> See Press Release, *Attorney General Steve Marshall announces arrests for absentee ballot fraud in Ft. Deposit municipal election* (Apr. 15, 2026), <https://perma.cc/V3RQ-X4AN>.

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For example, under the proposed rule, the Postal Service would standardize envelope design for mailed ballots and help States use a unique barcode to track ballots, thus significantly reducing the chain-of-custody problem that makes mail-in voting more susceptible to fraud.

The Mail-In and Absentee Participation List would also create, for the first time, a standardized, nationwide auditing mechanism for mail-in voting. Once implemented, the List would allow election officials to easily answer a straightforward question that is currently difficult to answer: what happened to each ballot that was mailed to a voter? The ability to match the outbound list with a returned final list provides a simple auditing function that will increase election security and, with it, voter confidence in the integrity of our elections.

To be sure, the proposed rule will impose some administrative burdens on States as they take advantage of the new portal registration, barcode generation, and list submission provisions. But we believe these burdens are plainly justified by the security and accountability benefits of the proposed rule.

In short, we support the Service's proposed rule in full. It addresses real vulnerabilities inherent in mail-in voting, responds to legitimate and widespread public concerns about federal election integrity, and equips States with tools that strengthen their own oversight capabilities without displacing their authority. We urge the Service to promptly finalize the rule.

Respectfully submitted,



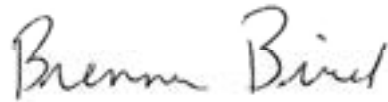
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Attorney General of Alabama



Tim Griffin  
Attorney General of Arkansas



Theodore E. Rokita  
Attorney General of Indiana



Brenna Bird  
Attorney General of Iowa



Russell Coleman  
Attorney General of Kentucky

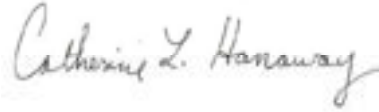


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Attorney General of Louisiana

Page 5 of 5



Lynn Fitch  
Attorney General of Mississippi



Catherine L. Hanaway  
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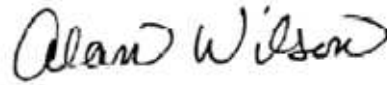
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Attorney General of Montana



Mike Hilgers  
Attorney General of Nebraska



Gentner Drummond  
Attorney General of Oklahoma



Alan Wilson  
Attorney General of South Carolina



Ken Paxton  
Attorney General of Texas

# MICHIGAN HOUSE DEMOCRATIC CAUCUS

**July 2, 2026**

## **Source**

<https://housedems.com/letter-to-the-united-states-postal-service-opposing-proposed-rule-change-regarding-executive-order-to-restrict-mail-voting/>

## **Principal Issues Raised**

State constitutional authority over elections; burdens on local election officials; threats to universal access to absentee voting; mandatory ballot redesign; voter-data privacy; election administration costs; implementation immediately before a federal election; and the potential disenfranchisement of lawful voters.

## **Principal Authorities Cited**

U.S. Constitution, Article I, § 4 (Elections Clause); Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 401, and 403; Michigan election law; Voting Rights Act of 1965; National Voter Registration Act of 1993; Help America Vote Act of 2002; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

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# Letter to the United States Postal Service Opposing Proposed Rule Change Regarding Executive Order to Restrict Mail Voting





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MICHIGAN HOUSE OF REPRESENTATIVES  
**PENELOPE TSERNOGLOU**  
STATE REPRESENTATIVE

COMMITTEE:  
OVERSIGHT  
OVERSIGHT SUBCOMMITTEES:  
STATE AND LOCAL PUBLIC  
ASSISTANCE PROGRAMS (MVC)  
PUBLIC HEALTH AND FOOD SECURITY

July 1, 2026

Director

Product Classification

U.S. Postal Service

475 L'Enfant Plaza SW, Room 4446

Washington, DC 20260-5015

RE: Public Comment in Response to Ballot Mail for Federal Elections [2026-10968]

We, the Members of the Michigan House Democratic Caucus, appreciate the opportunity to comment on the proposed USPS rules regarding ballot mail for federal elections. We express our significant concerns and stern opposition to this proposed rule as it violates the separation of powers and various voting rights of the United States Constitution and the Michigan State Constitution and threatens to disenfranchise millions of eligible voters.



Article I, Section 4 of the United States Constitution is clear – the power to regulate and administer the time, place, and manner of elections is held by the States and not the federal government. States adhere to their own election laws and administrative rules, including requirements regarding the use of absentee ballots or other mail-in voting options. In Michigan, Article II § 4 of the Michigan State Constitution explicitly provides that every U.S. citizen who is a qualified elector in the state shall have the right “to vote an absent voter ballot without giving a reason” including the ability to be placed on a permanent absent voter ballot list to ensure the elector receives an absentee ballot for each subsequent election. These rights were added to the State Constitution via an overwhelmingly supported ballot proposal, signifying that Michiganders are passionate about protecting access to the ballot box and the benefits of mail-in voting options. Frankly, this USPS proposed rule is a significant unconstitutional overreach from the federal government, especially from an agency such as USPS with no legal authority or experience in election administration.

Relying upon the authority and directive of President Trump’s Executive Order 14399 “Ensuring Citizenship Verification and Integrity in Federal Elections”, DMM 705.24.4 of the proposed rule establishes a process by which State election officials notify USPS of all the individuals to whom they are mailing an absentee ballot, along with the unique barcode assigned to each person. Once that list is received, USPS would compile a “final State-Specific-Mail-In and Absentee Participation List” with the names of the “enrolled” individuals and provide the list to each State. DMM 24.5.1 requires USPS to review outbound election mail to evaluate whether an intended recipient is properly enrolled prior to the acceptance of the mail. If these requirements are not complied with or the voter is not properly enrolled, then DMM 24.5.3 prohibits the election mail from being accepted and delivered and instead requires USPS to return the mailing to the authorized ballot mailer. The creation of and required participation in a federal mail-in participation list places further unconstitutional, unnecessary, and burdensome requirements upon State officials to continue administering elections in compliance with the constitutional right to vote, particularly the right to vote absentee. Additionally, at least one federal court recently held, in a case brought by 23 States and the District of Columbia, that Sections 2 and 3 of President Trump’s Executive Order, which require the establishment and transmission of the state citizenship lists and require the Postmaster General to initiate proposed rulemaking to implement the order, are “legally void” and “violate the separation of powers” doctrine of the U.S. Constitution. *California v Trump, et al*, No. 1:26-cv-11581, (D. Mass. 2026).

Michigan election officials already maintain absentee voter lists to ensure all individuals requesting an absentee ballot receive one. In Michigan this is largely managed at the local level involving thousands of county, township, and city clerks. It is burdensome and unnecessary to require any State give a list of electors to USPS just for USPS to return a duplicative mail, but in Michigan particularly, there would be significant room for error given the unique decentralized nature of our election system. There is no legitimate reason for USPS to have this voter information – States have the constitutional authority to administer elections. States already have processes in place to maintain absentee voter lists and have their own laws regarding eligibility for absentee



voting. Through this proposed rule, the federal government and USPS are both overstepping their authority and complicating their only role in elections, which is delivering election mail in a timely and efficient manner.

Lastly, DMM 24.3 of the proposed rule would require various design requirements for ballot mail envelopes, including certain logo signifiers, automation compatibility, unique barcodes, and other review processes. Many of these requirements are already in place and States, including Michigan, have had their election mail envelopes and materials reviewed by USPS previously. It is unclear what changes USPS will make to the logo and barcode placements and automation compatibility requirements, but any changes to already approved design features will result in undeliverable absentee ballots and the disenfranchisement of millions of eligible voters because under DMM 25.5.3 these mail-in ballots will not be received, processed, or delivered by USPS.

In summary, we strongly oppose the USPS proposed rule on Ballot Mail for Federal Elections [2026-10968] as it clearly violates both the United States Constitution and Michigan Constitution, attempts to give the federal government and USPS broad authority to interfere with State election administration, and creates burdensome and unnecessary standards for the acceptance and delivery of vital mail-in ballots that millions of people rely upon to cast their vote. In Michigan, we have worked tirelessly to protect all eligible Michiganders' right to vote and improve access to the ballot box. In Michigan, we trust our State and local election officials who have dedicated their careers to election administrative and public service. This proposed rule does not solve an existing problem, but instead will create chaos, confusion, logistical

difficulties, and will undermine core democratic values, such as the separation of powers and the fundamental right to vote.

Thank you for this opportunity to share our concerns and we urge USPS to rescind this proposed rule.

Sincerely,





Penelope Tsernoglou  
State Representative  
75<sup>th</sup> District



Stephen Wooden  
State Representative  
81<sup>st</sup> District



Laurie Pohutsky  
State Representative  
17<sup>th</sup> District



Julie Brixie  
State Representative  
73<sup>rd</sup> District



Kara Hope  
State Representative  
74<sup>th</sup> District



Ranjeev Puri  
House Minority Leader  
24<sup>th</sup> District



Stephanie Young  
State Representative  
16<sup>th</sup> District



Dylan Wegela  
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July 2, 2026

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# STEVE HOBBS, WASHINGTON SECRETARY OF STATE

July 2, 2026

## Source

<https://www.sos.wa.gov/about-office/news/2026/secretary-state-steve-hobbs-comments-usps-proposed-ballot-rule>

## Principal Issues Raised

Unconstitutional intrusion into state election administration; conflict with Washington's vote-by-mail system; mandatory voter-information reporting; risks arising from USPS postmarking practices; privacy and cybersecurity concerns; implementation costs; compressed implementation schedule; and the likelihood of delayed or rejected ballots affecting eligible voters.

## Principal Authorities Cited

U.S. Constitution, Article I, § 4 (Elections Clause); Postal Reorganization Act of 1970; Washington election law; Voting Rights Act of 1965; National Voter Registration Act of 1993; Help America Vote Act of 2002; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

**WASHINGTON****Secretary of State**[Menu](#)

## Secretary of State Steve Hobbs' comments on USPS proposed ballot rule

June 26, 2026

OLYMPIA — As Secretary of State of Washington, I submit the following comments in response to the United States Postal Service proposal titled Ballot Mail for Federal Elections as noticed on May 29, 2026.

The Constitution is clear that authority over federal elections rests with states and Congress. My authority to administer elections is written in the United States Constitution, Title 52 US Code, National Voter Registration Act of 1993, Help America Vote Act of 2002, Military and Overseas Voter Empowerment Act of 2009, and in Washington state law: in the Washington State Constitution, Revised Code of Washington - Title 29A and our state's administrative code. The Washington Office of the Secretary of State is committed to protecting voters' rights and will continue to administer free, fair, and accessible elections.

I oppose USPS's proposed rule for handling ballot mail in federal elections in alignment with Executive Order 14399 regarding elections.

There are several reasons the proposed rule is unnecessary and unconstitutional.

1. The executive order on which this proposed rule is based and the proposed rule itself are unconstitutional intrusions on state authority over elections and also violate the constitutional separation of powers. A court recently agreed that the executive order's directions to USPS were unlawful, and the USPS has no constitutional authority to interfere with state regulation of the time, place, and manner of holding elections. The court specifically forbid the USPS from proposing or implementing rules outlined in the executive order for the November 3, 2026 election and all earlier elections. The USPS should withdraw the proposed rule.
2. To start, there is insufficient time to implement the rule, which would be a financial burden on an electoral system that currently functions well despite limited resources.

The proposed rule is issued with insufficient implementation time and would impose significant costs on state and local governments, especially on rural and resource-limited counties in Washington. Many counties have already prepared their 2026 General Election ballot envelopes. If this rule is adopted and goes into effect before the general election, counties may not be able to use the ballot envelopes they have already purchased. They would instead need to move from windowed envelopes to non-windowed envelopes to accommodate the unique Intelligent Mail Barcode on both the outbound and return mail envelopes.

Further, few counties would be capable of generating unique barcodes for both outbound and return ballot mailings without significant, costly systematic changes. Counties may also need to hire additional contractors and staff to assist if unique barcodes were required. County and statewide budgets have already set and many counties do not have the financial resources to make required changes in such a condensed time period. Under the proposed rule, difficulties in meeting these challenges could result in voters not timely receiving their ballots, interfering with their ability to participate in the election.

While the rule states that it "only applies to federal elections," it has an equal effect on state and local ballots that appear on our consolidated election ballots. By proposing that USPS may not deliver a ballot to an individual under this "federal election" rule, the proposed rule would also impose a direct impact on citizens' right to vote in state and local elections.

The condensed timeframe for implementing the proposed rule is also likely to result in significant voter confusion about the list and whether voters will still be able to receive and return ballots by mail. This will require a public education campaign. Our office had a very successful "Mark the Ballot" campaign that showed boosted voter trust even after the election. To successfully implement such a significant change, a reasonable public messaging campaign like this one is essential to ensure that voters ballots are received timely and counted.

3. The observed operational realities of the USPS in Washington do not indicate that the USPS has the resources or functional ability to implement the proposed rule in such a condensed timeframe.

My office has already observed a significant degradation of the USPS services over the last few elections. The proposed rule comes on the heels of changes in postmarking practices that are increasing the number of returned ballots being rejected for late postmark. During the 2026 February Special Election, for example, 1.3% of all returned ballots (or 75% of the total rejected ballots) were rejected due to a late postmark. This represents the State's highest rate of rejection for an election since February 2019 and indicates a delay in postmarking mail compared to previous performance.

We have observed other deteriorations in USPS services. At least one county in Washington recently conducted mail delivery testing to assess the delivery times in their area. Teams of two election staff deposited generic return ballot envelopes in USPS blue collection boxes on different dates to assess USPS delivery rates. The results of their tests do not give me confidence in the USPS.

On January 23rd, 25 ballots were mailed before 10AM. Four were postmarked that same day. 18 were postmarked the following day, January 24th, while the remaining three envelopes were postmarked between three and six days later.

On February 9th, the day before Election Day, 25 ballots were mailed before 10AM. 22 were postmarked the following day, February 10th. By February 12th, three days later, the remaining three envelopes had not yet been received by the county auditor.

On February 10th, on Election Day, 15 ballots were mailed before 9AM. Seven were postmarked that same day. Seven were postmarked the following day, February 11th, and would have been unable to be counted due to the late postmark. By February 12th, two days later, the remaining ballot had not yet been received by the county auditor.

These inconsistencies in postmarking demonstrate a lack of standardization and uneven service delivery even when limited to a small sample area. I'm concerned about what inconsistencies would emerge or worsen if this rule were applied nationally without the appropriate implementation and training to avoid delays or worse.

The rule is likely to lead to delays in mailing ballots, and those delays will exacerbate the postmarking problem. We are currently observing delays and inconsistent delivery by the USPS, and the efforts required by the proposed rule will likely add additional delays to processing.

Not only is the rule unconstitutional, it will disenfranchise voters and substantially increase the burdens on state and local governments for no discernable benefit.

4. The proposed rule also lacks essential information to assure election officials and voters that it can be implemented while protecting voter privacy and preventing harm to election processes. If my office were to provide a list to the USPS to implement this rule, how would the USPS maintain security of the list and how often would it be updated? It is clear that

the USPS has not contemplated how to process such a list or how to mitigate the inevitable resulting delay to mail processing times.

5. The rule does not address any documented challenges related to unauthorized voting. The actual data proves that voter fraud is incredibly rare and does not come anywhere close to impacting our elections. Consistent with national studies demonstrating that voter fraud is rare, a review of Washington State data reveals that between 2008 and 2025 there have been just 5 instances of proven voter fraud out of almost 90 million ballots cast during that time. For decades, Washington has successfully administered secure and accessible vote-by-mail elections, supported by strong voter verification and regular voter roll maintenance, with ballots sent to all registered voters.
6. Finally, this rule goes against the very values of the USPS that have been in place since 1775. It is contrary to this beloved institution's mission and legal mandate to "bind the nation together" and would instead undermine the democratic voting that connects us all.

This rule represents a solution looking for a problem. It's unnecessary and does nothing to enhance the security of our elections. As written, the federal government would determine which voters can receive and return a ballot using the U.S. Postal Service, which is outside its authority.

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# KING COUNTY ELECTIONS

**July 2, 2026**

## **Source**

<https://kingcounty.gov/en/dept/elections/about-us/news-and-media-resources/news-releases/july-2-2026>

## **Principal Issues Raised**

Conflict between the proposed rule and Washington's established vote-by-mail system; administrative burdens on election officials; mandatory ballot-envelope redesign and barcode requirements; creation and transmission of voter participation lists; voter privacy and cybersecurity; implementation costs; compressed implementation schedule; disruption of election administration; and the risk that eligible ballots would be delayed or rejected.

## **Principal Authorities Cited**

U.S. Constitution, Article I, § 4 (Elections Clause); Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 401, 403, and 404; Washington election law; Privacy Act of 1974; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

KingCounty.gov

# King County Elections Public Comment on Proposed Rule, “Ballot Mail for Federal Elections”, 39 CFR Part 111, Federal Register Document No. 2026-10968

Posted July 2, 2026. Submitted to PCFederalRegister@usps.gov on June 30, 20206.

Director,

King County Elections (Washington) strongly opposes the United States Postal Service’s proposed rule related to mailing ballots and election mail. We urge USPS not to finalize nor implement this rule as it would infringe our state’s constitutionally mandated authority to determine the manner and method of our own elections, it will result in eligible voters not being able to cast their ballot in a timely manner, and will cause irreparable harm to the fabric of our democracy. Instead, USPS should withdraw this rule from consideration.

USPS has been a valued partner to election administrators in vote-by-mail elections since the American Civil War. At no point in that history has USPS ever held the role of deciding who should receive their ballot or election mail, essentially deciding who has the right to vote and who does not. That role and responsibility has always belonged to the trained and experienced election administrators that run free and fair elections in this country month after month, year after year, and decade after decade.

We submit this comment as election experts representing one of the largest vote-by-mail jurisdictions in the nation and the 12th largest county overall. King County Elections (KCE) conducts accurate, secure, and accessible elections for more than 1.4 million registered voters in King County, Washington. Guided by values of accuracy, equity, integrity, service, teamwork, and transparency, our team includes state and nationally certified election administrators with extensive experience not only running vote by mail elections but setting the standard for them. KCE is recognized across the country for innovation, efficiency, community outreach, and expanding cross-partisan opportunities for election observation. We strive to lead the way in providing inclusive, accessible elections.

King County, WA has been conducting elections entirely by mail since 2009 and prior to that, the overwhelming majority of voters had elected to vote by mail. We have long appreciated the Postal Service’s work to support election officials and, most importantly, voters. Our partnership with USPS has led to successful initiatives here in King County and Washington State to improve voter access, such as moving to prepaid postage for return ballots. Working with USPS on mail ballot visibility, effective envelope design, and clear communication is a critical and valuable operational practice. During elections our team is in constant communication with USPS to reduce processing issues and support the timely delivery of ballots.

Elections offices and USPS both play vital roles in our elections, with election administrators responsible for maintaining voter records, determining voter eligibility, verifying voter identity, and, of course, issuing and ultimately tabulating ballots. USPS reliably delivers ballots and all other mail to mailboxes across King County and this country.

Proposed Rule 2026-10968, Ballot Mail for Federal Elections, will have significant negative impacts on voter access and may prevent the ballots of eligible voters from making their way through the mail stream quickly, efficiently, and with precision. The rule does not reflect the operational realities of vote by mail. Ballots are not mailed just once. Instead, they are mailed in waves with initial drops at different times for different voter groups, followed by daily mailings for replacement ballots, new registrations, updated addresses, and more.

As stated above, we strongly urge USPS not to finalize this rule. To implement any election-related rule, USPS must engage with election administrators to better understand the complexities of vote-by-mail and elections in general. They must also develop a realistic timeline for testing technical requirements, establish and detail privacy protections and safeguards, and create and test emergency procedures to ensure that technical or administrative issues do not delay ballots nor cost Americans their right to vote.

That engagement has not happened, and it is clear from the proposed rule that there needs to be significant education on how vote by mail works in both policy and practice.

## Nonacceptance of Outbound Ballot Mail (DMM 705.24.5)

KCE’s most grave concern is the proposed nonacceptance remedy. To put it simply, every possible measure must be taken to ensure that ballots reach voters on time.

Under this proposed rule, any ballot mail that does not comply with the verification requirements would be rejected and returned to the authorized ballot mailer until the errors are corrected. **This is simply unacceptable and will leave eligible voters disenfranchised and without a voice in our democracy.**

The nonacceptance of outbound ballots — especially close to statutory mailing deadlines — introduces substantial election risk and directly threatens to disenfranchise voters.

If ballots are delayed due to a technical mismatch, portal malfunction, or other administrative or technical error, voters may receive their ballots later than intended through no fault of their own. It is unacceptable to leave someone's right to vote up to whether a data set matches properly or whether a not-yet-created portal functions properly. Through absolutely no fault of their own, voters could find themselves stripped of one of their most basic and fundamental rights as an American, the right to vote.

A person's right to vote cannot and should not be left up to the United States Postal Service's ability to accurately process and manage data, particularly when that process and management is entirely new and untested.

## Envelope Design and Review Standards (DMM 705.24.3)

Under the proposed rule, envelope design standards that have long been touted by USPS as a best practice for ballot envelope design would become a mandatory requirement.

King County's outbound and return envelopes already include the Official Election Mail logo, meet automation compatibility standards, and have undergone review by USPS Mail Design Analysts for many years. Additionally, most of our outbound envelopes include unique Intelligent Mail barcodes (IMbs) to support visibility and troubleshooting delivery issues.

However, the proposed standard would require **all** outbound and return ballots to include unique IMbs. Currently, our return ballot envelopes use a generic IMb that identifies our election office as the destination. For a period of time, we paid additional fees — up to \$30,000 for a countywide election — to include unique IMbs on return envelopes in an effort to improve tracking.

Despite this significant investment, only a small percentage of returned ballots actually received scans from USPS. For example, in the February 2025 Special Election, of the 120,318 ballots returned via USPS, the data shows:

- Only 31,602 received an outbound scan (26% of ballots delivered)
- Only 26,380 received an “in transit” scan (22% of ballots delivered)
- Only 5,222 received a delivery scan (4% of ballots delivered)

Given both the low scan rates and significant financial burden, we discontinued printing unique IMbs on return envelopes. The return on investment simply isn't there, particularly when we are spending Americans' hard-earned tax dollars to pay for it.

Our office does not have funding to resume this practice, nor would it be in the financial best interest of King County and Washington State to add these unique IMbs back to return envelopes.

Additionally, we, like most election administrators around the country, rely on using remaining envelope inventory from prior elections to reduce costs. The proposed requirement for unique IMbs for the general election would force us to purchase new envelopes at additional expense that we simply cannot absorb.

Furthermore, ballots issued in our office are produced in-house with labels generated directly from our election management system, which doesn't have the ability to generate unique IMbs, leaving voters who pick up their replacement ballot in-person behind.

Washington voters are also legally permitted to download and print replacement ballots through the online ballot marking program, and that system likewise cannot produce unique IMbs.

The proposed standard does not account for these operational realities or the significant financial burden it would impose on already resource-constrained local election offices and should not be implemented.

# Mail-In and Absentee Participation List (DMM 705.24.4)

## Ballot Portal Requirements

The proposed rule requires a list of voters to be uploaded to a ballot portal “30 days before the date of the federal election, to the extent practicable, or by the date on which mail-in or absentee ballots may begin to be mailed under state law.” Again, this requirement does not reflect the operational realities of election administration.

In Washington State and many others, new voters can register through Election Day, and existing voters can update their address through Election Day. Any list uploaded 30 days before a federal election will be significantly outdated by the time ballots are mailed and even more outdated by the time Election Day rolls around.

In addition, the proposed rule offers no details on how the portal will function, how long USPS will take to process list updates, or how delays will be avoided. As noted above, ballots are not mailed once; they are mailed in waves — initial drops for different voter groups, followed by daily mailings for replacement ballots, new registrations, updated addresses, and more. Our office often issues and mails ballots within 24 hours to ensure voters receive them promptly. It is unclear what delays this portal requirement will introduce and how that will affect timely delivery to voters.

Our office already maintains rigorous data hygiene within the voter registration database. Our voter rolls are maintained by experienced and trained election administrators, many of whom are certified at both the state and national level. We are the experts in voter list maintenance, not USPS. Imposing an additional requirement to upload constantly changing lists to a new portal adds significant administrative burden without providing meaningful benefit. In practice, this proposal adds unnecessary red tape rather than improving ballot visibility, voter access, or election security.

Washington’s Address Confidentiality Program (ACP) further complicates this requirement. The ACP offers survivors of domestic violence, sexual assault, stalking, or trafficking, and Criminal Justice Affiliates, Election Officials, and Protected Health Care Workers who are a target for threats or harassment, a substitute address to receive first class mail. The proposed rule does not explain how to include these voters without compromising their protected information.

## Data Privacy and Cybersecurity Concerns

In addition, the proposed rule also raises significant data privacy and cybersecurity concerns. Election administrators operate under strict public disclosure laws when handling sensitive voter information. The participation list would link voter names and addresses with outbound and return envelope barcodes, creating a voter-level federal dataset far more sensitive than a standard mailing file. USPS plans to issue a new system of records notice under the Privacy Act, but that notice must be published, reviewed, and finalized before any voter-level ballot data submission is required.

USPS must clearly define data retention periods, access controls, audit logs, redisclosure limits, vendor access rules, breach notification procedures, and how law enforcement requests will be handled. As with the voter registration database, election administrators must be able to explain to voters what information is shared, why it is shared, how it is protected, and how long it is retained—information that must be available before any data submission is mandated.

## Ballot Reconciliation

Our County has a long history of working collaboratively with USPS. Prior to each election, we notify USPS of our planned main mail drops, key election dates, and we provide copies of our Mailpiece Design Analyst-approved ballot envelopes. At the state level, USPS also joins election administrators on regular calls throughout the election period to troubleshoot any issues that may arise. Requiring notification of who will be on the mailing list—which changes constantly as voters register, move, or cancel their registration—serves no operational purpose.

The proposed rule states that this provision will evidence how many ballots have been mailed and allow law enforcement officials to compare the total number of ballots mailed to the total number of received ballots to detect potential issues meriting further investigation.

It also suggests that IMb scan data will provide visibility into ballot transmission. However, as outlined above, IMb scan data does not reliably or accurately reflect the movement of ballots through the mail. Even outbound scans are inconsistent, and delivery scans are frequently missing. In our county alone, several rural ZIP codes never receive delivery scans because the local post offices do not have the necessary technology.

USPS can and should focus on improving their scanning procedures and operations to make these additional services and costs worth the price to both election offices and the voters we serve.

Election administrators already reconcile the number of ballots issued and the number received as part of established and robust ballot accountability procedures. That is standard practice in elections and is done by trained and experienced election administrators. The proposed rule does not recognize that ballots may be returned through multiple methods—by mail, through ballot drop boxes, in person at vote centers, or via email or fax for military and overseas voters. Vote-by-mail does not mean that voters can only return their ballot by mail.

Voters may also receive replacement or reissued ballots if they move or misplace their original ballot. There are numerous complexities in ballot issuance and return, established in state law and local procedures, that this proposed rule fails to recognize or account for.

When scanning effectively, USPS data can support mail visibility and help troubleshoot delivery issues, but it should not be characterized as a substitute for official election records, chain-of-custody documentation, or ballot reconciliation processes. The proposed requirement again fails to consider the realities of election administration and risks creating confusion rather than enhancing transparency, security, or integrity.

## Conclusion

It's critical that USPS withdraw this rule and essential to the strength of our democracy that it is not implemented ahead of the November 2026 General Election. While we are heartened by the recent court decision to enjoin USPS from initiating or completing this rule-making process, it's important that USPS take formal and proactive steps to formally and publicly withdraw this rule from consideration.

Any rules regarding elections cannot and should not be made without deeper engagement with election administrators to understand the complexities of vote by mail, develop a realistic timeline for testing technical requirements, and provide detailed privacy protections, safeguards, and emergency procedures to ensure technical or administrative issues do not delay ballots or impede voter access.

Finalizing these proposed rules as written would create serious hurdles for election administrators and will undoubtedly disenfranchise thousands of voters. It would also set a dangerous precedent of a non-election agency playing the role of gatekeeper on our citizens' right to vote. That is not a role that USPS has ever played, nor been tested in. The goal of all public servants should be to facilitate free and fair elections, not to create barriers and unnecessary hoops for voters and election administrators alike.

Our continued partnership with USPS on mail ballot visibility, effective envelope design, and clear communication is an extremely valuable operational practice and one that we hope to continue. That history of partnership, and our ability to navigate our respective lanes within it, has been incredibly successful for vote by mail elections and the millions of Americans who vote in them. We urge USPS to continue to respect those differing roles in the elections process.

## Key Risks

- **Nonacceptance of ballot mail may delay or prevent timely delivery, potentially disenfranchising thousands of voters.** Rejecting outbound ballots for technical or administrative mismatches—especially close to statutory deadlines—creates a significant risk of delayed ballots and will lead to voter disenfranchisement. The right to vote cannot be left up to untested and unnecessary data portals and list matching practices.
- **Unique IMb requirements are costly and operationally infeasible.** USPS scan rates are extremely low, costs are high, and many systems (including in-house printing and online ballot delivery tools) cannot generate unique IMbs. There is no meaningful return on investment for this requirement, and it would be an irresponsible use of taxpayer dollars given the data at hand.
- **Uploading voter lists to the ballot portal does not reflect real-time voter registration.** In Washington, voters can register or update addresses through Election Day, meaning any list submitted 30+ days in advance is immediately outdated. The proposed portal will create delays in ballot mailing and may cost Americans their vote as it will hamper their ability to receive and return their ballot on time.
- **The ballot portal lacks critical detail.** No information is provided on processing timelines, error handling, delay prevention, or how USPS will manage continual updates required during the election period. Additionally, this portal does not yet exist and there is simply not time before the November 2026 General Election to build, test, and implement a new system, particularly when that system impacts voters' access to their ballot.
- **USPS IMb scan data is not reliable for reconciliation purposes.** USPS scan rates are inconsistent and often skipped by USPS throughout the mailing process. Ballots may also be returned through multiple methods outside the USPS system. USPS data cannot substitute for

official election records or state-mandated reconciliation procedures, and the data this rule purports to create already exists as part of those legally mandated processes.

- **New reporting requirements add administrative burden without improving voter access.** Constantly changing voter lists and multiple ballot mailing waves make the proposed requirements impractical and duplicative of existing, more accurate systems that have been tested and refined over many elections and many years. Thousands of updates are processed every day in King County for voters who have moved or changed their name. This rule does not reflect reality, either for election administrators or for voters.
- **Creation of a sensitive federal voter-level dataset poses privacy and cybersecurity risks.** Strong safeguards to protect voter data must be clearly defined, as they are for election administrators in state law.

## Key Recommendations

- **Withdraw this rule from consideration.**
- **Do not finalize any elections-related rules without direct engagement with election administrators.** USPS should collaborate with local and state election officials to understand vote by mail operations and test requirements before implementation.
- **Remove the nonacceptance provision.** USPS should prioritize ballot delivery and use collaborative troubleshooting, not rejection, when mismatches or technical issues occur. Failing to do so will cost Americans their right to vote.
- **Eliminate or provide flexibility for unique IMb requirements.** Allow continued use of generic IMbs for return envelopes, and account for systems that cannot generate unique codes. The significant cost of this requirement must also be considered, as should USPS' adherence to their own scanning policies and procedures.
- **Eliminate the ballot portal or clarify how it will be tested and operate before requiring data submission.** Define processing timelines, update frequency, error handling, delay mitigation, and how time sensitive mailings will be protected.
- **Ensure ACP and similar protected address programs are fully accommodated.** USPS must provide explicit procedures to protect substitute address voters from exposure. We are required by both law and morality to protect these vulnerable voters from having their personal information disclosed or exposed. It is not an exaggeration to say that lives will be at risk if this information is not fully protected as Washington law requires.
- **Publish and finalize the Privacy Act system of records notice before implementation.** Define retention periods, access controls, audit logs, redisclosure limits, breach notifications, and handling of law enforcement requests.
- **Acknowledge that USPS data cannot replace official election reconciliation processes.** Ballot tracking data should support ballot visibility, not the statutory chain of custody and reconciliation procedures already in place. It is not a substitute nor a needed or helpful supplement.

A thoughtful, collaborative approach is essential to ensuring that any new USPS requirements regarding election mail strengthen election administration, not hinder it. Local election offices, including ours, and the millions of voters that we serve rely on predictable mail service, clear guidance, and tested systems to meet strict legal deadlines and uphold public trust. By working directly with election administrators, evaluating real world impacts, and refining these provisions before implementation, USPS can help support a secure, efficient vote by mail system that helps Americans participate in our elections and democracy, rather than disenfranchising them.

Sincerely,

Julie Wise, Elected Director of Elections

Janice Case, Deputy Director of Elections

Kendall LeVan Hodson, Chief of Staff

Jerelyn Hampton, Election Operations Division Director

Molly Gordon, TECHGIS Division Director

Meredith Merriman, Administrative Services Manager

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Kenny Austin, Voter Services Manager

KING COUNTY ELECTIONS MEDIA TEAM

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# JEFFERSON COUNTY, COLORADO, CLERK AND RECORDER

**June 30, 2026**

## **Source**

<https://www.jeffco.us/DocumentCenter/View/58138/USPS-Comments-June-26-NPRM-Jefferson-County-Clerk?bidId>

## **Principal Issues Raised**

Practical administration of mail elections; operational burdens imposed on local election offices; mandatory ballot tracking and barcode requirements; redesign of election materials; implementation costs; unrealistic implementation schedule; effects on ballot delivery; voter confusion; and the potential disenfranchisement of eligible voters through administrative error.

## **Principal Authorities Cited**

Colorado election law; Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 401, 403, and 404; Help America Vote Act of 2002; National Voter Registration Act of 1993; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



**June 18, 2026**

Director,  
Product Classification,  
U.S. Postal Service,  
475 L'Enfant Plaza SW, Room 4446,  
Washington, DC 20260-5015

Submitted via email to **PCFederalRegister@usps.gov**

Dear Director:

The Jefferson County Colorado Clerk and Recorder's Office strongly opposes the United States Postal Service's June 2 proposed rule governing ballot mail. The proposed rule inserts a new federal bureaucracy between voters and their ballots, increasing the risk of delays, errors, and voter disenfranchisement without advancing election security.

As the Jefferson County Clerk, I administer elections for approximately 450,000 registered voters. Between 95 and 99 percent of voters cast ballots mailed to their homes under Colorado law, and thousands rely on the Postal Service to return those ballots. For decades, election officials and USPS have worked as trusted partners: election officials determine voter eligibility and issue ballots under state law, while USPS provides prompt and reliable delivery. The proposed rule would fundamentally alter that relationship by requiring USPS to perform a new validation role that falls outside its expertise, duplicates existing voter registration systems, and creates unnecessary obstacles for eligible voters.

The proposal also exceeds USPS's proper role in election administration. USPS should be delivering ballots, not acting as a gatekeeper between voters and the ballot box. The Constitution assigns primary responsibility for the administration of elections to the states, and Congress has not enacted a national system requiring postal review of voter eligibility before ballots may be delivered or counted. USPS's statutory mission is to provide prompt, reliable, and efficient mail service. This proposal would slow ballot delivery, increase operational complexity, and divert resources toward a duplicative federal process that provides little or no public benefit. As an independent agency, USPS retains the authority and responsibility to evaluate this proposal on its own merits rather than simply implementing policy preferences expressed in an executive order.

Most importantly, the proposed rule places eligible voters at risk. Any delay, rejection, or processing error affecting election mail can result in a voter losing the opportunity to cast a timely ballot. Election rules should make it easier for eligible citizens to participate and for ballots to move efficiently through the mail stream. This proposal instead inserts a new layer of bureaucracy between voters and the ballot box.

Changes of this magnitude affecting the fundamental right to vote should be considered in the sunlight of public view with full transparency. The public should have online access to submitted comments rather than being required to review them in person in Washington, D.C. For all of these reasons, Jefferson County urges USPS to withdraw the proposed rule.

**A. Proposed Revisions to Ballot Mail Standards Insert the USPS as a Hurdle Between Election Officials and Voters and Increases Complexity, Costs, and Processing Time for USPS and Election Officials**

Article 1, Section 4 of the U.S. Constitution leaves authority to set the “times, places and manner of holding Elections” for federal officers to each State and allows Congress to make Law nationalizing certain standards as it chooses. The

Constitution contemplates a patchwork of election logistics laws from state to state governing items such as registration timing, sending and receiving ballots through the mail, and requirements to receive replacement ballots. Congress has not exercised its power to enact national provisions governing the availability, timing or design of ballots mailed to voters by state election officials. So, currently election experts in state and local government apply 50 different state laws regarding mail ballot timing, qualifications, and other logistics. These constitutionally designated government officials already have processes, lists, databases, forms and other procedures designed to comply with state law and ensure eligible voters in their state receive the proper mail ballot at the correct address with enough time to vote and return before state law deadlines.

In Colorado, all active voters are sent a ballot in the mail for each election without additional request or applications. Our state maintains a statewide voter database and our office has a robust year-round voter list maintenance procedure governed by state law and the National Voter Registration Act (NVRA). Colorado also allows registration up through final Election Day with proper information and identification. State law crafts a careful calendar that we follow to implement mail ballots:

- **22 days before an election** – counties mail ballots to all active registered voters (not overseas/military).<sup>1</sup>
- **Daily** – counties mail ballots to new/updated active registered voters received the day before.
- **8 days before an election** – last day that counties can send ballots in the mail to voters.
- **Election Day, 7pm** – ballots must be received in the county clerk's office in order to be counted.

Colorado also provides in-person voting and ballot pick-up options for voters through Election Day once state law no longer allows ballots to be mailed.

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<sup>1</sup> A new state law takes effect on July 1, 2026 moving this mailing date to 29 days before an election in Colorado.

For a large jurisdiction like Jefferson County, we work with a vetted mail ballot print and shipping contractor. This contractor meets us at the local general mail facility in Denver with multiple pallets of ballots on the ballot mail date to place them into the USPS custody for delivery. In order to meet that deadline and allow time for quality control and last-minute address updates from the USPS National Change of Address Data our office provides the voter list to our contractor approximately 38 days before Election Day. Additional voter lists with supplements and updates are provided multiple times in the following week. Our contractor also removes ballots that are voided after print but before mailing due to our updates to addresses and status in the statewide registration system a few days before mail date. For daily supplemental mailing over the next two weeks, our office provides a list to the contractor each day based on changes. These ballots are printed and mailed the same day if the list is provided before 3pm, otherwise they are mailed the next morning. This daily process continues through the 8<sup>th</sup> day prior to final Election Day.

As election administrators, we value the USPS as partners in this system as their role is to deliver these ballots swiftly and safely to every voter and shepherd back return mail ballots to our offices. The Proposed Rule would insert the USPS as a barrier between election offices and voters instead of our trusted relay teammate. Maintaining and updating eligible voter lists is not a USPS specialty and the agency does not have the technical expertise to take on this work. Creating a “validation” step done by the USPS would delay mailing of ballots because Postal employees would be required to conduct an unprecedented process of checking eligibility for each individual mail ballot and potentially sorting out rejects for return. Further, these checks would be run using theoretical systems that have not been identified, built, or tested. They would potentially subject voters to widespread disenfranchisement.

The rule does not discuss whether individuals or technology would be performing this additional review step that would result in rejection of a mail ballot. Would there be chain of custody protocols and records in place? Would there be a review step to such decisions before a voter’s rights are stripped? Will states or

counties be notified of rejections and how will they dispute those decisions? The extra work required could overwhelm USPS facilities in smaller locations, disproportionately harming voters in those areas. The additional step of notification and return of ballots to election administrators or voters would require additional USPS resources, plus re-submission of ballots and updated lists will require processing. At best, the Proposed Rule could add days to the delivery process with this additional step, a compounding delay as thousands of jurisdictions across the country continue to send ballots daily at the same time of year.

The rule also does not discuss notification to impacted voters. Who will communicate with them and do any subsequent follow-up? How will errors be corrected and within what timeframe? Without explicit procedures being included in the rule it is difficult to evaluate the true impact to voters and whether or not the impact will be consistent across the country.

As part of the Proposed Rule, the USPS will need to create a “Postal Service Federal Ballot Mail Portal” that does not currently exist. This portal would require sophisticated security access for users at states, mail ballot vendors and USPS. Protections under the Privacy Act requires great care in setting this up and safeguarding the information transfer and storage. The system will also need to be load tested as all election offices in the country would be entering information and mailing ballots at the same time. All the work on this portal is simply to create a duplicate of the pre-existing secure voter registration lists that Jefferson County and other election administrators already maintain. This would require additional data entry (again on a daily basis) for our office during the active election season – necessitating additional staff to enter, cross-check and verify everything is correct in both systems. Jefferson County voters do not have to request or register specifically to receive a ballot by mail in every election. The Proposed Rule does not explain whether this information would carry over from year to year or if it would need to be newly done every year (or every election for years with multiple elections).

Finally, the Proposed Rule would only apply to ballots mailed in federal elections. Confusion and complexity would be heightened for states like Colorado

that mail ballots to all voters for all state and local elections as well. The risk of mishandling and errors increase if USPS employees and processes are going to change depending on which offices are on the ballot – not something that is apparent on the outside of the envelope. USPS would have the responsibility to deploy different processes with equipment and personnel review depending on the election. The training and implementation would be exponentially more difficult in this situation.

The US Constitution vests power in state law to regulate the manner of elections – such as whether or not to send ballots to eligible voters by mail. USPS has no authority to set conditions on that authority by requiring our office to submit voter lists and participate in a complicated delay-ridden process in order to comply with Colorado state law.

### **B. Jefferson County Voters' Rights Will be Irreparably Harmed if the Proposed Rule is Adopted**

Jefferson County Voters whose ballots are sent pursuant to Colorado state law have a right to receive “equal protection of the laws” under the 5th and 14th amendments of the US Constitution compared to other voters in federal elections across the nation. The Proposed Rule professes not to affect the substantive eligibility or voting rights of individuals, but in fact subjects Jefferson County voters to additional hurdles in exercising their right to vote than faced by others. A USPS review step would be required before Jefferson County voters can receive their ballots and vote and this step is not applied to voters in other states.

As demonstrated, this experimental new process proposed by USPS is susceptible to delays, potentially loss of mail ballots, and limits the right of voters. Moreover, the Proposed Rule does not provide notice to the voter that their ballot is delayed or rejected based on not matching the list in the portal. Colorado elections have a strict timeline for voting and returning ballots – delays substantively affect Jefferson County voters' rights.

Problems in the proposed outgoing mail ballot “validation” step are harmful enough, and the Proposed Rule refuses to describe any details about the vetting process USPS intends to apply to return mail ballots sent by voters to our offices. The portal must include IMb code for the return mail ballot envelope so a “validation” can be conducted again. The Proposed Rule does not explain any procedures or standards that will be applied when in this process; will this be a burden placed on the local post office? Presumably, the office would have to separate out individual mail ballots daily in their facility and compare them to the portal before continuing to process. Again, this raises questions about how much delay will occur due to the additional resources required for such an intensive extra step, as well as concerns about potential loss or misplacement of ballots when they’re removed from the standard mail stream for review. Would every post office have training and access to the portal or would this require separated ballots to be transported to a different facility (increasing risks of loss and delay)? Jefferson County voters whose ballots are subject to these delays and steps would receive no notice of this process and have no recourse to ensure their voting rights will not be lost.

Return mail ballot harm is even worse for Jefferson County voters out of state. Under Colorado law, residents of Colorado may set a different mailing address for their ballot to be sent to if they will not be at their residential address during the election. While the Proposed Rule does not apply to military and overseas voters, there are still thousands of voters this Colorado law protects every election. In Jefferson County, the most common situations are college students studying in another state and residents who spend a couple months in the winter in warmer locations. Under the Proposed Rule, Jefferson County mail ballots delivered into the custody of the USPS in another state are at great risk of not being processed. It is unclear whether this new portal intends to be a national database accessible across state lines. Would a local post office near the University of Chicago have access to the Jefferson County, Colorado list of names and IMb? Would there be a prioritization policy to review these ballots before local deliveries? The Proposed Rule gives no details of what will happen to return mail, much less

this interstate situation. When ballots need to be mailed across states, delays are heightened in impact as deadlines loom in elections.

The risk of loss, rejection or delay of mail ballots violates the equal protection rights of Jefferson County voters who are returning their ballots by mail compared to those who return in-person or through drop boxes. Under Colorado law, all ballots are treated the same so long as they are received by 7pm on Election Day. A USPS-created process that delays or blocks returning ballots by mail burdens these Jefferson County voters. A delay that results in late delivery to our office means their right to vote is lost and that harm cannot be repaired.

### **C. The Proposed Rule Does Not Accomplish the Stated Governmental Interest and Purposes and Violates USPS Governing Statute**

Despite the increased cost and resources that would be expended by USPS and election administration offices to implement the Proposed Rule and the harm to voting rights caused, the proposed program would not even accomplish the stated purposes and state governmental interest. The Proposed Rule states the governmental interest of these changes as to “facilitate enforcement of federal law” and “implement best practices for postal service operations.” The proposal fails to achieve either of these purposes and violates the USPS statutory mandates.

Creating a portal with voter list information provided by election administration offices like ours does not provide any additional information to law enforcement that may be investigating federal law violations. Our office has worked with the US Postal Inspection Service on potential criminal investigations regarding stolen mail and the information available from the secure, vetted Colorado state voter registration system and the Jefferson County Clerk mailing records with our vendor has been provided to assist. USPS also has access to their internal data from barcode scanning and processing. The Proposed Rule does not provide any additional data by requiring a portal entry of duplicative data from Jefferson County or a USPS “validation” step for outgoing or return mail ballots before processing. It is naive to believe that USPS review and portal data could provide reliable “count” information for law enforcement at all – much less more accurately than current

Jefferson County records. As discussed above, we have a careful detailed process for voter registration updates, replacements, removals, supplemental mailings throughout the mail ballot system. The USPS may not have accurate data to use for any comparison or analysis. Also, voters can pick up replacement mail ballots in-person at Jefferson County and then return by mail if they choose – causing an imbalance in any USPS data. In sharp contrast, our data at the county is accurate and updated with any ballot issued in any manner and programmed to track that type of multi-modal voting for our residents. Therefore, USPS Proposed Rule process and data is more likely to hinder law enforcement efforts with incomplete or inconsistent data compared to what's available currently.

Nor does the Proposed Rule succeed in implementing best practices and “uniform standards for mailing of absentee ballots.” To begin, states have exercised their Constitutional authority to regulate elections in different ways and USPS has no authority to mandate uniformity upon those states. For example, Colorado law has no such item as “absentee ballots” and so any regulations or provisions written to apply to absentee ballots would not technically apply to Colorado mail ballots. The Proposed Rule does not by its own terms create uniform standards as the 90-day notice to USPS is proposed as an “optional” notice by the state election official. There is no explanation of the benefit or detriment to filing this notice, but it is clear that it would not be uniformly followed across 50 states and other jurisdictions.

The Proposed Rule does not follow best practices in election administration or postal delivery services. As discussed above, the portal would create a duplicative step of data entry and review that endangers Jefferson County voters' personal information under the Privacy Act. Current state voter registration lists follow best practices to limit access and secure this information as well as updating and maintaining these lists for accuracy. The USPS has not explained how it would follow best practices for user access across election administrators, mail ballot vendors and USPS employees at the regional and local level. The Proposed Rule has also not stated whether any other federal agency will have access to the portal or receive copies of the list provided to state authorities post-Election. The Proposed Rule also does not provide any best practices in chain of custody for handling mail

ballots individually in outgoing and return “validation” process. Jefferson County voter data is at risk and mail ballots physical chain of custody could be compromised all without any notice or opportunity to intervene by individual voters. Such is far from best practices in mail ballot handling.

In addition to not meeting the stated purposes of this particular rulemaking, the Proposed Rule contravenes the USPS statutory mandate, making it beyond the authority for USPS to enact. The authorizing act is clear and unambiguous as to the responsibility of the USPS:

It shall provide ***prompt, reliable, and efficient*** services to patrons in all areas and shall render postal services ***to all communities...*** In determining all policies for postal services, the Postal Service shall give the highest consideration to the requirement for the ***most expeditious*** collection, transportation, and delivery of important letter mail.

39 USC 101(a) & (e) (emphasis added).

The USPS is statutorily mandated to provide “prompt, reliable and efficient” mail services and specifically use the “most expeditious” delivery for important mail – such as mail ballots. As explained above, the Proposed Rule would erect a series of barriers that explicitly slow down and create more specialized processing steps for outgoing and return ballots. This would create delays in mail and substantially decrease reliability and efficiency in USPS operations. Nothing in the Proposed Rule could be understood as treating mail ballots in the “most expeditious” manner possible. Therefore, the Proposed Rule violates the USPS governing law and cannot be enacted.

#### **D. USPS is an Independent Agency and Not Compelled to Comply with Any Executive Order**

Article I, Section 8 of the US Constitution grants Congress the power “to establish post offices.” The modern Postal Service was created by Congress in the 1970 Postal Reorganization Act to be independent of the White House, stating that

the USPS is an “independent establishment of the executive branch.” 39 U.S.C. 201. One example of its independence is that the USPS does not cease operations during a federal government shutdown due to lapse in appropriations as it is funded through a permanent no-year appropriation. Thus, the USPS has no legal obligation to follow any suggestions issued in Executive Order 14399 (March 31, 2026).

Now that the USPS has chosen to issue a Proposed Rule similar (but not identical) to the suggestions in EO 14399, it is fully empowered to consider public comments detailing the harm to USPS, election administrators and individual voting rights that would result from the proposal. As an independent agency, USPS has no duty to issue a final rule on this topic or to do so following the timeline suggested in the Executive Order. Even EO 14399 acknowledges this independent authority to not issue a final rule when it states: “**Any** final rule pursuant to this section shall be issued no later than 120 days from the date of this order.” Section 3(d) (emphasis added). All the EO suggests is *if* USPS chooses to issue a Proposed Rule after considering all public comment, it *should* do so by July 29, 2026 (120 days from issuance of the EO).

USPS has statutory authority to refuse to change processes due to the harm articulated by public comments and the resources necessary to implement such a proposal at the USPS. As discussed above, the Proposed Rule requires new systems, training, procedures and changes that would be challenging to implement with a year to do so. It would be irrational, arbitrary, and capricious for USPS to decide such an implementation could occur between enactment of a Final Rule and early September when the first group of states start mailing ballots to voters under state law.

If the USPS wants to implement some sort of revised process from the Proposed Rule, it could issue a Final Rule narrowly limited to requirements on using the Election Mail logo and/or IMb bar codes on outgoing and return mail ballots. These adjustments have the potential to increase efficiency and timely mail delivery for USPS and election administrators in compliance with USPS statutory mandate

and goals of this rulemaking. In Jefferson County, we have chosen to implement these measures as a benefit to our processes and our voters. There is the potential to issue administrative rules regarding these items in a way that don't harm individual voting rights, increase costs for small and rural counties, and interfere with state election administration so long as proper implementation timelines and process protect voters from rejection and loss.

Even more helpful to voters and election administrators would be increased focus and coordination of the USPS on streamlining and increasing efficiency in the National Change of Address (NCOA) database and undeliverable ballots programs. These are the steps in the mail ballot process where USPS can deploy their technical expertise to improve accuracy and timeliness of election mail. Under Colorado law, mail ballots may not be forwarded, so if a voter has moved they need to officially change their address with our voter registration office (or file an NCOA which is transferred to our office) in order to receive a ballot at their new address. Jefferson County is experiencing delays in timely return of undeliverable ballots due to USPS processing changes. We have been informed that any mail item that needs a NIXIE label (yellow sticker indicating return to sender for address problem or forwarding issues) in our area is re-routed to Colorado Springs for that process and then sent back up to the Denver area. Moreover, in the near future this process will actually be moved to Arizona for the region meaning that our ballots will be sent out of state for labeling before returning back to us. This process increases delay and potential for loss in mishandling in undeliverable ballots (which our office voids as soon as received back). Proposed upgrades to the efficiency of this process would improve the accuracy and efficiency of mail ballot processes nationally more than anything included in the Proposed Rule and is squarely within the statutory authority of the USPS.

#### **E. The Proposed Substantial Changes to Election Process Affecting Voting Rights Should be Transparent to the Public**

As a final, but no less important comment, we strenuously object to the lack of transparency in this process that puts fundamental voting rights in danger. The

Proposed Rule notice states that comments are considered public documents, however access to those comments by the public is limited:

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review Monday through Friday, between 8 a.m. and 4 p.m. by calling 202-268-2906.

Limiting access to in-person inspection of comments is especially egregious given the main method to submit public comments is through email. This rulemaking is a matter of national importance and set on a fast-track of 30 days comment period and potential implementation before the November 2026 election. Voter trust in election processes is vital and making changes to procedure at the last minute is met with skepticism and doubt. Information should be readily accessible to all voters about the government changes to their rights to vote. Requiring in-person review of comments in Washington DC is not acceptable transparency in this situation. I urge the USPS to provide national online access to all public comments in this rulemaking process.

Thank you for this opportunity to provide public comment. On behalf of Jefferson County voters, I encourage the USPS to not enact the Proposed Rule.

Sincerely,

A handwritten signature in black ink that reads "Amanda Gonzalez". The signature is written in a cursive, flowing style.

Amanda M. Gonzalez  
Jefferson County Clerk and Recorder

# AMERICAN POSTAL WORKERS UNION (APWU)

**June 30, 2026**

## **Source**

<https://apwu.org/wp-content/uploads/2026/06/APWU-Comments-VBM-Rulemaking.pdf>

## **Principal Issues Raised**

Postal Service neutrality; statutory mission of the Postal Service; improper delegation of election-administration responsibilities to postal employees; operational burdens; implementation costs; disruption of long-standing Election Mail practices; voter confidence; and the absence of statutory authority for the proposed rule.

## **Principal Authorities Cited**

Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 401, 403, 404, and 403(c); Executive Order 14399; Domestic Mail Manual; collective bargaining agreements; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



## American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

June 29, 2026

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Tony D. McKinnon, Sr.  
Coordinator, Southern Region

Omar M. Gonzalez  
Coordinator, Western Region

**Re: APWU Comments on Proposed Rule: *Ballot Mail for Federal Elections***

**UNPRINCIPLED**

**UNWORKABLE**

**UNLAWFUL**

The American Postal Workers Union, AFL-CIO ("APWU") submits these comments on the Postal Service's proposed rule on *Ballot Mail for Federal Elections* with the utmost concern for the Postal Service's reckless departure from the heartbeat of a vital public service.

The Postal Service's proposed rule is unprincipled, unworkable, and unlawful. Its very proposal, even if it is never finalized, undermines one of the most important functions the Postal Service and postal workers perform in service of the United States and its remarkable democracy. The APWU hopes these comments will be a reminder of the Postal Service's unique history as an independent federal agency, the success of voting by mail, and the threat to service and operations if the proposed rule is implemented.

To be clear, the APWU believes the proposed rule should be abandoned entirely. No amount of changes can correct its deficiencies and adoption of any part of the rule will crush mailers' trust in the Postal Service and drive even more people from First Class Mail.

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**BACKGROUND**

**The Postal Service** was signed into existence by President Nixon in 1970 in response to a degradation of service and working conditions caused, in large part, by Presidential and Congressional meddling in the Post Office Department's operations. Prior to postal reorganization, pay and working conditions at the almost two-hundred-year-old Post Office Department were in rapid decline. Despite a history of innovation in creating critical American infrastructure, the previously Cabinet-level Postmaster General and the Post Office Department found themselves facing serious employee frustration in the late 1960s.<sup>1</sup> On March 12, 1970, Congress voted for huge pay raises for the President and themselves, but paltry raises for postal workers. By March 18, 1970, postal workers went out on the largest wildcat strike in U.S. history, with hundreds of thousands of postal workers in cities across the country striking the federal government.

The Great Postal Strike of 1970 brought about unprecedented postal reform. In August 1970, President Nixon signed the Postal Reorganization Act of 1970 ("PRA").<sup>2</sup> The PRA codified postal workers' right to collective bargaining and entitled them to significant improvements in wages and working conditions.<sup>3</sup> It also transformed the Post Office Department from a taxpayer-funded federal agency into today's U.S. Postal Service—an independent agency modeled on private-sector corporations and structured to be self-supporting, without reliance on taxpayer dollars. The PRA established an independent Board of Governors that hires and fires the Postmaster General. Critically, the PRA established that Congress and the White House have no control or authority over postal operations. Simply put, the Postal Service was designed by Congress to operate outside of and unaffected by politics and politicians.

**The Postal Reorganization Act** is a promise to the American public that<sup>4</sup>:

The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people.

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<sup>1</sup> H.R. Rep. No. 94-25, at 14-18 (1968).

<sup>2</sup> 39 U.S.C. §101 et seq.

<sup>3</sup> See Presidential Statement to Congress: Nixon's Message on Postal Reorganization (April 16, 1970).

<sup>4</sup> 39 U.S.C. §§ 101 (a), (e).

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... In determining all policies for postal service, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.

Today, the Postal Service operates more than 32,600 retail locations and serves 157.8 million residences and 12.6 million businesses six days a week.<sup>5</sup>

**The APWU** represents thousands of workers in the \$1.9 trillion mailing industry in the United States. Over 120,000 of those workers are postal clerks who work in retail post offices and mail processing facilities in every state and territory. Postal clerks are indispensable to the Postal Service. They work at retail post office windows, handle bulk mail entry, and process mail as it works its way through the Postal Service's vast national network. The postal regulations that clerks follow are extensive. The Domestic Mail Manual, for example, which the proposed rule intends to amend, is over 1,250 pages long. Clerks are expected to know these regulations as part of their jobs.

Window clerks work at retail post offices of all sizes. Most window clerks use point-of-sale programs and the postal intranet, but access varies depending on the training of the clerk and Internet connectivity, especially in smaller offices. Bulk Mail Technicians work with mailers sending or receiving bulk mail, and they specialize in the unique rules and requirements for bulk mailing. Bulk Mail Technicians normally work at certain larger postal facilities that are equipped to handle bulk mailings.

**Voting by mail** is a fundamental civic service the Postal Service is specially equipped to provide American voters. The Postal Service has moved Ballots through the mail since the Civil War, when states introduced absentee voting by mail for military personnel.<sup>6</sup> Over time, state legislators enacted laws allowing for voting by mail not only for active military but also people choosing to vote by mail in lieu of visiting their polling places.<sup>7</sup> Today, voting by mail is a mainstay. Many civic organizations, election officials, and voters see voting by mail as a meaningful way for Americans to vote, regardless of political party. Workers, military personnel, teachers, the disabled, elderly people and students agree that more access to the ballot box through voting by mail is a huge benefit.

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<sup>5</sup> <https://facts.usps.com/top-facts/>

<sup>6</sup> National Postal Museum, "What is Election Mail and its History in the US?" Available at: <https://postalmuseum.si.edu/what-is-election-mail-and-its-history-in-the-us>.

<sup>7</sup> See *id.*

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Voting is not uniform across the country, but postal policy is. This is especially important given that “[e]lection administration in America is highly decentralized. There are more than 10,000 election jurisdictions in the U.S. The size of these jurisdictions varies, with the smallest towns having only a few hundred registered voters and the largest jurisdiction in the country with over 5 million.”<sup>8</sup> To equitably handle Mail Ballots coming from and going to a variety of locations, each with different voting rules, postal policy is simple: prioritize Election Mail – especially Ballots -- regardless of its paid class, so that it is processed and delivered as expeditiously as possible.

Voting by mail took on a new importance during the COVID-19 pandemic. Faced with an influx of Mail Ballots and the challenges of postal workers reporting to work in the midst of a pandemic, voting by mail was engrained even deeper into postal policy and practices. Even as postal workers were dying from COVID-19, they elevated their long-standing policies and practices of prioritizing Ballots and giving them First Class Mail treatment regardless of how they were mailed. The Postal Service instituted “extraordinary measures” to ensure careful handling of Election Mail in the weeks preceding an election.<sup>9</sup>

The USPS Inspector General reported that the Postal Service delivered over 135 million Ballots to or from voters in the 2020 general election.<sup>10</sup> The Inspector General also noted the growing popularity of voting by mail even before the pandemic.<sup>11</sup>

Postal clerks are supposed to receive continual training on the special handling of Election Mail, particularly Ballots. In January of this year, for example, the Postal Service issued the first of its 2026 General Election Mail Preparedness Memoranda detailing the “robust practices and procedures that we employ every federal election cycle...” Prior to an election mail cycle, clerks should receive refresher training on Election Mail procedures. This special training is delivered through manager ‘stand up talks’ and on the Postal Service’s intranet. Postal employees also learn how to implement rules and practices from their experienced co-workers.

The APWU negotiated an Election Mail Task Force Memorandum of Understanding (“MOU”) in its 2021 collective bargaining agreement which was renewed in the current

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<sup>8</sup> <https://www.eac.gov/who-is-in-charge-of-elections-in-my-state>.

<sup>9</sup> U.S. Postal Service, 2020 Post-Election Analysis, pp. 16-17. Available at: [https://about.usps.com/newsroom/national-releases/2021/usps\\_postelectionanalysis\\_1-12-21\\_georgia.pdf](https://about.usps.com/newsroom/national-releases/2021/usps_postelectionanalysis_1-12-21_georgia.pdf).

<sup>10</sup> See USPS OIG Report No. RISC-WP-21-004, p.1 (June 1, 2021).

<sup>11</sup> *Id.*

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contract. The MOU recognizes "...the critical and continuing role of the Postal Service in the nation's electoral process," and commits that "[t]he Task Force will meet bi-annually, or as otherwise agreed, to discuss federal election mail topics." Consistent with the MOU, the APWU and the Postal Service have met several times to prepare for federal elections.

Today, the Postal Service is facing a **serious financial solvency crisis**. On March 17, 2026, Postmaster General David Steiner testified before the House Committee on Oversight and Government Reform's Subcommittee on Government Operations. At the outset of his testimony, he said:

I am not sure that the American public is aware that the Postal Service is at a critical juncture. I know that I wasn't aware of the extent of it before I took on this role, but at our current run rate and if we continue to pay our required obligations in the same manner as we have done in recent years, then we will be out of cash in less than 12 months. So, *less than a year from now the Postal Service will be unable to deliver the mail if we maintain the status quo*.<sup>12</sup>

At the same time, service is suffering. As a fulfillment vendor noted:<sup>13</sup>

The service-quality side of the equation has not held up either. First-Class Mail on-time performance fell from 91 percent in FY2022 to roughly 86 percent in FY2025, even though USPS stretched its own service standards from a 1-to-3 day window to 1-to-5 days for some lanes.

Two weeks after Postmaster General Steiner's testimony, the White House issued Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*.<sup>14</sup>

On June 2, 2026, the Postal Service published the **proposed rule** to amend the requirements for accepting mail-in or absentee Ballots for federal elections. The proposed rule is purportedly necessitated by Executive Order 14399. The proposed rule would make certain mail piece design best practices *mandatory* and require a state to register

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<sup>12</sup> *Oversight of the Postal Service: The Financial Future under Postmaster General Steiner*, 119th Cong. (2026) (statement of David Steiner), p. 2 (emphasis added). Available at: <https://oversight.house.gov/wp-content/uploads/2026/03/Steiner-Written-Testimony.pdf>.

<sup>13</sup> <https://gowarpspeed.com/blog/usps-2026-rate-hikes#src-17>.

<sup>14</sup> 91 Fed. Reg. 17125 (2026).

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the recipients of the state's Mail Ballots with the Postal Service in a new Ballot Portal. If a state did not register or a Ballot did not meet the new design requirements, clerks—represented by the APWU—would be required to reject the Ballot for mailing.<sup>15</sup>

Despite the Task Force and regular communications with postal management, the Postal Service did not inform the APWU about its proposed rulemaking. When the APWU raised the proposed rules, the Postal Service declined to discuss them. The Postal Service has not informed employees about changes to the current Election Mail policies and practices.

### UNPRINCIPLED

There is no principled reason for the Postal Service to propose restrictions on Ballots.

The proposed regulations are historic in the worst way. They represent the first time in the Postal Service's 251-year history that the Postal Service has created a rule to reject a national category of lawful non-profit government mail—Ballots, at that—because the mail does not meet postal design requirements. And they represent the first time in the Postal Service's history that the Postal Service has created a rule to reject First Class Mail unless the mailer registers the recipients of the mail pieces with the Postal Service.

The Postal Service says that it is enacting regulations because it “understands” they “will facilitate the faithful execution of federal law.” The only federal law the Postal Service points to outside of its own enabling act is Executive Order 14399.

The Executive Order is not federal law. Its baseless allegations of voter fraud by Americans who vote by mail are not federal law. The American justice system is based on assumptions of innocence and, in this case, that means people using the mail to vote are doing so lawfully. Building a system to catch people the Postal Service has no legal evidence even exist is a gross abuse of the Postal Service's obligation as an independent federal agency to ground its regulations and conduct in the law.

In any case, the Postal Service has never considered itself bound by an Executive Order until now. As an independent agency designed by Congress to stay outside of politics and the influence of politicians, the Postal Service has always vigorously challenged

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<sup>15</sup> Ballot Mail for Federal Elections, 91 Fed. Reg. 32915 (proposed June 2, 2026) (to be codified at 39 C.F.R. pt. 111).

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efforts to bind it to Executive Branch directives. Now is not the time to abandon that principle.

The Postal Service's claims that the data it will be collecting on Americans who vote by mail will assist law enforcement is nonsensical. Data on the number of Ballots mailed and returned tells the Postal Service and law enforcement nothing. Voter fraud through the mail is misconduct that, consistent with the U.S. Constitution, state election officials are obligated to handle, not the Postal Service. In truth, the only law enforcement ends the Postal Service achieves with the proposed rule is creating a surveillance state for Americans who vote through the mail.

That is not the mission and purpose of the Postal Service. The Postal Service has never monitored presumptively lawful First Class Mail, especially Ballots which are held in their own category that receives special treatment better than First Class Mail. First Class Mail is available to every American without restriction to mail any lawful item without limitation. That is the promise of the Postal Service as a basic and fundamental service provided to Americans by the federal government.<sup>16</sup>

The Board of Governors promised the Postal Service's mission in the 21<sup>st</sup> Century is:<sup>17</sup>

- To serve the American people and, through the universal service obligation, bind our nation together by maintaining and operating our unique, vital and resilient infrastructure.
- To provide trusted, safe and secure communications and services between our Government and the American people, businesses and their customers, and the American people with each other.
- To serve all areas of our nation, making full use of evolving technologies.

Especially when based on dubious legal authority, the Postal Service should uphold its purpose and mission and not rely Executive Order 14399 as reason to change its principles and practices on Ballots.

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<sup>16</sup> 39 U.S.C. 101(a).

<sup>17</sup> Postal Board of Governors *Mission Statement* (adopted April 1, 2020).

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**UNWORKABLE**

It does not make sense that Postmaster General Steiner cries to Congress that the Postal Service is broke and then imposes on the Postal Service extraordinarily expensive obligations that will cut revenue. Conforming postal practices to the proposed rule is logistically and financially impossible. The Postal Service does not have the resources to set up the internal systems to implement this proposed rulemaking. Compounding the cost of the rule is that it will reduce revenue from Ballot mailings that the Postal Service turns away. Given the Postal Service's fragile financial system, moving forward in any respect with the proposed rule is a lose-lose proposition for the Postal Service.

Establishing its own Ballot Portal would require hiring an outside vendor to design a secure database. Even if the Postal Service uses resources from other federal agencies, retrofitting a government portal so it can be accessed by potentially thousands of election officials in real-time and also be available to postal clerks in every retail office is plainly fanciful. The cost of the resources to design, use, and maintain a database with thousands of access points to personal information of millions of Americans is extraordinary as are the consequences if the Postal Service opts to not invest heavily in securing the Ballot Portal. The Postal Service does not have these resources, and likely never will if it pursues this attack on Americans who vote by mail.

The resources the Postal Service will have to put into this rule will have to be stretched to every post office, too. Today, when Ballots arrive in bulk at a post office, they avoid the window and are scanned electronically in bulk. Once scanned, postal clerks work tirelessly to ensure that Ballots received on a given day are placed in an outgoing truck the same day. Under the proposed rule, clerks will have to review and scan every single ballot that comes into the post office to ensure they meet the mail piece design and Ballot Portal requirements. Ballots that have to be individually reviewed could come into the window at almost any post office (according to the proposed rule, any Ballot mailing of 199 or less pieces of Marketing Mail or 499 or less pieces of First Class Mail can be mailed at the window in a post office) which will slow down window service for other postal customers. Bulk Mail Technicians do not presently review every single piece of bulk mail, so individually reviewing hundreds or thousands of Ballots means bulk mail services will be slowed down too. And ultimately, such individual assessment will mean that Ballots that make it through this gauntlet may be delayed in getting out to voters. What happens to the other lawful Ballots that do not make it through is impossible to say.

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Clerks around the country will have to be trained on the new requirements and systems. This is not a small or simple task. The Postal Service has to design and publish training materials to tens of thousands of clerks and supervisors. It typically takes months for the Postal Service to refine existing training materials, and longer still to create entirely new training programs. Add to this more months for employees to take the new training. The Postal Service will have to staff up to do the external training for election officials on the new requirements as well, and ensure that all of the information being given to the public is reconciled. The Postal Service does not have the time or resources for this exercise.

The biggest barrier to implementing the proposed rule is, however, cultural. The Postal Service will not be able to get away with a webinar and stand up talk telling clerks to turn away lawful mail, particularly Ballots. That instruction is the opposite of what clerks and supervisors have been trained to do with Election Mail for literally decades. The Postal Service is also going to have to reconcile what happens when, predictably, this new system fails and the clerk cannot confirm whether the mail piece design is correct or the addressee is in the Ballot Portal. At that moment, hopefully clerks will follow their training and accept the Ballot, and hopefully the Postal Service will defend their decision to do so.

### UNLAWFUL

The Postal Service's introduction to the proposed rule references general provisions in the PRA that give it authority to make rules and regulations about postal operations. The Postal Service fails, however, to explain how its proposed rule is lawful under the provisions of the PRA that speak to the substance of postal policies rather than the general authority to make them.

Procedurally, although the Postal Service is not covered by the Administrative Procedure Act, the Postal Service does not explain how this drastic change in mailing rules for Ballots does not have to go before the Postal Regulatory Commission for review. And once there, the Postal Service also cannot explain how these prohibitions on accepting Ballots squares with the Postal Service's statutory obligation to accept and deliver all mail to any address in the country, especially Ballots. It is a commitment written clearly in the law and affirmed by the Postal Service over the years through its actions, its settlements, and its other regulations and internal rules.

It is possible, too, that postal clerks applying the proposed rule would do so in violation of the law. All postal employees, including the people reviewing these comments, take an oath of office that: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and

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defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.”<sup>18</sup>

The APWU questions whether postal clerks who are instructed to turn away lawful First Class Mail because it is a Ballot that does not meet mail piece design rules or the addressee’s name is not in the Ballot Portal can do so lawfully in light of their oath of office. Postal clerks’ duty is to receive and process mail. *All mail*. At the same time, if a clerk upheld their oath of office and accepted a Ballot despite it lacking the requisite mail piece design or the recipient’s name not appearing in the Ballot Portal, the APWU is concerned that the clerk will be prosecuted under Executive Order 14399.<sup>19</sup> The Postal Service should not make its own workers choose between their oath and duty and a rule based on an unlawful directive.

Postal workers follow a simple ethos: all Ballots are welcome into the postal network and are moved as expeditiously as possible. Postal workers do not inspect or reject Ballots. All Ballots, regardless of how they look or where they are going, should be moved through the postal network as fast as possible. The proposed rule upends this principle and would thwart the uniform and expeditious handling of Election Mail and Ballots.

The U.S. Postal Service is the best way to vote by mail in the world. The Postal Service’s proposed rulemaking grossly diminishes the Postal Service’s history and reputation around voting by mail. Already the public is confused and concerned; the damage this rule will do to service and the Postal Service’s reputation is truly unprecedented. Frustrating the public and disenfranchising eligible voters is a harm to the Postal Service’s reputation it will never recover from. Following an Executive Order it is not required to follow harms the Postal Service’s independence in a way it may not get back. And unreasonably burdening postal workers and causing longer lines and slower service will harm the Postal Service’s reliability which may break a fragile bottom-line.

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<sup>18</sup> 39 U.S.C. §1011.

<sup>19</sup> See 91 Fed. Reg. 17125 Section 5.

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Postal employees are committed to ensuring Ballots continue to receive the same extraordinary measures and treatment they have for generations. We urge the Postal Service to return to its core principles and join its employees in preserving the American right to vote. The proposed rules should be withdrawn.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jonathan Smith". The ink is dark and the signature is fluid.

Jonathan Smith  
President

# NATIONAL ASSOCIATION OF LETTER CARRIERS (NALC)

**June 26, 2026**

## **Source**

[https://www.nalc.org/news/nalc-updates/body/6\\_26\\_26-NALC-comment-on-USPS-proposed-rule-re-ballot-mail-for-federal-elections15033494.1.pdf](https://www.nalc.org/news/nalc-updates/body/6_26_26-NALC-comment-on-USPS-proposed-rule-re-ballot-mail-for-federal-elections15033494.1.pdf)

## **Principal Issues Raised**

Postal Service neutrality; unlawful expansion of USPS authority; election administration; carrier responsibilities; operational feasibility; implementation costs; voter confidence; risks to timely ballot delivery; and the transformation of postal employees into election administrators.

## **Principal Authorities Cited**

Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 401, 403, 404, and 3661; Domestic Mail Manual; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

**UNITED STATES POSTAL SERVICE***Proposed Rule: Ballot Mail for Federal Elections*

91 Fed. Reg. 32913 (June 2, 2026)

**COMMENT OF THE NATIONAL ASSOCIATION  
OF LETTER CARRIERS, AFL-CIO**

Prior to issuing the above-referenced proposed rule, the United States Postal Service (“USPS”), in a 2022 statement, acknowledged the limited role that it is supposed to play in elections:

The role of USPS in American elections is clear and well defined: to process, transport and deliver the nation’s Election Mail, including ballots. We have *no role* in determining the extent to which mail is used for participating in elections, the design of ballots or return envelopes, or whether or how ballots are counted.<sup>1</sup>

Now, however, in a remarkable about-face, USPS seeks to directly insert itself into the election process. Under its proposed rule, the agency would no longer just serve as a conduit for election mail, but would also act as a gatekeeper, collecting voters’ names, verifying who is to receive ballots, and under certain circumstances, refusing to deliver them. Because such an unprecedented expansion of USPS’s role in elections would be both unlawful and ill-advised, the National Association of Letter Carriers, AFL-CIO (“NALC”) strongly opposes it.

While imposing a new layer of federal bureaucracy on state-run elections, the proposed rule would do virtually nothing to make the elections more secure. There is no reason to believe, and USPS in its proposed rule presents zero evidence, that ballot mail is currently mishandled or routinely sent to those ineligible to vote, or that state authorities are incapable of properly managing their own vote-by-mail processes. The rule is thus a purported solution to a non-existent problem.

Indeed, by requiring USPS, on tight election deadlines, to review the information on tens of millions of pieces of ballot mail, and to check it against scores of state voter lists, the proposed rule would be as likely to introduce mistakes into the voting process as it would be to reduce them. It is more likely to result in eligible voters being denied a chance to cast a timely ballot than to prevent some imagined voter fraud.

This proposed rule risks dragging USPS, a non-political public service agency, into the highly charged politics that swirl around elections. Having to police elections would also impose on USPS additional costs, of an unknown magnitude, at a time when the agency claims to be in deep financial distress. At best, this rule is a distraction. Rather than entangling itself in state-run elections, USPS should stay focused on what it was designed to do, namely, provide the American people with prompt and reliable postal delivery.

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<sup>1</sup> USPS, *2022 Post-Election Analysis: Successfully Delivering the Nation’s Election Mail During the 2022 Midterm Elections*, <https://about.usps.com/what/government-services/election-mail/pdf/usps-2022-post-election-analysis.pdf> at 3 (emphasis added).

### **NALC and City Letter Carriers**

Founded in 1889, NALC today serves as the collective bargaining representative for USPS's nearly 200,000 city letter carriers. Our primary focus is always on improving the work lives of our members, but our advocacy extends beyond the workplace. As an organization deeply committed to preserving and promoting American democracy, NALC has been in the forefront of the effort to increase use of mail as a means to facilitate access to the ballot box. And we are proud that in recent years, our letter carrier members, in making their rounds, have delivered -- on time and securely -- many tens of millions of pieces of ballot mail.

### **Voting By Mail**

Americans have been voting by mail at least since the Civil War, when soldiers were allowed to cast their ballots from the battlefield.<sup>2</sup> Voting by mail has spread in recent years, as the practice has become increasingly trusted, and its advantages increasingly evident. The practice skyrocketed when the COVID pandemic hit, such that in the 2022 congressional elections nearly a third of the electorate voted by mail.<sup>3</sup> In 2024, more than 48 million mail ballots were cast.<sup>4</sup>

Today, about three-quarters of Americans live in states where all eligible voters are allowed to vote by mail, without demonstrating a reason for not doing so in person.<sup>5</sup> Eight states and the District of Columbia even mail ballots automatically to all of their active registered voters.<sup>6</sup> California alone sends ballots to approximately 23 million citizens.<sup>7</sup>

To date, USPS has successfully handled this upsurge in ballot mail.<sup>8</sup> In the 2022 congressional elections, for example, USPS delivered at least 54.4 million ballots.<sup>9</sup> According to its records, the agency took less than two days on average to deliver outgoing mail ballots and it delivered almost all of them (99.93%) in under a week.<sup>10</sup>

Even though USPS, by its own account, has handled ballot mail in an “exemplary fashion,”<sup>11</sup> it now claims the need to radically change its role in elections.

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<sup>2</sup> See National Vote at Home Institute, *Vote at Home 2024 Policy and Research Guide*, <https://voteathome.org/portfolio/vote-at-home-policy-and-research-guide-2023/> at 3.

<sup>3</sup> See P. Gronke, M. Romero, E. Shino, D. Thompson, *Vote-By-Mail in the United States: Best Practices and New Areas for Research*, MIT Election Data & Science Lab, <https://electionlab.mit.edu/sites/default/files/2023-10/vote-by-mail.pdf> at 2.

<sup>4</sup> See United States Democracy Project, *Nearly 1 in 3 Americans Voted by Mail in 2024* (Sept. 4, 2025), <https://statesunited.org/resources/americans-vote-by-mail-2024/>

<sup>5</sup> See National Vote at Home Institute, *supra* n.2, at 3.

<sup>6</sup> See *id.*

<sup>7</sup> See California State Portal, *154-Day Report of Registration*, <https://elections.cdn.sos.ca.gov/ror/154day-primary-2026/historical-reg-stats.pdf>.

<sup>8</sup> See generally USPS, *supra* n.1.

<sup>9</sup> See *id.* at 2.

<sup>10</sup> See *id.* at 1.

<sup>11</sup> See *id.*

## **The Proposed Rule**

### *New Requirements for Ballot Mail*

The proposed rule would do several things. First, it would revise USPS's *Domestic Mail Manual* to impose new standards for ballot mail used by states in federal elections. Specifically, it would require state officials responsible for sending mail ballots to eligible voters, or mailers acting on behalf of those officials, to use envelopes that bear an official logo indicating that the mail is election mail and that bear a unique barcode that meets USPS standards. *See* Proposed Rule §§ 24.1, 24.3, 91 Fed. Reg. 32917-18 (June 2, 2026). The rule would also require that the envelopes be compatible with USPS's mail automation systems. *See id.* The proposed rule states that if any mail that a state seeks to send to an eligible voter fails to comply with these strict new requirements, it "will not be accepted" by USPS. *See* Proposed Rule § 25.5.3(a), 91 Fed. Reg. 32918.

### *Registration of Voters on a USPS Portal*

In addition to setting new requirements for ballot mail, the proposed rule calls for a new digital platform, presumably to be created and managed by USPS, that would be called the "Postal Service Federal Ballot Mail Portal" (hereafter, "the Portal"). *See* Proposed Rule § 24.4.2(b), 91 Fed. Reg. 32918. Each state would have to enter into the Portal the name and address of each individual to which the state intends to mail a ballot, along with a unique barcode for the outgoing and return envelope to be sent to that individual. *See id.* USPS would compile the information provided by each state into a registry for that state, to be called the state's "Mail-In and Absentee Participation List" (hereafter, "List"). *See* Proposed Rule § 24.4.2(a), 91 Fed. Reg. 32918. The state would be free to supplement or modify the information it enters into the Portal up to the day before the state's deadline for mailing ballots to voters. *See* Proposed Rule § 24.4.2(d), 91 Fed. Reg. 32918. Under the proposed rule, when the state brings its ballot mail to USPS to deliver to voters, USPS employees would review the mail and, if the USPS employees found that any piece of ballot mail was addressed to an individual not on the state's List, USPS would refuse to accept it. *See* Proposed Rule §§ 24.5.1, 24.5.3, 91 Fed. Reg. 32918.

### *USPS Providing Lists of Voters to State Officials*

Finally, the proposed rule requires that on or about the date of the election, USPS would "provide" the state's List, containing the names and addresses of each voter and their accompanying barcodes, to the state's chief election official. Proposed Rule § 24.4.3, 91 Fed. Reg. 32918. In other words, it would require USPS to provide the state with the List that contained the same information that the state provided to USPS. The proposed rule gives no explanation for this seemingly pointless exercise. Nor does it indicate how USPS would "provide" the List to the state official, or what, if any, measures would be taken to ensure that the transmission occurred securely.

### *Immediate Application*

This is not a proposed rule based on long and careful study. It appears to have been hastily slapped together in just a matter of weeks, in the wake of President Trump's March 31, 2026 Executive Order 14399, entitled *Ensuring Citizenship Verification, and Integrity in*

*Federal Elections* (“EO”), 91 Fed. Reg. 17125. Moreover, the proposed rule, and the far-reaching changes it would entail, appear slated to take effect nationwide immediately after the rulemaking process. There would be no gradual rollout, no initial tests or pilot programs to ensure, for example, that both state and USPS officials are fully trained and understand how the new proposed system would work; that states are prepared, operationally and financially, to conform all their ballot mail to the strict new standards; that USPS’s new Portal will be fully secure and operational; or that USPS personnel are prepared to swiftly and accurately verify the compliance of tens of millions of pieces of ballot mail.

### **Discussion**

#### *The Proposed Rule Exceeds USPS’s Legal Authority*

NALC objects to the proposed rule first because, as explained below, it exceeds USPS’s legal authority.

#### *USPS Lacks Legal Authority to Establish a Voter Registry and to Verify Ballot Mail*

Congress created USPS in 1970 with the enactment of the Postal Reorganization Act (“PRA”), 39 U.S.C. §§ 101 *et seq.* Nothing in that statute authorizes USPS to collect and maintain a registry of voters’ names and addresses or to verify that ballot mail is addressed to those listed on the registry. Those activities are plainly *ultra vires*.

The PRA gives USPS a limited set of specific powers. *See* 39 U.S.C. § 404(a). None of the enumerated powers says anything about USPS inserting itself in the election process. Indeed, the PRA makes clear that the agency’s “basic function” is to provide the nation with “postal services,” 39 U.S.C. § 101(a), which the statute defines as “the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto.” *Id.* § 102(5). Establishing a registry of voters, and policing whether states’ ballot mail matches the registry, falls far afield of this definition of “postal service.”

The PRA defines “any service that is not a postal service” as a “nonpostal service.” 39 U.S.C. § 404(e)(1). With certain exceptions not applicable here, the statute says that USPS is not permitted to engage in nonpostal services. *Id.* § 404(e)(2).<sup>12</sup> Because the USPS election mechanisms proposed in the rule would be “nonpostal services” outside the limited exceptions contained in the statute, they are not permitted by the PRA.

To attempt to justify the rule, USPS cites the first specific power enumerated in the PRA, *see* 91 Fed. Reg., 32915, namely, the power to “provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail, and for the disposition of undeliverable mail.” 39 U.S.C. § 404(a)(1). Nothing in that statutory language, however,

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<sup>12</sup> The exceptions are for (1) nonpostal services that existed prior to 2006, *see* 39 U.S.C. § 404(e)(2), and (2) services that USPS provides to federal, state or local governments that meet certain statutorily defined criteria, including that they are designed to increase USPS’s revenues and that they result in USPS at least breaking even, *see id.* §§ 3701-04.

remotely concerns the establishment of a registry of voters or the right to condition the acceptance of ballot mail on its matching the names and addresses in the registry.

USPS also cites, *see* 91 Fed. Reg. 32915, its general power “to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, *as may be necessary* in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title.” 39 U.S.C. § 401(a)(2) (emphasis added). This language means USPS can make rules “necessary” to carry out the specific powers Congress gave it in the PRA (or that Congress gave it in some other legislation). The cited language does not authorize USPS to promulgate rules that *expand* its powers beyond those set by Congress.

Finally, USPS cites, *see* 91 Fed. Reg. 32915, President Trump’s March 31, 2026 Executive Order 14399 (“EO”). The EO, at Section 3, directs USPS to propose a rule that includes each of the items that USPS proposes here. *See* 91 Fed. Reg. 17126. The proposed rule thus appears compliant with the EO. However, as multiple pending lawsuits demonstrate, the EO is itself plainly unauthorized. The President lacks authority to regulate elections. As one court put it, in blocking key parts of President Trump’s 2025 election-related executive order, “our Constitution does not allow the President to impose unilateral changes to federal election procedures.” *League of United Latin Am. Citizens v. Exec. Off. of the President*, 818 F. Supp. 3d 34, 53 (D.D.C. 2026); *see also Washington v. Trump*, 814 F. Supp. 3d 1173, 1186-87 (W.D. Wash. 2026); *California v. Trump*, 786 F.Supp.3d 359, 371 (D. Mass. 2025).

An executive order must rest on authority given to the President by either the Constitution or by a federal statute. *See Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952) (“[t]he President’s power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself”); *Minnesota v. Mille Lac Bands of Chippewa Indians*, 526 U.S.172, 188-90 (1999) (holding executive order unauthorized when lacked constitutional or statutory basis). The Constitution vests in the states the power to determine how elections are conducted, subject only to supervision by Congress. *See* Const. Art. 1, Sec. 4, cl. 1 (“The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations ....”); *League*, 818 F. Supp. 3d at 59-61 (state and congressional power to regulate elections also extends to presidential elections). Accordingly, the “Constitution entrusts Congress and the States -- not the President -- with the authority to regulate federal elections.” *Washington*, 814 F. Supp. 3d at 1187 (citation and internal quotations omitted).

The EO cites two statutes -- the 1993 National Voter Registration Act (“NVRA”), 52 U.S.C. §§ 20501-11, and the 2002 Help America Vote Act (“HAVA”), 52 U.S.C. §§ 20901-21145 -- but neither provides the President the authority to involve USPS in elections in the manner outlined in the EO. The NVRA was primarily intended to facilitate the registration of voters. *See California*, 786 F.Supp.3d at 373. The HAVA established a funding program to support state administration of elections and required an independent federal agency, the Election Assistance Commission (“EAC”), to distribute the funding in accordance with statutory mandates. *See id.* at 374.

Indeed, it is not clear that the President has *any* authority to give commands to USPS. The PRA established USPS as an “independent” executive agency, *see* 39 U.S.C. § 201, governed by its own Board of Governors, *see id.* §202. In one of the cases sustaining a challenge to President Trump’s 2025 executive order, the court found that the order’s mandate to the EAC, an independent federal agency, constituted “undue interference” in the workings of that agency. *California*, 786 F.Supp.3d at 381. The 2026 EO similarly constitutes undue interference with the independence of USPS.

In sum, neither the PRA nor the EO provides USPS with legal authority for the proposed rule.

#### *USPS Lacks Authority to Refuse Ballot Mail*

As explained above, USPS’s proposed election Portal and ballot mail verification process exceed USPS’s authority under the PRA. So, too, does USPS’s proposed refusal to accept ballot mail under certain circumstances. In the PRA, Congress provided a long and detailed list of “nonmailable matter,” such as certain perishable or overweight items, or certain carefully defined types of fraudulent or misleading commercial messages. *See, e.g.*, 39 U.S.C. § 3001. USPS has no authority on its own to add to this legislatively crafted list. Yet, USPS’s refusal to deliver ballot mail under certain circumstances would in effect do just that.

#### *USPS Would Likely Violate the PRA by Providing States a Voter List*

USPS would also likely violate the PRA by providing the state’s chief election official with the List containing the names and addresses of those enrolled to vote by mail. *See* Proposed Rule § 24.4.3, 91 Fed. Reg. 32918. PRA Section 412(a) provides that “[e]xcept as specifically provided by subsection (b) or other law, no officer or employee of the Postal Service shall make available to the public by any means or for any purpose any mailing or other list of names or addresses (past or present) of postal patrons or other persons.” 39 U.S.C. § 412(a). The sole exception, in PRA Section 412(b), allows USPS to provide the Secretary of Commerce with address information for purposes of the federal census. *See* 39 U.S.C. § 412(b). The List that USPS would provide to the state’s chief election officer would be a list of postal patrons within the scope of PRA Section 412(a). The only question would be whether providing the List to the state’s chief election officer would amount to making it “available to the public” in violation of Section 412(a). It likely would, unless state law shielded the List from public disclosure. Moreover, the sole exception, in Section 412(b), to the Section 412(a) prohibition, for information provided to the Secretary of Commerce, suggests that providing information to a government official would violate Section 412(a), absent a statutory exception. Since the PRA contains no exception for information provided to a state’s chief election official, providing the List to that official would likely violate the PRA.

#### *There is No Evidence that the Proposed Rule Would Improve the Vote by Mail Process*

NALC opposes the proposed rule not only because it exceeds USPS’s authority under the PRA, but also because it would serve no effective purpose. The federal government, of which USPS is part, has long been guided by the regulatory philosophy that “agencies should only promulgate such regulations as are required by law, are necessary to interpret the law, or are

made necessary by *compelling public need*.”<sup>13</sup> Here, USPS presents no evidence of any compelling need for the additional layers of federal regulation that it proposes.

First, USPS identifies no need, let alone a compelling need, to impose strict new ballot mail standards. As USPS has acknowledged, without those proposed new standards, it already does an “exemplary” job of delivering ballot mail on time and securely.<sup>14</sup>

To try to justify the strict new standards for ballot mail, USPS asserts that the official mail logo would make ballot mail easier to identify; automation compatibility would make it easier to process; and unique barcodes would make it easier to track. *See* 91 Fed. Reg. 32916. Maybe that is so, but USPS identifies no occasions in which the *absence* of the official mail logo, automation compatibility, or barcodes had any detrimental impact on USPS’s ability to efficiently and securely process ballot mail.

Moreover, even if there were a problem to solve, USPS presents no evidence that the proposed new standards would solve it. USPS presents no proof – no report, study or analysis – demonstrating that the new ballot mail standards that it proposes would make any material difference in how efficiently or securely ballot mail is processed. The federal government has long required that an agency proposing a new rule base its decision “on the best reasonably obtainable scientific, technical, economic, and other information.”<sup>15</sup> Moreover, USPS is an institution where proposed changes are typically subject to careful study and deliberation. Both USPS’s oversight agency, the Postal Regulatory Commission, and its institutional watchdog, USPS’s Office of Inspector General, routinely issue detailed studies and reports scrutinizing all aspects of postal operations.<sup>16</sup> Yet here USPS provides no report, study or analysis demonstrating that the proposed new standards would make a material difference to the processing of ballot mail.

Similarly, USPS fails to prove any need, let alone a compelling one, for USPS to verify that every piece of ballot mail is addressed to someone on the state’s List. USPS cites no evidence that states tend to mail ballots to individuals *not* on their voter lists. In any event, USPS presents no evidence – no report, study or finding – that this happens frequently enough to justify the cost and effort of having USPS personnel verify tens of millions of pieces of ballot mail.

Finally, as noted, the proposed rule would require USPS to “provide” each state with the state’s List, comprised of the very same names, addresses and other information that the state provided to USPS. USPS does not even attempt to explain how this would serve any purpose.

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<sup>13</sup> Executive Order 12866 (“EO 12866”), 58 Fed. Reg. No. 190, at § 1(a) (Sept. 30, 1993) (emphasis added).

<sup>14</sup> *See* USPS, *supra* n.1.

<sup>15</sup> EO 12866, *supra* n.13, at § 1(b)(6).

<sup>16</sup> *See, e.g.*, USPS Office of Inspector General White Papers, <https://www.uspsoig.gov/reports/white-papers/oigs-oversight-us-postal-services-delivering-america-plan-volume-3> and Postal Regulatory Commission, <https://prc.gov/prc-reports> .

*The Proposed Rule Would Create the Risk that Eligible Voters Would Be Denied the Right to Vote*

While not solving any problems, the proposed rule would likely create new ones. First, the proposed rule would create a non-negligible risk that USPS would erroneously refuse to accept legitimate ballot mail. The rule would impose on USPS personnel the immense task of checking the names, addresses and bar codes on tens of millions of pieces of ballot mail and confirming that information against the Lists of dozens of different states. These USPS personnel, who are not trained election officials, would have to perform this task in a compressed timeframe, often probably just days before the election. In addition, the state Lists would be moving targets, since states could, and almost certainly would, continuously supplement or modify them right up until the deadline for mailing ballots. All this creates a situation ripe for error. USPS could try to minimize human error by employing computer technology to aid with the verification process, but that technology is far from flawless, especially since the capital-starved USPS – an agency that struggles just to keep its vehicle fleet in good repair – lacks the resources for state-of-the-art software systems.<sup>17</sup>

The consequences of error in the verification process would be profound: it could result in USPS improperly refusing to accept ballots destined to eligible voters. With tens of millions of pieces of ballot mail in play, even an extremely low error rate could easily translate into hundreds or thousands of improperly refused pieces of ballot mail. Moreover, because election deadlines are tight, even if USPS discovered and corrected some errors, it might be too late for the voter's ballot to count. In effect, the proposed rule could become a voter suppression mechanism, even if that is not USPS's intent.

Voter suppression on a far grander scale could conceivably occur if a state's election officials failed (as a result of error) or refused (on principle) to submit voter information to USPS as the rule would require. In that event, USPS would presumably have to reject *all* ballot mail in that state.

*The Rule Would Create a Risk of a Catastrophic Information Breach*

The proposed rule would also create a risk that the trove of voter data collected by USPS could fall into the wrong hands. USPS is not at the cutting edge of cybersecurity. For example, after one incident in which USPS suffered “a significant cyber intrusion” that “compromised large amounts of data,” USPS's Inspector General found that the agency's protections fell short on several fronts: “Postal Service leadership had not emphasized cybersecurity, as evidenced by its undertrained employees, lack of accountability for risk acceptance decisions, ineffective collaboration among cybersecurity teams, and continued operations of unsupported systems.”<sup>18</sup> The Portal proposed here, containing the names and addresses of tens of millions of voters, would be a tempting target for bad actors, particularly agents of hostile foreign governments seeking to interfere with American elections. These agents could either steal data or sabotage the ballot review process, or both. The recent rise of AI-

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<sup>17</sup> See Gov't Accountability Office, *U.S. Postal Service: Action Needed to Improve Credibility of Cost Assumptions for Next Generation Delivery Vehicles* (April 2023), <https://www.gao.gov/assets/gao-23-106677.pdf> at 4

<sup>18</sup> USPS Office of Inspector Gen., *U.S. Postal Service Cybersecurity Functions*, Audit Report No. IT-AR-15-008 (July 17, 2015), at 1, [https://www.uspsig.gov/sites/default/files/reports/2023-01/usps\\_cybersecurity\\_functions.pdf](https://www.uspsig.gov/sites/default/files/reports/2023-01/usps_cybersecurity_functions.pdf).

enhanced hacking technology makes the risk of a breach that much greater. Because the proposed USPS Portal is unnecessary and would do nothing to improve elections, there is no reason to create such a risk of a potentially catastrophic data breach.

*The Rule Would Impose an Unnecessary Financial Burden on Both USPS and the States*

Federal guidance has long required agencies to “assess both the costs and the benefits of the intended regulation and ... propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.”<sup>19</sup> Here, USPS presents no cost-benefit analysis justifying the proposed rule. Nor does it appear that a cost-benefit analysis could justify the rule.

For whatever dubious benefits the rule might yield, it would impose on USPS the costs of creating and maintaining the Portal and having its personnel verify tens of millions of pieces of ballot mail. Any responsible piece of proposed rulemaking would attempt to at least estimate the magnitude of this cost. USPS does not even try. In any event, whatever the magnitude of the cost, it would be an unnecessary and unwelcome addition to USPS’s balance sheet, at a time when the agency claims to be in financial distress. According to its own reports, in fiscal year 2025, USPS suffered a net loss of about \$9 billion.<sup>20</sup> Since fiscal year 2021, it has reportedly lost a total of about \$31 billion.<sup>21</sup> The Postmaster General has warned that the agency could run out of cash by early 2027.<sup>22</sup> To save money, it has even suspended mandatory payment of pension contributions for its employees.<sup>23</sup> USPS should not be undertaking the new and unnecessary expense of policing state elections when it claims that it cannot even afford to make mandatory employee retirement payments.

The financial burden of the rule would also fall on states, particularly those whose ballot mail is not yet compliant with the proposed new standards. Here, too, USPS makes no effort to estimate the cost that states and their taxpayers would bear when forced to upgrade millions of pieces of ballot mail, by affixing them with official election logos and barcodes and making them automation compatible. Mandating that states bear such costs, without any discussion of their magnitude or how they would be funded, adds yet another objectionable feature to this ill-advised proposed rule.

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<sup>19</sup> EO 12866, *supra* n.13, at § 1(b)(6).

<sup>20</sup> See USPS, *U.S. Postal Service Reports Fiscal Year 2025 Results* (Nov. 14, 2025), [U.S. Postal Service Reports Fiscal Year 2025 Results - Newsroom - About.usps.com](https://about.usps.com/newsroom/national-releases/2025/0508-usps-reports-fiscal-year-2025-results.htm).

<sup>21</sup> U.S. Gov’t Accountability Office, *U.S. Postal Service, Action Needed to Fix Unsustainable Business Model* (Dec. 2025), <https://www.gao.gov/assets/gao-26-107336.pdf> at 1-2

<sup>22</sup> *US Postal Service hiring restructuring advisers as it could run out of money in 2027*, Reuters (March 4, 2026), <https://www.reuters.com/business/us-postal-service-hiring-restructuring-advisers-it-could-run-out-money-2027-2026-03-04/>.

<sup>23</sup> See USPS, *U.S. Postal Service Reports Second Quarter Fiscal Year 2026 Results*, <https://about.usps.com/newsroom/national-releases/2026/0508-usps-reports-second-quarter-fiscal-year-2026-results.htm> (May 8, 2026).

*Conclusion*

For the reasons explained above, NALC urges USPS to withdraw the proposed rule.

Dated: June 26, 2026

Respectfully submitted,

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# NATIONAL WOMEN'S LAW CENTER

**July 2, 2026**

## **Source**

<https://nwlc.org/wp-content/uploads/2026/07/NWLC-Comment-USPS-Ballot-Mail-for-Federal-Elections-7-2-26.pdf>

## **Principal Issues Raised**

Voting rights; barriers affecting women voters; burdens on survivors of domestic violence; address confidentiality programs; implementation costs; privacy concerns; voter disenfranchisement; disproportionate impacts on marginalized communities; and the absence of statutory authority for the proposed rule.

## **Principal Authorities Cited**

Voting Rights Act of 1965; National Voter Registration Act of 1993; Help America Vote Act of 2002; Violence Against Women Act; Privacy Act of 1974; Executive Order 14399; Postal Reorganization Act of 1970; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



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**Re: Comment on Notice of Proposed Rulemaking on Ballot Mail for Federal Elections (91 Fed. Reg. 32915)**

Dear Director Kennedy:

The National Women's Law Center (NWLC) submits these comments in response to the United States Postal Service's ("USPS") Notice of Proposed Rulemaking concerning the transmission of mail-in and absentee ballots for federal elections [hereinafter, "Proposed Rule"].<sup>1</sup> We write in strong opposition to the Proposed Rule because it would erect an unlawful federal barrier to mail voting that will disenfranchise millions of eligible voters — with the burden falling disproportionately on women, LGBTQ+ people, people of color, and low-income people — while doing nothing to address the stated, though unsupported, concerns about election fraud. We urge USPS to withdraw the Proposed Rule in its entirety.

For over fifty years, the National Women's Law Center has fought for gender justice — in the courts, in public policy, and in our society — working across issues that are central to the lives of women and girls, with a particular focus on LGBTQ+ people, women of color, and women with low incomes and their families. Our work depends on a fair and functioning democracy and the ability of women to freely exercise their right to vote. Voter suppression efforts are never isolated — they are consistently part of a broader agenda to attack women's fundamental rights, including abortion access, workplace protections, and social programs. We are strongly opposed to any measures that would restrict voting rights and equal access to the democratic process.

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<sup>1</sup> Ballot Mail for Federal Elections, 91 Fed. Reg. (proposed June 2, 2026) (to be codified at 39 C.F.R. pt. 111), FR Doc. 2026-10968, <https://www.federalregister.gov/documents/2026/06/02/2026-10968/ballot-mail-for-federal-elections>.

The Proposed Rule would require States to use a new Federal Ballot Mail Portal [hereinafter, “Ballot Portal” or “portal”] maintained by USPS. Within this portal, election officials submit the name, address, and a unique identifying barcode for each voter they intend on providing a mail-in ballot. The unique barcode is linked to the voter’s identifying information and will be placed on the outside of both the outbound and return ballot envelope. Each envelope will feature the “Election Mail Logo,” which is included to help increase the visibility of elections mail. Once an election official has provided what is required for mail-in voters, USPS compiles this information into what the rule calls a “Mail-In and Absentee Participation List.” This list will serve as a federal registry for every voter approved to receive a mail ballot from the State in a general federal election. Under the Proposed Rule’s verification provision, USPS will then review outbound mailings prior to acceptance and refuse to accept any election mail that does not comply with the proposed standard. This means that if a voter’s information within the Portal doesn’t match the information on the outbound envelope, USPS will reject the entire mailing and return it to the election official before it ever enters the mailstream. The Proposed Rule would also amend the Domestic Mail Manual to impose sweeping new requirements on the transmission of mail-in and absentee ballots for federal general elections.

This Proposed Rule was issued in direct response to Executive Order 14399, signed by President Trump on March 31, 2026, which ordered USPS to reshape federal vote-by-mail standards in ways that would limit access to mail voting for millions of eligible Americans.<sup>2</sup> The legal basis of the Proposed Rule has been collapsed by recent district court rulings. On June 25, 2026, the U.S. District Court for the District of Massachusetts declared Section 3 of Executive Order 14399 is beyond the President’s authority and unconstitutional, and enjoined USPS from initiating or completing the rulemaking at issue here, concerning the twenty-three States and the District of Columbia that challenged the Order.<sup>3</sup> Furthermore, on July 1, the U.S. District Court for the District of Columbia enjoined the USPS from implementing the procedures described in this Proposed Rule.<sup>4</sup> We nevertheless offer this comment in the interest of showing the harmful impact of this Proposed Rule on women, LGBTQ+ people, people of color, low-income people, and other affected groups.

This comment will first address how this rule negatively impacts millions of eligible voters, including the disproportionate impact on women, LGBTQ+ people, people of color, and low-income people. Secondly, it will analyze why the Proposed Rule cannot possibly be implemented within the timeline laid out, and how any attempt to do so would disenfranchise eligible voters. Lastly, it will explain why the Proposed Rule exceeds the scope of, and in fact conflicts with, USPS’s statutory authorization and undermines core constitutional principles.

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<sup>2</sup> Exec. Order No. 14399, Ensuring Citizenship Verification and Integrity in Federal Elections, 91 Fed. Reg. 17125 (Mar. 31, 2026), <https://www.federalregister.gov/documents/2026/04/03/2026-06601/ensuring-citizenship-verification-and-integrity-in-federal-elections>.

<sup>3</sup> *California v. Trump*, No. 1:26-cv-11581-IT, Memorandum & Order (D. Mass. Jun. 25, 2026), [https://storage.courtlistener.com/recap/gov.uscourts.mad.298518/gov.uscourts.mad.298518.191.0\\_2.pdf](https://storage.courtlistener.com/recap/gov.uscourts.mad.298518/gov.uscourts.mad.298518.191.0_2.pdf).

<sup>4</sup> *National Association for the Advancement of Colored People v. U.S. Postal Service*, No. 20-cv-2295(EGS), Memorandum Opinion (D.D.C. Jun. 1, 2026), <https://www.citizen.org/wp-content/uploads/opinion.pdf>.

**I. The Proposed Rule will disenfranchise millions of eligible voters, with the burden falling disproportionately on women, LGBTQ+ people, people of color, low-income people, and survivors of sexual and domestic violence.**

Women comprise the majority of the American electorate, and they have voted at higher rates than men in every federal election since 1980. In 2024, 91.3 million women voted, compared to 82.6 million men.<sup>5</sup> Women also vote by mail and use early voting options at higher rates than men. For example, in 2020, 71.2 percent of women used nontraditional voting methods compared to 67.4 percent of men.<sup>6</sup> Due to women making up the majority of all voters, they cast the majority of the roughly 48 million mail ballots submitted in the 2024 general election. Any rule that disrupts the mail voting system therefore falls disproportionately on women, and that is before even accounting for specific populations of women that are disparately impacted. For example, for some populations of women vote-by-mail is the only realistic means of casting a ballot.

*Access to Voting – Older Adults, Disabled, and Low-Income Women*

Voters 65 and older vote by mail at the highest rate of any age group, with nearly 37 percent voting by mail in 2024, and older women are the single largest demographic bloc dependent on mail voting.<sup>7</sup> For many older women, mobility limitations, lack of transportation, and health conditions make in-person voting genuinely inaccessible. A Ballot Portal error that rejects their ballot, produces no notice, and provides no path to correction before Election Day turns an administrative mistake into a complete loss of the right to vote. The same is true for voters with disabilities, who voted by mail at a rate roughly ten percentage points higher than other voters in 2020 and 2022.<sup>8</sup> Notably, women have higher disability rates, particularly in older age cohorts. For these voters, mail voting is not a preference but essential; the alternatives of arranging accessible transportation, securing required care, and traveling to a polling place can serve as prohibitive barriers.<sup>9</sup>

Low-income women and single mothers face the same reality for different reasons. Mail voting allows caregivers and workers with inflexible schedules to participate without choosing between voting and their jobs or their children. For single mothers, who are disproportionately women of color and low-

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<sup>5</sup> League of Women Voters, Report: Women Voters by the Numbers (2024) (Mar. 24, 2026), <https://www.lwv.org/blog/report-women-voters-numbers-2024>.

<sup>6</sup> U.S. Census Bureau, What Methods Did People Use to Vote in the 2020 Election? (Apr. 29, 2021), <https://www.census.gov/library/stories/2021/04/what-methods-did-people-use-to-vote-in-2020-election.html>.

<sup>7</sup> USA Facts, How Many Voters Cast Ballots Early and by Mail? (Sept. 8, 2025), <https://usafacts.org/articles/how-many-voters-cast-ballots-early-and-by-mail/>; AARP, Voting by Mail This Election Season? Make Sure It Counts (May 2026), <https://www.aarp.org/government-elections/vote-by-mail-what-to-know/>.

<sup>8</sup> MIT Election Data & Sci. Lab, Voting Accessibility, <https://electionlab.mit.edu/research/voting-accessibility>; Ctr. for Am. Progress, Enhancing Accessibility in U.S. Elections (Nov. 7, 2021), <https://www.americanprogress.org/article/enhancing-accessibility-u-s-elections/>.

<sup>9</sup> ACLU, “Voting by Mail Is My Lifeline”: Voter With Disability Shares Importance of Mail-In Voting (June 2026), <https://www.aclu.org/news/voting-rights/voting-by-mail-is-my-lifeline-voter-with-disability-shares-importance-of-mail-in-voting>.

income, voting in person on a fixed Election Day is often not feasible.<sup>10</sup> For these women, losing mail access risks putting a class-based barrier around the act of voting.<sup>11</sup>

### *Name Discrepancies – Married Women, Trans Women, & Women of Color*

The Proposed Rule poses a distinct and heightened risk to women and trans people whose legal names do not match across government records. The Ballot Portal matches each voter's name to a ballot barcode, and any inconsistency in identification documents risks a mismatch that can trigger rejection with no notice and no chance to cure. Approximately 84 percent of American women change their surname after marriage, and because they draw from differing sources and may not necessarily be kept up to date, names may vary across different State and federal administrative systems.<sup>12</sup> Trans women face compounding risk: under the current administration their ability to update legal documents has become significantly more difficult, and identity-document mismatches for this population are already a noted hindrance to voter participation.<sup>13</sup> Women of color face a similar risk, as names are more likely to be recorded inconsistently across databases due to differing cultural naming conventions, and they rely heavily on the nontraditional voting methods this Proposed Rule would disrupt.<sup>14</sup> The compounding effect across all of these populations is not coincidence. It is the predictable result of imposing a facially neutral administrative barrier on top of existing structural inequalities in document access and economic flexibility.

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<sup>10</sup> Rock the Vote, Voting by Mail (Feb. 26, 2026), <https://www.rockthevote.org/explainers/voting-by-mail/>; Common Cause, SOTU Recap: More than Four Reasons for Expanding Vote By Mail (Feb. 25, 2026), <https://www.commoncause.org/articles/sotu-recap-more-than-four-reasons-for-expanding-vote-by-mail/>.

<sup>11</sup> The 19th, Many Caregivers and Single Moms Don't Vote. Will Election 2024 Change That? (Oct. 21, 2024), <https://19thnews.org/2024/10/caregivers-single-moms-non-voters-2024/>; see also Shengwei Sun, National Snapshot: Poverty Among Women & Families, Nat'l Women's Law Ctr. (Jan. 2023), [https://nwlc.org/wp-content/uploads/2023/02/2023\\_nwlc\\_PovertySnapshot-converted.pdf](https://nwlc.org/wp-content/uploads/2023/02/2023_nwlc_PovertySnapshot-converted.pdf).

<sup>12</sup> National Women's Law Center, Comment Opposing Proposed changes to the SAVE System to Verify U.S. Citizenship for Voter Registration (Dec. 1, 2025), <https://nwlc.org/wp-content/uploads/2025/12/NWLC-Comment-SAVE-System-Dec2025.pdf> (discussing, in part, inaccuracies in the SAVE database that would put at risk the ability to vote of people with inconsistent documentation); Greta Bedekovics & Sydney Bryant, The SAVE Act Would Disenfranchise Millions of Citizens, Ctr. for Am. Progress (Feb. 3, 2025), <https://www.americanprogress.org/article/the-save-act-would-disenfranchise-millions-of-citizens/>; Alison Gill, How the SAVE Act Could Disenfranchise Millions of Married Women and Trans Voters, National Women's Law Center (Mar. 27, 2025), <https://nwlc.org/how-the-save-act-could-disenfranchise-millions-of-married-women-and-trans-voters/> (discussing impact on people who have changed their names of the Safeguard American Voter Eligibility (SAVE) Act, which proposes to require documentary proof of citizenship for voter registration).

<sup>13</sup> 2022 U.S. Trans Survey, Civic Engagement in the 2022 U.S. Transgender Survey (Aug. 2024) (finding that “[o]f the 18% of voting eligible respondents who were not registered for other reasons, 95% reported that they did not have an identification document (ID) and thought they needed one to register. Among the other reasons for not being registered to vote, respondents also reported reasons related to being transgender, including that their current name did not match their driver's license or Social Security card (3%), they wanted to avoid being harassed by election officials because they were transgender (2%), and they thought their State's voter identification law could stop them from voting (1%).”), [https://transequality.org/sites/default/files/2024-08/USTS\\_2022CivicEngagementReport\\_Final.pdf](https://transequality.org/sites/default/files/2024-08/USTS_2022CivicEngagementReport_Final.pdf).

<sup>14</sup> See Pew Rsch. Ctr., Key Facts About Black Eligible Voters in 2024 (Apr. 24, 2025), <https://www.pewresearch.org/short-reads/2024/01/10/key-facts-about-black-eligible-voters-in-2024/>; KFF, Polling Insight: 4 Takeaways About Black Women Voters in the 2024 Election (Aug. 12, 2025), <https://www.kff.org/womens-health-policy/polling-insight-4-takeaways-about-black-women-voters-in-the-2024-election/>.

*Unique Barriers – Survivors of Domestic Violence, Sexual Violence, and/or Stalking*

The National Domestic Violence Hotline estimates that over one in three women and one in four men in the United States have experienced rape, physical violence, and/or stalking by an intimate partner,<sup>15</sup> and the National Intimate Partner and Sexual Violence Survey for 2023–2024 reported that nearly half of women (45.1%) and more than one in six men (16.9%) in the United States experience some form of contact sexual violence in their lifetimes.<sup>16</sup> The ability to vote by mail is essential for many survivors of domestic violence, sexual violence, and/or stalking because they face unique barriers to voting,<sup>17</sup> two of which are relevant to the Proposed Rule. First, fear of being found by abusers and stalkers through public voter rolls keeps many survivors from registering to vote.<sup>18</sup> Second, survivors escaping violence often relocate multiple times and/or postpone updating public records until adequate safety measures are in place. By failing to address existing State protections that survivors rely on to keep them safe, such as Address Confidentiality Programs, the Proposed Rule will increase the risk to survivors and chill many from exercising their right to vote. Moreover, the Proposed Rule's deadline for States to "enroll" voters through the Ballot Portal will exclude many survivors—who are often forced to move or register on short notice, including immediately before elections.

**II. The Proposed Rule is inadministrable, particularly within the timeline and resources outlined, and it lacks basic safeguards to protect eligible voters.**

This Proposed Rule would create harm that is structural and far-reaching, and it would potentially disenfranchise millions of voters. A data error, name mismatch, technical failure, or an administrative mistake at any point in the chain can result in a voter's mail ballot being rejected before it even reaches them. The voter receives no notice required by the Proposed Rule. There is no cure period outlined. There is no stated path to correction before Election Day. By the time a voter realizes they never received a mail ballot, or is informed that their ballot was not accepted, the election may have already occurred. This strips voters of their constitutional right to vote and places their access to voting in the hands of a faceless bureaucracy. In 2022, 1.5 percent of 36,683,450 mail-in ballots were rejected, meaning that 549,000 possible votes weren't counted under the current state-by-state system—a system which operates under established processes, is run by experienced administrators, and has been tested over time.<sup>19</sup> A hastily built, unfunded, incompatible, and untested federal portal will certainly create additional errors in

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<sup>15</sup> Domestic Violence Statistics, National Domestic Violence Hotline, <https://www.thehotline.org/stakeholders/domestic-violence-statistics/>.

<sup>16</sup> Ruth W. Leemis et al., The National Intimate Partner and Sexual Violence Survey: 2023/2024 Sexual Violence Data Brief, U.S. Centers for Disease Control and Prevention, at 3 (Dec. 2025), <https://www.cdc.gov/nisvs/media/pdfs/sexualviolence-brief.pdf>. "Contact sexual violence is a combined measure that includes rape, being made to sexually penetrate someone else, sexual coercion, and/or unwanted sexual contact." *Id.* at 2.

<sup>17</sup> Danielle Root, Obstacles to Voting for Survivors of Intimate Partner Violence, Center for American Progress (Nov. 1, 2018), <https://perma.cc/39J3-VV8M>.

<sup>18</sup> Scottie Andrew, For abuse victims, registering to vote brings a dangerous tradeoff, CNN (Oct. 27, 2020), <https://www.cnn.com/2020/10/27/us/domestic-violence-voting-election-privacy-trnd>.

<sup>19</sup> See Ballotpedia, Election results, 2022: Analysis of Rejected Ballots in the 2022 General Election, [https://ballotpedia.org/Election\\_results,\\_2022:\\_Analysis\\_of\\_rejected\\_ballots\\_in\\_the\\_2022\\_general\\_election](https://ballotpedia.org/Election_results,_2022:_Analysis_of_rejected_ballots_in_the_2022_general_election).

numbers so large they are difficult to approximate. And for the voters whose ballots are rejected, there will be no clear recourse.

Regardless of the stated purpose for the Proposed Rule, a particularly harmful aspect for individual voters is the lack of clarity regarding mechanisms for notice and cure when there is a ballot rejection. In many States, when a mail voting system rejects a ballot for a technical reason (a missing signature, a date error, an envelope problem), there is a ballot cure process with the goal of providing notice to voters before their vote is lost.<sup>20</sup> For example, a majority of jurisdictions provide voters with the ability to track their ballot as a means of notice. If a ballot is rejected for an administrative or technical reason, voters are given the ability to remedy said issue if permitted by time.<sup>21</sup> It is unclear how or whether the Proposed Rule interacts with those protections. Under the Proposed Rule, when there is an omission or technical error for an eligible voter, there is no way for them to become informed. The voter would receive no notice from USPS, no notice from the State, and no built-in opportunity to correct the record before the election has passed.<sup>22</sup> This design choice is what turns basic administrative errors into the potential for mass disenfranchisement. A system that fails to include a mechanism for a voter to learn that her ballot was blocked, and no way to fix it if she does, does not safeguard elections. It guarantees that eligible voters will lose the ability to vote for reasons they never had the chance to address.

Beyond concerns with improper rejections and notice, the Proposed Rule creates serious privacy and data-security concerns. To participate, States must submit personally identifiable information through the Ballot Portal for every voter receiving a mail ballot, including their name, address, and unique ballot number. This would assemble, for the first time, a centralized federal registry of millions of Americans who vote by mail. The Proposed Rule contemplates that USPS will create a new system of records under the Privacy Act, but notice of that system is described only as forthcoming, and the Rule provides no details about how this sensitive information will be stored, who may access it, how long it will be retained, or what safeguards will protect it from breach or misuse. Compiling identifying information of this scale, linked to individual voting behavior, in a system that has not yet been built and for which USPS has received no dedicated funding, is an invitation to exactly the kind of data exposure that federal privacy law was enacted to prevent.<sup>23</sup>

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<sup>20</sup> Ashley Lopez, *In Many States, There's a Process to Fix an Error with Your Mail Ballot*, NPR (Sept. 27, 2022), <https://www.npr.org/2022/09/27/1125179062/voting-explainer-in-many-states-theres-a-process-to-fix-an-error-with-your-ballot>.

<sup>21</sup> *Track Your Ballot or Ballot Application*, Vote.Org, <https://www.vote.org/ballot-tracker-tools/>.

<sup>22</sup> See Ballot Mail for Federal Elections, *supra* note 1, § 705.24.4.3 (providing that USPS will furnish each State its final Mail-In and Absentee Participation List only "on or about the date of the federal election," and requiring enrollment submissions just "to the extent practicable"). The Proposed Rule sets no deadline for when a rejection must occur or be communicated, and its reliance on the discretionary "to the extent practicable" standard means a voter may never learn of a rejection or error in time to cure it before Election Day.

<sup>23</sup> We note that the U.S. District Court for the District of Columbia recently ordered the Department of Homeland Security to cease and reverse similar modifications to the Systematic Alien Verification for Entitlements (SAVE) database made in order to pool data and use the system as a tool to purge State voter rolls of allegedly ineligible voters, based in part on violation of the Privacy Act. *League of Women Voters v. U.S. Department of Homeland Security*, Case 1:25-cv-03501-SLS, Memorandum Opinion (D.D.C. Jun. 22, 2026), <https://www.lwv.org/sites/default/files/2026-06/LWV%20v.%20DHS%20Mem%20Op.pdf>.

The harm posed by this Proposed Rule is compounded by its sheer scale, cost, and infeasibility. Neither USPS nor States have received any funding to implement this Proposed Rule. States have already purchased and begun to print their 2026 ballot envelopes with numbers and information that do not align to the Proposed Rule. Elections administrators have designed their entire workflows around existing procedures. The general election is November 3, 2026, and some States send out mail-in ballots as early as 60 days before the election.<sup>24</sup> Even assuming sufficient funding, there is not enough time to build, test, and safely deploy a system of this scale before millions of voters cast their mail ballots. The rushed timeline all but guarantees the administrative errors will result in votes lost under this Proposed Rule.

### **III. The Proposed Rule is unlawful because it exceeds USPS's authority, conflicts with federal law, and violates the Constitution,**

Except as provided within the Postal Reorganization Act<sup>25</sup> and the Postal Accountability and Enhancement Act,<sup>26</sup> USPS is exempt from the provisions of the Administrative Procedure Act (APA).<sup>27</sup> However, even where APA review is foreclosed, "judicial review is favored when an agency is charged with acting beyond its authority."<sup>28</sup> Courts have applied this principle to USPS in multiple contexts—including, in particular, when USPS implements nationwide service changes without following the procedural requirements laid out in 39 U.S.C. § 3661.<sup>29</sup> USPS is required to first submit the proposed change to the Postal Regulatory Commission (PRC), which must conduct a public hearing on the record that comports with the APA before issuing an advisory opinion.<sup>30</sup> Decisions of the PRC are also subject to appellate review by the U.S. Court of Appeals for the District of Columbia in accordance with APA standards.<sup>31</sup>

With regard to the Proposed Rule, USPS has failed to follow its required procedures, and as one court noted, the timeframe outlined in Executive Order 14399 "provides no allowance for Congress' mandated procedure regarding USPS rulemaking."<sup>32</sup> These procedural failures are compounded by the blatant manner in which USPS is acting outside its statutory authority, and even in direct contravention of federal law. Finally, we note that the Proposed Rule raises severe underlying constitutional deficiencies rooted in federalism and separation of powers concerns as well as due process violations.

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<sup>24</sup> Voting Outside the Polling Place: Absentee, All-Mail and Other Voting at Home Options, Table 7, National Conference of State Legislatures (Aug. 1, 2025), <https://www.ncsl.org/elections-and-campaigns/table-7-when-states-mail-out-absentee-mail-ballots>.

<sup>25</sup> Postal Reorganization Act ("PRA"), Public Law 91-375, 84 Stat. 719 (Aug. 12, 1970), 39 U.S.C. § 410(a).

<sup>26</sup> Postal Accountability and Enhancement Act ("PAEA"), Pub. L. No. 109-435, 120 Stat. 3198 (Dec. 20, 2006) (codified at 39 U.S.C. § 3600 et seq.), § 3661(c).

<sup>27</sup> *National Association for the Advancement of Colored People v. U.S. Postal Service*, 496 F.Supp.3d 1 (D.D.C. Oct. 10, 2020), <https://www.citizen.org/wp-content/uploads/32-Memorandum-Opinion-on-PI-motion.pdf>.

<sup>28</sup> *Aid Ass'n for Lutherans v. U.S. Postal Serv.*, 321 F.3d 1166, 1175 (D.C. Cir. 2003).

<sup>29</sup> *National Association for Advancement of Colored People v. United States Postal Service*, 496 F.Supp.3d 1 (D.D.C. 2020); *New York v. Trump*, 490 F.Supp.3d 225 (D.D.C. 2022); 39 U.S.C. § 3661(b)-(c) (stating that "[w]hen the Postal Service determines that there should be a change ... which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change." "The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded [...]").

<sup>30</sup> 39 U.S.C. § 3661(b)-(c).

<sup>31</sup> 39 U.S.C. § 3663.

<sup>32</sup> *California v. Trump* at 31.

**A. The Proposed Rule is unlawful because it exceeds the authority Congress granted USPS and conflicts with statutory prohibition of discrimination in postal service.**

An agency possesses only the authority Congress granted it and the courts are directed to “hold unlawful and set aside” agency action that is “in excess of statutory jurisdiction, authority, or limitations.”<sup>33</sup> The core duty of USPS, codified at 39 U.S.C. § 403, is to receive, transmit, and deliver mail, serving as nearly as practicable the entire population of the United States. Congress also prohibited USPS from making undue or unreasonable discrimination among users of the mails except as specifically authorized by Congress in Title 39 – Postal Service.<sup>34</sup>

USPS’s rulemaking power is not freestanding; it cannot be exercised in ways inconsistent with USPS’s statutory mandate or in ways that exceed the authority granted by Congress. Congress addressed USPS’s role in elections in the National Voter Registration Act of 1993 (NVRA). The NVRA assigned USPS the narrow task of providing State election officials with address change information and offering reduced postage rates for required mailings.<sup>35</sup> It does not give USPS any gatekeeping role over ballot delivery. The Proposed Rule expands USPS’s role far beyond what the NVRA intended, conditioning ballot delivery on a federal enrollment regime.

Similarly, the Help America Vote Act of 2002 (HAVA) assigns each state the responsibility of maintaining its own voter registration list and conducting list maintenance, explicitly leaving to the states the matter of how to comply.<sup>36</sup> HAVA provides that “[t]he specific choices on the methods of complying with the requirements of this subchapter shall be left to the discretion of the State.”<sup>37</sup> The Proposed Rule creates a federal list that supersedes the State list for ballot-delivery purposes, and it hands USPS an unauthorized gatekeeping role. Neither statute permits USPS to condition the delivery of ballots on compliance with a federal standard. An executive order cannot substitute for or supersede the authorization only Congress can provide.<sup>38</sup>

The District Court of Massachusetts analyzed this very issue in *California v. Trump*, which looked at whether the President had authority to issue Executive Order 14399.<sup>39</sup> Analyzing the statutory provisions that the President outlined in the Executive Order, which USPS subsequently claimed authorized the Proposed Rule, the court determined that none authorized the sweeping power over mail ballots that he claimed.<sup>40</sup> In fact, the court determined that no Act of Congress delegates authority over mail-in voting to USPS and that the agency “lacks statutory authorization to promulgate any binding regulations on mail-in voting.”<sup>41</sup> The court further explained that USPS’s existing election-mail guidance is not binding on the

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<sup>33</sup> 5 U.S.C. § 706(2).

<sup>34</sup> 39 U.S.C. § 403(a)–(c).

<sup>35</sup> National Voter Registration Act of 1993, 52 U.S.C. §§ 20501–20511; 39 U.S.C. § 3629.

<sup>36</sup> Help America Vote Act of 2002, 52 U.S.C. § 21083.

<sup>37</sup> *Id.* at § 21085.

<sup>38</sup> *Chamber of Commerce v. Reich*, 74 F.3d 1322 (D.C. Cir. 1996) (holding that an executive order is unlawful where it attempts to accomplish through unilateral presidential action what Congress has reserved to itself or declined to authorize).

<sup>39</sup> *California v. Trump* at 2.

<sup>40</sup> *Id.* at 2-3.

<sup>41</sup> *Id.* at 31.

States but merely recommended and held the Order's directive that USPS regulate mail voting to be an *ultra vires* executive action.<sup>42</sup> Just as the President did not have statutory authority to issue the Executive Order, so the USPS lacks authority to implement it.

The Proposed Rule would also conflict with the service obligations Congress set for USPS in Title 39. Congress did not leave USPS's mission to the agency's discretion. It directed that the Postal Service "shall provide prompt, reliable, and efficient services to patrons in all areas," serve "as nearly as practicable the entire population of the United States," and reduce the "complexity" of postal operations.<sup>43</sup> The Proposed Rule cannot be squared with these statutory duties. Instead of delivering ballots reliably to all patrons, it would let USPS refuse to deliver ballots whenever a State has not met a new federal enrollment standard. A voter whose State declines to participate, or whose information is misrepresented within or omitted from the federal list, would receive no ballot at all. This is the opposite of the universal, reliable service Congress prescribed as USPS's base function. The Rule also conflicts with Congress's prohibition on discriminatory service. USPS may not "make any undue or unreasonable discrimination among users of the mails except as "specifically authorized" by Congress in Title 39.<sup>44</sup> By conditioning the delivery of ballots to eligible voters on State compliance, the Proposed Rule would be result in exactly the kind of discriminatory service barred by Congress.

Because the Proposed Rule exceeds the authority Congress granted USPS and compels prohibited discrimination among mail users in direct contravention of federal law, it is *ultra vires* and cannot stand.

**B. The Proposed Rule is unconstitutional because it transfers election-administration authority from the sStates to USPS without the action by Congress the Elections Clause requires.**

The Elections Clause, Article I, Section 4, imposes on the States the duty to prescribe the "Times, Places and Manner" of holding federal elections, while giving Congress the discretion to set superseding general regulations.<sup>45</sup> The Supreme Court has confirmed the State's "weighty" interest in protecting the integrity of elections while stating its reluctance to upset "the usual constitutional balance of federal and state powers," particularly regarding a State's authority over its own governmental functions.<sup>46</sup> The President has no role in this structure; the Constitution divides authority over federal elections between the States and Congress, and no provision authorizes the executive to alter the rules governing how elections are conducted. In *Inter Tribal Council*, the Court explained that the Clause "imposes on States the duty to prescribe the time, place, and manner of electing Representatives and Senators, but . . . confers on Congress the power to alter those regulations or supplant them altogether."<sup>47</sup> The mechanics of voter registration and ballot handling fall squarely within the "manner" of elections that this structure governs.<sup>48</sup> The District Court of the District of Columbia applied this same principle in *LULAC v.*

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<sup>42</sup> *Id.* at 30-32.

<sup>43</sup> 39 U.S.C. §§ 101(a), 101(f).

<sup>44</sup> *Id.* at § 403(c).

<sup>45</sup> U.S. Const. art. I, § 4, cl. 1.

<sup>46</sup> *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991); *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 760–61 (2018)

<sup>47</sup> *Arizona v. Inter Tribal Council of Ariz.*, 570 U.S. 1, 8 (2013).

<sup>48</sup> *Id.* at 8–9.

*Executive Office of the President*, holding that the President lacked authority to unilaterally mandate changes to the federal voter registration form, because altering the rules of federal elections is not a power the executive possesses.<sup>49</sup>

The administration of mail balloting, including who is sent a ballot, how it is packaged, and how it is delivered are elements of the "manner" of federal elections that the Elections Clause vests to the States. The Proposed Rule strips that authority away by conditioning each State's ability to conduct mail voting on compliance with the new federal Ballot Portal system and effectively transferring control over mail-ballot administration to USPS. The power to alter the manner of federal elections to this extent would belong to Congress, not the President, and as explained above, Congress did not grant any such power.

Moreover, the Constitution grants to the States alone the power to determine voter eligibility in federal elections.<sup>50</sup> Although it is framed as a set of technical mailing standards, the Proposed Rule's practical effect is to determine who may cast or have a mail ballot counted in a federal election. By conditioning delivery of a ballot on a voter's appearance on a federally maintained enrollment list and directing that USPS "shall not transmit the ballot of any voter" who is not enrolled, the Rule effectively allows the federal government to decide which voters can and cannot participate by mail. That is a determination of voter eligibility in all but name. A voter who is eligible under State law but who is omitted from the federal list, whether through error or delay, is effectively rendered ineligible to vote by mail. The Constitution does not permit the federal government to assume that power granted exclusively to the States.

In *California v. Trump*, the District Court of Massachusetts examined whether the President has authority under the Constitution to issue Executive Order 14399, regulating mail ballots.<sup>51</sup> The court found that Sections 2 and 3 of the Executive Order were unconstitutional violations of the separation of powers.<sup>52</sup> In fact, the court enjoined USPS from completing this very rulemaking as to the challenging States.<sup>53</sup> In granting summary judgment for the plaintiff States, the court found that the President exceeded his authority by interfering with the time, place, and manner rules set by federal and state law and with voter eligibility determinations made by States alone. Similarly, the Proposed Rule interferes with Congress's and the State's authority over election administration and eligibility and cannot stand.

**C. The Proposed Rule violates the due process guarantee of the Fifth and Fourteenth Amendments because it eliminates a voter's ability to receive or mail ballots without ever notifying her and without affording any opportunity to correct the error before the finality of her vote being lost.**

The Due Process Clause of the Fifth and Fourteenth Amendments forbids the government from depriving any person of a protected interest without due process of law. The Supreme Court held in *Mathews v. Eldridge* that "[t]he fundamental requirement of due process is the opportunity to be heard 'at a

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<sup>49</sup> *LULAC v. Exec. Off. of the President*, No. 25-0946 (D.D.C. 2025).

<sup>50</sup> U.S. Const. art. I, § 2, cl. 1; U.S. Const. amend. XVII.

<sup>51</sup> *California v. Trump* at 30.

<sup>52</sup> *Id.* at 28.

<sup>53</sup> *Id.* at 34-35.

meaningful time and in a meaningful manner."<sup>54</sup> This guarantees that "a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it."<sup>55</sup> In the decision, *Reynolds v. Sims*, the Court clarified that the right to vote is among the most fundamental rights the Constitution protects, "preservative of other basic civil and political rights."<sup>56</sup> In determining what process is due, courts weigh three factors: the private interest affected, the risk of an erroneous deprivation through the procedures used and the probable value of additional safeguards, and the government's interest, including the administrative burden additional procedures would impose.<sup>57</sup> The central concern here is the risk of error: where the procedures an agency adopts carry a high risk of mistakenly depriving a person of a protected interest and where additional safeguards such as notice and an opportunity to cure would meaningfully reduce that risk, their absence renders the process unconstitutional.<sup>58</sup> Due process is not satisfied by a remedy that arrives only after the deprivation has become irreversible; the opportunity to be heard must come at "a meaningful time," before the loss is final.<sup>59</sup>

Each *Mathews* factor confirms that the Proposed Rule denies voters the process they are due. First, the private interest at stake should be seen as extremely weighty because it concerns the fundamental right to vote. Once the opportunity to vote is lost in a given election, it can never be restored or remedied. Second, the risk of erroneous deprivation here is severe, and there is value in additional safeguards. As Sections I and II demonstrate, the Ballot Portal's name-matching mechanism and other processes outlined in the Proposed Rule will generate errors at scale, particularly for the identified categories of voters whose records are more likely to produce mismatches. This is demonstrated by the fact that the existing mail ballot systems already rejects hundreds of thousands of ballots even with established practices and procedures. Even so, the Proposed Rule provides no notice to the affected voter, no cure period, and no avenue to challenge a rejection. A voter whose name does not appear on the portal list will not be told by USPS; she will have no opportunity to appear, present documentation, or correct the record. The complete absence of safeguards here compounds the deficiencies *Mathews* was meant to guard against.

Lastly, the government's stated interest cannot justify ignoring these safeguards. The fraud-prevention rationale is unsupported by evidence, and the administrative burden of a notice-and-cure process is minimal, as it is already a standard practice in many States. As written, the Proposed Rule risks that by the time a rejection becomes discoverable, the election will have passed, and the voter's ballot will have been permanently lost. That is the opposite of an opportunity to be heard "at a meaningful time and in a meaningful manner." Because the Proposed Rule deprives voters of a fundamental right through an error-prone process that provides no notice, no opportunity to cure, and no remedy until after the deprivation is irreversible, it fails every factor of the *Mathews* test and violates constitutional due process requirements.

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<sup>54</sup> *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

<sup>55</sup> *Mathews v. Eldridge* at 348–49 (quoting *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U.S. 123, 171–72 (1951) (Frankfurter, J., concurring)).

<sup>56</sup> *Reynolds v. Sims*, 377 U.S. 533, 562 (1964).

<sup>57</sup> *Mathews v. Eldridge* at 335.

<sup>58</sup> *Id.*

<sup>59</sup> *Mathews v. Eldridge* at 333; see *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).

## Conclusion

The right to vote is fundamental to American democracy and preservative of every other right. For many Americans, including disproportionately women, LGBTQ+ people, people of color, and low-income people, access to mail voting can sometimes be the only practical means of exercising that right. Therefore, the disruption of mail voting is not merely a procedural inconvenience but may be an irreversible deprivation.

The Proposed Rule has significant legal deficiencies: it would construct a new federal barrier to mail voting that exceeds and directly conflicts with USPS's statutory authority, violates constitutional principles of federalism and separation of powers, and denies due process to the voters it burdens. The fact that it is being hastily pushed forward to address a supposed problem of fraud of which the agency provides no evidence, on a timeline that makes effective and accurate implementation impossible, and with no mechanism for the voters it harms to seek any remedy before Election Day, compounds the harm this egregiously unlawful Proposed Rule would cause. Multiple federal courts have now held as much, enjoining USPS from completing this very rulemaking.<sup>60</sup> USPS should withdraw the Proposed Rule in its entirety rather than finalize a Proposed Rule that courts have already declared beyond its authority.

Should you have any questions about this comment, please contact me at [agill@nwlc.org](mailto:agill@nwlc.org). Thank you for your consideration.

Very truly yours,



Alison Gill  
Senior Director of Nominations & Democracy  
National Women's Law Center

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<sup>60</sup> *California v. Trump; National Association for the Advancement of Colored People v. U.S. Postal Service*, No. 20-cv-2295(EGS), Memorandum Opinion (D.D.C. Jun. 1, 2026).

# LAW FORWARD

July 2, 2026

## Source

<https://www.lawforward.org/usps-absentee-ballot-rules-threaten-the-right-to-vote/>

## Principal Issues Raised

Constitutional authority over elections; unlawful expansion of Postal Service authority; separation of powers; burdens imposed on state and local election officials; privacy and confidentiality of voter information; implementation immediately before a federal election; risks to absentee and mail voting; and voter disenfranchisement.

## Principal Authorities Cited

U.S. Constitution, Article I, § 4 (Elections Clause); U.S. Constitution, Article II; Postal Reorganization Act of 1970; Administrative Procedure Act, 5 U.S.C. §§ 551–706; 39 U.S.C. §§ 101, 401, 403, and 404; Voting Rights Act of 1965; National Voter Registration Act of 1993; Help America Vote Act of 2002; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



Law Forward Inc.  
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July 2, 2026

Director  
Product Classification  
U.S. Postal Service  
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Washington, DC 20260-5015

*Submitted electronically via PCFederalRegister@usps.gov*

Re: Proposed Rule: Ballot Mail for Federal Elections

Dear Mr. Kennedy,

Law Forward, a nonprofit, nonpartisan organization dedicated to advancing principles of democracy in Wisconsin, writes in objection to the proposed rule change allowing the United States Postal Service (USPS) to obtain lists of state absentee voters, dictate the form of state absentee ballot envelopes, and refuse to deliver ballots that do not comply with USPS regulations.<sup>1</sup> The proposed rule was published by directive of an overreaching and illegal executive order; by extension, it too violates federal law and should be rejected. But the rule threatens something even more fundamental: the right to vote. As drafted, the proposed rule imposes additional, unnecessary requirements on absentee voting that will only further delay USPS's already dilatory absentee ballot distribution process. Delay disenfranchises untold numbers of Wisconsin voters who, for any number of reasons, lawfully choose to vote by mail. The proposed rule must not be adopted.

### **USPS's Proposed Rule Change Violates Federal Law**

Federal law is clear. Congress and the states control election procedure; neither the President nor any part of the federal executive branch has a role. U.S. Const. art. I, § 4. cl. 1; art. II, § 1, cl. 2. And neither Congress nor any state has enacted any statute requiring or authorizing USPS to be involved in election procedure beyond delivering the mail.

Yet, pursuant to Executive Order (EO) 14399, USPS now proposes to insert itself into the heart of election processes, demanding compliance with its chosen envelope design requirements and refusing to deliver any absentee ballots that either do not conform to the USPS design requirements or are addressed to any voters not on a list of absentee voters

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<sup>1</sup> Ballot Mail for Federal Elections, 91 Fed. Reg. 105, 32915 (June 2, 2026) (to be codified at 39 C.F.R. 111).

provided to USPS by each state. EO 14399, § 3. As recently declared by the U.S. District Court for the District of Massachusetts, the provisions giving USPS authority to determine absentee voter eligibility and to control mail-in voting run directly afoul of federal statutory and constitutional law.<sup>2</sup> In short, “USPS lacks statutory authorization to promulgate any binding regulations on mail-in voting.”<sup>3</sup> (Wisconsin is one of twenty-three Plaintiff states in that case and Law Forward filed an amicus brief on behalf of Wisconsin voters and organizations committed to voting rights.) Moreover, as discussed in more detail below, the U.S. District Court for the District of Columbia concluded just yesterday that the proposed rule violates a settlement agreement between the NAACP and USPS in which USPS agreed to prioritize the timely delivery of election mail, including mail-in ballots.<sup>4</sup>

Furthermore, to comply with the compressed timeline demanded by EO 14399, USPS has violated applicable federal rulemaking procedure. Specifically, USPS is required to submit a proposal to the Postal Regulatory Commission (PRC) for an advisory opinion any time it wishes to make a “change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.”<sup>5</sup> Federal law gives the PRC 90 days to issue its advisory opinion.<sup>6</sup> Here, USPS has not submitted the proposed rule to the PRC, nor does the timeline for rulemaking imposed by EO 14399 allow the necessary time. USPS was given until May 30, 2026 to publish the proposed rule and until July 29, 2026 to finalize the rule. EO 14399, § 3(b), (d).

### **Wisconsin Already Complies with Many of the Proposed Regulations, Rendering the Rule Unnecessary**

Under current law, USPS publishes ballot mail preparation recommendations that include use of an “Election Mail Logo.”<sup>7</sup> States *may* print the logo on their absentee ballot return envelopes to ensure postal employees can readily identify and expedite the processing and delivery of election mail.<sup>8</sup> USPS’s recommended best practices for ballot envelope design also include automation compatibility and mailpiece design review.<sup>9</sup> The proposed rule mandates

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<sup>2</sup> *State of California, et al., v. Donald J. Trump, et al.*, No. 1:26-cv-11581-IT, at 30-32 (D. Mass. June 25, 2026) (order granting injunction).

<sup>3</sup> *Id.* at 31.

<sup>4</sup> *NAACP v. USPS*, No. 20-cv-02295-EGS (D.D.C. July 1, 2026) (Memorandum Op. granting motion to enforce compliance with settlement agreement).

<sup>5</sup> 39 U.S.C. § 3661(b).

<sup>6</sup> 39 C.F.R. § 3020.102(a).

<sup>7</sup> Ballot Mail for Federal Elections, 91 Fed. Reg. at 32916.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

that states adopt the envelope design recommendations and that USPS review and approve each state's envelopes.<sup>10</sup>

Wisconsin has largely already adopted these recommendations. In 2023, for example, the Wisconsin Elections Commission (WEC) redesigned and adopted new absentee ballot envelopes and return certificates that include prominent display of the USPS Election Mail Logo.<sup>11</sup> And USPS was consulted as the new designs were developed.<sup>12</sup> It is simply not necessary to mandate what is already done. And it is improper to ignore what has been voluntarily and cooperatively done for the purpose of decreeing unilateral changes within an unworkable timeframe.

### **The Proposed Rule Creates More Problems than it Purports to Solve**

As noted above, the proposed rule makes USPS review and approval of state-designed absentee ballot envelopes mandatory, but it does not specify any further details. Must USPS review and approve envelopes for every state before every election? What is the timeline for approval? What happens if USPS rejects a proposed ballot design? The rules are clear that USPS will not accept ballots that do not comply with mandatory design standards and that USPS “assumes no responsibility for any outbound ballot mailing until it is accepted into the mail,” that mail that does not comply with the design standards “will not be accepted,” and that USPS “is not responsible for service delays” when “the applicable preparation or entry standards are not met.”<sup>13</sup> Thus, USPS seeks to insert itself into state and local election procedures, while also disclaiming any responsibility for additional delays caused by its involvement.

The proposed rule and the underlying executive order do not clarify how states in the midst of election cycles when USPS completes its rulemaking are to implement the new rule. Wisconsin's 2026 partisan primary will be held on August 11, 2026—a mere 13 days after the July 29 rulemaking deadline. In accord with federal and state law, absentee ballots will have been distributed, and in-person absentee voting will have commenced, before USPS's rulemaking is complete. Will the rules go into effect immediately? Or will they apply only to elections not already underway? Neither EO 14399 nor the proposed rule answers these questions.

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<sup>10</sup> *Id.* at 32918.

<sup>11</sup> WEC, Minutes of the Meeting of Aug. 4, 2023 at 2, available at <https://elections.wi.gov/sites/default/files/documents/August%204%2C%202023%20Open%20Session%20Minutes%20APPROVED.pdf>; see also, WEC, Open Session Materials – August 4, 2023 at 12-27, available at <https://elections.wi.gov/sites/default/files/documents/Open%20Session%20Materials%20-%20August%204%202023.pdf>.

<sup>12</sup> WEC, Open Session Materials – August 4, 2023 at 3, 7-8.

<sup>13</sup> Ballot Mail for Federal Elections, 91 Fed. Reg. at 32918.

## USPS Delay Threatens Disenfranchisement

The proposed rule also threatens disenfranchisement by creating confusion and additional delay.

First, the duties to be shouldered by USPS are problematic. Notably, the agency is underfunded and overburdened.<sup>14</sup> Implementing EO 14399 in light of this would significantly affect Wisconsin voters. Wisconsin election officials already routinely receive, after election day, USPS deliveries of absentee ballots mailed and postmarked before election day. Under Wisconsin law, absentee ballots received after election day are not counted.<sup>15</sup> In April of this year, 269 absentee ballots cast by City of Milwaukee voters in Wisconsin's spring election were received the day after election day and could not be counted.<sup>16</sup> Wisconsin has only two major USPS sorting facilities, located in Milwaukee and Green Bay. Most mail in Wisconsin, even when sent from one address to another in the same municipality, is routed to Milwaukee or Green Bay, sorted, and then transmitted back to the local post office before delivery. A smaller portion of Wisconsin mail is sent to the Twin Cities in Minnesota for sorting and then returned to Wisconsin for delivery.<sup>17</sup> All of this takes time and resources.

The proposed rule is likely to exacerbate this problem in Wisconsin. Under the proposed rule, the mandatory unique barcodes to be printed on absentee ballot envelopes can be read only by USPS locations with the necessary equipment. For Wisconsin voters, the only locations currently equipped to read such bar codes are in Milwaukee and Minneapolis, meaning that absentee ballots must be routed through those locations.<sup>18</sup> Cutting out Green Bay as a processing facility would be especially problematic for rural voters whose ballots are already delayed under the current process. Mandating that their ballots be routed through even-more-distant postal facilities will, again, create only further delay.

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<sup>14</sup> Hansi Lo Wang, *The Postal Service may be out of cash in 2027 without Congress' help*, postmaster says, NATIONAL PUBLIC RADIO (Mar. 17, 2026), available at <https://www.npr.org/2026/03/17/nx-s1-5750419/usps-running-out-of-money-postal-service-david-steiner>; Richelle Wilson, *Wisconsin village faces mail delivery delays amid financial crisis for US Postal Service*, WIS. PUBLIC RADIO (Apr. 16, 2026), available at <https://www.wpr.org/news/wisconsin-village-brown-deer-usps-postal-service-crisis>.

<sup>15</sup> Wis. Stat. § 6.87(6).

<sup>16</sup> Mariana La Roche, *Milwaukee Election Commission reports late delivery of absentee ballots*, WISN 12 (Apr. 9, 2026), available at <https://www.wisn.com/article/milwaukee-election-commission-reports-late-delivery-of-absentee-ballots/70977867>.

<sup>17</sup> *61 Regions with RPDCs*, RESEARCH HUB, available at <https://www.randymajors.org/customgmap?x=-89.4641473&y=44.2557563&cx=-98.2092645&cy=37.5562624&zoom=5&mapbuilder=true&areatype=zip&sheetid=1pN41Qgq4thAjpFnqX7j74TNSVE1bcQDbABvb8Lx0LI&markertype=sheet&markers=1eW0lrO6425MJDEvu4-LrKOGWjp5jSa6831aiSx0wRro&title=61+Regions+with+RPDCs&hidelegend=hide> (last visited July 2, 2026).

<sup>18</sup> Molly Beck, *Proposed Postal Service rule could risk ballot delivery in Wisconsin*, Milwaukee J. Sentinel (June 11, 2026), available at <https://www.jsonline.com/story/news/politics/2026/06/11/ballot-delivery-at-risk-if-wisconsin-doesnt-hand-over-voter-info/90501373007/>.

Second, the rule expressly does not apply to absentee ballots distributed to eligible overseas voters under UOCAVA nor to absentee ballots distributed for federal primary elections.<sup>19</sup> Presumably, the rule also does not apply to regularly held state and local-only elections (held in Wisconsin in February and April of each year<sup>20</sup>) or to special elections for state and local offices but would apply to special elections for Congress. Different standards for different voters and different elections increases the risk of confusion, mistake, and delay.

Third, and as noted above, as a federal court decided just yesterday that the additional mail processing delay threatened by the proposed rule puts USPS out of compliance with a settlement agreement it signed with the NAACP regarding USPS practices for election mail. Pursuant to that agreement, the “parties stipulated that the Postal Service agreed ‘to prioritize monitoring and timely delivery of election mail.’”<sup>21</sup> The Court explained that the settlement agreement “does not allow the Postal Service to put in place a policy of refusing to accept and deliver certain ballots,” which the proposed rule purports to do.

Mail-in ballots are a safe and valid mechanism for casting a ballot. Wisconsin has authorized absentee voting since the Civil War, when it sought to ensure soldiers fighting to preserve the Union would not be disenfranchised during their military service.<sup>22</sup> USPS has long been a partner to Wisconsin in making sure that eligible voters can fully participate in Wisconsin elections. We treasure the right to vote and our historic role in helping pioneer absentee voting. USPS’s proposed rule threatens to disrupt this established system, thereby putting the fundamental right to vote at risk. This is simply unacceptable.

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Law Forward opposes the changes articulated in the proposed rule regarding Ballot Mail for Federal Elections and requests that USPS not proceed with adopting the rule.

Sincerely,

Law Forward

Jeffrey A. Mandell  
*President and General Counsel*

Rachel E. Snyder  
*Policy Counsel*

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<sup>19</sup> Ballot Mail for Federal Elections, 91 Fed. Reg. at 32917.

<sup>20</sup> Wis. Stat. §§ 5.05(21)-(22).

<sup>21</sup> NAACP, No. 20-cv-02295-EGS at 3.

<sup>22</sup> Russell Horton, *Origins of Absentee Voting*, Wis. Veterans Museum (Sept. 15, 2020), available at <https://wisvetmuseum.com/origins-of-absentee-voting/>.

# AMERICA FIRST LEGAL

**July 2, 2026**

## **Source**

<https://aflegal.org/press-release/america-first-legal-urges-u-s-postal-service-to-require-citizenship-verification-for-federal-mail-ballots/>

## **Principal Issues Raised**

Support for the proposed rule; Postal Service authority to regulate ballot-mail preparation; implementation of Executive Order 14399; election integrity; uniform national standards; prevention of fraud; verification of ballot mail; and preservation of public confidence in federal elections.

## **Principal Authorities Cited**

Executive Order 14399; Postal Reorganization Act of 1970; 39 U.S.C. §§ 401 and 404; Uniformed and Overseas Citizens Absentee Voting Act; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



July 2, 2026

## Submitted Via Email

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## AFL Comment on the U.S. Postal Service's Notice of Proposed Rulemaking

### I. Introduction and Summary

America First Legal (“AFL”) submits this comment on the United States Postal Service’s (“USPS” or the “Postal Service”) notice of proposed rulemaking, *Ballot Mail for Federal Elections* (the “NPRM” or “Proposed Rule”).<sup>1</sup> AFL submits this comment both as an interested person under 5 U.S.C. § 553(e) and as the petitioner whose Petition for Rulemaking, filed with the Postal Service on April 20, 2026 (the “Petition”), remains pending before the agency.<sup>2</sup>

AFL commends the Postal Service for recognizing, as the Petition urged, that mail-in and absentee ballots transmitted in federal elections require uniform exterior identification and end-to-end traceability. The Proposed Rule adopts much of the technical architecture the Petition requested: the Official Election Mail logo, a uniquely serialized Intelligent Mail barcode (“IMb”) on each ballot envelope, an enrollment-based participation list, and an acceptance-stage verification step.

However, the Proposed Rule also discards the substantive integrity function it was designed to serve and omits the statutory basis on which the Petition rested. While the Proposed Rule verifies that ballots are mailed to *enrolled* individuals, it does nothing to verify that enrolled individuals are *eligible* to vote; that is, that they are United States citizens lawfully entitled to receive a federal ballot. It builds a ballot portal, participation lists, unique, serialized barcodes, and a verification step, then expressly disclaims any role in confirming whether a mailed ballot is lawful or fraudulent.

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<sup>1</sup> 91 Fed. Reg. 32,915 (June 2, 2026).

<sup>2</sup> Petition for Rulemaking, *In re Proposed Amendments to Publication 52 and the Domestic Mail Manual to Implement Security Standards for Mail-In and Absentee Ballots in Federal Elections* (Apr. 20, 2026) (“Petition”), <https://perma.cc/YYV9-XKDX>.

More fundamentally, the NPRM does not engage the legal framework the Petition placed squarely before the agency. The Proposed Rule grounds itself solely in 39 U.S.C. §§ 401 and 404; it does not use the word “nonmailable”; it does not cite 39 U.S.C. § 3001(a); and it does not address whether ballots mailed in violation of 18 U.S.C. §§ 1341 and 1342 are nonmailable by operation of law. For the reasons set forth below, AFL respectfully requests that the Postal Service (a) treat the NPRM as its response to AFL’s pending § 3001(m) Petition and address that Petition on its own terms, or formally rule upon it; (b) revise the Proposed Rule to incorporate federal citizenship and eligibility verification as a condition of enrollment; and (c) adopt the additional revisions specified in Part VII.

## **II. Interest of the Commenter**

AFL is a national, 501(c)(3) nonprofit organization dedicated to promoting the rule of law, preventing executive and administrative overreach, and ensuring due process and equal protection for all Americans. Among AFL’s core institutional priorities is the restoration of election integrity, including ensuring that only eligible citizens participate in federal elections and that lawful votes are neither diluted nor nullified by unlawful or fraudulent ballots.

AFL’s interest in this proceeding is direct and concrete. AFL filed the Petition that USPS’s NPRM substantially tracks, and AFL therefore has a particularized interest in whether the agency’s response adequately addresses the legal theory and the regulatory requests the Petition advanced.

The interests at stake extend beyond AFL. Every lawful voter possesses a legally cognizable interest in the integrity of federal elections and in ensuring that the mail is not made an instrument of election fraud. Likewise, the states that rely on the Postal Service to transmit ballots have a clear and direct interest. A state that uses the mail to conduct a federal election has a sovereign interest in the lawful administration of that election, a fiscal interest in not bearing the costs imposed by fraudulent or unauthorized ballots moving through the same mail system as lawful ones, and an interest in protecting its eligible citizens against the dilution of their votes. The Proposed Rule’s decision to vest states with unreviewable control over participation-list content, while supplying no eligibility check, directly implicates those interests. AFL submits this comment in consideration of both its own interests and those broader interests.

### III. The NPRM Is the Postal Service's Response to AFL's Pending § 3001(m) Petition and Must Be Treated as Such

AFL's Petition was filed under 5 U.S.C. § 553(e) and 39 U.S.C. § 3001(m). It expressly invoked the Postal Service's nonmailability authority under 39 U.S.C. § 3001(a), identified 18 U.S.C. §§ 1341 and 1342 as the enumerated predicate statutes rendering fraudulent election mail nonmailable by operation of law, and requested a rule operationalizing that determination.<sup>3</sup>

Although the Postal Service is generally exempt from the rulemaking provisions of the Administrative Procedure Act by 39 U.S.C. § 410(a), Congress created a targeted exception for mailability matters: "proceedings concerning the mailability of matter under this chapter . . . shall be conducted in accordance with chapters 5 and 7 of title 5."<sup>4</sup> The District Court for the District of Columbia has held that a third party's petition regarding nonmailability under § 3001—and the agency's disposition of that petition—constitute a proceeding concerning the mailability of matter subject to APA review notwithstanding § 410(a).<sup>5</sup>

Nor may the NPRM be recharacterized as merely a §§ 401 or 404 "preparation standard" rulemaking unrelated to mailability and therefore outside § 3001(m). The substance of the matter controls, not the Domestic Mail Manual ("DMM") section that the agency happens to select as its vehicle. The Petition placed the mailability of fraudulent federal election ballots directly at issue. The NPRM concerns the identical subject matter, was issued five weeks after the Petition, responds to the same Executive Order that prompted the Petition,<sup>6</sup> and adopts the very exterior-marking and traceability mechanisms the Petition proposed. It is undeniably the agency's response to a mailability petition, and § 3001(m) carries that response past the § 410(a) exemption, exactly as *Humane Society* holds.

Notably, the authority citation for 39 C.F.R. Part 111 reprinted in the NPRM itself continues to include 39 U.S.C. §§ 3001–3011.<sup>7</sup> The Postal Service's § 3001 authority is thus available for Part 111; the agency has simply declined to exercise it. USPS may not invoke its own silence as a jurisdictional shield.

AFL recognizes that the Postal Service may contend the Petition remains "pending" and that the NPRM, which neither grants nor formally denies it, is a separate action not yet ripe for review. That position is untenable. An NPRM that adopts a petition's

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<sup>3</sup> Petition ¶¶ 1–5, 22–44.

<sup>4</sup> 39 U.S.C. § 3001(m).

<sup>5</sup> *Humane Soc'y of the U.S. v. U.S. Postal Serv.*, 609 F. Supp. 2d 85, 94–97 (D.D.C. 2009).

<sup>6</sup> Exec. Order No. 14,399, *Ensuring Citizenship Verification and Integrity in Federal Elections*, 91 Fed. Reg. 17,125 (Mar. 31, 2026).

<sup>7</sup> 91 Fed. Reg. at 32,917.

technical requests while silently abandoning its statutory theory and its central substantive request operates as a constructive denial of the relief sought. To eliminate any doubt, AFL respectfully requests that the Postal Service, in connection with any final rule, expressly state whether it grants or denies the Petition and explain its reasoning. An agency that receives a § 553(e) petition must respond to it, and a denial must rest on a reasoned explanation addressing the petition's legal basis.<sup>8</sup> Should the Postal Service neither act on the Petition nor address its theory, AFL reserves the right to seek review of both the agency's failure to act as well as any final rule, as arbitrary, capricious, and not in accordance with law.<sup>9</sup>

#### **IV. Substantive Defects in the Proposed Rule**

##### **A. The Rule Makes No Nonmailability Determination and Selects the Wrong Regulatory Vehicle.**

The Postal Service has placed the new election-mail standards in DMM 705, "Advanced Preparation and Special Postage Payment Systems"—a section governing operational preparation for commercial mailers. By framing the Proposed Rule as a preparation standard rather than a mailability standard, the agency signals its intent to treat noncompliant ballots as merely improperly prepared, not as nonmailable matter. Thus, the Rule carries only acceptance-stage consequences and engages none of the Postal Service's authority and duty under § 3001 to exclude nonmailable matter from the mailstream.

The Petition asked the Postal Service to classify federal election mail as a category of restricted mail within the Publication 52 framework and to find that ballots mailed in violation of §§ 1341 and 1342 are nonmailable under § 3001(a).<sup>10</sup> The NPRM does not engage that request; it does not mention Publication 52, § 3001(a), or nonmailability at all. The Postal Service should make an express § 3001(a) finding and explain its reasoning.

##### **B. The Rule Contains No Citizenship or Eligibility Verification.**

The Postal Service has constructed an entire apparatus—the Federal Ballot Mail Portal, enrollment, State-Specific Participation Lists, serialized barcodes, and an acceptance-stage verification step under DMM 705.24.5—and then aimed it exclusively at confirming that outbound ballots are addressed to *enrolled* individuals. Under DMM 705.24.5.1, the verification checks only that a mailing "is being sent to individuals who have been enrolled."<sup>11</sup> The Proposed Rule does not require that enrolled individuals be confirmed to be eligible voters.

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<sup>8</sup> *Massachusetts v. EPA*, 549 U.S. 497, 527–28 (2007).

<sup>9</sup> 5 U.S.C. § 706(1), (2)(A).

<sup>10</sup> Petition ¶¶ 33–37, 45.

<sup>11</sup> 91 Fed. Reg. at 32,918.

The Rule makes this abdication explicit. DMM 705.24.4 provides that “states would retain full control over who would (or would not) be able to vote by mail,” and DMM 705.24.6 disclaims any Postal Service role: “The Postal Service does not purport to alter the eligibility of any individual to vote . . . [and] does not have any legal responsibility for management of state voter rolls.”<sup>12</sup> The Postal Service “would not verify whether individuals should or should not be included on a State’s . . . List.”<sup>13</sup>

AFL’s Petition requested precisely the opposite. It proposed that the participation list “shall only include individuals confirmed by the federal government to be United States citizens” above the age of eighteen who maintain a residence in the subject State.<sup>14</sup> That federal citizenship confirmation—derived directly from the “State Citizenship List” mechanism contemplated by Executive Order 14,399—was the core substantive check the Petition sought. Without it, the participation list is an administrative roster stripped of any integrity function.

The omission is arbitrary and capricious in light of the evidence before the agency. The Petition documented a persistent, nationwide pattern of noncitizen and unauthorized participation in voting, drawing on official findings from at least nine States and the Heritage Foundation’s election-fraud database.<sup>15</sup> The absence of an eligibility check at the enrollment stage is the precise mechanism by which fraudulent ballots enter the mail. An agency that builds a verification system, is presented with evidence of fraud that the system could address, and then deliberately declines to verify the one fact dispositive of a ballot’s lawfulness—the enrolled individual’s citizenship and eligibility—has not engaged in reasoned decisionmaking. The Postal Service should require that enrollment be conditioned on federal confirmation of citizenship and eligibility, consistent with Executive Order 14399.

### **C. Return to the Authorized Ballot Mailer Is Not a Nonmailability Disposition.**

The Proposed Rule provides that noncompliant outbound mailings “will not be accepted and will be returned to the authorized ballot mailer,” DMM 705.24.5.3(a), and states that “[t]he Postal Service’s acceptance of Outbound Federal Ballot Mail does not constitute verified compliance.”<sup>16</sup> This is a pre-acceptance operational rejection, not a determination of nonmailability under § 3001(a), and it has two significant gaps.

*First*, because the mechanism operates only at the point of acceptance and is not a § 3001 determination, it does not engage the Postal Service’s authority under 39 U.S.C.

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<sup>12</sup> 91 Fed. Reg. at 32,916, 32,919.

<sup>13</sup> *Id.* at 32,916.

<sup>14</sup> Petition ¶ 45 (proposed § [X].2(c)).

<sup>15</sup> Petition ¶¶ 20–21.

<sup>16</sup> 91 Fed. Reg. at 32,918.

§ 3001(b) to dispose of nonmailable matter that reaches the mailstream. A noncompliant ballot that enters the mail after acceptance would, under the Proposed Rule, simply be delivered. The Petition's proposed return-to-sender disposition under POM § 139.118 would by contrast reach noncompliant matter at any point in the mailstream.<sup>17</sup>

*Second*, the Rule's enforcement architecture is one-directional. It imposes envelope standards on both Outbound and Return Federal Ballot Mail, DMM 705.24.3.1–3.2, but the verification and non-acceptance regime of DMM 705.24.5 applies only to *outbound* mail. There is no mechanism to verify or refuse a *return* ballot envelope (voter to election official) that lacks the required markings. The integrity of the completed ballot as it travels back to the canvassing authority, where the actual vote is cast, is therefore left unprotected. The Postal Service should extend a verification and disposition mechanism to return ballot mail and should adopt the POM § 139.118 return-to-sender framework, including documentation, United States Postal Inspection Service ("USPIS") notification, and cure procedures.

#### **D. The Exclusion of Primary Elections is Unexplained and Inconsistent with the Governing Statutes.**

DMM 705.24.1(f) defines "Federal election" to mean "any general, special, or runoff election" and expressly provides that "[t]his definition does not include primary elections."<sup>18</sup> The agency's stated rationale is that "[p]rimary elections largely involve political parties selecting nominees through their chosen procedures, rather than direct election of federal officials."<sup>19</sup>

That rationale does not withstand scrutiny. The criminal statutes that supply the integrity concern here—18 U.S.C. §§ 1341 and 1342 and 52 U.S.C. §§ 10307 and 20511—apply to federal primary elections no less than to general elections. Indeed, 52 U.S.C. § 20511 reaches conduct "in any election," and § 10307(e) reaches voting more than once "in any" federal election. A fraudulent mail-in ballot in a federal primary is equally a mailing in furtherance of a scheme to defraud and nonmailable. The Postal Service should delete the primary-election carve-out; at a minimum, it must explain why its purported distinction is consistent with the statutory predicates that govern mailability.

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<sup>17</sup> Petition ¶¶ 46–50.

<sup>18</sup> 91 Fed. Reg. at 32,917.

<sup>19</sup> *Id.* at 32,916.

### **E. The 30-Day, “To the Extent Practicable” List Submission Window is Inadequate.**

DMM 705.24.4.2(d) requires Ballot Portal Users to submit enrollment information “at least 30 days before the date of the federal election, to the extent practicable.”<sup>20</sup> That is half the 60-day window the Petition requested,<sup>21</sup> and the “to the extent practicable” qualifier renders even the 30-day baseline aspirational. The compressed and qualified timeline materially shortens the window in which anomalies can be identified and investigated before ballots are mailed. The Postal Service should adopt a firm 60-day submission deadline without a practicability exception.

### **F. The UOCAVA Exclusion Warrants Explanation.**

The Proposed Rule also excludes ballots covered by the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”).<sup>22</sup> AFL does not object to recognizing UOCAVA’s distinct statutory framework, but the Postal Service should clarify that UOCAVA ballots remain subject to generally applicable mailability law and explain how the integrity objectives of this Rule will be served for that category of ballots. Otherwise, the UOCAVA carveout should be removed from the final rule.

## **V. The Proposed Rule Ignores the Governing Legal Framework**

The NPRM does not engage any of the authorities on which the Petition rested, and which independently support the requested standards. AFL incorporates the Petition’s full legal argument by reference and summarizes the controlling principles here so that they are squarely before the agency.

*Ex parte Jackson*<sup>23</sup> establishes that the postal power “embraces the regulation of the entire postal system,” and that “[t]he right to designate what shall be carried necessarily involves the right to determine what shall be excluded.”<sup>24</sup> It also confirms that postal officers may act on exterior inspection alone where “the object is exposed, and shows unmistakably that it is prohibited,”<sup>25</sup> so that screening for the presence or absence of required exterior markings raises no Fourth Amendment concern.

*Public Clearing House v. Coyne*<sup>26</sup> confirms that the Postal Service has both the authority and the affirmative duty to refuse to deliver fraudulent matter, that such a refusal is “merely . . . a refusal to extend the facilities of the Post Office Department” and not a confiscation, and that “the rights of the public must . . . override the rights

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<sup>20</sup> *Id.* at 32,918.

<sup>21</sup> Petition ¶ 45 (proposed § [X].4); *see also* Exec. Order 14,399, § 3.

<sup>22</sup> 91 Fed. Reg. at 32,915–16.

<sup>23</sup> 96 U.S. 727 (1878).

<sup>24</sup> *Id.* at 728, 732.

<sup>25</sup> *Id.* at 735–36.

<sup>26</sup> 194 U.S. 497 (1904).

of individuals” who would exploit the mails for fraud, provided ultimate judicial recourse remains.<sup>27</sup>

*McCrossen v. United States*<sup>28</sup> and *Monart, Inc. v. Christenberry*<sup>29</sup> confirm that the nonmailability statutes are construed broadly, that nonmailability can be established from exterior inspection alone, and that once a class of matter is determined nonmailable the Postmaster bears “an obligation . . . not to permit such matter to be conveyed through the mails.”<sup>30</sup> These authorities establish that categorical, rule-based exclusion—not ballot-by-ballot adjudication—is both permissible and, once the classification is made, mandatory.

Finally, the convergence of 18 U.S.C. §§ 1341 and 1342 with 52 U.S.C. §§ 10307 and 20511 establishes the nonmailability predicate: a ballot mailed by or on behalf of an ineligible voter, or in a fictitious name, in furtherance of a scheme to defraud the electorate is matter “the deposit of which in the mails is punishable” under §§ 1341 and 1342, and is therefore nonmailable under 39 U.S.C. § 3001(a).<sup>31</sup> The NPRM cites §§ 10307 and 20511 only as examples of federal law it seeks to “facilitate,” never as predicates for a mailability determination, and never explains why—if the Petition’s legal theory is correct—the agency may decline to make the § 3001(a) finding the statute contemplates.

## VI. The Foregoing Omissions Constitute Reviewable Defects

Under *Humane Society*, the Postal Service’s disposition of a § 3001(m) mailability petition is final agency action subject to APA review, and a disposition that fails to engage the petition’s core theory is arbitrary and capricious.<sup>32</sup> The NPRM received and substantially tracked AFL’s Petition, yet contains no § 3001(a) analysis, no §§ 1341/1342 analysis, no nonmailability determination, and no acknowledgment of the Petition at all. An agency response that adopts a petitioner’s mechanisms while ignoring its statutory theory and omits the dispositive substantive safeguard the petitioner requested does not reflect the reasoned consideration the APA requires. AFL raises each of these defects now to ensure that they are preserved squarely before the agency.

## VII. Specific Requested Revisions

AFL respectfully requests that the Postal Service revise the Proposed Rule as follows:

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<sup>27</sup> *Id.* at 509–11, 516.

<sup>28</sup> 339 F.2d 810 (10th Cir. 1965).

<sup>29</sup> 168 F. Supp. 654 (S.D.N.Y. 1958).

<sup>30</sup> *Monart*, 168 F. Supp. at 656.

<sup>31</sup> Petition ¶¶ 38–44; see Fed. Election Fraud Fact Sheet, U.S. Dep’t of Justice, U.S. Att’y’s Office, Dist. of N.H. (updated Feb. 2, 2016) [<https://perma.cc/Q8V2-5LCG>]

<sup>32</sup> 609 F. Supp. 2d at 94–97.

- (1) Amend DMM 705.24.4 to condition enrollment on confirmation—by the federal government, consistent with Executive Order 14,399—that each enrolled individual is a United States citizen, will be at least eighteen years of age at the time of the election, and maintains a residence in the subject State.
- (2) Make an express finding under 39 U.S.C. § 3001(a) that federal election mail lacking the required markings, or addressed to or returned by a person not confirmed eligible, is nonmailable, and relocate the standards into a restricted-mail framework (Publication 52) that gives them mainstream effect.
- (3) Provide that noncompliant Federal Election Mail is suspected nonmailable matter subject to return under POM § 139.118, with documentation, USPS-notification, and voter-protective cure procedures, and extend the disposition to matter identified anywhere in the mainstream, not only at acceptance.
- (4) Extend the verification and non-acceptance mechanism of DMM 705.24.5 to Return Federal Ballot Mail.
- (5) Delete the primary-election exclusion in DMM 705.24.1(f), or explain its consistency with 18 U.S.C. §§ 1341–1342 and 52 U.S.C. §§ 10307 and 20511.
- (6) Replace the “at least 30 days . . . to the extent practicable” standard in DMM 705.24.4.2(d) with a firm 60-day deadline.
- (7) State expressly whether the agency grants or denies AFL’s April 20, 2026, Petition, and provide a reasoned explanation addressing its § 3001(a) theory.

## VIII. Conclusion

The Postal Service occupies a uniquely consequential role in the modern federal election. The Proposed Rule takes a meaningful first step by adopting uniform exterior markings and traceability, but it stops short of the safeguard that gives those measures their purpose, and it does so without engaging the statutory framework that authorizes—and requires—more. The regulations AFL requests would not restrict the right of any eligible voter to cast a mail-in ballot; they would ensure that every ballot the Postal Service transmits was sent to a person confirmed eligible to receive it, is traceable to its origin, and is not made an instrument of fraud. AFL respectfully urges the Postal Service to revise the Proposed Rule accordingly and to address AFL’s pending Petition on its own terms.

Respectfully submitted,

/s/ James Rogers

James Rogers

Senior Counsel

AMERICA FIRST LEGAL FOUNDATION

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# AKRON URBAN LEAGUE

**July 2, 2026**

## **Source**

<https://www.akronurbanleague.org/wp-content/uploads/USPS-Opposition-Letter.pdf>

## **Principal Issues Raised**

Equal access to the ballot; racial equity; barriers to voting by mail; disparate impacts on minority communities; voter participation; implementation costs; privacy concerns; and the likelihood that the proposed rule would disproportionately burden historically underserved voters.

## **Principal Authorities Cited**

Voting Rights Act of 1965; U.S. Constitution, Fourteenth and Fifteenth Amendments; National Voter Registration Act of 1993; Help America Vote Act of 2002; Postal Reorganization Act of 1970; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



**Akron  
Urban League**

*Empowering Communities.  
Changing Lives.*

June 30, 2026

Director, Product Classification  
U.S. Postal Service  
475 L'Enfant Plaza SW, Room 4446  
Washington, DC 20260-5015

*Submitted via email to PCFederalRegister@usps.gov and via Regulations.gov*

**RE: Opposition to Proposed Rule — “Ballot Mail for Federal Elections,” Docket No. 2026–10968 (91 FR 32915)**

Dear Director:

The Akron Urban League submits these comments strongly opposing the U.S. Postal Service’s proposed rule on Ballot Mail for Federal Elections. As an affiliate of the National Urban League serving Greater Akron, our mission includes protecting equal access to the ballot for the communities we serve. The proposed rule would create new barriers to mail-in and absentee voting that most adversely affect the voters who rely on it the most—seniors, voters with disabilities, active-duty military members and their families, rural residents, and students. We strongly encourage the Postal Service to withdraw it.

The proposed rule would make the delivery of mail-in and absentee ballots dependent on states submitting voter-level lists to the federal government, require unique barcodes linked to individual voters, and authorize the Postal Service to return ballot mailings that do not match a federally maintained list. The Postmaster General has confirmed that, under this proposal, the Postal Service would refuse to mail ballots in states that do not provide such lists. This marks a significant departure from the agency’s long-standing role as a neutral carrier of election mail, and it risks delaying the timely delivery of ballots due to administrative matching processes entirely outside voters’ control. Because mail voting is time-sensitive, even short delays can cause lawfully cast ballots to arrive too late to be counted—potentially disenfranchising eligible voters through no fault of their own.

**The rule rests on legal authority that the federal courts have now rejected.**

On June 25, 2026, the U.S. District Court for the District of Massachusetts (Talwani, J.) declared the central provisions of Executive Order 14399 unconstitutional—the very order the proposed rule cites as its basis—and prevented their enforcement during the 2026 election cycle. The court ruled that Sections 2 and 3 of the Order are legally void and prohibited federal agencies from relying on the Order to interfere with how states conduct mail voting. Importantly for this rulemaking, the court found that “no law enacted by Congress delegates authority to control mail-in voting to USPS,” and that the agency’s existing election guidance “is not binding on the States, merely recommended.” The court was clear on the constitutional issue: “The Constitution reserves the power to determine voter eligibility to the States alone. Neither the Executive Branch nor Congress may interfere with this power.”

A proposed rule whose authorizing order has been declared void, and whose subject matter a federal court has found to exceed the agency's statutory authority, cannot lawfully proceed. Finalizing it would invite immediate and well-founded legal challenges and would cause confusion among election officials and voters in the months before the November 2026 midterms.

**The Supreme Court has just reaffirmed that states—not the federal government—administer elections.**

On June 29, 2026, the Supreme Court of the United States decided *Watson v. Republican National Committee*, No. 24–1260, upholding a state's authority to count mail-in ballots cast and postmarked by Election Day but received afterward. Writing for the Court, Justice Barrett explained that the defining element of an election “has always been the electorate's choice of candidate,” and that “the electorate's choice is made when voting is complete, not when ballots are received.” The decision reaffirms the bedrock principle of federalism that governs this area: the Constitution leaves the administration of federal elections to the states and Congress. The proposed rule contradicts that principle by inserting the Postal Service into the role of gatekeeper over who receives a ballot and when—a role neither the Constitution nor any statute assigns to it.

**The rule is also unworkable and would disenfranchise eligible voters.**

Besides its legal issues, the proposal places significant, unfunded burdens on election officials within an impossible timeframe. Jurisdictions would have to redesign envelopes, create and send out unique barcodes, and submit voter data on a federal schedule—all within the few months before the general election and without dedicated funding. Smaller and rural offices are least capable of covering these costs. Any mismatch, mistake, or delay in the data could cause the Postal Service to refuse delivery of a ballot, turning routine administrative issues into lost votes. The Postal Service's traditional role is to deliver properly posted mail, not to determine voter eligibility; this proposal abandons that role, harming voters.

**Conclusion**

For these reasons, the Akron Urban League urges the Postal Service to withdraw the proposed rule in its entirety and to continue its longstanding practice of delivering all properly posted election mail. In light of the June 25, 2026, ruling voiding the executive order on which this rule depends, and the Supreme Court's June 29, 2026, reaffirmation of state authority over elections in *Watson v. Republican National Committee*, the lawful and prudent course is to abandon this rulemaking. We thank you for considering these comments.

Respectfully submitted,

  
John M. Williams  
President and CEO

# PARTNERSHIP FOR INCLUSIVE DISASTER STRATEGIES

July 2, 2026

## Source

<https://disasterstrategies.org/comments-on-proposed-mail-in-and-absentee-ballot-changes/>

## Principal Issues Raised

Voting accessibility for people with disabilities; emergency preparedness; reliance on vote-by-mail by medically vulnerable populations; privacy protections; barriers created by new ballot-mail requirements; implementation costs; and disproportionate burdens on disabled and disaster-affected voters.

## Principal Authorities Cited

Americans with Disabilities Act; Rehabilitation Act of 1973; Help America Vote Act of 2002; Voting Rights Act of 1965; Postal Reorganization Act of 1970; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

# Comments on Proposed Mail-in and Absentee Ballot Changes

Posted: June 30, 2026 by admin

June 30, 2026

Dale Kennedy  
United States Postal Service  
475 L'Enfant Plaza SW  
Room 4446  
Washington, DC 20260-5015

Submitted via Email to:  
[PCFederalRegister@usps.gov](mailto:PCFederalRegister@usps.gov)

Thank you for the opportunity to comment on the proposed rulemaking on ballot mail for federal elections.

The Partnership is a disability-led organization working at the intersection of disability justice, civil rights, and inclusive emergency management. Our work includes direct support through the Disability & Disaster Hotline, technical assistance, training, stakeholder coordination, policy advocacy, and partnership with disability-led organizations, Centers for Independent Living (CILs), and other community-based entities before, during, and after disasters.

Access to vote-by-mail is an important disability access and community resilience issue. Many disabled people rely on vote-by-mail because of transportation barriers, inaccessible polling locations, health conditions, caregiving responsibilities, fatigue, sensory needs, or other disability-related considerations.

We are opposed to any changes that could create additional administrative barriers, delays, confusion, or disruptions for people who depend

on mail voting to participate in civic life. This includes creation of a new Federal Ballot Mail Portal, requiring states to send the federal government a list of all registered voters to whom they are sending mail-in and absentee ballots in federal general elections, and having USPS refuse to accept and deliver ballots that it deems out of compliance with these voter list requirements. This will result in disabled people being disenfranchised. These concerns become even more dire during disasters, public health emergencies, extreme weather events, and other disruptions that can make in-person voting difficult or impossible.

As disasters become more frequent and severe, maintaining accessible and reliable pathways for civic participation is an important part of community resilience. Any proposed changes should be carefully evaluated for their impact on disabled people, older adults, rural residents, and others who rely on vote-by-mail to exercise their rights independently and safely.

Thank you again for this opportunity to comment.

Shaylin Sluzalis & Germán Parodi  
Co-Executive Directors  
The Partnership for Inclusive Disaster Strategies

# **RACHAEL V. COBB**

## **Scholars Strategy Network**

**July 2, 2026**

### **Source**

<https://scholars.org/contribution/ballot-mail-federal-elections>

### **Principal Issues Raised**

Election administration; historical development of vote-by-mail; administrative feasibility; voter confidence; operational burdens; implementation before the 2026 election; election integrity; and the practical consequences of federal intervention in established state election systems.

### **Principal Authorities Cited**

Postal Reorganization Act of 1970; National Voter Registration Act of 1993; Help America Vote Act of 2002; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).



**SCHOLARS**  
STRATEGY NETWORK

## Ballot Mail for Federal Elections

**Rachael V. Cobb**, Suffolk University

Dear Director, Product Classification,

I write to express my opposition to the proposed changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), regarding the transmission of mail-in or absentee ballots for federal elections.

I am a political scientist at Suffolk University. I have a PhD in political science. I teach and study election administration and public policy and I co-chair our university-wide nonpartisan initiative charged with promoting voter engagement, Suffolk Votes. My comments do not reflect any position of Suffolk University.

In the 2022 midterms, 35.2 million ballots (32%) of all votes cast, were cast by mail ([US Elections Project](#) and [US Census](#)). The proposed rule change could impact 1/3 of all voters nationwide.

### The Rule is Unconstitutional and Violates Federal Law

Most importantly and critically, the proposed rule is unconstitutional. It violates the Constitution and federal law by compelling USPS to unlawfully usurp the States' constitutional role in administering elections.

### The Rule Unlawfully Compels USPS to Intrude Upon Powers Reserved for States and Congress

Although the proposal characterizes these new requirements as merely implementing technical best practices for handling election mail, the Rule would have far-reaching and harmful substantive consequences. In practice, it would grant the United States Postal Service unprecedented authority to effectively suspend or disrupt entire state vote-by-mail programs unless states comply with burdensome and unlawful federal mandates. Rather than serving as a neutral mail carrier, USPS would become the arbiter of whether states' election procedures satisfy federal standards of its own creation.

The Rule purports to implement Executive Order 14399, yet that Executive Order cannot expand USPS's statutory authority or alter the constitutional allocation of power over elections. The Constitution entrusts the administration of elections primarily to the States, subject only to the limited authority granted to Congress under the Elections Clause and other constitutional provisions. Likewise, Congress—not the President—possesses the authority to establish the powers, duties, and obligations of the Postal Service. An executive order cannot authorize USPS to impose new election requirements that Congress has not enacted, nor can it empower USPS to condition the delivery of election mail on state compliance with federally imposed standards that lack statutory authorization.

July 1, 2026

<https://scholars.org>

By effectively allowing USPS to dictate the conditions under which ballots will be accepted for delivery, the Rule exceeds the agency's lawful authority and intrudes upon powers reserved to the States and to Congress. Administrative agencies may implement statutes enacted by Congress; they may not create new election policy or redefine the constitutional balance of authority between the federal government and the States.

It is the states that are responsible for carrying out voter registration, maintaining and updating voter rolls and issuing ballots to registered voters. The core function of every local election administrator is to maintain accurate voting lists. This is no small task. Voters move, die, update, and register *every day*. Some voters wait until the last minute to request their mail ballot, which, in some states, is late October. Yet the Executive Order dictates that states must submit their voter lists for mail-in ballots 60 days before the election, which is 30 days *before* the maximum voter registration deadline (and even longer for states that have a shorter voter registration deadline). These lists will be out of date the day they are created. According to Charles Stewart III's review of the Georgia and North Carolina absentee ballot files, requests for absentee ballots "accelerate sharply in the final two months before an election ... That means a system built on the assumption that the relevant lists can be settled 60 or 65 days before Election Day is colliding with the actual timing of absentee voting," ([President Trump's latest executive order](#)) and state voter registration deadlines.

### **The Rule Eviscerates the Critical Role of Local Knowledge**

The Rule would eliminate the critical local knowledge states have in administering mail-in voting. The Rule would require the creation of an entirely new federal administrative apparatus to implement and enforce new rules in time for a federal election. Building such a system from scratch requires new personnel, funding, training, technology, and coordination among USPS, federal agencies, and thousands of state and local election jurisdictions. Yet the Rule identifies no appropriation, operational framework, or implementation plan that would make this possible. Imposing sweeping new federal requirements on states without providing the necessary resources, expertise, or clear administrative mechanisms creates a substantial risk of confusion, disruption, delayed ballot delivery, ultimately burdening the ability of eligible citizens to exercise their fundamental right to vote.

### **The Rule Contradicts USPS Mandate by Allowing Discretionary Withholding of Ballots**

Congress established USPS to provide reliable, universal mail service by receiving, transporting, and delivering mail to all persons throughout the United States. Unless Congress has expressly provided otherwise, USPS has a legal obligation to process and deliver mail on a nondiscriminatory basis. The Rule is fundamentally inconsistent with that mandate because it authorizes USPS to withhold or refuse delivery of ballots based on discretionary determinations regarding state compliance with requirements that Congress has never enacted.

### **The Rule Unlawfully Lacks Procedural Safeguards and Exceeds USPS's Substantive Authority**

The Rule also lacks essential procedural safeguards. It provides no meaningful process through which voters, election officials, or states may challenge USPS's determination that ballots will not be delivered or processed. Eligible voters may never learn that USPS has decided not to deliver their ballot, much less receive notice of

the reason for that decision or an opportunity to seek review before their right to vote has been irreparably harmed. The absence of transparency, notice, and any mechanism for administrative review creates an unacceptable risk of arbitrary or inconsistent enforcement, particularly given the time-sensitive nature of election mail.

Moreover, USPS has failed to comply with the procedural requirements governing significant nationwide changes to postal services. Congress established specific procedures to ensure that major alterations to postal operations are carefully evaluated, publicly vetted, and implemented only after appropriate review. By adopting a nationwide policy that fundamentally alters the treatment of election mail without complying with those statutory procedures, USPS has acted contrary to its governing legal framework. The Rule therefore is unlawful both because it exceeds USPS's substantive authority and because it was promulgated without adherence to the procedural safeguards Congress required.

## **The Rule Will Disenfranchise Many Eligible Voters**

The right to vote is *the* essential democratic right. Our current system of election administration, while not perfect, is a professionalized system that has seen continual improvements over the last two decades. The proposed Rule is based on the mistaken assumption that election administration can be centralized and directed from Washington. It cannot. Elections, including mail voting, are administered by states and local election officials, who understand the unique needs of their voters, election laws, and local procedures. The Rule will not improve voter verification or election integrity. Instead, it is highly likely to create confusion, delay ballot delivery, and make it harder, if not impossible, for eligible voters to cast a ballot that will be counted, potentially disenfranchising many.

# AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES (AAPD)

**July 2, 2026**

## **Source**

<https://www.aapd.com/wp-content/uploads/2026/06/June-2026-USPS-Rule.pdf>

## **Principal Issues Raised**

Accessible voting; reliance on absentee and mail voting by voters with disabilities; barriers created by mandatory ballot-mail requirements; implementation costs; voter privacy; disparate impacts on disabled voters; election administration; and the risk that the proposed rule would reduce electoral participation by people with disabilities.

## **Principal Authorities Cited**

Americans with Disabilities Act; Rehabilitation Act of 1973; Help America Vote Act of 2002; Voting Rights Act of 1965; National Voter Registration Act of 1993; Postal Reorganization Act of 1970; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

Thank you for the opportunity to provide comments to the United States Postal Service's (USPS) proposal to amend the Domestic Mail Manual (DMM) regarding the transmission of mail-in and absentee ballots for federal elections.

The American Association of People with Disabilities (AAPD) is a national, disability-led, cross-disability rights organization that advocates for full civil rights for the over 70 million Americans with disabilities. AAPD's REV UP campaign ("Register, Educate, Vote, Use your Power") works to increase civic engagement in the disability community and improve election accessibility. The REV UP campaign includes disability vote coalitions across 22 states that advocate for accessible election policies and polling places, train and support state and local election workers, and provide communities with nonpartisan, accessible voter education and support.

AAPD strongly opposes the proposed changes to the processing of mail ballots. If this Rule is implemented, eligible American citizens will be blocked from participating in our elections and disabled voters will be disproportionately harmed.

Voting is foundational to our democracy, and our democracy works best when every eligible voter can participate. There are an estimated 40.2 million eligible voters with disabilities in the U.S., representing nearly one-sixth of the total eligible voting population.<sup>1</sup> Research from the Election Assistance Commission (EAC) has found that disabled voters are three times more likely to face difficulties casting a ballot than nondisabled voters.<sup>2</sup> The ability to choose which method of voting works best for you is a crucial freedom for all voters and especially those with disabilities. In 2020, over half of disabled voters cast their ballots via mail.<sup>3</sup> States that allow for easier access to vote by mail, such as permanent absentee voter lists and universal mail voting, saw substantial increases in voter turnout among disabled voters.<sup>4</sup>

Many of the barriers that disabled voters face are related to voting in-person, and for many voters with disabilities, voting by mail is the only way they can participate in elections. For example, a wheelchair user in a rural area may not be able to secure accessible transportation to the polls. In 2022, 14.3 percent of people with disabilities aged 18-64 lived in a household without a vehicle, compared to 9.4% of people without disabilities.<sup>5</sup> The 2022 National Household Travel Survey found that 18.6 million people with disabilities ages 5 and older report

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<sup>1</sup> Schur, Lisa, and Douglas Kruse. 2024. "Projecting the Number of Eligible Voters with Disabilities in the November 2024 Elections."  
[https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program\\_Disability\\_Research/Disability\\_Electorate\\_Projections\\_Report\\_Oct2024.pdf](https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/Disability_Electorate_Projections_Report_Oct2024.pdf).

<sup>2</sup> "Disability and Voting Accessibility in the 2022 Elections." 2023.  
[https://www.eac.gov/sites/default/files/2023-07/EAC\\_2023\\_Rutgers\\_Report\\_FINAL.pdf](https://www.eac.gov/sites/default/files/2023-07/EAC_2023_Rutgers_Report_FINAL.pdf).

<sup>3</sup> Schur, Lisa, and Douglas Kruse. "Fact sheet: Disability and Voter Turnout in the 2020 Elections."  
[https://www.eac.gov/sites/default/files/document\\_library/files/Fact\\_sheet\\_on\\_disability\\_and\\_voter\\_turnout\\_in\\_2020\\_0.pdf](https://www.eac.gov/sites/default/files/document_library/files/Fact_sheet_on_disability_and_voter_turnout_in_2020_0.pdf)

<sup>4</sup> "Disability and Voting Accessibility in the 2022 Elections." 2023.  
[https://www.eac.gov/sites/default/files/2023-07/EAC\\_2023\\_Rutgers\\_Report\\_FINAL.pdf](https://www.eac.gov/sites/default/files/2023-07/EAC_2023_Rutgers_Report_FINAL.pdf).

<sup>5</sup> Bureau of Transportation Statistics. (2022, January 3). Travel Patterns of American Adults with Disabilities. Wwww.bts.gov. <https://www.bts.gov/travel-patterns-with-disabilities>

disabilities that limit their travel, including short errands, and nearly one-third of this population report not leaving the house at all.<sup>6</sup> Crowded polling places may be unsafe and inaccessible to voters who are immunocompromised; additionally, local jurisdictions continue to struggle to implement federal accessibility standards. An audit of 447 polling places across 45 jurisdictions in Michigan during May, August, and November 2025 elections revealed that only 10% of sites met accessibility standards.<sup>7</sup> A voter with an intellectual disability may prefer to vote from home in order to spend more time reading and understanding the ballot. People experiencing long-term hospital stays or living in nursing homes may be unable to leave their beds, making in-person voting highly difficult or impossible. These are realities disabled voters face during every election.

As a result of these barriers, people with disabilities vote by mail at higher rates than people without disabilities. In an analysis of the 2024 election, over 60% of people who report that their disability impacts their daily life (i.e. running errands, self-care, etc.) said that their disability contributed to their decision to vote by mail.<sup>8</sup>

Restrictions to vote by mail will also disproportionately harm older adults, especially as the likelihood of disability increases with age; approximately 2 out of 5 adults over the age of 65 have a disability, compared to 1 in 4 adults age 18-64.<sup>9</sup> Barriers that impact disabled voters, such as lack of access to reliable transportation, also impact older adults, both with and without disabilities. Older adults are less likely to drive and more likely to depend on public transportation or caregivers; many report transportation related barriers keeping them from attending crucial healthcare visits, social activities, and religious services.<sup>10,11</sup> The 2024 Election Administration and Voting Survey (EAVS) Comprehensive Report reveals that around 30%, or

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<sup>6</sup> Bureau of Transportation Statistics. (2022, January 3).

<sup>7</sup> Blahovec, S., Flores, K., Welsby, E. 2026. "The Right to a Private and Independent Ballot: Polling Place Accessibility for Michigan Voters with Disabilities during the 2025 Elections"  
<https://static1.squarespace.com/static/6823a0daa269a23ce4da31d6/t/69d653c38706a41ff33cacd4/1775653827361/Poll+Audit+2026-4.pdf>

<sup>8</sup> McCarthy, D., Tanigawa-Lau, C., Madubonwu, B., Re, C. (2026) Vote-By-Mail Regimes and the Disability Turnout Gap: A New Survey on Voting Accessibility in the United States. American Civil Liberties Union.  
<https://www.aclu.org/publications/vote-by-mail-regimes-and-the-disability-turnout-gap-a-new-survey-on-voting-accessibility-in-the-united-states>

<sup>9</sup> CDC. (2024, December 13). Prevalence of Disabilities and Health Care Access by Disability Status and Type Among Adults. Disability and Health.  
<https://www.cdc.gov/disability-and-health/articles-documents/disabilities-health-care-access.html>

<sup>10</sup> Berkowitz SA, Ricks KB, Wang J, Parker M, Rimal R, DeWalt DA. Evaluating A Nonemergency Medical Transportation Benefit For Accountable Care Organization Members. *Health Aff (Millwood)*. 2022;41(3):406–413. doi: 10.1377/hlthaff.2021.00449

<sup>11</sup> Ryvicker M, Bollens-Lund E, Ornstein KA. Driving Status and Transportation Disadvantage Among Medicare Beneficiaries. *Journal of Applied Gerontology*. 2020;39(9):935–943. doi: 10.1177/0733464818806834

one-third, of Americans voted by mail in the 2024 general election.<sup>12</sup> For voters ages 65 and older, mail ballots accounted for 40% of votes cast.<sup>13</sup>

If USPS were to implement this rule, the timeline for being able to request and receive a ballot by mail would be extended and disrupted by the required data sharing and verification. President Trump's Executive Order 14399 "Ensuring Citizenship Verification and Integrity in Federal Elections," proposes a deadline of 60 days before an election to share vote by mail eligibility lists. This would disenfranchise newly eligible voters and voters who have recently moved but are still within state deadlines to update their registration. It would also create barriers for voters with disabilities whose access needs may change unexpectedly. For instance, a voter who typically votes in person may experience a flare in their health, a planned or unplanned hospitalization, a change in their direct care staffing, or loss of accessible transportation.

The acute crisis in the direct care workforce and the shortage of home care attendants and personal care attendants illustrates how easy it is for older people and people with disabilities to experience sudden disruptions in the care they rely on for critical daily support with activities—including voting. Low wages, lack of benefits, and burnout leads to high and often abrupt turnover in the direct care workforce.<sup>14</sup> In 2022, there were less than 5 million direct care workers for over 12 million individuals in need of direct care services<sup>15</sup>.

These examples are only a few reasons why a disabled person might decide to vote by mail on shorter notice than 60 days before an election. Current state processes allow for this flexibility, but the President's EO 14399 would take it away.

With such a rapid implementation of new lists, platforms, and processes, eligible voters will be disenfranchised due to technical and administrative errors that are no fault of their own. Analysis of voter turnout in 2024 revealed a gap of 7 percentage points between disabled and nondisabled voters, a direct result of difficult and inaccessible voting processes.<sup>16</sup> If the USPS implements the policies within EO 14399, this turnout gap will only increase, denying eligible American citizens—particularly Americans with disabilities and older individuals their ability to exercise their right to vote and to participate in our democracy.

Furthermore, implementing this Rule would violate the Constitution and federal law. The Rule seeks to implement EO 14399, a directive that is itself unconstitutional. Under the Constitution,

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<sup>12</sup> Election Assistance Commission. (2025, June). Election Administration and Voting Survey (EAVS) 2024 Comprehensive Report.

[https://www.eac.gov/sites/default/files/2025-07/2024\\_EAVS\\_Report\\_508.pdf](https://www.eac.gov/sites/default/files/2025-07/2024_EAVS_Report_508.pdf)

<sup>13</sup> Nearly 1 in 3 Americans Voted by Mail in 2024 - States United Democracy Center. (2026, April 13). States United Democracy Center.

<https://statesunited.org/resources/americans-vote-by-mail-2024/#section-2>

<sup>14</sup> Lyons, B., & O'Malley Watts, M. (2024). *Addressing the shortage of direct care workers: Insights from seven states*. Commonwealth Fund. <https://doi.org/10.26099/czzn-m038>

<sup>15</sup> Ibid.

<sup>16</sup> McCarthy (n 2).

only states and Congress have the power to mandate election rules,<sup>17</sup> and only Congress can regulate the postal service – not the President.<sup>18</sup>

The duty of the Postal Service is to receive, transmit, and deliver the mail to everyone in the United States. This Rule would allow USPS to violate that important duty by deciding not to deliver ballots to certain voters based on an unconstitutional Executive Order.

Finally, this Rule will place an immense burden on state and local election administrators who are already overworked and underresourced. Implementing entirely new, unvetted data-sharing and list-verification processes during a federal election year would require a massive reallocation of limited resources. This could lead local election offices to take staff away from critical duties like processing new voter registrations, ensuring the accessibility of polling places, securing polling places, updating and testing voting machines, and recruiting and training poll workers.

Similarly, this Rule forces USPS to take on the role of election administration, which it is neither authorized by Congress nor equipped to take on. USPS has no funding, expertise, or ability to engage in election administration, and being forced to do so could divert staff and resources from its primary role of guaranteeing safe and secure communication across the country. This unnecessary policy does nothing to protect the vote; instead, it introduces more room for error and stretches limited resources, impacting systems at both the local and national level. The high likelihood of human and technical error means that eligible American voters—particularly those with disabilities and older adults—will be denied access to the ballot through no fault of their own, with no way to address any issues.

In conclusion, we strongly urge the U.S. Postal Service to defend both the independence of our election systems and their own independence, by refraining from implementing any of the President's unlawful orders. The strength of our nation lies in the ability of every eligible citizen to vote. Rather than adding administrative hurdles and new obstacles to the voting process, our focus should remain on enhancing election accessibility and removing the existing barriers that currently hinder disabled and multiply marginalized voters from reaching the ballot.

Thank you for your consideration and for the opportunity to provide comments.

Respectfully submitted,

Alexia Kemerling  
akemerling@aapd.com  
Director of Accessible Democracy  
The American Association of People with Disabilities

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<sup>17</sup> U.S. Const. art. I, § 4, cl. 1.

<sup>18</sup> U.S. Const. art. I, § 8, cl. 7

# COALITION AGAINST DOMESTIC VIOLENCE ET AL.

**July 2, 2026**

## **Source**

<https://democracyforward.org/wp-content/uploads/2026/07/2026-07-02-USPS-FINAL-Comment.pdf>

## **Principal Issues Raised**

Address Confidentiality Programs; protection of survivors of domestic violence, sexual assault, and stalking; privacy of voter information; barriers to absentee voting; implementation burdens; risks of exposing protected addresses; and disproportionate impacts on vulnerable populations.

## **Principal Authorities Cited**

Violence Against Women Act; Address Confidentiality Program statutes; Privacy Act of 1974; Voting Rights Act of 1965; National Voter Registration Act of 1993; Help America Vote Act of 2002; Postal Reorganization Act of 1970; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

*Submitted via U.S. mail and email to PCFederalRegister@usps.gov*

July 2, 2026

Director, Product Classification  
U.S. Postal Service  
475 L'Enfant Plaza SW, Room 4446  
Washington, DC 20260-5015  
*PCFederalRegister@usps.gov*

**Subject:       Comment for Notice of Proposed Rulemaking on Ballot Mail  
for Federal Elections**

To Whom It May Concern:

The DC Coalition Against Domestic Violence,<sup>1</sup> Pennsylvania Coalition Against Domestic Violence,<sup>2</sup> Rhode Island Coalition Against Domestic Violence,<sup>3</sup> Survivor Justice Network,<sup>4</sup> and Victim Rights Law Center<sup>5</sup> submit the following comments urging the U.S. Postal Service (USPS) to abandon its proposed rulemaking regarding ballot mail in federal elections.<sup>6</sup> A federal district court has already found this rulemaking process—and the executive order on which it is based—

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<sup>1</sup> The DC Coalition Against Domestic Violence (DCCADV) is a federally recognized coalition of domestic violence programs, organizations, and individuals organized to ensure the elimination of domestic violence in the District of Columbia. It is a resource for the thousands of adults and children experiencing domestic violence in the District each year, as well as the local organizations that serve them.

<sup>2</sup> Founded in 1976, the Pennsylvania Coalition Against Domestic Violence (PCADV) is the oldest statewide domestic violence coalition in the nation. Each year, its network of 59 local domestic violence programs provides free and confidential direct services to nearly 90,000 victims and survivors of domestic violence and their children in all 67 counties of the Commonwealth. Together, local programs and the statewide coalition work in collaboration to deliver a continuum of services, support, and systems to help victims and survivors find safety, obtain justice, and build lives free of abuse.

<sup>3</sup> For more than 45 years, the Rhode Island Coalition Against Domestic Violence (RICADV) and its network have provided comprehensive emergency and support services to victims of domestic violence, dating violence, sexual violence, and stalking. Its mission is to end domestic violence through supporting member agencies that provide direct services to survivors and community members, advocating for survivor-centered policy and systemic change, and providing statewide leadership, resources, and education to create safe and healthy communities.

<sup>4</sup> The Survivor Justice Network (SJN), formerly the Survivors' Agenda, is a collective of 25 local, state, and national organizations from across the movement to end sexual and gender-based violence. Anchored by me too. International, the National Women's Law Center, and Justice for Migrant Women, these organizations work alongside more than 100 community partners to conduct survivor-led research, align shared policy priorities, and coordinate national civic engagement initiatives. This includes Survivors Vote, a campaign that equips survivors of sexual and gender-based violence with voter education resources and state-specific guidance on Address Confidentiality Programs (ACPs) so that survivors may register to vote, participate in elections, and engage in civic life without compromising their safety.

<sup>5</sup> Victim Rights Law Center is a survivor-led non-profit that focuses on meeting the legal needs of sexual violence survivors. Through survivor-centered legal representation and national training and advocacy, VRLC builds and leads a movement that expands justice for survivors.

<sup>6</sup> The above-named organizations appreciate the assistance of Democracy Forward Foundation in the preparation of this comment.

illegal and held that USPS cannot unilaterally refuse to deliver mail ballots to certain voters.<sup>7</sup> Indeed, that court specifically enjoined USPS from “implementing, giving effect to, or enforcing” the executive order directing the Postal Service to adopt the proposed Rule, including by “initiating or completing rulemaking to promulgate the specific regulations outlined” in the executive order.<sup>8</sup>

We submit these comments to detail another reason the proposed Rule should be abandoned: it will impermissibly burden the vote of victims of domestic violence, sexual violence, and/or stalking. First, the proposed Rule increases risks to survivor safety and will chill survivors’ exercise of their right to vote by exposing survivors’ addresses to unwanted observers, or by failing to accommodate state Address Confidentiality Programs that allow survivors to receive mail (including ballots) at an alternative address. Second, the deadlines imposed by the proposed Rules leave little or no room for survivors who must rapidly move locations or delay updating public records to protect their and their families’ safety.

## I. Background

The United States “has a long history of mail voting” dating back to the U.S. Civil War, when the practice enabled soldiers to cast ballots while serving away from home.<sup>9</sup> Today, voting by mail<sup>10</sup> is widespread: In 2024 alone, the U.S. Postal Service processed over 99.2 million mail ballots.<sup>11</sup> It is also safe: “mail voting fraud is extremely rare.”<sup>12</sup> Across four of the five most recent general elections (2016, 2018, 2020, and 2022), the average total mail voting fraud rate was only 0.000043%—the equivalent of four cases of mail voting fraud for every 10 million mail votes.<sup>13</sup> It is more likely that someone will be struck by lightning than commit mail ballot fraud.<sup>14</sup>

That history and data notwithstanding, President Trump has long “railed against mail-in voting,” which—counter to plentiful evidence showing otherwise, *see supra*—he recently called

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<sup>7</sup> *California v. Trump*, No. 1:26-CV-11581-IT, 2026 WL 1826490 (D. Mass. June 25, 2026). A second district court enjoined the Postal Service from “implementing the standards and procedures described in the Proposed Rule” because those standards and procedures would violate a pre-existing settlement agreement between the government and the National Association for the Advancement of Colored People. *NAACP v. U.S. Postal Service*, No. 20-CV-2295(EGS), 2026 WL 1893762, at \*4 (D.D.C. July 1, 2026); *NAACP v. U.S. Postal Service*, No. 20-CV-2295(EGS), ECF 181 (D.D.C. July 1, 2026).

<sup>8</sup> *Id.* at \*17.

<sup>9</sup> Samara Angel et al., *Mail voting in the US: Data points to very low fraud and significant benefits to voters*, Brookings (Nov. 6, 2025), <https://perma.cc/WQ4U-CPCD>. States began passing absentee ballot laws for civilians in the late 1800s, with the first such laws “intended to accommodate voters who were away from home or seriously ill on Election Day.” *Voting by mail and absentee voting*, MIT Election Data + Science Lab (June 24, 2026), <https://perma.cc/724Z-ADGC>.

<sup>10</sup> Mail ballots include both absentee ballots, which may be requested by a voter who is unable to vote in person, and ballots sent to voters in states with universal vote-by-mail. Every state in the country provides access to either universal vote-by-mail ballots, absentee ballots, or both. Angel, *supra* note 9.

<sup>11</sup> 2024 Post-Election Analysis Report: Delivering the Nation’s Election Mail Securely and Effectively, USPS (Dec. 2, 2024), at 1, <https://perma.cc/4879-NZVK>.

<sup>12</sup> Angel, *supra* note 9 (describing studies).

<sup>13</sup> *Id.*

<sup>14</sup> Wendy R. Weiser and Harold Ekeh, *The False Narrative of Vote-by-Mail Fraud*, Brennan Center for Justice (April 10, 2020), <https://perma.cc/UJ3C-9JRZ>.

“mail-in cheating.”<sup>15</sup> In late March, the president undertook another major effort to undermine this well-established component of the American electoral system. In an executive order titled “Ensuring Citizenship Verification and Integrity in Federal Elections,”<sup>16</sup> he ordered USPS to impose new restrictions on voting by mail. Section 3(b) of the executive order “direct[s]” the Postmaster General to “initiate a proposed rulemaking” that “shall include, at minimum” the creation of “Mail-In and Absentee Participation Lists” of individuals “who are enrolled with the USPS” for “mail-in or absentee ballots” in each State.<sup>17</sup> Section 3(b)(iii) prohibits USPS from transmitting ballots for voters who are not on such lists.<sup>18</sup>

The notice of proposed rulemaking (NPRM) issued by USPS in response to the executive order is the subject of these comments.<sup>19</sup> “[C]onsistent with Section 3 of Executive Order 14399,” the NPRM proposes amending U.S. Postal Standards “regarding the transmission of mail-in or absentee ballots for federal elections through the mail.”<sup>20</sup> The NPRM traces Section 3(b) of the executive order, directing the creation of “Mail-In and Absentee Participation Lists” for each state and prohibiting the transmittal of ballots of individuals who are not “enrolled” with USPS.<sup>21</sup>

## **II. The proposed Rule is unconstitutional, and the rulemaking procedure is inadequate.**

In essence, the proposed Rule establishes USPS as a national election administrator. But the Constitution empowers states, not the president or his administration, to determine voter eligibility in federal elections.<sup>22</sup> The Constitution also empowers the states to prescribe the “Times, Places, and Manner of holding” congressional elections.<sup>23</sup> “[T]hese comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, [and] counting of votes,” among other issues.<sup>24</sup> The executive order and proposed rule thus unconstitutionally interfere with the authority of states and Congress to regulate elections.

The executive order’s directive is also “inconsistent with USPS rulemaking procedure,” as a federal district court recently explained.<sup>25</sup> “If seeking to make a ‘change in the nature of postal

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<sup>15</sup> Erica L. Green, *Trump, Who Calls Mail-in Voting ‘Cheating,’ Just Voted by Mail*, N.Y. Times (Mar. 24, 2026), <https://perma.cc/T6KY-EYEP>.

<sup>16</sup> Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections*, 91 Fed. Reg. 17125 (April 3, 2026) (“E.O.” or the “Executive Order”).

<sup>17</sup> *Id.* § 3(b)(iv).

<sup>18</sup> *See id.* § 3(b)(iii).

<sup>19</sup> Ballot Mail for Federal Elections, 91 Fed. Reg. 32915-01 (June 2, 2026) (the “NPRM”).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* §§ 24.4.2, 24.5.1, 24.5.3.

<sup>22</sup> *See, e.g., California v. Trump*, 2026 WL 1826490, at \*2 (citing U.S. Const. art. I, § 2, cl. 1; U.S. Const. amend. XVII).

<sup>23</sup> U.S. Const. art. I, § 4, cl. 1.

<sup>24</sup> *Smiley v. Holm*, 285 U.S. 355, 366 (1932).

<sup>25</sup> *California v. Trump*, 2026 WL 1826490, at \*16.

services which will generally affect service on a nationwide or substantially nationwide basis,’ USPS must submit a proposal to the Postal Regulatory Commission (“PRC”) for an advisory opinion.”<sup>26</sup> The PRC then has 90 days to issue its advisory opinion.<sup>27</sup> Here, the executive order required USPS to issue a notice of proposed rulemaking by May 30, 2026, with a final rule required by July 29, 2026. That timeframe “provides no allowance for Congress’ mandated procedure regarding USPS rulemaking.”<sup>28</sup> As USPS does not appear to have yet submitted the proposal to the PRC for an advisory opinion,<sup>29</sup> it cannot possibly obtain that opinion and promulgate a final Rule on the timeline contemplated by the executive order.<sup>30</sup>

### **III. Survivors already face unique barriers to voting, and the proposed Rule will further burden their exercise of that fundamental right.**

One hundred and forty years ago, the Supreme Court recognized that the right to vote is a “fundamental political right” because it is “preservative of all rights.”<sup>31</sup> And “[m]ail ballots can be the most practical and accessible—and in some cases, the only—way to participate in the electoral process for many voters,”<sup>32</sup> including survivors of domestic and sexual violence and/or stalking. Many survivors fear voting in person because their abuser may see them at the polls. And some states, including Rhode Island, require poll workers to audibly state a would-be voter’s full name and home address, which risks exposure of a survivor’s address to abusers or their family members and friends.<sup>33</sup>

Both domestic<sup>34</sup> and sexual violence are severely underreported. The National Domestic Violence Hotline estimates that over one in three women and one in four men in the United States have experienced rape, physical violence, and/or stalking by an intimate partner,<sup>35</sup> and the National Intimate Partner and Sexual Violence Survey for 2023–2024 reported that nearly half of women (45.1%) and more than one in six men (16.9%) in the United States experience some form of contact sexual violence in their lifetimes.<sup>36</sup> “[S]urvivors of domestic or sexual violence face endless barriers when it comes to seeking safety, from isolation to lack of financial control or

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<sup>26</sup> *Id.* (quoting 39 U.S.C. § 3661(b)).

<sup>27</sup> 39 C.F.R. § 3020.102(a).

<sup>28</sup> *California v. Trump*, 2026 WL 1826490, at \*16 (“This timeframe provides no allowance for Congress’ mandated procedure regarding USPS rulemaking.”).

<sup>29</sup> See Postal Reg. Comm’n, *Active Cases*, <https://perma.cc/4MH4-ZKGQ> (visited June 30, 2026).

<sup>30</sup> See *California v. Trump*, 2026 WL 1826490, at \*16.

<sup>31</sup> *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

<sup>32</sup> Angel, *supra* note 9.

<sup>33</sup> R.I. Gen. L. § 17-19-24(a) (2025) (requiring poll workers to “announce the name and residence in a loud and distinct voice, clear and audible”).

<sup>34</sup> The Department of Justice defines domestic violence as “a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner.” *Domestic Violence*, Dep’t of Justice, <https://perma.cc/54XB-3DRW>.

<sup>35</sup> *Domestic Violence Statistics*, National Domestic Violence Hotline, <https://perma.cc/C6GY-HGBE>.

<sup>36</sup> Ruth W. Leemis et al., *The National Intimate Partner and Sexual Violence Survey: 2023/2024 Sexual Violence Data Brief*, U.S. Centers for Disease Control and Prevention, at 3 (Dec. 2025), <https://perma.cc/S2BS-U8B3>.

“Contact sexual violence is a combined measure that includes rape, being made to sexually penetrate someone else, sexual coercion, and/or unwanted sexual contact.” *Id.* at 2.

housing to outright fear.”<sup>37</sup> They also face unique barriers to voting,<sup>38</sup> two of which are relevant here. First, fear of being found by abusers and stalkers keeps many survivors “from even registering to vote.”<sup>39</sup> Second, survivors escaping violence often relocate multiple times and/or postpone updating public records until adequate safety measures are in place.

For these reasons, the ability to vote by mail is essential for many survivors of domestic violence, sexual violence, and/or stalking. By failing to consider or accommodate existing state protections that survivors rely on to keep them safe, such as Address Confidentiality Programs, *see infra*, the proposed Rule will increase the risk to survivors and chill many from exercising their right to vote. Moreover, the proposed Rule’s deadline for states to “enroll” voters in USPS’s “Mail-In and Absentee Participation Lists” will leave many survivors—who are often forced to move or register on short notice, including immediately before elections—in the lurch.

**A. The proposed Rule increases risks to survivor safety and will chill survivors’ exercise of their right to vote.**

In almost every state, voter registration information is considered part of the public record.<sup>40</sup> It is “almost always” available to political parties, candidates (including their staff and volunteers), and members of the media upon request.<sup>41</sup> And members of the public seeking voter registration information can view such records online or in person in every state.<sup>42</sup> The amount of information provided varies, though most states disclose—at minimum—a voter’s full name and address. As a result, “[p]eople experiencing or who have experienced intimate partner violence may have significant privacy concerns related to the voter registration process,” and “[t]he fear of being found might deter victims from registering to vote, even if they are otherwise motivated to participate in the election.”<sup>43</sup> As CarolAnn Peterson, an adjunct associate professor at the University of Southern California’s School of Social Work, told CNN in 2020: “For victims of domestic violence, voting is suppressed because they can’t trust to have their names on voter registration rolls.”<sup>44</sup>

These harms are far from hypothetical, as countless testimonials have borne out. In the words of one survivor: “I wanted to vote, but I also wanted to stay safe.”<sup>45</sup> From another: “The year I discovered that my name and address as a registered voter were being published publicly

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<sup>37</sup> League of Women Voters, *The SAVE Act and Other Voting Barriers for Survivors of Domestic Violence* (April 15, 2026), <https://perma.cc/VCM4-XNQG>.

<sup>38</sup> Danielle Root, *Obstacles to Voting for Survivors of Intimate Partner Violence*, Center for American Progress (Nov. 1, 2018), <https://perma.cc/39J3-VV8M>.

<sup>39</sup> Scottie Andrew, *For abuse victims, registering to vote brings a dangerous tradeoff*, CNN (Oct. 27, 2020), <https://perma.cc/5WWD-BKSW>.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Root, *supra* note 38; *see also* Teia Swan, *Hidden Barriers: Domestic Violence and Obstacles to Voting*, No More (Sep. 17, 2024), <https://perma.cc/6YC5-JXHE>.

<sup>44</sup> Andrew, *supra* note 39.

<sup>45</sup> Wittee Ethan, *Domestic violence victims need to be able to vote without being outed*, Charlotte Observer (July 20, 2017), <https://perma.cc/WX6E-4MCP>.

was the year I stopped voting . . . . I resigned myself that I would not vote again as long as I couldn't keep my information private.”<sup>46</sup>

To protect survivors and facilitate their free exercise of the right to vote, nearly every state in the country has adopted Address Confidentiality Programs (ACPs), which are programs administered by individual states that enable victims of domestic violence, sexual assault, and/or stalking to keep their address hidden and use an alternate mailing address for a variety of public and official processes, including voting.<sup>47</sup> Because perpetrators of violence sometimes work or have connections in government agencies, these ACPs closely guard knowledge of participants' actual physical addresses even within public agencies. Today, 46 states and the District of Columbia have some type of ACP.<sup>48</sup>

Under those programs, a survivor of sexual or domestic violence files an application for a “substitute” address (e.g., a post office box in the state capital or fictitious street address) with the appropriate governmental agency. After the applicant is accepted and certified into the program, the state provides a substitute address for the survivor's use. The survivor's mail is forwarded from that substitute address to their actual address, with the actual address being known only to (and kept confidential by) the relevant state agency. In the context of voter registration, the survivor's actual address is still used to determine district designations and other relevant criteria. The technical mechanisms through which this is accomplished vary by state. In Florida, for example, survivors enrolled in the state's ACP can register to vote securely but must then vote by mail. While their true addresses are used by appropriate officials to determine which specific local ballot to send to the voter, their registration is entered manually in a locked file and not entered into the state's typical voter registration system. The ballot is then mailed to the state's substitute address, which, by design, differs from the voter's confidential actual address.

The importance of ACPs to survivors seeking to exercise their right to vote is difficult to overstate. But the proposed Rule does not address ACPs at all. It does not specify whether states would be required to upload survivors' actual physical addresses to the USPS portal (thus endangering them),<sup>49</sup> or whether USPS (or other entities within the federal government) would question mailing ballots to potentially thousands of voters registered to a single alternative mailing

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<sup>46</sup> Amy Rolph, *Voting can be dangerous for domestic violence survivors in Washington state*, KUOW (Oct. 9, 2018), <https://perma.cc/2BB4-8KQC>.

<sup>47</sup> VAWnet, *Address Confidentiality Programs* (Jan. 2016), <https://perma.cc/4LVC-SQUC>.

<sup>48</sup> National Association of Confidential Address Programs, *Address Confidentiality Programs by State* (June 18, 2025), <https://perma.cc/2UHB-ESX9>.

<sup>49</sup> As noted above, some perpetrators work in public agencies—including, by the law of large numbers, USPS itself. And these lists may be disclosed outside USPS. It is no answer that 39 U.S.C. § 412 prohibits disclosure of lists of names and addresses. Recent history illustrates major privacy breaches by insiders at the Social Security Administration. See *AFSCME v. Trump*, No. CV ELH-25-0596, 2026 WL 1842617, at \*5 (D. Md. June 26, 2026) (referencing whistleblower reports alleging that a member of the Department of Government Efficiency (“DOGE”) exfiltrated records for more than 500 million Americans from Social Security systems of records and that DOGE improperly uploaded copies of Social Security data, including personally identifying information, to a third-party digital cloud service). And a bedrock principle of our nation's privacy scheme is to keep sensitive information siloed where it must be held rather than sharing it widely or centrally across government agencies. See *League of Women Voters v. U.S. Dep't of Homeland Security*, No. 25-cv-3501, 2026 WL 178429, at \*1-\*4 (D.D.C. June 22, 2026) (describing Congress's concerns about a “centralized data bank”).

address controlled by the state. The latter possibility is particularly troublesome given the mail-in voting executive's order statement that "[e]vidence of violations" of federal law "may be referred" to the Department of Justice for investigation or criminal charges.<sup>50</sup>

Because the proposed Rule makes no provision for compliance with these programs, its implementation would effectively disenfranchise victims of domestic violence, sexual violence, and/or stalking.

**B. The deadlines imposed by the proposed Rule leave no room for survivors who must rapidly move locations or delay updating public records to protect the safety of themselves and their families.**

The deadline for states to "enroll" voters in USPS's "Mail-In and Absentee Participation Lists" further burdens survivors seeking to exercise their right to vote. "The first 18 months after leaving an abusive relationship is statistically the most dangerous time for survivors, with 75% of homicides occurring upon separation and a 75% chance of increased violence for the next two years."<sup>51</sup> During that time, survivors may change housing multiple times to protect their safety. Moreover, some survivors of sexual violence may delay updating public records until appropriate safety measures are in place, particularly when the perpetrator: (1) already knows their identity or where they live; (2) has legitimate access to their personal information; or (3) continues to hold a position of authority over them. As survivors relocate after an assault, transfer schools, change jobs, or separate from an institution where the perpetrator remains present, publicly linking a new address to government records may increase the risk of retaliation, intimidation, or unwanted contact. For example, before Michigan adopted its ACP, one survivor seeking protection from an abusive ex-husband purchased a home under her mother's name, only for her abuser to find her using voter registration information.<sup>52</sup>

Survivors' efforts to relocate can occur at any time—including the period right before an election. At the same time, many states allow citizens to register to vote and request mail ballots very close to election day.<sup>53</sup> Against that background, the proposed Rule's deadlines for states to upload voter lists are unrealistic, unreasonable, and unlawful. Under the proposed Rule, states must "enroll" voters "at least 30 days before the date of the federal election, to the extent practicable, or by the date on which mail-in or absentee ballots may begin to be mailed under state law."<sup>54</sup> While states may make "supplemental submissions to enroll additional individuals or modify prior submissions until the last day that ballots may be mailed out to individuals under state law,"<sup>55</sup> that provision is inadequate to protect the vote of survivors who move, register, or enroll in an ACP during that window. The supplemental-submission provision imposes significant burdens on state and local election administrators who are, at that point in an election cycle, already overworked,

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<sup>50</sup> See E.O. § 5.

<sup>51</sup> League of Women Voters, *supra* note 37.

<sup>52</sup> Anna Liz Nichols, *Michigan launches address confidentiality program to protect violence survivors*, Michigan Advance (Sept. 13, 2023), <https://perma.cc/RXN9-Q2CW>.

<sup>53</sup> See Nat'l Council of State Legislatures, *Table 5: Applying for an Absentee Ballot, Including Third-Party Registration Drives* (Feb. 24, 2026), <https://perma.cc/65YL-X5RU>.

<sup>54</sup> NPRM § 24.4.2(d).

<sup>55</sup> *Id.*

overburdened, and understaffed, and it is likely to engender technical and administrative errors that are no fault of the would-be voter. Because survivors are especially likely to move or register immediately prior to an election, the proposed Rule is likely to disproportionately burden that community's exercise of the right to vote. That violates Congress's mandate that the Postal Service not "make any undue or unreasonable discrimination among users of the mails."<sup>56</sup>

\*

Like all Americans, victims of abuse have a fundamental right to vote. And voting is a way that survivors can reclaim their power and autonomy—not just by instilling a sense of regained control, but also by providing a pathway for survivors to advocate for their rights and the rights of other victims of abuse.<sup>57</sup> For many survivors, voting by mail is the only way they can safely cast a ballot.

Federal law requires the Postal Service to "give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail."<sup>58</sup> It is difficult to conceive of mail with more importance—whether to a citizen or to our democracy—than a ballot. Even if the changes included in the proposed Rule were legal, developing such a system would take time, care, and resources, including collaborating with states and experts on survivor safety. We urge the Postal Service to defend the rights of survivors, the independence of our election systems, and its own independence by abandoning the proposed Rule. Thank you for the opportunity to submit our views on this important topic and for your attention to all facets of this important issue.

Sincerely,

Dawn Dalton  
Executive Director  
DC Coalition Against Domestic Violence

Raana Simmons  
Director  
Survivor Justice Network

Susan Higginbotham  
Chief Executive Officer  
Pennsylvania Coalition Against Domestic Violence

Stacy Malone  
Executive Director  
Victim Rights Law Center

Lucy Rios  
Executive Director  
Rhode Island Coalition Against Domestic Violence

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<sup>56</sup> See 39 U.S.C. § 403(c).

<sup>57</sup> Ray Epstein and Tatiana Hogston, *Survivors and Voting*, Maryland Coalition Against Sexual Assault (Aug. 9, 2024), <https://perma.cc/DFL8-24AW>.

<sup>58</sup> 39 U.S.C. § 101(e).

# STEPHEN A. RAHER

July 2, 2026

## Source

<https://savethepostoffice.com/>

## Principal Issues Raised

Postal Service statutory authority; applicability of **39 U.S.C. § 3661**; Postal Service exemption from the Administrative Procedure Act; nationwide changes in the nature of postal services; rulemaking procedure; Postal Regulatory Commission oversight; constitutional limits on executive authority; election administration; and judicial review.

## Principal Authorities Cited

Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 401, 403, 404, 3661, and 410(a); Administrative Procedure Act, 5 U.S.C. §§ 551–706; Postal Regulatory Commission regulations; Executive Order 14399; *Buchanan v. United States Postal Service*; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

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July 2, 2026

Director, Product Classification  
U.S. Postal Service  
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Washington, DC 20260-5015

VIA EMAIL ONLY ([PCFederalRegister@usps.gov](mailto:PCFederalRegister@usps.gov))

Re: Ballot Mail  
Proposed Modification of DMM 705

To Whom it May Concern:

I write to express my objection to the proposed rule, published on June 2, 2026, “regarding the transmission of mail-in or absentee ballots for federal elections” (the “**Proposed Rule**”).<sup>1</sup> The Proposed Rule is procedurally invalid, impairs the right of citizens to vote in federal elections, and exceeds the rulemaking authority of the U.S. Postal Service (“**USPS**”). Given the injunction recently entered by the U.S. District Court for the District of Massachusetts,<sup>2</sup> it appears that the USPS can no longer take steps to implement the Proposed Rule; however, because the USPS has issued no notice indicating an intent to comply with the court’s order, I submit these comments out of an abundance of caution.

## I. Statement of Interest

By way of background, I am an attorney admitted to practice in Oregon and Washington. My practice involves communication law, including telecommunications and postal matters. I am a resident of, and registered elector in, the State of Oregon. Oregon law requires all elections to be conducted by mail.<sup>3</sup> Accordingly, my ability to vote is threatened by the Proposed Rule’s interference with the ability of Oregon election officials to mail me a ballot.

## II. The Proposed Rule is Procedurally Invalid Due to Inadequate Notice

In promulgating the Proposed Rule, the USPS has failed to follow two applicable procedural requirements, thus rendering the rule invalid.

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<sup>1</sup> 91 Fed. Reg. 32915 (Jun. 2, 2026).

<sup>2</sup> *California v. Trump*, Case No. 1:26-cv-11581, Memorandum & Order (ECF No. 191) (D. Mass., Jun. 25, 2026).

<sup>3</sup> Or. Rev. Stat. 254.465.



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First, it does not appear that the USPS has sought an advisory opinion from the Postal Regulatory Commission (“**PRC**”) as required by 39 U.S.C. § 3661(b). That statute requires the opportunity for hearings before the PRC when: (1) there is a “change,” (2) “in the nature of postal services,” (3) which affects service “on a nationwide or substantially nationwide basis.”<sup>4</sup> The Proposed Rule meets all three of these criteria. First, as the USPS admits, the Proposed Rule makes substantial changes that will significantly impact mailers, requiring new practices to incorporate “technical instructions regarding barcode creation, service type identifiers, acceptance processes, file preparation, documentation submission, and entry of data into the proposed portal.”<sup>5</sup> Second, the Proposed Rule is clearly in the nature of postal services because it impacts the ability of state officials to send, and voters to receive, mailed matter.<sup>6</sup> Finally, the Proposed Rule would impact service on a nationwide basis because “[a]ll states and territories and the District of Columbia offer at least some of their citizens the opportunity to cast their ballots by mail in federal general elections.”<sup>7</sup> Failure to initiate the procedure required under § 3661(b) is grounds for an injunction restraining non-compliant changes in mail processing.<sup>8</sup>

Second, the 30-day comment period applicable to the Proposed Rule violates Executive Order 12866 (“**EO 12866**”). According to the USPS, the Proposed Rule is enacted pursuant to the USPS’s rulemaking authority and is meant to “regulate the mails.”<sup>9</sup> The Proposed Rule thus qualifies as a “regulation”<sup>10</sup> and the USPS is an “agency” for purposes of EO 12866.<sup>11</sup> Under EO 12866, agencies are responsible for giving the public at least 60 days’ notice of proposed regulations, to ensure “meaningful participation in the regulatory process.”<sup>12</sup> The Proposed Rule is of immense importance and complexity, and is being proposed within five months of a general election, promising to cause chaos and confusion. Despite the high stakes, the USPS has only given interested parties 30 days to submit comments. This is too important of an issue to countenance derogation of EO 12866’s directive to provide a meaningful comment opportunity.

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<sup>4</sup> 39 U.S.C. § 3661(b); *Buchanan v. USPS*, 508 F.2d 259, 262-263 (5th Cir. 1975).

<sup>5</sup> Proposed Rule, 91 Fed. Reg. at 32917.

<sup>6</sup> *See id.* at 32918, proposed DMM § 705.24.6 (“This rule relates . . . to the use of the U.S. Mail.”).

<sup>7</sup> U.S. Election Assistance Comm’n, *Election Administration and Voting Survey 2022 Comprehensive Report* at 72 (Jun. 2023), available at [https://www.eac.gov/sites/default/files/2024-11/2022\\_EAVS\\_Report\\_508c.pdf](https://www.eac.gov/sites/default/files/2024-11/2022_EAVS_Report_508c.pdf).

<sup>8</sup> *Buchanan*, 508 F.2d at 266-267.

<sup>9</sup> Proposed Rule, 91 Fed. Reg. at 32915.

<sup>10</sup> Executive Order 12866, 58 Fed. Reg. No. 190 § 2(d) (“Oct. 4, 1993) (“‘Regulation’ or ‘rule’ means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice of an agency.”).

<sup>11</sup> EO 12866 § 2(b) (incorporating the definition of “agency” from 44 U.S.C. § 3502(1); *compare* 44 U.S.C. § 3502(1) (agency includes “any . . . establishment in the executive branch of the Government”) *with* 39 U.S.C. § 201 (the USPS is ‘an independent establishment of the executive branch of the Government of the United States’)).

<sup>12</sup> EO 12866 § 6(a)(1).



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### III. The Proposed Rule is *Ultra Vires* Because Voting is a “Major Question” and There is No Clear Delegation of Authority to the USPS to Regulate Elections

The Proposed Rule exceeds the USPS’s authority. Under the “major questions doctrine” articulated in *West Virginia v. EPA*,<sup>13</sup> a government agency lacks rulemaking authority when: (1) the underlying claim of authority concerns an issue of “vast . . . political significance;” and, (2) there is no clear delegation of authority over the issue.

Under the first prong of the major-questions doctrine, it cannot be doubted that control over the distribution of ballots is a matter of vast political significance.<sup>14</sup> On the second prong, the authorities cited by the USPS do not grant the agency the power to promulgate or implement the Proposed Rule. The USPS cites 39 U.S.C. §§ 401 and 404, as well as Executive Order 14399 (“EO 14399”) as the relevant authorizations for the Proposed Rule. As explained below, none of these provisions empower the USPS to implement the Proposed Rule.

#### A. Section 401 is Inapplicable Because No Other Law Grants the USPS Authority to Conduct Elections

With respect to 39 U.S.C. § 401, the USPS cites two subsections as purported authority for the Proposed Rule, but neither of these provisions bestow upon USPS the power that it claims. First, section 401(2) grants the USPS the power “to adopt . . . such regulations . . . as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside this title.”<sup>15</sup> The Proposed Rule’s provisions requiring pre-mailing enrollment and voter verification (proposed DMM sections 705.24.4 and 24.5) are completely untethered to any lawful grant of authority to the USPS—under title 39 or otherwise. The USPS’s statutory mandate is to deliver mail.<sup>16</sup> The Proposed Rule seeks to impose separate mailing standards applicable only to mailed ballots—standards which have nothing to do with deliverability, and which force mailers to disclose sensitive information that is unrelated to transmitting mail from point to point. This impermissibly inserts the USPS into the substantive conduct of elections by arrogating to the agency the power to determine who may receive a ballot.<sup>17</sup>

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<sup>13</sup> 597 U.S. 697 (2022).

<sup>14</sup> See *Watson v. Republican Nat’l Comm.*, 609 U.S. \_\_\_, slip op. at 7 (2026) (“From time immemorial . . . an election to public office has been in point of substance no more and no less than the expression by qualified electors of their choice of candidates.” (quoting *U.S. v. Classic*, 313 U.S. 299, 318 (1941) (internal quotation marks omitted))); *Georgia v. Ashcroft*, 539 U.S. 461, 483 (2003) (“[I]n a representative democracy, the very purpose of voting is to delegate to chosen representatives the power to make and pass laws. The ability to exert more control over that process is at the core of exercising political power.”).

<sup>15</sup> 39 U.S.C. § 401(2).

<sup>16</sup> See 39 U.S.C §§ 401-404.

<sup>17</sup> See *West Virginia*, 597 U.S. at 721 (“It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. Where the statute at issue is one that confers authority upon an administrative agency, that inquiry must be





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No statute gives the USPS this authority, and the Constitution expressly reserves the *manner* of conducting elections to the states.<sup>18</sup> To the extent that the USPS believes that EO 14399 “assigns functions” to the USPS for purposes of § 401(2), such theory is untenable, both because an executive order is not a law<sup>19</sup> and because the President has no direct supervisory authority over the USPS.<sup>20</sup>

Second, section 401(10) grants the USPS “all other powers incidental, necessary, or appropriate to the carrying on of its functions or the exercise of its *specific* powers.”<sup>21</sup> The statute’s reference to specific powers is telling—the USPS’s “specific powers” are enumerated in 39 U.S.C. § 404, a statute that is almost entirely focused on the delivery of mail.<sup>22</sup> Under the major questions doctrine, the USPS may not use its powers related to mail delivery to grant the agency a role in determining which electors may receive ballots.<sup>23</sup>

### **B. The Proposed Rule Does Not Fit Within Any of the Powers Enumerated in Section 404**

Section 404 of title 39 lists the specific powers of the USPS. None give the USPS a role in adjudicating elections, and the only subsection specified by the USPS concerns the power “to provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail, and for the disposition of undeliverable mail.”<sup>24</sup> This grant of authority over *transmission* of the mail does not allow the USPS to exercise authority over the *contents* of mail, and certainly does not grant the USPS a role to play in substantive election administration. Any reliance on section 404 is unavailing for two reasons.

First, section 404 is an enabling statute that is focused on the collection and delivery of mail as well as directly related matters such as postal rates and the maintenance of postal facilities. While

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shaped, at least in some measure, by the nature of the question presented—whether Congress in fact meant to confer the power the agency has asserted.” (citations and internal quotation marks omitted))

<sup>18</sup> U.S. Const., art. I, § 4, cl. 1 and art. II, § 1, cl. 2; *accord Watson*, supra note 14, slip op. at 1-2.

<sup>19</sup> *Sierra Club v. U.S. Dept. of Energy*, 134 F.4th 568, 573 (D.C. Cir. 2025) (“an executive order is not ‘law’ within the meaning of the Constitution” (citation and internal quotation marks omitted)).

<sup>20</sup> 39 U.S.C. § 202(a)(1) (“The exercise of the power of the Postal service shall be directed by a Board of Governors”); *Governors of the USPS v. U.S. Postal Rate Comm’n*, 654 F.2d 108, 114 (D.C. Cir. 1981) (the Board of Governors is vested with “exclusive authority to manage the Postal Service”).

<sup>21</sup> 39 U.S.C. § 401(10) (emphasis added).

<sup>22</sup> The only provision in section 401 that does not pertain to delivery of mail is found in 39 U.S.C. § 401(e), pertaining to nonpostal services. This provision provides no authorization for the Proposed Rule, since the statute does not authorize the USPS to offer nonpostal services (*see* § 401(e)(2)) and generally prohibits the offering of nonpostal services that have not been approved by the PRC (*see* § 401(e)(4)).

<sup>23</sup> *West Virginia*, 597 U.S. at 723 (“Extraordinary grants of regulatory authority are rarely accomplished through modest words, vague terms, or subtle devices. Nor does Congress typically use oblique or elliptical language to empower an agency to make a radical or fundamental change to a statutory scheme.”).

<sup>24</sup> 39 U.S.C. § 404(a)(1).





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section 404 allows the USPS to prescribe general rules—such as formatting requirements—it says nothing about allowing the agency to determine a mail recipient’s legal authority to vote, which is precisely the intent of the Proposed Rule.<sup>25</sup> Thus the Proposed Rule exceeds the authority granted by section 404 because “enabling legislation is generally not an open book to which the agency may add pages and change the plot line.”<sup>26</sup>

Second, to the extent that the USPS seeks to ground the Proposed Rule in its power to investigate postal offenses, such theory is not supported by the content of applicable criminal law. The USPS’s announcement of the Proposed Rule cites two relevant criminal statutes.<sup>27</sup> The first such statute, 52 U.S.C. § 10307, as relevant here, penalizes the knowing or willful giving of “false information as to [a person’s] name, address, or period of residence in [a] voting district for the purpose of establishing his eligibility to register or vote.” The Proposed Rule does not reasonably relate to this statute because the rule governs the transmission of mail *from* election officials *to* electors, while the statute addresses the submission of false information *by* putative electors *to* election officials.

The other criminal statute cited by the USPS, 52 U.S.C. § 20511, as relevant here, penalizes the knowing and willful “procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious or fraudulent under the laws of the State in which the election is held.” This statute provides no support for the Proposed Rule because it targets voting that is prohibited under state law. By sending a ballot to a recipient, a state voting official has—by definition—made a determination that the recipient is a lawful elector. The USPS has no authority to second-guess that determination, nor does the Proposed Rule in any way facilitate determinations of elector eligibility by reference to *state* law.

#### IV. Conclusion

The conduct of elections is a fundamental cornerstone of our democracy. The USPS plays an important role in this process by delivering mail on behalf of electors and election officials. No law gives the USPS a role in determining who is eligible, under substantive non-postal law, to receive or cast a ballot. The Proposed Rule seeks to claim such power without any statutory basis, which amounts to the proverbial hiding of an elephant in a mousehole.<sup>28</sup>

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<sup>25</sup> See Proposed Rule, 91 Fed. Reg. at 32915 (“The regulations as proposed . . . can provide information regarding the sending of ballots through the mails that would be available for use by law enforcement.”).

<sup>26</sup> *West Virginia*, 597 U.S. at 723 (citation, alteration, and internal quotation marks omitted).

<sup>27</sup> Notably, EO 14399 cites two *additional* criminal statutes that the USPS does not rely on. Specifically, EO 14399 cites 18 U.S.C. §§ 1341 and 1708. See EO 14399 § 3(a). That the USPS does not reference these statutes in its notice of the Proposed Rule indicates an implicit acknowledgment by the agency that there is no non-frivolous reading of the statutes that apply to an election official who mails a ballot to someone not entitled to vote.

<sup>28</sup> See *Whitman v. Am. Trucking Ass’n*, 531 U.S. 457, 468 (2001) (“Congress . . . does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions – it does not, one might say, hide elephants in mouseholes.”).





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A court of competent jurisdiction has already determined that the Proposed Rule cannot move forward. The USPS must rescind its notice of rulemaking and put this ill-conceived rule to rest once and for all.

Sincerely,

Stephen A. Rahe

# BIPARTISAN POLICY CENTER

July 2, 2026

## Source

<https://bipartisanpolicy.org/testimony-letter/bpc-public-comment-on-usps-proposed-rule-on-ballot-mail-for-federal-elections-2026-10968/>

## Principal Issues Raised

Long-standing bipartisan support for accessible and secure voting by mail; implementation challenges posed by the proposed rule; administrative burdens on election officials; timing concerns before the 2026 general election; preservation of voter confidence; election administration best practices; and the need for collaboration rather than unilateral federal mandates.

## Principal Authorities Cited

Postal Reorganization Act of 1970; National Voter Registration Act of 1993; Help America Vote Act of 2002; Uniformed and Overseas Citizens Absentee Voting Act; Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).

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## **BPC Public Comment on USPS Proposed Rule on Ballot Mail for Federal Elections (2026-10968)**

July 2, 2026

Director, Product Classification  
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We appreciate the opportunity to provide comments on the U.S. Postal Service's [proposed rule](#) amending the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual. Mail voting in the United States is [safe and secure](#), and USPS is a critical partner in ensuring that voters can securely cast ballots by mail. The policy changes proposed by USPS will impose significant new administrative responsibilities on both USPS and election officials. We propose several modifications to the rule to ensure that mail voting continues to be safe, secure, and accessible to voters.

The suggestions below are endorsed by the Bipartisan Policy Center's Elections Project and the following members of BPC's [Task Force on Elections](#), a geographically and politically diverse group of state and local election officials devoted to making meaningful improvements to U.S. elections.

- Natalie Adona, Registrar of Voters, Marin County, California
- Jacqueline Beaudry, City Clerk, Ann Arbor, Michigan
- Mark Earley, Supervisor of Elections, Leon County, Florida
- Carly Koppes, Clerk and Recorder, Weld County, Colorado
- Debra Lee, Clerk, Laramie County, Wyoming
- Nick Lima, Registrar/Director of Elections, City of Cranston, Rhode Island
- Brian McKenzie, Clerk, Davis County, Utah
- Jamie Shew, Clerk, Douglas County, Kansas
- Julie Leathers Stahl, Director, Wayne County Board of Elections, Ohio
- Mandy Vigil, State Election Director, New Mexico

**Recommendation 1: USPS should not require election officials to submit lists of mail voters or refuse to deliver mail ballots to voters.**

The proposed rule establishes a framework in which election offices send lists of voters receiving mail ballots to USPS. Ballots intended for voters not on USPS' list will "not be accepted and will be returned to the authorized ballot mailer." The rule introduces significant risk of administrative error.

Election officials routinely receive requests for mail ballots in the weeks and days leading up to an election; [many states](#) permit voters to request mail ballots less than one week before Election Day. Supplying USPS with updated data on these requests on a short timeframe introduces an additional burden on election officials when they are busiest, which heightens the risk that voters who have completed all required steps to receive mail ballots would not make it onto the list of mail voters shared with USPS, and therefore not receive the mail ballot they are entitled to.

Whether election officials can meet this burden at all depends on the successful deployment of a tool that does not yet exist. The proposed rule envisions creating a Postal Service Federal Ballot Mail Portal through which election officials can submit their mail voter lists. Building, testing, deploying, and training election officials to use a portal before October 4 (the beginning of the 30-day window during which election officials will be supplying lists to USPS) will be an enormous undertaking, and the risk of delay in the deployment of this portal is significant.

Even if deployed by October 4, election officials across the country maintain voter lists using different election management systems, meaning the portal must be capable of incorporating millions of disparate records from each state's respective infrastructure in real time, across thousands of jurisdictions, without error. USPS would also have to create infrastructure to ensure all the data collected from voter lists is transmitted and stored securely and that the privacy of voters' personal information—especially those enrolled in [address confidentiality programs](#)—is protected. This is too complex a task for the USPS to realistically achieve in a handful of months.

Administrative error in any form introduces the risk that voters will not receive ballots to which they are entitled. If voters are left off the USPS list through administrative error, they will not receive ballots. Voters who do not receive the ballots they are expecting may not have another opportunity to vote.

Given the risk of administrative error and the potential harm to voters, we recommend that USPS not require election officials to submit lists of mail voters, and that USPS deliver all ballots mailed by election officials without predicated delivery on a voter's inclusion on any such list.

**Recommendation 2: USPS should provide support to election offices to improve their election mail design instead of mandating compliance.**

The proposed rule requires that mail ballot envelopes have the official Election Mail logo, automation capacity, “a unique IMb [Intelligent Mail Barcode] with the Delivery Point ZIP Code embedded and a Federal Ballot Mail Service Type Identifier,” and undergo USPS design review. Ballots without these features will “not be accepted and will be returned to the authorized ballot mailer.”

Implementing these design modifications is a significant challenge for some election offices. Many election offices have already designed and ordered their mail ballot envelopes for the November election. Ordering new, compliant envelopes would be costly, and the envelopes may not arrive in time. Mail ballot envelopes in some states are procured centrally by the secretary of state and are shipped to county or municipal election offices. The proposed rule would jeopardize timely delivery to the counties and municipalities that are required to use the state-procured envelopes.

Small, rural jurisdictions would bear the brunt of these challenges. Many jurisdictions around the country already use IMBs, incorporate the Election Mail logo, and have automation capacity. However, small and rural jurisdictions with fewer resources are less likely to have these features, and implementing them before mail ballots go out to voters would be a significant burden.

For the November elections, we recommend that USPS accept and mail ballots with envelopes that do not meet these design standards, as has been USPS policy in the past. Voters will be harmed if USPS conditions ballot delivery on changes to election mail design.

Election officials and USPS have worked together in the past to design, implement, and advance election mail improvements. In the long term, we recommend that USPS continue to work with election officials on improvements to mail ballot envelope design and election mail processing that better serve the needs of voters.

**Recommendation 3: USPS should prioritize dedicating resources to longstanding, successful policies that ensure mail voting is safe and secure.**

USPS and election offices already work closely to ensure millions of ballots are delivered to eligible voters and returned to election offices in a timely manner. USPS and election officials have developed many successful policies for election mail. Ensuring these policies have sufficient resources and attention should be USPS's priority this election cycle. The policies include:

- Extraordinary measures in the weeks leading up to Election Day to ensure election mail is picked up and delivered expeditiously.
- Open lines of communication between election officials and local postmasters.
- Meetings between election officials and Customer Service Representatives from the USPS to discover issues and offer solutions.

**Recommendation 4: USPS should delay implementation of any rulemaking until after the 2026 general election.**

BPC's Task Force on Elections has [long recommended](#) that "a one-year lead is the optimal amount of time for the implementation of new policies and procedures" to ensure election officials have sufficient time to implement and communicate changes. Even under extreme circumstances, changes made less than 90 days before an election risk administrative mistakes and voter confusion. The proposed rule, if finalized this summer, would give election officials less than three months to comply before voting begins for the general election—well short of either standard.

# ECONOMIC POLICY INSTITUTE

**July 2, 2026**

## **Source**

<https://www.epi.org/publication/epi-comment-on-postal-services-proposed-rule-regarding-ballot-mail-for-federal-elections/>

## **Principal Issues Raised**

The public mission of the Postal Service; preservation of universal postal service; institutional independence; operational impacts of the proposed rule; burdens on postal employees; election administration; public confidence in the Postal Service; and the consequences of politicizing postal operations.

## **Principal Authorities Cited**

Postal Reorganization Act of 1970; 39 U.S.C. §§ 101, 403, and 403(c); Executive Order 14399; and the proposed rule, *Ballot Mail for Federal Elections*, 91 Fed. Reg. 32915 (June 2, 2026).\_\_\_\_\_



# EPI comment on Postal Service's proposed rule regarding "Ballot Mail for Federal Elections"

Public Comments • By Monique Morrissey • July 2, 2026

*Submitted via email*

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## **Re: Proposed Rule: Ballot Mail for Federal Elections**

The Economic Policy Institute (EPI) is a nonprofit, nonpartisan think tank that for 40 years has centered working families in economic policy discussions. EPI is submitting these comments in response to the Postal Service's proposed rule on Ballot Mail for Federal Elections,<sup>1</sup> which would have a disparate impact on Americans who face barriers to voting in person, including workers with disabilities, working parents, and workers with long and unpredictable work shifts. For this and other reasons outlined below, we believe that the proposed rule should be abandoned permanently and in its entirety.

The proposed rule follows a March 31, 2026, executive order from President Trump<sup>2</sup> that would require the Postal Service to set new standards for the design of ballot envelopes used by state and local jurisdictions to facilitate centralized tracking of ballots to and from individual voters, thus encroaching on the authority to regulate and administer elections that the Constitution assigns to Congress and the states. The proposed rule also directs the Postal Service to compile a national voter list from state voter rolls and to reject ballots addressed to voters who are not on the list or that do not conform to the new envelope standard.

Tellingly, the proposed rule does *not* instruct the Postal Service to notify voters whose ballots were not delivered so that voters can challenge these decisions and correct errors caused by typos and similar discrepancies, which are vastly more common than deliberate fraud. Discrepancies and gaps in government records are not purely random, but are more likely to affect people with uncommon or hyphenated names (including many foreign-born citizens), married women who changed their names, and elderly and low-income Americans, among others.<sup>3</sup>

### **The proposed rule would misuse government data for political purposes.**

The proposed rule should be viewed in the larger context of actions taken by this administration to use government data for unauthorized purposes, including voter suppression.

In addition to directing the Postal Service to compile a list of registered voters and use it to restrict mail voting, other provisions of the president's executive order direct the United States Citizenship and Immigration Services (USCIS) and the Social Security Administration (SSA) to compile lists of voting-age citizens in each state, even though there is no evidence that fraudulent voting by noncitizens is a problem in U.S. elections.<sup>4</sup> However, purging voter lists of *suspected* noncitizens could be used to disenfranchise eligible voters.

A case pending before the U.S. Supreme Court that would weaken the National Voter Registration Act could enable voter purges of suspected noncitizens close to elections when voters have little time to challenge errors that are common in such purges.<sup>5</sup> Since some groups are more likely to vote for particular parties, purges can be weaponized for partisan advantage, a problem that would be magnified if done on a national scale.

The executive order adds to previous efforts by this administration to use SSA and other sensitive personal data for purposes beyond their intended use. It also risks another data breach in violation of federal privacy laws similar to an earlier breach of SSA data by a DOGE operative.<sup>6</sup>

## **The proposed rule would discourage voting by mail and harm working families who are more likely to face barriers to in-person voting.**

Importantly, the harm inflicted by the proposed rule would extend beyond eligible voters who are directly prevented from voting by mail because they do not appear on the Postal Service list of registered voters. By casting doubt on the integrity and impartiality of mail voting, the rule would increase the number of voters dissuaded from voting by mail who later find themselves unable to vote in person.

Thirteen states, along with Puerto Rico and the Virgin Islands, restrict absentee voting to voters who know they will be out of the county on election day, or, in some states, who face barriers related to age, health, disability, work schedules, or other conflicts, such as jury duty.<sup>7</sup> In my personal capacity as a volunteer on a voter assistance hotline, I can attest that many, if not most, people who face barriers to in-person voting could not have predicted them in advance. Voters frequently fall sick, face long lines at the polls that threaten to make them late for work, or find themselves with last-minute childcare and transportation problems.

Even voters who face predictable barriers that are valid reasons for absentee voting in their state can find it difficult to determine whether they qualify since specifics are not spelled out or are buried in dense legal language. What counts as a disability? Is documentation required? What if an anticipated work shift, jury duty, or vacation does not happen?

As the Institute for Policy Studies has pointed out, working-class voters are more likely to face barriers to voting in person due to work and family obligations.<sup>8</sup> The Shift Project at the Harvard Kennedy School has documented the large number of low-wage workers, disproportionately workers of color, who work long and unpredictable shifts with little input into their schedules.<sup>9</sup> In-person voting hours vary by state, but typically span a 12- or 13-hour time period.<sup>10</sup> For working parents transporting children to school, workers with long commutes, and workers who face mobility challenges, it can be difficult if not impossible to vote in person within the designated window, especially if lines at the polls are long. Though some white-collar workers face these challenges, low-wage workers are less likely to work from home, have predictable schedules, or be given flexibility by employers to vote.

## **The Postal Service should scrap the proposed rule.**

The above-mentioned constitutional, voting rights, and logistical problems with the proposed rule have been described in lawsuits and in commentary from a wide range of stakeholders and perspectives, including Lawfare,<sup>11</sup> the Cato Institute,<sup>12</sup> and the American Postal Workers Union.<sup>13</sup> Twenty-three states and the District of Columbia successfully sued to temporarily block

the executive order on which the proposed rule is based.<sup>14</sup> However, the administration has said they will challenge the ruling, and regardless the rule could still take effect after the upcoming November election (the focus of the temporary injunction).

EPI believes that the proposed rule should be abandoned permanently and in its entirety for the following reasons:

- It is an unlawful attempt by the executive branch to seize control of elections from states and Congress.<sup>15</sup>
- It would inflict reputational damage on the Postal Service by involving it in decisions about who can and cannot receive ballots and vote by mail.<sup>16</sup>
- It would impose financial and logistical burdens on the Postal Service, which is already stretched to its limit.<sup>17</sup>
- It could jeopardize the timely delivery of all mail ballots, including those that conform to the requirements of the rule.<sup>18</sup>
- In combination with other provisions of the executive order, it could facilitate systematic voter purges for partisan advantage.
- It would cast doubt on the integrity and impartiality of mail voting.
- It would dissuade eligible voters from voting by mail, many of whom will face barriers to voting in person.

The Postal Service is an independent agency that, by design, is not under the direct control of the president and therefore not subject to his executive order.<sup>19</sup> It has impartially delivered mail ballots to voters since the Civil War, when states introduced absentee voting for soldiers, a right later extended to other absentee voters. Some states have also extended vote by mail to voters who face specific barriers to in-person voting, such as people with disabilities. Other states and the District of Columbia have gone much further, mailing ballots to all registered voters. This is by far the fairest solution, but until it is the law of the land, we should work to extend, not restrict or suppress, mail voting.

Respectfully submitted,

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Senior Economist

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## Endnotes

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