

In the Supreme Court of the United States

No. 26A124

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., APPLICANTS

v.

STATE OF CALIFORNIA, ET AL.

SECOND SUPPLEMENTAL BRIEF IN SUPPORT OF APPLICATION FOR STAY

Applicants submit this supplemental brief to inform the Court about recent developments related to the pending stay application in this matter—namely, the promulgation of a final rule by the United States Postal Service.

On Friday evening, the Federal Register made available for public inspection a final rule, titled *Ballot Mail for Federal Elections*, submitted for publication by the Postal Service. See U.S. Postal Service, *Ballot Mail for Federal Elections* (Aug. 21, 2026), <https://public-inspection.federalregister.gov/2026-17238.pdf> (*Ballot Mail* Final Rule). The rule amends USPS’s Domestic Mail Manual to impose modest envelope-design requirements for federal ballot mail. The rule was issued pursuant to the Postal Service’s rulemaking authority in 39 U.S.C. 401(2) and operational authority in 39 U.S.C.404(a)(1). It is scheduled for publication on August 26, 2026. *Ballot Mail* Final Rule at 1.

The final rule requires federal ballots transmitted through the U.S. Mail to be mailed in envelopes that include the official Election Mail logo, are automation compatible, and use unique barcodes that denote the item’s status as federal ballot mail

and its delivery point ZIP code. See *Ballot Mail* Final Rule at 91. 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 it intends to send, see *id.* at 92-94. 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. *Id.* at 92. State election officials may continually update their lists as necessary. *Id.* at 93. When state election officials present their outbound ballot mail for mailing, the Postal Service will verify that the envelopes comply with the rule's design requirements, such as inclusion in the lists submitted by the states. *Id.* at 94-95. USPS will not perform any verification of voter eligibility or the like; its role is limited to ensuring that the envelopes comply with the rule's envelope-design requirements. *Id.* at 95. On or about the date of the relevant election, the Postal Service will provide each state that used the U.S. Mail to transport ballots with a single list containing all of the state's submissions regarding ballots sent. *Id.* at 93-94.

The issuance of a final rule underscores the need for relief from the district court's improper, unripe injunction. As the rule itself notes, the Postal Service cannot implement the rule as to the November 2026 federal election absent relief. See *Ballot Mail* Final Rule at 2. And contrary to the district court's assumption, the published final rule does not simply mirror the proposals outlined in Section 3 of Executive Order 14,399. For example, the Postal Service will not refuse to transmit ballots from individuals who were not included on a state-submitted list, as Section 3(b)(iii) of the Order contemplated. Yet the injunction nonetheless precludes the rule's implementation as to the November 2026 federal election in the respondent states based on the court's assessments of the Order's proposals and potential implementation, not the

contents or application of a rule actually in effect.

The Postal Service’s final rule imposes only modest requirements for preparation and envelope design for federal ballot mail—requirements that fall well within its traditional authorities to impose mailing standards for particularly sensitive types of mail. See *Ballot Mail* Final Rule at 22-23. In prejudging the merits of a hypothetical rule with provisions the district court could only speculate a final rule might contain, the district court seriously overstepped the bounds of longstanding Article III standing and ripeness principles. Should respondents nevertheless choose to challenge the modest requirements of the final rule on the merits, the lower courts are the proper forum to address those questions in the first instance. See, e.g., *Adarand Constructors, Inc. v. Mineta*, 534 U.S. 103, 109 (2001) (per curiam). A stay of the district court’s injunction would allow the district court to adjudicate any such challenges to the final rule’s application, and would permit any further appellate review as necessary.

Respectfully submitted.

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Solicitor General

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