

**In the Supreme Court of the United States**

\_\_\_\_\_  
UNITED STATES POSTAL SERVICE, ET AL., APPLICANTS

*v.*

STATE OF CALIFORNIA, ET AL.

\_\_\_\_\_  
DONALD J. TRUMP, ET AL., APPLICANTS

*v.*

LEAGUE OF WOMEN VOTERS OF MASSACHUSETTS, ET AL.

\_\_\_\_\_  
**APPLICATION FOR A STAY OF THE INJUNCTION ISSUED  
BY THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
AND REQUEST FOR AN IMMEDIATE ADMINISTRATIVE STAY**

\_\_\_\_\_  
D. JOHN SAUER  
*Solicitor General  
Counsel of Record  
Department of Justice  
Washington, D.C. 20530-0001  
SupremeCtBriefs@usdoj.gov  
(202) 514-2217*

---

## TABLE OF CONTENTS

|                                                                                                              |    |
|--------------------------------------------------------------------------------------------------------------|----|
| Statement.....                                                                                               | 7  |
| Argument .....                                                                                               | 12 |
| A.    The Government Is Likely To Succeed On The Merits Because The<br>Postal Service’s Rule Is Lawful ..... | 13 |
| B.    The Remaining Factors Favor a Stay .....                                                               | 28 |
| Conclusion.....                                                                                              | 35 |

RETRIEVED FROM DEMOCRACYDOCKET.COM

**PARTIES TO THE PROCEEDING**

Applicants in *United States Postal Service v. California* (defendants-appellants below) are the United States Postal Service; David Steiner, Postmaster General and Chief Executive Officer of the Postal Service, and Member of the Postal Service Board of Governors; Douglas Tulino, Deputy Postmaster General, Chief Operating Officer, and Chief Human Resources Officer of the Postal Service, and Member of the Postal Service Board of Governors; Amber McReynolds, Chair of the Postal Service Board of Governors; Derek T. Kan, Vice Chairman of the Postal Service Board of Governors; Ronald Stroman, Member of the Postal Service Board of Governors; and Daniel Mark Tangherlini, Member of the Postal Service Board of Governors.

Respondents in *California* (plaintiffs-appellees below) are California; Massachusetts; Nevada; Washington; Arizona; Colorado; Connecticut; Delaware; the District of Columbia; Hawaii; Illinois; Maine; Maryland; Michigan; Minnesota; New Jersey; New Mexico; New York; North Carolina; Oregon; Rhode Island; Vermont; Virginia; Wisconsin; and Josh Shapiro, Governor of Pennsylvania.

Respondents in *California* (intervenor-defendants below) are Alabama; Florida; Indiana; Kansas; Louisiana; Missouri; Montana; Nebraska; Oklahoma; South Carolina; South Dakota; and Texas.

Applicants in *Trump v. League of Women Voters of Massachusetts (LWVMA)* (defendants-appellants below) are Donald J. Trump, President of the United States; the United States Postal Service; the Board of Governors of the United States Postal Service; David Steiner, Postmaster General; Douglas Tulino, Deputy Postmaster General; Amber McReynolds, Chairwoman of the Board of Governors of the United States Postal Service; Derek T. Kan, Vice Chairman of the Board of Governors of the United States Postal Service; Ronald Stroman, Member of the Board of Governors of

the United States Postal Service; Daniel Mark Tangherlini, Member of the Board of Governors of the United States Postal Service; the Department of Homeland Security; Markwayne Mullin, Secretary of the Department of Homeland Security; the Social Security Administration; Frank J. Bisignano, Commissioner of the Social Security Administration; U.S. Citizenship and Immigration Services; and Joseph B. Edlow, Director of U.S. Citizenship and Immigration Services.

Respondents in *LWVMA* (plaintiffs-appellees below) are League of Women Voters of Massachusetts; League of Women Voters Lotte E. Scharfman Memorial Education Fund; League of Women Voters of the United States; League of Women Voters Education Fund; Association of Americans Resident Overseas; U.S. Vote Foundation; OCA-Asian Pacific American Advocates; and Delta Sigma Theta Sorority, Inc.

Respondents in *LWVMA* (intervenor-defendants below) are Alabama; Florida; Indiana; Kansas; Louisiana; Missouri; Montana; Nebraska; Oklahoma; South Carolina; South Dakota; and Texas.

### RELATED PROCEEDINGS

United States District Court (D. Mass.):

*League of Women Voters of Massachusetts v. Trump*, No. 26-cv-11549 (June 18, 2026) (order granting motion to dismiss in part)

*League of Women Voters of Massachusetts v. Trump*, No. 26-cv-11549 (July 13, 2026) (order denying preliminary injunction without prejudice)

*League of Women Voters of Massachusetts v. Trump*, No. 26-cv-11549 (July 22, 2026) (order granting motion to dismiss in part)

*League of Women Voters of Massachusetts v. Trump*, No. 26-cv-11549 (Aug. 11, 2026) (order granting preliminary injunction)

*League of Women Voters of Massachusetts v. Trump*, No. 26-cv-11549 (Aug. 26, 2026) (order vacating preliminary injunction)

*State of California v. United States Postal Service*, No. 26-cv-13917 (Aug. 27,

2026) (order granting temporary restraining order)

*League of Women Voters of Massachusetts v. Trump*, No. 26-cv-11549 (Aug. 27, 2026) (order granting temporary restraining order)

*State of California v. United States Postal Service*, No. 26-cv-13917 (Aug. 31, 2026) (docket order denying stay)

*League of Women Voters of Massachusetts v. Trump*, No. 26-cv-11549 (Aug. 31, 2026) (docket order denying stay)

*State of California v. United States Postal Service*, No. 26-cv-13917 (Sept. 4, 2026) (order granting preliminary injunction)

*League of Women Voters of Massachusetts v. Trump*, No. 26-cv-11549 (Sept. 4, 2026) (order granting preliminary injunction)

United States Court of Appeals (1st Cir.):

*State of California v. United States Postal Service*, No. 26-2031 (stay motion filed Sept. 5, 2026)

*League of Women Voters of Massachusetts v. Trump*, No. 26-2029 (stay motion filed Sept. 5, 2026)

RETRIEVED FROM DEMOCRACYDOCKET.COM

# In the Supreme Court of the United States

---

No. 26A

UNITED STATES POSTAL SERVICE, ET AL., APPLICANTS

*v.*

STATE OF CALIFORNIA, ET AL.

---

DONALD J. TRUMP, ET AL., APPLICANTS

*v.*

LEAGUE OF WOMEN VOTERS OF MASSACHUSETTS, ET AL.

---

**APPLICATION FOR A STAY OF THE INJUNCTION  
ISSUED BY THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
AND REQUEST FOR AN IMMEDIATE ADMINISTRATIVE STAY**

---

Pursuant to Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. 1651, the Solicitor General—on behalf of applicants the United States Postal Service (“Postal Service” or “USPS”), et al.—respectfully requests that this Court stay the preliminary injunction issued by the United States District Court for the District of Massachusetts (App., *infra*, 1a-49a) pending appeal to the United States Court of Appeals for the First Circuit and, if the court of appeals affirms the order, pending the timely filing and disposition of a petition for a writ of certiorari and any further proceedings in this Court. The Solicitor General also respectfully requests an immediate administrative stay of the order to prevent ongoing irreparable injury while this application is pending.

Less than two weeks ago, this Court issued a stay of a prior order entered by the same district court. See *Trump v. California*, No. 26A124, 2026 WL 2473573 (Aug. 24, 2026) (per curiam). That order had enjoined implementation of a potential final rule by the Postal Service before it had even issued. In granting a stay, this Court concluded that the order was necessarily unripe because the district court “had to engage in a string of speculations to find th[e] suit justiciable” given that it did not know, for example, “what [a] final rule would say” or whether it “would harm the States.” *Id.* at \*4. Just three days later—the day after the Postal Service formally published a final rule—the district court issued a putative temporary restraining order that partially barred implementation of that rule, without meaningfully addressing the rule’s contents or providing any meaningful analysis to support its conclusion that the rule was unlawful. See 26A297 Appl. App. 3a-13a. On Friday, September 4—the day after applicants filed an application for a stay of that order in this Court, see 26A297 Appl.—the district court issued a preliminary injunction. App., *infra*, 1a-49a. The preliminary injunction is materially identical to the temporary restraining order, both in its substantive scope and its minimal, conclusory reasoning. Compare *id.* at 24a-31a, 47a-49a, with 26A297 Appl. App. 9a-10a, 12a-13a. The district court’s continuing prejudgment of the rule is baseless, and an immediate stay is warranted because “the District Court’s errors deal ‘a serious setback’ to the Executive’s ‘goals’ while this litigation unfolds.” *California*, 2026 WL 2473573, at \*4.

Contrary to the claims of the district court and respondents that the Postal Service is trying to federalize the rules for mail-in voting, App., *infra*, 25a-28a, the Postal Service’s final rule imposes only modest envelope-design and addressee-information requirements for federal-election ballots sent via U.S. Mail. See *Ballot Mail*

*for Federal Elections*, 91 Fed. Reg. 54,966 (Aug. 26, 2026) (“Final Rule” or “Rule”). Specifically, the Rule creates standardized design and review requirements for ballot envelopes that build on practices the Postal Service has long recommended, some of which are already in use in many States (including many of the respondents here). And it requires States to upload the name, address, and barcode information of intended recipients of ballot mail in an online portal—information that election officials would necessarily already possess to send ballot mail under the Rule to those recipients. The Rule ensures that States remain responsible for determining voter eligibility and eligibility to vote by mail, and it does not dictate ballot content, mailing or receipt deadlines, or ballot-counting procedures. The Rule thus plainly does not seize control of States’ administration of elections—it simply imposes reasonable preparation requirements for certain election-related mail.

The Postal Service has longstanding authority to “adopt \* \* \* such rules and regulations \* \* \* as may be necessary in the execution of its functions,” 39 U.S.C. 401(2), which include “the collection, handling, transportation, delivery, forwarding, returning, and holding of mail,” 39 U.S.C. 404(a)(1). That authority plainly encompasses the power to promulgate rules like this that govern envelope design and addressee information. The Postal Service has previously wielded that authority to issue analogous preparation requirements for the mailing of cremated remains and replica explosives. Indeed, the Postal Service has also used that authority to adopt policies that specifically govern election-related mail, such as supporting the use of the Election Mail logo and prioritizing ballot mail for processing and delivery.

The Rule’s regulation of the U.S. Mail—not federal elections—is plainly constitutional. While the States have primary authority to regulate the manner of elec-

tions, they cannot choose to use the federal mails to carry out their elections but then insist that their election-related mail is somehow exempt from the Postal Service's rulemaking authority, conferred by Congress, to regulate envelope design and addressee information. Neither the statutory nor constitutional provisions contain or compel any such carveout from this type of core regulation of use of the federal mails.

The district court's preliminary-injunction opinion fails to seriously address, much less refute, any of these points. Instead, while devoting 18 pages to background, App., *infra*, 2a-19a, and another 15 pages to the equities, *id.* at 32a-46a, the court's analysis of the merits is a scant seven pages, the substance of which can truly be reduced to three sentences: The Rule regulates elections rather than the mail because it is *election-specific*; no statute *explicitly* authorizes USPS to adopt *mandatory* rules for the preparation of election mail; and thus the Rule usurps the authority of States and Congress to regulate federal elections. See *id.* at 25a-31a. The court provided no response whatsoever to the fatal flaws in that simplistic rationale: (1) the plain text of the Postal Service's rulemaking powers unambiguously authorizes the imposition of mandatory envelope-design and addressee-information requirements for specific categories of sensitive mail; (2) USPS has previously adopted these types of policies in the context of cremated remains and replica explosives; (3) there is no statutory or constitutional basis to distinguish the Postal Service's existing election-specific policies merely because they are permissive rather than mandatory; and (4) there is no viable constitutional objection to the Rule if it falls within the statutory authority that Congress delegated to the Postal Service, because Congress unquestionably has the power to regulate both the manner of federal elections and the use of the federal mails.

The district court's baseless order also imposes serious irreparable harm on the federal government, the States themselves, and the voting public. Indeed, this Court has already recognized earlier in this case that "[t]he Government is likely to suffer irreparable harm without a stay" "[b]ecause reversal of the District Court's judgment" against implementation of the final Rule "would come too late for the 2026 midterms." *California*, 2026 WL 2473573, at \*4. In particular, the injunction bars the Postal Service from verifying that mailed envelopes comply with the Rule's requirements for the upcoming elections, see App., *infra*, 47a-48a, nullifying the Postal Service's efforts to address the risk that the federal mails will be used to perpetrate voter fraud, 91 Fed. Reg. at 54,969—a particularly pernicious species of fraud that dilutes the votes of lawful voters, prevents election results from reflecting the will of the American people, and undermines "public confidence in the integrity of the electoral process," *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 197 (2008).

Ballots have already begun to be mailed in North Carolina, and more States will begin the mailing process as the injunction remains in place—including Alabama on September 9 and at least five States the week of September 13. Once those ballot envelopes enter the mailstream, there is no retrieving them. And while the injunction allows the Postal Service and the States to continue taking steps to ensure that their envelopes satisfy the Rule's requirements, see App., *infra*, 47a-48a, each day the injunction is in place risks sowing confusion and chaos because the injunction makes those preparatory steps voluntary, rather than mandatory. Thus, if the injunction is eventually stayed and the rule takes effect for this year's elections—as should occur—there is a grave risk that States may not have taken the necessary steps to comply, due to the false sense of latitude created by the court's improper injunction, poten-

tially depriving those States' citizens of the ability to vote by mail. In addition, the injunction even bars the Postal Service from conducting the training necessary for the enjoined verification process for the upcoming elections, see *ibid.*, which makes an immediate stay all the more essential.

Respondents cannot defeat a stay merely by asserting that they will be harmed by implementation of the Rule. Consistent with the principle that “the most critical” stay factors are whether the applicant has shown a likelihood of success on the merits and irreparable injury, *Nken v. Holder*, 556 U.S. 418, 434 (2009), this Court reiterated this past Friday that “balanc[ing] the equities” matters only “[i]n close cases,” *National Republican Congressional Comm. v. Brown*, No. 26A274, 2026 WL 2618462, at \*1 (Sept. 4, 2026) (per curiam) (citing *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam)). This is not remotely a close case: As discussed above, the Court has already found that the government is suffering serious irreparable harm warranting a stay, and the Rule’s plain lawfulness is underscored by the district court’s inability to provide much more than *ipse dixit* to the contrary. In these circumstances, the valid Rule should not be enjoined for even a single day more based just on respondents’ complaints that compliance will harm them. That is especially so because respondents’ claims of harm are overblown. As for the suggestion that USPS is not prepared to perform its functions under the Rule, the district court relied on speculative fears, mischaracterizations of the record, and delays occasioned by its own improper orders. And as for the suggestion that the States are not prepared to satisfy their obligations under the Rule, the district court relied on ordinary compliance costs, self-serving assertions, and self-inflicted impediments.

More fundamentally, though, there is no “reverse *Purcell*” principle under which district courts are free to issue improper injunctions close to an election just because parties purportedly cannot comply with a lawful regulation in time for the election. That is especially so here, where there is no claim that the purported inability to comply in time for the election itself renders the Rule unlawful. The district court made no such holding, and it could not have done so. Congress expressly exempted the Postal Service from arbitrary-and-capricious review under the Administrative Procedure Act (APA), see 39 U.S.C. 410(a), which is the only conceivable basis for such a claim if the Rule is otherwise lawful for future elections where there is more time to comply.

Simply put, the best way to address respondents’ fears about inability to comply with the Rule is to grant an immediate administrative stay of the order, followed by a full stay pending further review. That will remove the improper cloud of uncertainty that the district court has cast over the Rule, making clear to all involved that compliance with the Rule is not optional and must start without further delay.

### STATEMENT

1. On August 21, 2026, the Postal Service promulgated a final rule entitled *Ballot Mail for Federal Elections*. 91 Fed. Reg. 54,966 (Aug. 26, 2026). The Final Rule amends USPS’s Domestic Mail Manual to impose modest design and informational requirements for ballot-mail envelopes sent via U.S. Mail for federal elections. The Rule requires federal-election ballots transmitted through the U.S. Mail to be mailed in envelopes that include the official Election Mail logo, are automation compatible,<sup>1</sup> and use unique barcodes that denote the item’s status as ballot mail and its

---

<sup>1</sup> Automation compatibility ensures that mail can be processed by USPS’s high speed mail processing equipment. Mail that is not automation compatible can

delivery point ZIP code. See *id.* at 54,990-54,991. State election officials must submit their envelope designs to ensure compliance with those requirements, *ibid.*, and provide the Postal Service with a list of the ballot-mail items they intend to send, see *id.* at 54,991. That list must contain the unique barcodes assigned to each ballot's envelopes, along with the name and address of the recipient and the State sending the ballot. *Ibid.* State election officials may continually update their lists as necessary. *Ibid.* When outbound federal-election ballot mail (that is, mail sent from States to voters) is presented for mailing, the Postal Service will verify that the barcode data matches the portal data to ensure compliance with the Rule. *Ibid.* All mailings that comply with these requirements will be accepted, but those that do not will be "returned to the authorized ballot mailer," who may then "address the error(s)" and "re-submit[] the mailing." *Ibid.*

The Postal Service will not perform any verification of voter eligibility; its role is limited to ensuring that envelopes comply with the Rule's design and informational requirements. As the Rule emphasizes, "[e]ligible voters will therefore be listed [in the Portal] by and at the discretion of election officials, and the Postal Service will not second-guess the states' submissions. State election officials will thus retain full control over who is permitted to vote in federal elections in their state by U.S. mail." 91 Fed. Reg. at 54,969. States likewise need not worry about the accuracy of lists maintained by the Postal Service—all lists will consist solely of information provided by the States themselves. On or near the date of the election, USPS will also provide each State that uses the U.S. mail to transport ballots with a single list containing the State's submissions of the ballots it intended to send. *Id.* at 54,991.

---

require hand processing, which may result in slower delivery. See USPS, *Business Mail 101: Automation*, <https://perma.cc/R48-FWT9>.

Several features of this Rule are not new. For years, the Postal Service has recommended that ballot mail envelopes use unique barcodes, be automation compatible, include the official Election Mail logo, and undergo mailpiece design review in advance of mailing. See USPS, Kit 600: *Official Election Mail Guide* (Kit 600), <https://about.usps.com/kits/kit600.pdf>; *Domestic Mail Manual* 703.8.0, <https://pe.usps.com/text/dmm300/703.htm#ep1174014>. This Rule simply turns “these longstanding recommendations”—which many of the State respondents have already adopted, at least in part—into requirements. 91 Fed. Reg. at 54,986; see *id.* at 54,978. These requirements are only a baseline; “nothing in the [R]ule prevents or discourages election officials from including envelope design elements required by state law,” nor will the Rule “create a single, uniform ballot envelope design across all states[.]” *Id.* at 54,978. And most importantly, the Rule “leav[es] the administration of elections firmly in the hands of the [S]tates.” *Id.* at 54,970. “[T]he Postal Service will not play any role in determining voter eligibility, maintaining voter rolls, or counting ballots.” *Id.* at 54,978.

The Rule explains that these requirements “will help ensure proper handling, efficient processing, and timely delivery of [federal-election ballots] to and from voters.” 91 Fed. Reg. at 54,974. The Rule will also “afford significantly enhanced visibility into the sending of Federal Ballot Mail, and this will in turn facilitate law enforcement efforts by enabling law enforcement to better detect potential issues meriting further investigation.” *Id.* at 54,969. Ultimately, “[w]hether or not voter fraud is common or uncommon,” the Rule is intended “to facilitate enforcement of federal law, reduce the risk of fraud, and help protect the integrity of federal elections” with respect to the narrow but important role played by the Postal Service in mailing bal-

lots for States that choose to use the U.S. Mail. *Ibid.*

2. These suits began as challenges to Executive Order 14,399, 91 Fed. Reg. 17,125 (Mar. 31, 2026), “an internal directive from the President to his subordinates mandating that certain agencies pursue certain policies,” including that USPS “initiate a proposed rulemaking” with respect to ballot mail. *California*, 2026 WL 2473573, at \*1. The district court previously enjoined implementation of that section of the Executive Order with respect to the upcoming November 2026 election, but this Court stayed the *California* injunction pending appeal, *ibid.*, and the district court subsequently vacated its *LWVMA* injunction, see *LWVMA* D. Ct. Doc. 204 (Aug. 26, 2026).

On August 26, 2026—the day the Final Rule was published in the Federal Register—the *LWVMA* respondents filed a supplemental complaint, and the *California* respondents filed a new action. Both sets of respondents moved for temporary restraining orders and preliminary injunctions barring implementation of the Rule.

The following day, the district court granted respondents’ motions for a temporary restraining order under Federal Rule of Civil Procedure 65(b). 26A297 Appl. App. 3a-13a. The court opined that the plaintiffs in both cases had standing. *Id.* at 9a. The court also summarily asserted that respondents were likely to succeed on their claims that USPS lacked authority to issue the Rule and that the Rule’s design and informational requirements are unconstitutional. *Id.* at 10a.

The court granted an “emergency fourteen-day stay of the implementation or enforcement of” several sections of the Rule “as to elections occurring before or on November 3, 2026.” 26A297 Appl. App. 12a. The order allowed States to voluntarily participate in the Rule’s envelope-design review process and use USPS’s online portal, but prohibited the government from treating the Rule as “mandatory” and veri-

fying that ballot envelopes comply with the Rule’s requirements before accepting them for mailing. *Id.* at 12a-13a.

3. The next day, applicants promptly appealed the district court’s order and sought a stay pending appeal. *California* D. Ct. Docs. 55, 58; *LWVMA* D. Ct. Docs. 226, 229 (Aug. 28, 2026). On August 31, the district court denied the stay largely for reasons it had previously articulated. 26A297 Appl. App. 1a-2a.

The same day, the government filed an emergency stay motion in the U.S. Court of Appeals for the First Circuit. The court of appeals requested responses by 5 p.m. on Tuesday, September 1, and the government filed replies around 1 p.m. on Wednesday, September 2. The court of appeals did not act on that stay motion.

On Thursday, September 3, the district court held a preliminary-injunction hearing. The government requested that the court issue a ruling on respondents’ preliminary-injunction motions that day to ensure timely review. But the court declined to commit to do so or provide any firm schedule for when it would rule, instead taking the motions under advisement. See *California* D. Ct. Doc. 149; *LWVMA* D. Ct. Doc. 279 (Sept. 3, 2026). Applicants thus filed an application in this Court for a stay of the district court’s temporary restraining order that afternoon. See 26A297 Appl.

4. The day after that application was filed, the district court issued a preliminary injunction. App., *infra*, 1a-49a. The court’s opinion essentially echoed the limited reasoning it had supplied in support of its temporary restraining order. It concluded that “the Final Rule is an election rule where it purports to regulate the time, place, and manner of elections and is unconstitutional where Congress has not authorized such a rule under the Elections Clause,” *id.* at 28a, and that “the Final Rule is also ultra vires where the USPS has acted beyond any statutory authority”

because “Title 39 excludes any reference to elections,” *id.* at 28a-29a; see also *id.* at 30a-31a (similarly reasoning that the Rule “impermissibly establishes a new category of nonmailable material”). The court therefore issued a preliminary injunction near-identical to its temporary restraining order, which it purported to dissolve (*id.* at 49a.). Although the injunction allows States to voluntarily participate in the Rule’s envelope-design review process and use USPS’s online portal, it prohibits the Postal Service from treating the Rule as “mandatory,” and from verifying that ballot envelopes comply with the Rule’s requirements before accepting them for mailing, for the upcoming elections in November. *Id.* at 47a-49a. And because the injunction bars “tak[ing] any further preparatory steps to implement” the enjoined verification process, *id.* at 48a, it stops the Postal Service from even conducting training for that process for this year’s elections. The district court also summarily denied the government’s request for a stay of the preliminary injunction. *Id.* at 46a-47a.

5. The government appealed the district court’s order the same night. *California*, D. Ct. Doc. 158 (Sept. 4, 2026); *LWVMA*, D. Ct. Doc. 286 (Sept. 4, 2026). And the next day, the government moved for an emergency stay pending appeal in the U.S. Court of Appeals for the First Circuit, but as of this filing the court of appeals has not acted on that pending stay motion.

### ARGUMENT

Under Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. 1651, to obtain a stay of an injunction pending review in the court of appeals and in this Court, an applicant must show a likelihood of success on the merits, a reasonable probability of obtaining a writ of certiorari, and a likelihood of irreparable harm; in close cases, the Court will also consider the balance of the equities. See *National*

*Republican Congressional Comm. v. Brown*, No. 26A274, 2026 WL 2618462, at \*1 (Sept. 4, 2026) (per curiam); *Trump v. California*, No. 26A124, 2026 WL 2473573, at \*2 (Aug. 24, 2026) (per curiam).

Under that standard, a stay is strongly warranted here. The district court's decision warrants this Court's review because it blocks a significant federal election-integrity measure shortly before an election. The Rule is a lawful and modest exercise of rulemaking authority delegated by Congress to the Postal Service; it regulates the U.S. Mail, not federal elections. The validity of the Rule is only underscored by the inadequacy of the district court's conclusory rationale for enjoining it. And absent a stay, the injunction will irreparably harm the federal government and the public by barring implementation of an important federal policy to protect the mails from being used to commit voter fraud, with respect to countless ballots that will be mailed while an appeal is pending and cannot be retrieved. This is therefore not a close case where the equities must be balanced—any harms that respondents may incur based on purported obstacles to complying with this lawful Rule cannot sustain the district court's lawless injunction, which should be immediately stayed.

**A. THE GOVERNMENT IS LIKELY TO SUCCEED ON THE MERITS BECAUSE THE POSTAL SERVICE'S RULE IS LAWFUL**

The Rule is a valid exercise of the Postal Service's authority to regulate the U.S. Mail. It imposes only modest requirements on the use of the federal postal system—it does not regulate state administration of elections. That reality wholly undermines the district court's order, which conclusorily asserted that the Postal Service lacks statutory authority to issue the Rule and that the Rule is unconstitutional. App., *infra*, 25a-31a.

1. As a threshold matter, respondents' claims that the Rule is contrary to statute are subject to narrowly circumscribed judicial review. Congress has generally exempted the Postal Service from ordinary APA review. See 39 U.S.C. 410(a). In light of this preclusion of review, respondents must satisfy the ultra-vires review standard under *Leedom v. Kyne*, 358 U.S. 184, 188 (1958), to prevail on their statutory claims. See *Mittleman v. Postal Regulatory Comm'n*, 757 F.3d 300, 304-308 (D.C. Cir. 2014). To succeed on a *Leedom* ultra vires claim—which this Court has recently analogized to a “Hail Mary pass”—a plaintiff must demonstrate that “an agency has taken action entirely in excess of its delegated powers and contrary to a specific prohibition in a statute.” *NRC v. Texas*, 605 U.S. 665, 681 (2025) (emphasis and quotation marks omitted). Finding that “an agency has arguably reached a conclusion which does not comport with the law” is not enough under that standard. *Ibid.* (quotation marks omitted).

The district court refused to apply the *Leedom* standard, asserting that it is inapplicable unless Congress “has provided a reticulated judicial review scheme.” App., *infra*, 28a n.32 (citing *Board of Governors of the Federal Reserve System v. MCorp. Financial, Inc.*, 502 U.S. 32, 43 (1991)). That is incorrect. In *NRC*, this Court made clear that *Leedom*'s standard applies to *all* attempts to “end-run \* \* \* the limitations of judicial-review statutes.” 605 U.S. at 681. While that can occur where judicial review of statutory claims is channeled into a specific statutory scheme, see *ibid.*, it also can occur where, as here, Congress has expressly eliminated judicial review under the APA, see 39 U.S.C. 410(a); *Federal Express Corp. v. U.S. Dep't of Commerce*, 39 F.4th 756, 763-764 (D.C. Cir. 2022). Indeed, it would be backwards if litigants could obtain a *more favorable* standard of review for a statutory claim be-

cause Congress *eliminated* judicial review for that claim rather than merely *channeled* it. Cf. *MCorp.*, 502 U.S. at 42-44 (holding that even ultra-vires review of statutory claims is unavailable where Congress has *expressly precluded* judicial review).

Notably, the district court did not alternatively suggest that respondents could satisfy the ultra-vires standard if it applies. See App., *infra*, 28a n.32. And for good reason: Respondents fall well short of that high bar. They “basically dress up a typical statutory-authority argument as an ultra vires claim.” *NRC*, 605 U.S. at 682. Because they fail to identify any “specific prohibition” that the Postal Service has violated, their claims are a nonstarter under the ultra-vires standard. *Id.* at 681. (emphasis omitted).

2. Even setting aside the standard of review, the Final Rule is a proper exercise of the Postal Service’s statutory authority. Congress authorized 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” 39 U.S.C. 401(2). Congress further granted the Postal Service “all other powers incidental, necessary, or appropriate to the carrying on of its functions or the exercise of its specific powers.” 39 U.S.C. 401(10). Those specific powers include 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).

Interpreting these provisions, this Court has explained that, “under 39 U.S.C. § 401[,] the Postal Service is broadly empowered to adopt rules and regulations designed” “to maintain an efficient system of collection, sorting, and delivery of the mail

nationwide.” *USPS v. Council of Greenburgh Civic Ass’ns*, 453 U.S. 114, 123 (1981); see *Associated Third Class Mail Users v. USPS*, 600 F.2d 824, 826 n.5 (D.C. Cir.) (“[T]he Service is authorized under 39 U.S.C. § 401(2) (1976) to promulgate regulations to further the objectives of Title 39.”), cert. denied, 444 U.S. 837 (1979). Both text and precedent thus make clear that the Postal Service’s general rulemaking powers include authority to impose reasonable requirements for envelope design and addressee information with respect to particularly sensitive items.

As the Rule explains, see 91 Fed. Reg. at 54,974, the Postal Service has issued regulations governing particular types of mail pursuant to these authorities before—including where, as here, the type of mail in question is sensitive, but non-dangerous and mailable. For example, cremated human and animal remains can be mailed only using specific types of USPS-provided boxes via Priority Mail Express, must include a complete return address and delivery address, and must be trackable via barcode. See *Cremated Remains Packaging Requirements*, 90 Fed. Reg. 9843, 9843-9844 (Feb. 19, 2025) (imposing those requirements for the sending of cremated remains based on the Postal Service’s assessment that such remains are “sensitive matter” and that the requirements “will improve visibility and enhance handling methods throughout processing and transportation”). Similarly, replica explosives—which, although not dangerous, also require special handling to prevent operational disruptions based on the misperception that they are actual explosives—must be mailed in certain ways, which include in-person presentation to a retail counter and shipment via Registered Mail. See *Restricting the Mailing of Replica or Inert Explosive Devices*, 75 Fed. Reg. 282, 283 (Jan. 5, 2010) (noting that “[t]his process will ensure that packages containing these items remain separate and easily identifiable during the mailing process”).

Importantly, absent these rules, cremated remains and replica explosives would be mailable through ordinary methods. While there are statutory restrictions on mailing “explosives,” 18 U.S.C. 1716(a); 39 U.S.C. 3001(a), replicas are not in fact explosive. And while there are statutory restrictions on mailing various types of materials that are “hazardous” or “injure the mails,” *ibid.*, cremated remains do not fall within those categories or any of the relevant provisions. Instead, it is USPS’s general rulemaking authority that allows the Postal Service to adopt these types of modest processing rules for mailable but sensitive materials.

This Rule functions similarly, and for similar reasons. Although ballot mail does not present the same operational issues as cremated remains or replica explosives, it is sensitive mail that raises unique operational considerations. Timely delivery of ballot mail is especially important given specific state deadlines for receipt of ballots, *e.g.*, *Watson v. Republican Nat’l Comm.*, 146 S. Ct. 2165, 2171 (2026); see 91 Fed. Reg. at 54,974, and allowing ballots to be submitted by mail creates an opportunity for the mails themselves to be used to facilitate serious frauds that undermine public confidence in federal elections, see 91 Fed. Reg. at 54,969; *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 197 (2008). The Postal Service has at least as much authority to prevent those ballot-related harms as it does to ensure that mortal remains are not lost in the mail or delivered too slowly.

Indeed, the federal government has long been concerned about the federal mails being abused to perpetrate frauds. See, *e.g.*, 18 U.S.C. 1341 (criminalizing mail fraud). It is thus a particularly appropriate use of the Postal Service’s general rulemaking power to adopt modest envelope-design and addressee-information requirements for specific types of mail that present unique risks of fraud, while still allowing

all such compliant mail to be delivered. Consider, for example, a scenario in which retirement communities are repeatedly targeted for elder-abuse mail scams: There is no evident reason why the Postal Service could not impose special design and registration rules for envelopes used to send solicitations to such locations. Although such prophylactic mail-preparation rules are not authorized by any of Congress's specific regulations addressing fraudulent use of the mails, see, *e.g.*, 39 U.S.C. 3001(d), 3005, they fall squarely within the text and purpose of the Postal Service's general rulemaking authority. This Rule follows the same basic form, by acknowledging the indisputable reality that election-related mail is particularly sensitive, and that crimes relating to election mail are particularly important. See 91 Fed. Reg. at 54,969. The Postal Service permissibly determined that "[w]hether or not voter fraud is common or uncommon, the Postal Service has the legal authority to take the measures in this rule to facilitate enforcement of federal law." *Ibid.*

3. The analysis above refutes the district court's assertion that USPS exceeded its statutory authority because the Rule "regulates elections" and "Title 39 excludes any reference to elections." App., *infra*, at 29a-30a. Under the Rule, States can continue to mail ballots to whomever they wish; the rule does not regulate the form or content of the ballots themselves, the timeline for transmission of ballots, voter eligibility, vote-by-mail eligibility, or anything similar. It regulates only how States must prepare, design, and present the envelopes they send via U.S. mail (should they elect to use the U.S. mail to send ballots). As the Rule itself makes clear, "[t]he Postal Service does not purport to alter the eligibility of any individual to vote under state or federal law." 91 Fed. Reg. at 54,991. Both before and after this Rule, "[t]he Postal Service does not have any legal responsibility for management of state

voter rolls or administration of federal elections within each state.” *Ibid.* In other words, the Final Rule regulates the U.S. mail—it does not regulate elections.

It is immaterial that Title 39 does not expressly include a reference to elections when granting the Postal Service authority to adopt mail-preparation requirements. The rulemaking provisions clearly grant the Postal Service the authority to adopt envelope-design and addressee-information requirements for mailing, see pp. 15-16, *supra*, and the Postal Service has adopted such requirements for cremated remains and replica explosives even though Title 39 does not expressly include a reference to those specific materials either. Lacking any response to that glaring flaw in its statutory interpretation, the district court simply ignored the existence of those analogous policies. See App., *infra*, 25a-31a.

Accordingly, the district court and respondents are effectively claiming that election-related mail is an implied exception to Congress’s broad grants of statutory authority to USPS to carry out “the collection, handling, transportation, delivery, forwarding, returning, and holding of mail,” 39 U.S.C. 404(a)(1), and to adopt “rules and regulations” in service of those functions, 39 U.S.C. 401(2). But there is no textual basis for such a carveout—the provisions’ text unambiguously authorizes USPS to adopt mailing-specific rules for envelope design and addressee information, without regard to the specific category of mail at issue. Indeed, election mail implicates the same postal-related concerns that lie at the heartland of any such rules. There is thus no basis to read the statute to contain some indeterminate, implied exception for election mail.

Indeed, it is undisputed that the Postal Service can exercise its general rule-making authority to adopt election-specific mail-preparation policies, as it has long

done—including at the urging of entities like respondents. In particular, the Postal Service employs ballot-mail envelope design elements (like the Election Mail logo) to prioritize delivery of ballot mail. See Kit 600, at 4 (noting that USPS prioritizes “Ballot Mail that is entered as Marketing Mail” by delivering it on timelines similar to First Class Mail). The Postal Operations Manual further provides that, even if a mailer does not affix the necessary postage, “absentee balloting materials must not be detained or treated as unpaid mail,” and must instead “be promptly dispatched and delivered to the addressees.” U.S. Postal Serv., *Postal Operations Manual POM Issue 9* § 171.3 (July 2022), <https://perma.cc/HY9N-TJ6Q>. Indeed, many of the respondent States previously sued to demand that USPS treat election mail differently by delivering it as First Class Mail regardless of the service paid for. See *Washington v. Trump*, 487 F. Supp. 3d 976, 980, 984 (E.D. Wash. 2020). Respondents’ co-counsel and co-Plaintiffs have likewise long advocated for and benefited from specific ballot-mail envelope design elements (like the Election Mail logo) and the prioritization of such mail. See *NAACP v. USPS*, No. 20-cv-2295, 2026 WL 1893762, at \*1 (D.D.C. July 1, 2026), *appeal pending*, No. 26-5257 (D.C. Cir. filed July 9, 2026); see also Kit 600, at 4. Notably, none of these policies is based on any election-specific statutory authority; instead, they are all simply exercises of the Postal Service’s general rule-making power to regulate the efficient handling and timely delivery of mail. If the Postal Service has *no* legal authority to make any rules specific to election-related mail—as seems to be respondents’ theory—it is hard to understand how those longstanding policies would be lawful.

The district court dismissed the significance of these longstanding election-specific mail policies in a single sentence, trying to distinguish them as “providing

only non-binding guidance.” App., *infra*, 29a. But again, there is no textual basis for that distinction in the relevant statutes—and such a distinction makes no sense. Congress does not typically grant agencies the authority to make rules if, but only if, they are toothless. It is therefore unsurprising that neither the court nor respondents proffered any actual support for such a distinction. And further refuting the distinction, the Postal Service’s exercises of authority over cremated remains and replica explosives impose mandatory rules, not permissive options. See pp. 16-17, *supra*. A rule aimed at protecting residents of senior centers, see pp. 17-18, *supra*, could of course be mandatory as well. Indeed, apart from USPS’s general rulemaking powers, there does not appear to be any specific statutory authority for the mandatory requirement that mailpieces “must have the address of the intended recipient, visible and legible, only on the side of the piece bearing postage,” *Domestic Mail Manual* 602.1.2, [https://pe.usps.com/text/dmm300/602.htm#1\\_0](https://pe.usps.com/text/dmm300/602.htm#1_0), yet this venerable requirement is obviously well within the Postal Service’s authority to adopt. Likewise, the election-specific policy of not treating certain ballot mail lacking postage as unpaid, see p. 20, *supra*, is a policy that Postal Service employees must follow.

Respondents below tried to distinguish between rules that facilitate voting and rules that burden voting, but that argument fares no better. Most fundamentally, that is a policy distinction that has no basis in the text of the Postal Service’s rulemaking powers. Moreover, it is an illusory distinction that does not even apply coherently here. For starters, the Rule *does* facilitate voting, by improving USPS’s ability to more efficiently process and deliver ballot mail. See 91 Fed. Reg. at 54,974. And regardless, protecting against voter fraud *does* prevent effective disenfranchisement of legitimate voters, by preventing the cancelling out of their votes by ineligible

voters. See *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 672 (2021) (“Fraud can affect the outcome of a close election, and fraudulent votes dilute the right of citizens to cast ballots that carry appropriate weight.”).

For similar reasons, the district court erred in concluding that “the Final Rule impermissibly establishes a new category of nonmailable material” that “is inconsistent with \* \* \* Congress’s scheme to define categories of ‘nonmailable’ material.” App., *infra*, 30a-31a. The Rule does not render anything “nonmailable.” Ballot mail remains deliverable; in fact, USPS intends to process and deliver as many lawful ballots as the States wish to send, no more and no less, and the Rule need not prohibit *any* ballots from being mailed. All outbound federal-election ballot mail that meets the Rule’s requirements will be accepted, processed, and delivered as before. The Rule’s modest conditions on acceptance of federal-election ballot mailings do not render ballot mail nonmailable—just as the conditions placed on cremated-remains packages do not render cremated remains nonmailable. After all, the Postal Service could refuse to mail a heavy package if the customer failed to pay sufficient postage, but that does not mean that such packages are nonmailable. Likewise, if the Postal Service refused to deliver unstamped election mail from States to voters, that would not render unstamped election mail “nonmailable” or otherwise violate the statutory rules governing nonmailable matter.

The district court rejoined that some of the nonmailability provisions adopted by Congress “similarly impose conditions on acceptance” rather than imposing outright bans. App., *infra*, 31a. But that is a basic logical fallacy. The mere fact that Congress allowed *some* mailpieces that it deemed “nonmailable” to be mailed on certain conditions does not imply that *any* additional condition imposed on *any* mailable

material somehow violates the nonmailability provisions. It would be absurd to conclude that any of the conditions on mailing particular items discussed in the preceding paragraph are inconsistent with the nonmailability provisions. Relatedly, and more fundamentally, the provisions where Congress itself has deemed certain materials nonmailable do not even purport to be exclusive. See, *e.g.*, 39 U.S.C. 3001, 3002, 3002a, and 3015. Yet the district court provided no explanation whatsoever why the Postal Service is impliedly barred from using its general rulemaking powers to impose conditions for mailing particular sensitive items even if that were deemed analogous to a “nonmailability” rule. In short, the USPS has both specific and general authority to adopt rules for the delivery of the mail, and the Postal Service can refuse to deliver mail that fails to comply with those otherwise-valid rules without somehow violating the statutes that make other types of mail nonmailable.

Finally, the foregoing points also foreclose the district court’s invocation of the major-questions doctrine. See App., *infra*, 28a-29a. The Postal Service’s authority to impose modest requirements for delivery of particular types of mail, which is a core exercise of its power to operate the mails, lacks the sort of “economic and political significance” that triggers the doctrine. *Learning Resources, Inc. v. Trump*, 607 U.S. 229, 246 (2026) (plurality opinion). “[A]lthough actual changes to eligibility of voters to vote by mail might fairly be described as having political significance in some sense, this rule makes no such changes—it instead leaves voter-eligibility unchanged, requiring only certain modest envelope-design and data reporting standards.” 91 Fed. Reg. at 54,973. And the “economic significance” of the rule is not remotely comparable to any prior major-questions case. See, *e.g.*, *Learning Resources*, 607 U.S. at 246 (“could be worth \$15 trillion”); *Biden v. Nebraska*, 600 U.S. 477, 502 (2023) (“be-

tween \$496 billion and \$519 billion”). Ultimately, requiring mailers to abide by modest conditions on the sending of certain types of mail that raise particular sensitivities or operational concerns is hardly some “unheralded power representing a transformative expansion [of USPS’s] regulatory authority.” *West Virginia v. EPA*, 597 U.S. 697, 724 (2022) (quotation marks omitted). To the contrary, it is a routine application of the Postal Service’s regulatory authority—authority invoked in the past to accomplish similar goals—which lies squarely within the Postal Service’s wheelhouse. See pp. 15-18, *supra*; 91 Fed. Reg. at 54,974 (discussing prior exercises of this authority). The district court’s suggestion that Congress has not delegated authority to the Postal Service to regulate election mail because “Title 39 excludes any reference to elections,” App., *infra*, 29a, thus gets things exactly backwards. The major-questions doctrine does not authorize States to exempt their election mail from the Postal Service’s regulation of mail delivery.

4. The district court’s holding that the Rule “is unconstitutional” because it “is an election rule” that “purports to regulate the time, place, and manner of elections,” App., *infra*, 28a, suffers from the same basic flaws. Under the Elections Clause, “[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, except as to the Places of chusing Senators.” U.S. Const. Art. I, § 4, Cl. 1; see *Buckley v. Valeo*, 424 U.S. 1, 90 (1976) (per curiam) (presidential elections). Respondents contend that the Rule encroaches on authority that belongs to the States and Congress, but that contention cannot be squared with the Rule’s operation.

The Final Rule “leav[es] the administration of elections firmly in the hands of

the [S]tates.” 91 Fed. Reg. at 54,970. “Eligibility for mail-in and absentee voting will continue to be governed by state law; state and local election officials will still determine which individuals are eligible under these laws; and state and local election officials will determine whether completed ballots are eligible to be counted.” *Id.* at 54,978. “[T]he Postal Service will not play any role in determining voter eligibility, maintaining voter rolls, or counting ballots.” *Ibid.* The Final Rule is thus a modest exercise of the Postal Service’s own judgment about how “to exercise *its* statutory authority”—granted by Congress—“to faithfully execute federal law and also to advance the Postal Service’s operational interests[.]” *Id.* at 54,976 (emphasis added).

The respondent States nonetheless contend that the Rule supplants their rules governing mail-in voting. By its terms, it does not. Critically, while States are entitled to regulate the manner of elections—and the Final Rule does nothing to displace that authority—they are not entitled to set their own rules for use of a federal instrumentality like the U.S. Mail. That authority belongs instead to Congress, U.S. Const., Art. I, § 8, Cl. 7, and the Postal Service, 39 U.S.C. 401.

For similar reasons, respondents’ suggestion that the President lacks constitutional authority to directly regulate elections on his own is beside the point. To begin, the Rule was issued by the Postal Service, not the President. And it is undisputed that *Congress* does have the authority to regulate ballot mail—whether the Rule is correctly conceived as a regulation of the U.S. Mail, or even if improperly deemed a regulation of elections. After all, however one might characterize this Rule, all parties agree that Congress can directly regulate the manner of elections, U.S. Const. Art. I, § 4, Cl. 1 (Elections Clause), as well as the U.S. Mail, U.S. Const. Art. I, § 8, Cl. 7 (the Postal Clause). Respondents’ constitutional arguments thus add nothing

to this case; if the Postal Service's rule is authorized by Congress, then that necessarily means there is no Elections Clause (or Postal Clause) problem.

Respondents' view of the relevant constitutional authority—seemingly, that anytime the Postal Service refuses to deliver ballot mail, regardless of the reason, it is “regulating elections”—would have radical consequences. Under that approach, the rule requiring envelopes to be properly addressed (see p. 21, *supra*) likewise would be an invalid regulation of elections, because ballot mail will not be delivered if it fails to comply with that requirement.

Trying to avoid that absurdity, the district court emphasized that this Rule does not apply across all categories of mail, but rather “explicitly and exclusively regulates election mail.” App., *infra*, 27a. But with respect to USPS's rulemaking authority, there is no statutory or constitutional basis to distinguish between generally applicable requirements and election-specific requirements. This Rule no more usurps the States' elections power to regulate ballots than the Postal Service's cremated-remains rule usurps the States' police power to regulate corpses. When a party chooses to use the federal mails to mail an item—even an item that otherwise is subject only to state regulation—it necessarily subjects itself to the Postal Service's delegated authority from Congress to regulate the use of the mails. Moreover, as explained above, the Postal Service has long applied election-specific rules and practices, including choosing to deliver at least some ballot mail that lacks postage. See pp. 19-21, *supra*. If *any* election-specific regulation of the U.S. Mail violates the Constitution, all of those practices would be equally unconstitutional—an implausible result that illustrates the untenable nature of respondents' theory. And again, those practices cannot be dismissed as merely involving non-binding guidance: some of the

policies excuse noncompliance with mandatory rules; and more fundamentally, the Elections Clause provides no role for USPS to regulate federal elections through permissive policies any more than through mandatory rules. See pp. 20-21, *supra*. The Clause is no obstacle, however, to USPS exercising its delegated authority from Congress to regulate the use of the mails by any States that choose to use that federal instrumentality to conduct their federal elections.

The district court particularly objected to the Rule's requirement that States submit their proposed envelope designs so that the Postal Service may confirm that they adhere to the Rule's design specifications. See App., *infra*, 25a-28a. But this requirement simply provides States with flexibility in designing their envelopes (in part due to variations in state-law requirements) and uses a front-end mechanism to ensure that States' envelopes actually meet the Rule's specifications, thus reducing the risk of back-end rejection of non-compliant envelopes. See 91 Fed. Reg. at 54,978 (emphasizing that "nothing in the rule prevents or discourages election officials from including envelope design elements required by state law" or "including unique envelope design elements intended to accommodate voters covered by [accessibility] laws"). Rather than requiring every State to use a "single, uniform ballot envelope," *ibid.*—similar to the standardized packaging approach the Postal Service took with cremated remains—the Postal Service chose a framework that would allow States more latitude to meet all the relevant requirements. The straightforward preapproval process operates to ensure that compliant envelopes are not delayed and that noncompliance is promptly and clearly identified. The Postal Service's broad rule-making authority plainly authorizes ancillary steps to facilitate compliance with the Rule's modest design requirements.

Finally, the district court went far afield in holding (App., *infra*, 26a) that the Rule is unconstitutional because it purportedly conflicts with a provision in the Help America Vote Act (HAVA) requiring that States must maintain “the single system for storing and managing the official list of registered voters throughout the State,” 52 U.S.C. § 21083(a)(1)(A)(i). To begin, of course, whether the Rule violates that *statute* has nothing to do with whether it violates *the Constitution*. See *Dalton v. Specter*, 511 U.S. 462, 471-474 (1994). Moreover, the Rule is entirely consistent with HAVA. It does not alter the States’ creation or maintenance of its centralized list of registered voters or create a distinct system for that purpose. It simply requires that each State provide USPS a list of voters to whom they choose to mail ballots. That list is *not* “the official list of registered voters throughout the State” that will govern who can actually cast a ballot on Election Day. In fact, the obviousness of this conclusion perhaps explains why respondents themselves never even raised a claim under HAVA, despite advancing a host of other (meritless) statutory claims that the district court did not adopt. See App., *infra*, 31a n. 36. That the district court committed the summarily-reversible error of “violat[ing] the principle of party presentation,” *Margolin v. National Association of Immigration Judges*, 146 S. Ct. 1285, 1286 (2026) (*per curiam*), vividly illustrates the government’s strong likelihood of success on appeal.

#### **B. THE REMAINING FACTORS FAVOR A STAY**

In considering whether to grant emergency relief, this Court further considers whether the underlying issues warrant review and whether the applicant likely faces irreparable harm; in close cases, it also considers whether the balance of equities supports relief. See pp. 12-13, *supra*. Those factors heavily favor a stay in this case.

1. If affirmed by the First Circuit, the district court’s decision barring mandatory implementation of the Rule would warrant this Court’s review. As explained in Part A, *supra*, the decision cannot be squared with the text of the applicable statutory and constitutional provisions. And as this Court recognized in granting a stay of the district court’s earlier injunction restricting implementation of Executive Order 14,399, an injunction hindering a federal agency’s efforts to promote election integrity warrants this Court’s intervention. See *California*, 2026 WL 2473573, at \*4. Indeed, this Court frequently grants plenary review when a lower-court decision blocks a significant Executive Branch policy. *E.g.*, *Trump v. Miot*, 146 S. Ct. 1802 (2026) (granting a writ of certiorari before judgment to consider termination of Temporary Protected Status designation); *Noem v. Doe*, 146 S. Ct. 1803 (2026) (same); *Trump v. Slaughter*, 146 S. Ct. 18 (2025) (granting a writ of certiorari before judgment to review the President’s removal of Executive Branch officer); *Trump v. Barbara*, 146 S. Ct. 879 (2025) (granting a writ of certiorari before judgment to consider the President’s birthright citizenship Executive Order); *Trump v. V.O.S. Selections, Inc.*, 146 S. Ct. 73 (2025) (granting a writ of certiorari to review the President’s imposition of tariffs).

2. A stay—along with an immediate administrative stay—is also warranted because the district court’s order imposes irreparable harm on the federal government. As noted, this Court has already recognized earlier in this case that “[t]he Government is likely to suffer irreparable harm without a stay” “[b]ecause reversal of the District Court’s judgment” against implementation of the final Rule “would come too late for the 2026 midterms.” *California*, 2026 WL, 2473573, at \*4.

North Carolina presumably has already begun mailing ballots on September

4, and Alabama will begin mailing ballots this week, on September 9.<sup>2</sup> At least five more States will begin mailing ballots the following week, and more than a dozen others will begin by the end of this month.<sup>3</sup> Because the district court’s injunction prohibits the government from verifying compliance with the Rule’s requirements, it will permanently bar the Rule’s operation with respect to any ballots mailed before a stay issues. In fact, because the injunction bars USPS from training its employees to conduct the verification process, see p. 12, *supra*, it will effectively continue to delay implementation of the Rule for a brief period even after a stay is issued, underscoring both the irreparable harm on the government and the need for an immediate stay. The injunction is “deal[ing] a ‘serious setback’ to the Executive’s ‘goals’ while this litigation unfolds.” *California*, 2026 WL 2473573, at \*4. Both the irreparable-harm factor and the public interest thus favor the government. See *Nken v. Holder*, 556 U.S. 418, 435 (2009) (noting that factors of harm to the government and public interest “merge” when the government is a party).

3. While the district court stressed the purported harms to respondents if the Rule takes effect for this year’s elections, see App., *infra*, 32a-46a, that alone cannot overcome the government’s showing of why a stay is warranted here. As this

---

<sup>2</sup> See N.C. Gen. Stat. §§ 163-227.10(a) and 163-230.2(d) (2026); Ala. Code §§ 17-11-5(a) and 17-11-12 (2026).

<sup>3</sup> See Ark. Code Ann. § 7-5-407(a)(1) and (2) (2026); Fla. Stat. § 101.62(3)(b) (2026); Idaho Code § 34-1003(3) (Lexis 2026); Ind. Code §§ 3-11-4-15 and 3-11-4-18(c) (2026); Md. Code Ann., Elec. Law § 9-306(c)(1) (Lexis 2026); Mich. Const., Art. II, § 4(1)(h); Minn. Stat. § 203B.06(3)(a) (2026); Mo. Rev. Stat. §§ 115.281(1) and 115.287(1) (2026); Neb. Rev. Stat. § 32-808(1) (2026); Nev. Rev. Stat. § 293.269911(5) (2026); N.J. Stat. Ann. § 19:63-9(a) (West 2026); N.D. Cent. Code §§ 16.1-07-04 and 16.1-07-08(1) (2026); 26 Okla. Stat. § 14-118(A)(2) (2026); S.D. Codified Laws §§ 12-19-1.2 and 12-19-2 (2026); Vt. Stat. Ann. Tit. 17, § 2537a(a)(1) (2026); Va. Code Ann. §§ 24.2-612 and 24.2-706(C) (2026); W. Va. Code § 3-3-5(e)(1) (2026); Wis. Stat. § 7.15 (2026).

Court reaffirmed just last Friday, when it considers a stay application, “balanc[ing] the equities” matters only “[i]n close cases.” *Brown*, 2026 WL 2618462, at \*1 (citing *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam)). That makes sense, because “the most critical” stay factors are whether the stay applicant “has made a strong showing that [it] is likely to succeed on the merits” and that it “will be irreparably injured absent a stay.” *Nken*, 556 U.S. at 434. After all, given that this is not a close case on those factors—the Rule is clearly lawful, and the district court’s injunction is imposing serious irreparable injury on the government—there is no legitimate basis to deny a stay merely because compliance with the Rule may harm respondents. Respondents have no legal entitlement to avoid any harms associated with complying with a *lawful* regulation, and they have no equitable entitlement to invoke the protections of an *unlawful* injunction just because compliance with the Rule may be challenging for the upcoming elections.

All the more so because the purported difficulties are overblown. As for the States’ purported inability to comply with the Rule, the district court relied in part on the fact that doing so would cost money and take time, see, *e.g.*, App., *infra*, at 39a-40a, 42a-43a, but those types of ordinary compliance costs cannot outweigh the government’s entitlement to enforce a lawful regulation. Moreover, the court credited the self-serving assertions of impossibility by States opposed to the Rule, while discounting that there are States who support the Rule and contend that they will be able to comply, see, *e.g.*, *id.* at 44a—notwithstanding that the position of the latter States is inherently more credible since they have no evident incentive to disenfranchise their own voters. And in all events, the court failed to give sufficient weight to the fact that States could have started making at least some preparations to comply

months ago (e.g., by providing advance notice to ballot-mailing vendors that they likely would need to print new envelopes soon after a final rule was promulgated), rather than waiting until the last minute in hopes that a baseless injunction would be entered to obviate the need to comply.

Similarly, as for USPS's purported inability to perform its functions under the Rule, the district court relied heavily on speculation by state officials who lack direct knowledge of the Postal Service's implementation plans. For example, relying on past timelines for envelope review, the court rejected the anticipated two-day turnaround that the Postal Service itself provided in the Rule. See App., *infra*, 37a & n.46. Even worse, the court at times mischaracterized the record. For instance, the court credited a claim that the verification process could take years for States with tens of millions of ballots, merely because the Rule says that "scanning a barcode generally takes less than a minute per mailpiece," see *id.* at 42a (brackets omitted); but it disregarded that the same paragraph of the Rule expressly noted that "the verification process should take no more than a few hours for larger mailings" "[d]epending on how many barcodes are scanned," 91 Fed. Reg. at 54,981. And of course, the court's own improper orders are partly to blame, such as by gratuitously enjoining the Postal Service from even training employees to conduct the verification process in anticipation of the injunction being lifted. See p. 12, *supra*.

In all events, it warrants emphasis that the district court did not and could not hold that any purported difficulty in complying with the Rule for this year's elections itself rendered the Rule unlawful as applied to those elections. There is no basis in either the statutes governing the Postal Service or the Elections Clause to hold that an otherwise-valid rule regulating envelope design and addressee information for

election mail somehow becomes invalid simply because it is adopted sufficiently close to an election that it may be difficult to comply. Instead, that sort of objection would normally be raised in an arbitrary-and-capricious challenge under the APA, but Congress expressly exempted the Postal Service's regulations from such claims. See pp. 13-14, *supra*. Accordingly, any purported difficulties in complying with the Rule do not justify denying a stay, and the best way to address such difficulties is to grant an immediate stay so that all will know that immediate efforts to comply must proceed.

4. Finally, a stay at minimum is warranted with respect to the injunction's extension beyond respondent States. The *LWVMA* respondents do not have sufficient Article III injury even to obtain an injunction, let alone to oppose a stay. And the *California* respondents alone are not entitled to universal relief against the Rule.

"At the preliminary injunction stage," plaintiffs "must make a 'clear showing' that" they are "likely" to establish each element of standing." *Murthy v. Missouri*, 603 U.S. 43, 58 (2024) (quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008)). Because Article III standing is plaintiff-specific, the Court must determine whether each particular plaintiff has clearly established Article III standing to be entitled to relief. See *Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025). The *LWVMA* respondents have not done so.

The district court found that the *LWVMA* respondents had standing based on "interference with their core missions to educate voters" and "the likely disenfranchisement" of their members. App., *infra*, 24a. Neither suffices. With respect to the organizations' educational efforts, "[a] plaintiff must show far more than simply a setback to the organization's abstract social interests," "no matter how longstanding the interest and no matter how qualified the organization" or the strength of its "op-

position to the government’s conduct.” *FDA v. Alliance for Hippocratic Med.*, 602 U.S. 367, 394 (2024) (citation omitted); accord *ibid.* (“[A]n organization that has not suffered a concrete injury caused by a defendant’s action cannot spend its way into standing simply by expending money to gather information and advocate against the defendant’s action.”). And with respect to the organizations’ ability to “assert the standing of their members,” they must “make specific allegations establishing that at least one identified member \* \* \* would suffer harm.” *Summers v. Earth Island Inst.*, 555 U.S. 488, 494, 498 (2009). All but one of the *LWVMA* respondents fail that requirement; they claim only generic harm to unknown and unidentified members. See, e.g., D. Ct. Doc. 208-1 ¶ 36 (Aug. 26, 2026); D. Ct. Doc. 208-3 ¶ 14 (Aug. 26, 2026); D. Ct. Doc. 208-5 ¶ 64 (Aug. 26, 2026). The League of Women Voters of Massachusetts, which does claim that particular members face a “risk of not being [able] to vote at all,” D. Ct. Doc. 208-4 ¶ 59, nonetheless lacks Article III standing, because its “potential future” injury rests on a “speculative chain of possibilities” regarding the Commonwealth of Massachusetts’ inability to facilitate mail-in voting in accordance with the Final Rule. *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 414 (2013). In any event, any injunctive relief for the League of Women Voters of Massachusetts would be co-extensive with relief given to the Commonwealth of Massachusetts, a plaintiff State, and could not justify broader relief.

Nor can the *California* respondents alone obtain universal relief. The district court granted injunctive relief under Federal Rule of Civil Procedure 65, App., *infra*, 47a, but those State respondents will suffer no cognizable injury from application of the Rule to ballots mailed by or to other States, and thus they cannot obtain relief nationwide. *CASA*, 606 U.S. at 837. Insofar as the district court suggested it was

instead “stay[ing]” the Rule under 5 U.S.C. 705, App., *infra*, 47a, that too was error. Most fundamentally, the Postal Service’s rule is expressly exempt from Section 705 relief. See pp. 13-14, *supra*. Regardless, any stay granted under Section 705 must be limited “to the extent necessary to prevent irreparable injury” to the plaintiff, 5 U.S.C. 705, which again precludes the *California* respondents from obtaining relief nationwide. See *Starbucks Corp. v. McKinney*, 602 U.S. 339, 346 (2024) (explaining that “absent a clear command” to the contrary, statutes adhere to “established principles” of equity); *CASA*, 606 U.S. at 844 (noting that “party-specific principles \* \* \* permeate our understanding of equity”).

### CONCLUSION

This Court should stay the preliminary injunction of the United States District Court for the District of Massachusetts, pending the resolution of the government’s appeal to the United States Court of Appeals for the First Circuit and any proceedings in this Court, and grant an immediate administrative stay.

Respectfully submitted,

D. JOHN SAUER  
*Solicitor General*

SEPTEMBER 2026