



Ballot Mail for Federal Elections

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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.

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.