

# ACTION ALERT BRIEFING MATERIALS:

## Stop the United States Postal Service from Interfering with Mail-In Voting



The U.S. Postal Service (USPS) has [published a proposed rule](#) that would impose new requirements for all mail-in ballots, including for those who vote by mail and those who vote absentee, in federal general elections. This proposed rule would subject mail-in voting across the country to federal control and would allow the U.S. government to refuse to deliver mail-in ballots if it determined those requirements were not met.

Specifically, the proposed rule would:

- Require states to use a design specified by the USPS for outgoing and incoming mail-in ballot envelopes.
- Require the USPS to review **all** mail-in ballot envelopes for compliance with the USPS's design requirements.
- Require states to submit the names and unique identifiers of all individuals receiving a mail-in ballot for inclusion on a federal mail-in ballot list.
- Provide that the USPS will not accept and deliver any mail-in ballots from states that fail to meet these requirements.

## KEY LEGAL ARGUMENTS AGAINST THE RULE

- **The proposed rule is unconstitutional.**

The United States Constitution reserves to the states the authority to determine the times, places, and manner of holding federal elections, subject to the authority of Congress to enact laws pertaining to federal elections. [U.S. Const. art. I, sec. 4](#). The president has no authority under the United States Constitution to regulate federal elections, by executive order or otherwise.

Neither the President nor the USPS has the authority to regulate federal elections as set forth in the proposed rule. Last December, a federal district court agreed with plaintiffs that the President's [Executive Order \(EO\) 14248](#), directing the Election Assistance Commission (EAC) to require documentary proof of citizenship on the federal voter registration form, violated separation of powers. In a case now under appeal, the court [permanently enjoined](#) the EAC from implementing the President's EO. [LDAD's amicus brief in this case can be found [here](#).]

- **The proposed rule violates the Administrative Procedure Act (APA) and Executive Order 12866 because the comment period is insufficient.**

The proposed rule does not provide a meaningful opportunity to comment, as required by the APA and EO 12866 because the comment period is only 29 days. The APA at [5 U.S.C. § 553\(c\)](#) requires federal agencies to “give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation.” [Section 6\(a\)\(1\) of EO 12866](#), which implements the rulemaking provisions in the APA, states that federal agencies “should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days.”

- **The proposed rule is not authorized by law and violates the APA because the USPS lacks the statutory authority to regulate mail-in ballots in any way.**

The proposed rule violates [the APA](#) because the proposed rule is arbitrary and capricious, an abuse of discretion, and not authorized by law.

- **The proposed rule is not authorized by the USPS governing statute.**

The USPS has the [authority](#) to promulgate regulations only as may be necessary in the execution of its [general](#) and [specific](#) powers. These include, for example, planning, developing, promoting, and providing adequate and efficient postal services at fair and reasonable rates; establishing and maintaining postal facilities; and providing for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail. None of these authorized USPS functions include the authority to impose requirements on states and condition mail delivery on compliance.

- **The proposed rule is not authorized by the criminal laws cited by the USPS.**

The statutes on which the USPS relies either have no connection to voting or do not grant the USPS authority over election-related conduct. The criminal laws cited by the USPS in support of the proposed rule either have nothing to do with voting (for example, a statute [granting Postal Inspectors police powers](#) to investigate postal crimes) or are related to voting but are not enforced by the USPS (for example, statutes prohibiting forms of [election misconduct](#) and [election interference](#)). Nothing in these provisions authorizes the USPS to create voter lists, review mail-in ballot envelope designs, verify voter eligibility, or refuse to deliver ballots.

- **The proposed rule would violate federal criminal law and the USPS's governing statute.**

[Federal criminal law](#) prohibits denying any qualified person the right to vote. This criminal statute prohibits the USPS from promulgating the proposed rule because it would allow the USPS to refuse to permit people who are entitled to vote by mail to do so if their state fails to comply with any of the requirements that the USPS imposes. Ironically, this is one of the federal criminal statutes cited by the USPS as authority for its proposal.

The proposed rule also violates the USPS's [governing statute](#). This provision expressly prohibits the USPS from “mak[ing] any undue or unreasonable discrimination among users of the mails” in providing services. In establishing separate, burdensome requirements for mail-in ballots versus other types of mail, and allowing the USPS to refuse to accept or deliver mail-in ballots in a state if the state fails to meet those requirements, the proposed rule would unduly and unreasonably discriminate between those who use the mail to vote and those who use the mail for other purposes.

- **The proposed rule would wreak havoc on federal elections.**

[All states and the District of Columbia](#) allow at least some voters to receive their ballots by mail; 36 states and DC offer some form of no-excuse mail voting. Accordingly, the proposed rule would generate massive uncertainty and create unnecessary voter confusion. Moreover, it would undermine trust and confidence in a system that has long been shown to be trustworthy and safe.

Any effort to implement such a rule for this year's general election would create chaos. For example, the USPS could inordinately delay approval of a state's ballot envelope design. After the proposed rule is implemented, voters may not know whether their state has complied with the requirements in the proposed rule and whether their mail-in ballots will be delivered, thus interfering with the right to vote and have one's vote be counted.

Finally, there are three pending lawsuits challenging [EO 14399](#), which directs the USPS to promulgate the proposed rule. These lawsuits raise significant questions about the legality of the proposed rule and could result in invalidation of the rule during a general election, including this year's midterm election.

The threat of invalidation of the rule during a general election would create uncertainty for states and for mail-in voters, leading to a process in which ballots are improperly rejected and causing the very outcome the President has been wrongfully alleging for

years: an unreliable election where the results cannot be trusted. This time, however, the outcome will stem from the administration's own illegal actions.

## WHY THIS MATTERS

The proposed rule constitutes an impermissible interference with the Constitution's unambiguous language directing that the duty of election administration belongs to the states. It also raises a significant likelihood that millions of registered voters could be disenfranchised.

This proposed rule is part of a broader pattern of unlawful federal intrusion into state election administration, including a suppression and disinformation campaign and executive orders which imposed burdensome requirements on voter registration and mail-in voting. Critically, the proposed rule lacks lawful constitutional or statutory authority, undermines established election procedures, and violates the rule of law. It also contravenes the Constitution's allocation of primary responsibility for election administration to the States, except where Congress is expressly authorized to act.

## WHAT YOU CAN DO

- **[Submit a comment](#) before midnight, July 2, 2026, opposing the proposed rule, making clear the risks it poses to free and fair elections.** Reference our Action Alert as a guide. For more specific information on the comment process, please see our [Tips for Commenting Effectively on Proposed Rules](#).
- **Speak out on multiple platforms.** Write articles and letters to the editor and post on social media to ensure the public understands what is at stake. Reach out to local podcasters and radio shows to share why this proposed rule must be withdrawn. For additional help, see our [Tips for Writing and Placing Letters to the Editor and Opinion Pieces](#).

## ADDITIONAL RESOURCES

[Analyzing the President's Executive Order on Mail Voting](#)

[The Trump Administration's Strategy for Reshaping Elections](#)

[DSCC v. TRUMP, 1:26-cv-01114](#) (link to docket)

[State of California v. Trump, 1:26-cv-11581](#) (link to docket)

**See our Action Alert for talking points on the proposed rule and actions YOU can take NOW.**