

Institute for
Responsive
Government

USPS RULEMAKING *Analysis*



TOPLINE

USPS released a new proposed rule that would allow it to reject or return ballot mailings over technical or administrative issues, even if the voter otherwise met requirements under state law. The proposal creates unprecedented federal authority over elections. It also raises major privacy, implementation, and voter access concerns — particularly given the compressed timeline before the 2026 general election. The rule will not be finalized until after a month-long public comment period beginning June 2, and ongoing litigation is expected to intensify.

BACKGROUND

On March 31, 2026, President Trump signed an executive order, titled “Ensuring Citizenship Verification And Integrity In Federal Elections.” Among other requirements (see here for more on state citizenship lists), the order purported to direct the US Postal Service (USPS) to start a rulemaking process dramatically changing USPS’s role in the processing and delivery of election mail, including a role in eligibility and rejection of otherwise eligible ballots that is historically unprecedented. The order directed the rulemaking process to begin by May 30 and conclude with a final rule by July 29.

There have been several legal challenges filed against the executive order, most notably two cases in DC and Massachusetts. In the DC case the judge has preliminarily held that since there had been no federal actions taken, the court could not provide an intervention. The first hearing in the MA case was on June 2, and the judge in that case appeared skeptical of the executive order and DOJ’s arguments defending it. DOJ has maintained in court, and so far the first judge has agreed, that since no federal actions have been taken to implement the EO, court intervention is not ripe. With this proposed rule, that is now no longer the case.

The proposed rule was released on May 29 and was published in the federal register on June 2. There is a 30 day public comment period, counted from June 2.

The proposed rule sets out these changes to how USPS handles election mail:

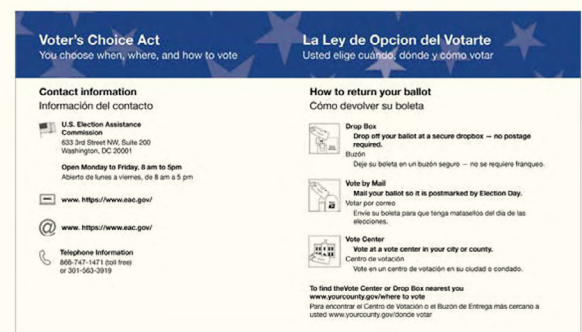
New ENVELOPE STANDARDS

The proposed rule creates new standards for outbound and inbound mail envelopes. These standards are built on existing best practices, notably referencing “Kit 600,” the official election mailpiece guide, but they have not previously been required for ballots to enter the mailstream. This rule would make compliance with the new envelope standards a requirement for both outgoing and return ballots, and outgoing ballots not meeting the standards would be returned to the original mailers (with a lack of clarity on what happens with non-compliant return ballots).

Both outbound and return ballots, under this new proposed standard, must be mailed in an envelope that: “includes the official Election Mail logo, is automation compatible, bears a unique IMb with the Delivery Point ZIP Code embedded and a Federal Ballot Mail Service Type Identifier (STID), and has undergone review by the Postal Service for mailpiece design and barcode placement.”

Many states are already in compliance with these standards at least for outgoing ballots, with the exception being many rural offices that do not use a vendor for their ballot printing. These jurisdictions would need to design and order new ballot envelopes before the 2026 general election. For a very small jurisdiction (~2500 voters) it costs about

\$10,000 to order new envelopes, so this will be a significant cost to rural counties on a short timeline, but is ultimately conforming to a best practice in the field. Ballot envelope barcodes and ballot tracking systems are already used in almost all states, many provided statewide, particularly those with high levels of vote-by-mail participation. However, some states use individualized barcodes only for outgoing ballots, and use generic barcodes (indicating a destination of the local election office) for return ballots.



Voter **LISTS**

The proposed rule outlines new requirements for ballot transmission through the mailstream, including the creation of a new federal portal for election officials to submit voter information. Notably, this would for the first time place USPS in the role of determining which voters receive ballots, through an untested system implemented with no dedicated funding and seemingly without adequate safeguards to confirm voter access and/or privacy.

A state's chief election official can notify the Postal Service, no fewer than 90 days prior to a federal election, that the state intends to have mail ballots in the federal election to be transmitted by the Postal Service. But this particular 90-day notification seems to be optional and would not affect ballot delivery.

The proposed rule requires state chief election officials to determine who should be authorized in their state to use the Federal Ballot Mail Portal, including subdivisions (counties/municipalities...). Users must be registered "no later than two business days before an Outbound Federal Ballot mailing." The "Federal Ballot Mail Portal" would be a new service created by this rule, but there is little detail about this portal in the proposed rule.

The proposed rule requires election officials to upload to the Federal Ballot Mail Portal the name, address, unique Intelligent Mail barcode (IMb) on both the outgoing and return envelope, and the state that the request originates from. This must be done 30 days before the election, but can be amended or supplemented at any time "until the last day that ballots may be mailed out to individuals under state law."

Election offices typically use unique IMbs on outgoing ballot envelopes but just general IMbs on return envelopes. This would likely require a change in process for several states.

Ballot Portal Users must certify to the Postal Service that any outgoing and return ballot mailings their state's authorized ballot mailers provide to the Postal Service meet the new envelope standards created by the proposed rule.

"On or about the date of the federal election," the Postal Service then provides each state's chief election official with a "state-specific Mail-In and Absentee Participant List," containing the name and address of each individual enrolled through the Federal Ballot Mail Portal, "along with the unique IMb associated with the Outbound and Return Federal Ballot Mail sent to each such individual."

Using the information provided through the ballot portal, the Postal Service will "review mailings identified as Outbound Federal Ballot Mail prior to acceptance" to evaluate if they meet the new envelope standards and confirm that the individuals have been "enrolled with the Postal Service for inclusion on the state's Mail-In and Absentee Participation List." So USPS will compare it to the list that they create from the submissions through the portal. But the timing of when and how this comparison occurs is extremely vague.

Mailings that USPS deems are not in compliance with the envelope standards or are being directed to individuals not on the state's Mail-In and Absentee Participation List "will be returned to the authorized ballot mailer" for the "errors" to be addressed. This would very likely result in delays and potentially voters not receiving ballots in a timely manner through no fault of the voter and via direct federal action. These provisions seem to only apply to outgoing ballot envelopes, not returned ballot envelopes. Though that is unclear.

Note that these standards would not be applied to "primary elections or to UOCAVA ballots."

PRIVACY CONCERNS

The proposed rule promises that a system of records notice (SORN) in accordance with the Privacy Act is forthcoming, presumably because this involves the collection of unique information by the federal government about individuals. It is difficult to assess the SORN and its completeness at this stage, but the administration has violated the Privacy Act repeatedly already, including in election policy.

Note a concern that the proposed rule includes this rationale for the lists: “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.” It is unclear which law enforcement agencies, if any, USPS would be making the lists available to. Aside from USPIS, what federal law enforcement agencies would have jurisdiction to view these lists and take enforcement actions? In addition, it is unclear what conclusions or evidence can be drawn from the most likely outcome, where a subset of the ballots that have been mailed are ultimately returned.

There is also no information in the proposed rule as to how the information of people enrolled in state address confidentiality programs will be safeguarded in these lists. Address confidentiality participants are typically not included in public voter files.

OVERALL CONCERN

The proposed rule claims repeatedly that states retain control over eligibility but as written this rule would empower federal actors to directly interfere with voter access by rejecting the transmission of mail ballots to or from otherwise eligible voters. If a voter is legally entitled to receive and vote a ballot under state law, but the ballot is rejected because of a barcode, portal, certification, or file-submission error, the federal postal rule is functionally interfering with state election administration and eligibility determinations.

The proposed rule also requires standing up a major federal upgrade – a Federal Mail Ballot Portal, accessible to all election officials nationwide and capable of storing more than a hundred million records of voters receiving mail ballots with daily updates – in the final months before a federal general election. Any technical failures in this system will result in delays in voters receiving their ballots, and disenfranchisement when ballots do not ultimately reach voters or their ballots are rejected as deficient due to technical standards beyond their control.

