

Brady Center to Prevent Gun Violence
840 First Street NE
Suite 400
Washington, DC 20002
Tel.: (202) 370-8100

**Brady Center to Prevent Gun Violence
Comments on United States Postal Service
Proposed Rule of April 2, 2026
“Revised Mailing Standards for Firearms”**

The Brady Center to Prevent Gun Violence (“Brady”) submits these comments on the rule proposed by the United States Postal Service (“USPS”) on April 2, 2026, entitled *Revised Mailing Standards for Firearms* (the “Proposed Rule”).

Founded in 1974, Brady is the nation’s longest standing nonpartisan, nonprofit organization dedicated to reducing gun violence through education, research, legal advocacy, and political action. Brady works to free America from gun violence by passing and defending gun violence prevention laws, reforming the gun industry, and educating the public about responsible gun ownership.

I. THE PROPOSED RULE COMPROMISES PUBLIC SAFETY

Pursuant to 18 U.S.C. § 1715 (“Section 1715”), USPS rules have long limited handgun shipments through the mail. Eliminating these safeguards will increase the risk that handguns are diverted for illicit purposes, misfired during shipment, or mishandled by inexperienced users.

A. The Proposed Rule increases the risk that persons legally prohibited from possessing firearms will obtain handguns through the mail.

Handguns are the firearm type involved in the majority of gun-related crimes in the United States. According to recent law enforcement data, handguns were used in a majority of firearm-related homicides and accounted for over 80 percent of recovered crime guns.¹ Handguns are often the weapon of choice for criminal activity because they are small and easily concealed. Recognizing the unique dangers posed by concealable firearms, for centuries states and the federal

¹ See Jennifer Mascia, *Are Handguns or Rifles Used More Often in Mass Shootings?*, The Trace (July 18, 2023), <https://www.thetrace.org/2023/07/mass-shooting-type-of-gun-used-data/>; Bureau of Alcohol, Tobacco, Firearms and Explosives, *Firearms Trace Data Reports, U.S. - Firearm Types Recovered and Traced - 2023* (2023), <https://www.atf.gov/media/20696/download>.

government have regulated handguns more stringently than long guns.² Over the past century,³ consistent with Section 1715, postal regulations have specifically restricted the shipping of pistols, revolvers, and other firearms capable of being concealed on a person through the U.S. mail, permitting only commercial dealers and government users to mail such firearms. The Proposed Rule would disrupt this longstanding regulatory scheme, with grave consequences for public safety and for laws regulating firearms ownership.

In particular, the Proposed Rule would, as a practical matter, make it easier for persons prohibited from firearms ownership, including minors prohibited from handgun possession,⁴ to acquire handguns in violation of state and federal law. Although the Proposed Rule states that mailers must comply with regulations governing the movement of firearms, it provides no indication of how such compliance would be achieved or enforced—or how mailers would even know the terms of such regulations. Under the Proposed Rule, persons without a Federal Firearms License (“FFL”) would be permitted to mail eligible firearms to “another person in another state for lawful activities,” subject only to two main restrictions regarding the manner of shipment: the package must be unmarked, and the mailer must purchase a service “that provides tracking and signature capture at delivery.” Otherwise, the Proposed Rule fully entrusts firearms mailers and addressees with the responsibility of ensuring that the end-user is lawfully permitted to possess a gun.

Illegal gun traffickers could take advantage of the regulatory void created by the Proposed Rule to transfer handguns to prohibited purchasers. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), most firearms used in the commission of a crime “flow from lawful firearm commerce” and are later diverted for illegal uses through “straw purchasing” (buying a gun on another person’s behalf) and “unregulated private transfers.”⁵ Gun traffickers regularly transport guns from states with weak gun safety laws to states with more extensive restrictions to evade record-keeping requirements.⁶ The Proposed Rule provides traffickers with

² See Robert Spitzer, *Gun Laws Are as Old as Gun Ownership*, American Constitution Society (May 18, 2015), <https://www.acslaw.org/book/gun-laws-are-as-old-as-gun-ownership/>; Andrew Willinger, *Litigation Highlight: Plaintiffs File Second Amendment Challenge to Federal Ban on Mailing Firearms*, Duke Center for Firearms Law (Oct. 23, 2025), <https://firearmslaw.duke.edu/2025/10/litigation-highlight-plaintiffs-file-second-amendment-challenge-to-federal-ban-on-mailing-firearms> (noting that “[m]uch early state gun regulation focused specifically on small, easily concealable weapons such as pistols and knives but did not impact larger firearms like muskets or rifles”).

³ See *infra* part III.

⁴ See 18 U.S.C. § 922(x).

⁵ Bureau of Alcohol, Tobacco, Firearms and Explosives, *National Firearms Commerce and Trafficking Assessment (NFCTA): Firearms Trafficking Investigations - Volume Four, Part I: Firearm Commerce Updates and New Analysis* (2024), <https://www.atf.gov/media/18606/download>.

⁶ *Gun Trafficking & Straw Purchasing*, Brady United (last visited Apr. 22, 2026), <https://www.bradyunited.org/resources/issues/gun-trafficking-straw-purchasing>.

a convenient pathway for moving handguns across state lines that does not expose them to potential law enforcement encounters, and undermines critical state and local gun regulations in the process.

Persons legally prohibited from firearms possession often rely on friends, family, or straw purchasers to obtain firearms, and the Proposed Rule’s loosening of postal regulations will make such transfers even easier. For example, a majority of states prohibit individuals subject to domestic violence restraining orders from possessing firearms, and federal law separately incorporates such prohibitions in 18 U.S.C. § 922(g)(8).⁷ As a result, persons subject to qualifying domestic violence restraining orders cannot purchase a handgun from an FFL because they would fail the standard background check (which should include information on any domestic violence restraining orders). Similar state laws prohibit firearm purchases by persons convicted of violent, hate-based, or gun-related misdemeanors,⁸ adults who have committed serious crimes as a juvenile,⁹ and persons who have been found to be a danger to themselves or others.¹⁰ In stark contrast, under the Proposed Rule, a non-FFL firearm owner—who would not have access to the background check database—could mail the prohibited person a handgun as long as the mailer believed the recipient intended to use it “for lawful activities.” In other words, the mailer would have no ability to determine whether the recipient is in fact lawfully permitted to receive a handgun through the mail, and thus could not realistically ensure that the mailing of that handgun complies with governing laws and regulations that vary widely across state lines.

Beyond this fundamental flaw, the postal system is also not equipped to prevent or detect abuse of the Proposed Rule. The Proposed Rule sweeps over 145 million privately owned handguns¹¹ into the category of firearms mailable between any individuals, while creating a narrow category of nonmailable firearms that are “generally unlawful to possess”—a description for which the only examples offered are firearms “not detectable by metal detectors and x-ray machines” when disassembled, pursuant to the Undetectable Firearms Act.¹² But USPS does not have the capabilities or resources to prevent abuses in the mailing of handguns. USPS does not use metal detectors or x-ray machines to scan the millions of packages that move through the postal network each day.¹³ Nor does it have access to databases that would allow postal workers to screen addressees for persons prohibited from firearms ownership. Even if such access were available to

⁷ *The Effects of Prohibitions Associated with Domestic Violence*, RAND (last updated Jan. 29, 2026), <http://rand.org/research/gun-policy/analysis/domestic-violence-prohibitions.html>.

⁸ *Firearm Prohibitions*, Giffords Law Center to Prevent Gun Violence (last visited Apr. 27, 2026), <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/firearm-prohibitions/>.

⁹ *Id.*

¹⁰ *Mental Illness*, Everytown for Gun Safety (last visited Apr. 27, 2026), https://maps.everytownresearch.org/navigator/states.html?dataset=mental_illness&states=undefined.

¹¹ See John Berrigan, Deborah Azrael & Matthew Miller, *The Number and Type of Private Firearms in the United States*, 704 *Annals Am. Acad. Pol. & Soc. Sci.* 70 (2023), <https://journals.sagepub.com/doi/10.1177/00027162231164855>.

¹² See 18 U.S.C. § 992(p).

¹³ See *Br. of Amicus Curiae the Am. Postal Workers Union, Shreve v. U.S. Postal Service*, No. 3:25-cv-00214 (W.D. Pa.), Dkt. No. 55.

the National Instant Criminal Background Checks System (NICS) prior to shipment, there exists no mechanisms or resources to verify end-users on site, nor could USPS employees be reasonably expected to perform such a task. The result is that inconspicuous packages containing handguns would flow unchecked through the mail, and likely to persons legally prohibited from possessing them.

B. The Proposed Rule increases the risk of handgun thefts and accidents as greater numbers of handguns move through the U.S. mail.

Legal transfers of handguns through the mail also present significant safety risks. While packaged rifles and shotguns remain conspicuous, an increasing number of handguns packaged in unmarked containers would create many new dangers as they move through the postal network.

USPS employees are not trained to assess whether a firearm is loaded, a process that varies depending on the particular firearm and requires physically manipulating the firearm to ensure the chamber is empty. As a result, postal workers typically rely on a handgun mailer's certification that a packaged handgun is unloaded, rather than opening the package for inspection.¹⁴ Under existing rules, authorized handgun mailers, primarily commercial sellers and government agents, are reasonably assumed to be capable of ensuring that handguns they mail are unloaded, given their extensive familiarity with these firearms. If, as the Proposed Rule envisions, any person can mail a handgun, it is predictable that loaded handguns will move through the mail—because owners often mistakenly believe that a firearm is unloaded when, in fact, a bullet remains in the chamber.¹⁵ The risks this would present are self-evident, especially because loaded guns can discharge upon impact when dropped accidentally.¹⁶

Mail theft is a widespread problem, and greater numbers of handguns moving through the U.S. mail significantly increases the risk that handguns wind up in the wrong hands. There are numerous documented instances of firearms stolen in transit later being used in the commission of a crime. A 2018 analysis of ATF data found that 13,000 firearms were stolen during interstate shipment over a five-year period.¹⁷ Twenty-five of those firearms were later linked to a homicide,

¹⁴ *Id.*

¹⁵ Colo. Dep't of Pub. Health & Env't, *Unintentional Firearm Injuries* (last visited May 1, 2026), <https://cdphe.colorado.gov/colorado-gun-violence-prevention-resource-bank/injury-and-death-involving-firearms/unintentional>

¹⁶ See Jose Pagliery, *The Gun That Can Fire When You Drop It*, CNN (June 6, 2018), <https://www.cnn.com/interactive/2018/06/investigates/sig-sauer-p320-drop-fire/>; Pagliery, *The Gun That Can Fire When You Drop It*, CNN (June 6, 2018), <https://www.cnn.com/interactive/2018/06/investigates/sig-sauer-p320-drop-fire/>.

¹⁷ Tamia Fowlkes, *He ordered a revolver, but UPS lost it. How many guns go missing in the mail each year?*, USA Today (Oct. 20, 2023), <https://www.usatoday.com/story/news/nation/2023/10/20/missing-guns-shipping-ups-fedex-usps/71246753007/?gnt-cfr=1>.

and “[t]housands more were involved in some other sort of crime.”¹⁸ Further, researchers note that statistics of firearm theft are likely understated. No federal law requires owners to report firearm loss or theft, and only fifteen states have enacted mandatory reporting laws as of 2023.¹⁹ Meanwhile, rates of mail theft have risen, with robbery of postal workers increasing “nearly sevenfold” between 2019 and 2023.²⁰ The Proposed Rule will make USPS an even more attractive target for mail thieves.

By facilitating handgun shipments to any addressee, the Proposed Rule also creates new risks upon delivery. To deter theft, the Proposed Rule requires that firearms must be packaged in boxes or other containers that do not “indicate the nature of the contents.” Non-FFL handgun mailers must use a class of mail requiring signature confirmation, which permits any “responsible person at the residence,” including minor children of the addressee, to sign for packages.²¹ (A mailer could elect to pay a higher shipping fee for an Adult Signature service, which the Proposed Rule requires for shipments of certain air guns.) Even assuming full compliance with the Proposed Rule, there is a significant risk that children permitted to sign for handgun deliveries (who are themselves legally prohibited from possessing a handgun) and letter carriers making such deliveries would be unaware that a small, unmarked box contains a firearm (and could potentially be loaded).

II. THE EXISTING LIMITATIONS ON MAILING HANDGUNS DO NOT INTERFERE WITH THE RIGHT TO LAWFUL SELF-DEFENSE THAT HAS BEEN HELD TO BE THE CORE OF THE SECOND AMENDMENT

The Supreme Court has held that “the Second Amendment protects the right to keep and bear arms for the purpose of self-defense,”²² and that “self-defense is the central component of the Second Amendment right itself.”²³ However, “[l]ike most rights,” the Second Amendment right “is not unlimited.”²⁴

¹⁸ See Brian Freskos, *Guns Stolen From UPS and Other Shipping Companies Are Turning Up at Crime Scenes*, The Trace (Feb. 8, 2018), <https://www.thetrace.org/2018/02/stolen-guns-ups-shipping-companies/>.

¹⁹ National Policing Institute, *Keeping Firearms Out of the Wrong Hands* (2024), https://www.policinginstitute.org/wp-content/uploads/2024/04/NPI_FirearmTheftReport_Final424.pdf.

²⁰ U.S. Government Accountability Office, *U.S. Postal Service: Inspection Service Should Document Its Law Enforcement Workforce Decision-Making Processes*, GAO-24-106497 (May 29, 2024), <https://www.gao.gov/products/gao-24-106497>.

²¹ U.S. Postal Service, *What is Signature Confirmation™?* (Oct. 17, 2024), <https://faq.usps.com/s/article/What-is-Signature-Confirmation>.

²² *McDonald v. City of Chicago*, 561 U.S. 742, 749 (2010) (citing *District of Columbia v. Heller*, 554 U.S. 570 (2008)).

²³ *New York State and Rifle Association v. Bruen*, 597 U.S. 1, 32–33 (2022) (quoting *Heller*) (cleaned up).

²⁴ *Heller*, 554 U.S. at 626.

In particular, the Supreme Court has held that the Second Amendment guarantees an “individual right to possess and carry weapons in case of confrontation.”²⁵ This includes, under the Court’s precedent, the right to “public carry,” because “confrontation can surely take place outside of the home.”²⁶ It may also include—with limitations—the right to acquire arms to keep and bear, subject to certain “conditions and qualifications” on commercial sales, which are “presumptively lawful.”²⁷ The Second Amendment does not, however, include the right to mail arms through the U.S. Postal Service.

If the ability of a person to mail arms through the U.S. Postal Service implicates the Second Amendment at all, it is at most ancillary to the right of lawful self-defense that the Supreme Court has held is protected by the Second Amendment. Courts considering regulations on such ancillary activity have consistently held that the Second Amendment only precludes laws or regulations that “meaningfully constrain the right to possess and carry arms.”²⁸ Under this body of precedent, regulations “cannot have the effect of eliminating the ability of law-abiding, responsible citizens to acquire firearms.”²⁹

Section 1715—and the USPS regulations implementing it—has no such effect. As a threshold matter, Section 1715 does not prohibit or even address the mailing or transport of handguns by other means. For example, it places no constraint on the ability to ship handguns using private carriers, nor on the ability to travel, using any mode of transport, with a handgun. All that Section 1715 does is provide for the circumstances under which the U.S. Postal Service will permit the mailing of handguns. The Second Amendment does not create an entitlement to have the U.S. government facilitate such mailing under any circumstance.

Moreover, even viewed in isolation, Section 1715 does not “meaningfully constrain the right to possess and carry arms.”³⁰ First, it is not true that shipment via the U.S. Postal Service is the only method for travelling with or transporting firearms. To take an obvious example, the Transportation Security Agency permits airline travelers to transport unloaded firearms, including

²⁵ *Heller*, 554 U.S. at 592.

²⁶ *Bruen*, 597 U.S. at 33. *Heller* cautioned, however, that the right is not a “right of citizens to carry arms for any sort of confrontation.” 554 U.S. at 595 (emphasis in original).

²⁷ *Heller*, 554 U.S. at 626–27; see also *United States v. Vllha*, 142 F.4th 1194, 1198 (9th Cir. 2025) (describing “ancillary-rights” doctrine and collecting cases).

²⁸ *United States v. Vereen*, 152 F.4th 89, 95 (2d Cir. 2025); see also *Vllha*, 142 F. 4th at 1198 (citing *Teixeira v. Country of Alameda*, 873 F.3d 670, 680 (9th Cir. 2017)); *McRorey v. Garland*, 99 F.4th 831, 838–39 (5th Cir. 2024) (recognizing that the ability to purchase a firearm “is not the same thing as being covered by the plain text of the amendment,” and thus applying a test evaluating whether the challenged regulation that implicated the acquisition of firearms was being “put toward[s] abusive ends” because the Supreme Court “prohibits shoehorning restrictions on purchase into functional prohibitions on keeping”).

²⁹ *Gazzola v. Hochul*, 88 F.4th 186, 196 (2d Cir. 2023).

³⁰ *Cf. Vereen*, 152 F.4th 89, 98 (holding that a New York requirement that firearms acquired out of state be acquired through a federally licensed in-state dealer does not meaningfully constrain, to the extent it constrains at all, the right protected by the Second Amendment).

handguns, in their checked luggage where certain requirements are met.³¹ Amtrak also allows firearms and ammunition to be carried on its trains.³² Or, a handgun owner can request a licensed dealer to mail a firearm on his or her behalf to another licensed dealer, where it could be retrieved. Furthermore, individuals can also generally transport their handguns in their cars interstate: federal law already permits individuals to travel with a firearm from any place where the possession of that firearm by that person is lawful to any other place where the possession of that firearm is lawful.³³

Second, Section 1715 facilitates lawful interstate commerce in firearms by permitting the mailing of handguns between licensed firearm manufacturers, dealers, and importers, consistent with 18 U.S.C. § 922(a)(3), or authorized agents of federal, state, territory, or district governments. As described more fully above, the statute (and the UPS regulations) only constrain the ability of persons to use the federal mail service to ship handguns outside the carefully circumscribed state and federal laws governing lawful commerce in firearms.³⁴ But the unregulated exchange of concealed weapons via the mail is not required to facilitate, nor does it impose any meaningful burden on, the ability of individuals to exercise the keeping and bearing of arms for lawful self-defense, and therefore falls outside the scope of Second Amendment rights articulated by the Supreme Court.³⁵

Though it may be more convenient for some gun owners to mail handguns using the U.S. Postal Service, that does not establish a Second Amendment right to do so. Just as the Second Amendment does not create a “right to have a gun store in a particular location, nor a right to travel no more than short distances to the most convenient gun store that provides what [the purchaser] deem[s] a satisfactory retail experience,”³⁶ it also does not create a right to mail concealed firearms through a gunowner’s preferred carrier, at the lowest possible cost, and at a particular postal service location versus that of a licensed dealer or private carrier.

III. THE EXISTING LIMITATIONS ON MAILING HANDGUNS ARE CONSISTENT WITH THE NATION’S HISTORY OF FIREARMS REGULATION

Even if existing limitations on mailing handguns via the mail implicate Second Amendment rights (which they do not), those limitations are “consistent with the Nation’s

³¹ Transportation Security Administration, *Transporting Firearms and Ammunition* (last visited May 1, 2026), <https://www.tsa.gov/travel/transporting-firearms-and-ammunition>.

³² Amtrak, *Firearms in Checked Baggage* (last visited May 1, 2026), <https://www.amtrak.com/firearms-in-checked-baggage>.

³³ See 18 U.S.C. § 926A.

³⁴ See generally *United States v. Powell*, 423 U.S. 87, 91 (1975) (describing the purposes of Section 1715 as to “avoid having the Post Office serve as an instrumentality for the violation of local laws which prohibit the purchase and possession of weapons).

³⁵ See *Heller*, 554 U.S. at 626–27.

³⁶ *Gazzola*, 88 F.4th at 197–98 (citing *Teixeira*, 873 F.3d at 679-80) (internal quotation marks omitted).

historical tradition of firearm regulation.”³⁷ First, the federal government has prohibited or significantly restricted the mailing of firearms for nearly the entirety of the Nation’s history. Second, “a ‘historical twin’ is not required” for a restriction to be constitutional.³⁸ and the existing limitations on mailing handguns are independently supported by several well-established traditions of firearm regulation aimed at preventing the misuse of firearms by persons who pose a heightened risk of danger if armed. As such, the Proposed Rule is based on an incorrect premise: that the current regulatory structure is contrary to the Nation’s history of regulating the transport of firearms via the mail.

A. The federal government has a long history of prohibiting the mailing of firearms.

Throughout the Nation’s history, firearms have not been freely circulated through the United States mail. Shortly after the Founding, Congress established the Post Office, and authorized it to deliver “letters, newspapers and packets.”³⁹ Although Congress authorized the Post Office to deliver packets, shipping a Revolutionary-era firearm would have been prohibitively expensive based on the postage rates set by Congress.⁴⁰ For example, while mailing a letter from Johnstown to Philadelphia would have cost 17 cents, mailing a ten-pound musket the same distance would have cost \$108.80,⁴¹ and mailing a four-pound Flintlock pistol would have cost \$43.52.⁴² Those amounts would have been ruinously expensive in the late 1700s, when “the average rate of wages” was “sixty-five dollars a year, with food and, perhaps, lodging.”⁴³

In addition to the mailing of firearms being prohibitively expensive, directives from the Postmaster General confirm that firearms were not accepted for carriage through the United States mail beginning in the early to mid-1800s. In 1838, the Postmaster General instructed employees to “exclude from the mail packets of every description weighing more than three pounds, and all

³⁷ *Bruen*, 597 U.S. at 17.

³⁸ *United States v. Rahimi*, 602 U.S. 680, 701 (2024) (quoting *Bruen*, 597 U.S. at 30).

³⁹ 2 Cong. Ch. 7, 1 Stat. 232 § 2 (Feb. 20, 1792).

⁴⁰ *See* 2 Cong. Ch. 7, 1 Stat. 232 § 9 (Feb. 20, 1792) (setting postage rates).

⁴¹ \$108.80 in 1792 is worth \$3,742.41 today. 1792, CPI Inflation Calculator (last visited May 3, 2026), <https://www.officialdata.org/us/inflation/1792?amount=108.80>.

⁴² *See* 2 Cong. Ch. 7, 1 Stat. 232 § 9 (Feb. 20, 1792). \$43.52 in 1792 is worth \$1,496.97 today. 1792, CPI Inflation Calculator (last visited May 3, 2026), <https://www.officialdata.org/us/inflation/1792?amount=43.52>.

⁴³ 2 John Bach McMaster, *A History of the People of the United States, from the Revolution to the Civil War* 617 (1919), available at Internet Archive, https://archive.org/details/bub_gb_I5d1AAAAMAAJ/page/616/mode/2up; 1792, CPI Inflation Calculator (last visited May 3, 2026), <https://www.officialdata.org/us/inflation/1792?amount=65> (“\$65 in 1792 is worth \$2,235.82 today.”).

articles that would hazard the security of the mails, or expose them to be worn or defaced.”⁴⁴ In effect, firearms were excluded from mailable material beginning as early as 1838.

Subsequent postal laws continued the tradition of preventing firearms from being delivered via the U.S. mail. In 1863, Congress reorganized the post office, carefully defined what constituted “mailable matter,” and excluded guns from that list.⁴⁵ Similarly, Congress prevented the mailing of firearms in the 1872 Post Office Act by omitting firearms from the list of “mailable matter” and “exclud[ing] from the mails” “other articles” that “from their form or nature” were “liable to destroy, deface, or otherwise injure the contents of the mail-bag or the person of any one engaged in the postal service,” which expressly excluded “explosive materials.”⁴⁶ In addition to omitting firearms from the list of mailable matter and excluding firearms based on the likelihood of injuring postal workers, the 1872 Post Office Act also set a weight limit of “twelve ounces” for third class mail,⁴⁷ which in effect excluded virtually all firearms. Thus, from 1838 and continuing through the 1870s, Congress prevented the shipment of firearms, underscoring the longstanding historical tradition of doing so.

Several years later, Congress enacted the Classification Act of 1879, which created a fourth class of mail consisting of “merchandise.”⁴⁸ That fourth class of mail was not to exceed “four pounds for each package,” and excluded any item which “in its form or nature” was “liable to destroy, deface, or otherwise damage the contents of the mail bag, or harm the person of any one engaged in the postal service.”⁴⁹ There is no indication in the legislative history of the Classification Act that Congress intended to make firearms mailable. However, in 1887, the Postal Regulations for the first time stated that “[p]istols or revolvers, in detached parts, may be sent in the mails; but the mailing postmaster will carefully examine such packages, and will receive them only when sure they are harmless.”⁵⁰ This explicit provision permitting the mailing of handguns—

⁴⁴ Letter from Robert Johnson, Second Assistant Postmaster General (March 1838), at 1; *see also id.* (enumerating “three classes of postage,” for “letters,” “newspapers,” and “pamphlets,” and contemplating only other forms of paper communications as mailable).

⁴⁵ *An Act to Amend the Laws Relating to the Post-Office Department*, ch. 71, §§ 19-20, 12 Stat. 701 (1863) (dividing “mailable matters” into “three classes, namely:” letters, regular printed matter, and miscellaneous matter, with miscellaneous matter encompassing other printed materials such as “pamphlets” and “books”).

⁴⁶ *An Act to Revise, Consolidate, and Amend the Statutes Relating to the Post-Office Departments*, ch. 335, 17 Stat. 283 (1872).

⁴⁷ *An Act to Revise, Consolidate, and Amend the Statutes Relating to the Post-Office Departments*, ch. 335, 17 Stat. 283 (1872).

⁴⁸ *An Act Making Appropriations for the Service of the Post Office Department for the Fiscal Year Ending June Thirtieth, Eighteen Hundred and Eighty, and for Other Purposes*, ch. 180, § 7, 20 Stat. 355, 358 (1879).

⁴⁹ *Id.* § 20, 20 Stat. at 358.

⁵⁰ *Postal Laws and Regulations of the United States of America* § 370(1), at 155 (1887).

for the first time—demonstrates and reinforces that before 1887 the Nation’s historic traditions precluded the mailing of firearms.⁵¹

By 1927, Congress had enacted what is now 18 U.S.C. § 1715, declaring that “pistols, revolvers, and other firearms capable of being concealed on the person” are nonmailable except by licensed dealers and government agents,⁵² restoring a longstanding baseline principle that the federal mails could not be used to ship concealable firearms between unlicensed persons. This prohibition on mailing concealable firearms was in response to repeated concerns by the Postmaster General,⁵³ and was supported by the police authorities of substantially every large city in America.⁵⁴ Moreover, when Congress considered and ultimately passed this general prohibition on mailing firearms by the Postal Service, it expressly determined that the statute was constitutional under the Second Amendment.⁵⁵ As one Congressman stated, the “only thing” the prohibition on mailing concealable firearms “undertakes to do is to tell the person who wants a pistol that he can not use an agency of the Federal Government to transport the pistol.”⁵⁶ This view of the prohibition’s constitutionality is bolstered by the complete absence of legal challenges to the pre-1879 statutes and regulations that effectively barred the mailing of firearms by the Postal Service. The fact that neither the founding generation nor any of the generations after brought such suits, despite this prohibition being in effect nearly continuously, is a strong indication that the Second Amendment was never understood to require that the federal government accept handguns for shipment by the Postal Service.⁵⁷

⁵¹ See *Bruen*, 597 U.S. at 66, 69 (concluding that certain laws deserve “little weight” given “their temporal distance from the founding” and the fact that they were “short lived”).

⁵² Pub. L. No. 69-583, § 1, 44 Stat. 1059, 1059 (1927) (codified as amended at 18 U.S.C. § 1715).

⁵³ *Annual Report of the Postmaster-General of the United States for the Fiscal Year Ended June 30, 1904*, at 7 (1904) (complaining that “no penalty is provided” for sending prohibited items through the mail, including “loaded revolvers” and “other explosives” which “are continually intercepted in the mails,” and advocating for “[s]ome adequate punishment” for “those who thus recklessly endanger the lives of mail clerks”); *Annual Report of the Postmaster General for the Fiscal Year Ended June 30, 1925*, at 65 (1925) (warning that in “many jurisdictions [the mailability of guns] operates to defeat local laws and regulations prohibiting the purchase and possession of such articles” such that “it is believed that the department should not be compelled to carry firearms under these conditions”).

⁵⁴ 66 Cong. Rec. 727 (1924) (statement of Rep. John F. Miller (R-Wash.)).

⁵⁵ See 66 Cong. Rec. 736 (1924) (statement of Rep. Thomas Blanton) (arguing that the Postmaster General was “trying to take away from the law-abiding people the constitutional right to keep firearms in their homes”); 66 Cong. Rec. 728 (1924) (statement of Rep. Morton D. Hull) (“There is not a single line or word in the proposed act that prevents a man having a firearm in his home under any constitutional guaranty that he has.”); 66 Cong. Rec. 730 (1924) (statement of Rep. C. William Ramseyer) (“The only thing [the bill] undertakes to do is to tell the person who wants a pistol that he can not use an agency of the Federal Government to transport the pistol.”).

⁵⁶ 66 Cong. Rec. 730 (1924) (statement of Rep. C. William Ramseyer).

⁵⁷ See *Antonyuk v. James*, 120 F.4th 941, 990 (2d Cir. 2024) (finding history probative where “the record not only lacks any successful challenges” to historical measures, “but also lacks any challenges at all”).

In short, throughout the Nation’s history, and beginning by no later than the early 1800s, firearms were either prohibited from carriage through the United States mail or subject to very significant restrictions on their mailing. This is true even with the “dramatic technological changes” in firearm technology and shipping that warrant a “more nuanced approach” to these historical analogues.⁵⁸ This places the current restrictions on the mailing of handguns, under Section 1715 and governing USPS regulations, well within the Nation’s historical tradition of firearms regulation. As such, USPS’s Proposed Rule relies on an erroneous legal conclusion that is contradicted by the historical record, and constitutes an unlawful exercise of rulemaking authority because it rests on a clearly erroneous and unsupportable premise that current USPS regulations are contrary to the Nation’s tradition of restricting the mailing of firearms.

B. The existing limitations on mailing handguns are supported by numerous traditions of firearms regulations.

Even apart from the Nation’s history of preventing or restricting the shipment of firearms through the United States mail, the existing regulations preventing the shipment of handguns are amply supported by the broader historical tradition of regulating the distribution and transfer of firearms to protect public safety. To determine whether a modern law is consistent with historical tradition, courts evaluate whether the modern law is “relevantly similar” to historical analogues; that is, whether it burdens an individual’s Second Amendment rights for comparable reasons and in comparable respects.⁵⁹ “Why and how the regulation burdens the right” to keep and bear arms “are central to this inquiry.”⁶⁰

a. The existing limitations are integral to the proper functioning of background checks and licensing laws.

The Supreme Court has previously explained that the purpose of 18 U.S.C. § 1715 is “to avoid having the post office serve as an instrumentality for the violation of local laws which prohibited the purchase and possession of weapons,” and “to make it more difficult for criminals to obtain concealable weapons.”⁶¹ The existing regulatory framework does not criminalize the mailing of firearms, but merely requires that handguns be mailed via a federally licensed dealer or between government agents, who can ship the weapons safely, verify the identity of recipients, conduct any background checks required by state or federal law, and otherwise ensure that the mailing complies with state and local laws. The existing regulations thus play an essential role in

⁵⁸ *Bruen*, 597 U.S. at 27; *see also Rahimi*, 602 U.S. at 739–40 (Barrett, J., concurring) (cautioning against the assumption that “founding-era legislatures maximally exercised their power to regulate” and characterizing a “use it or lose it” view of legislative authority” as “flawed”).

⁵⁹ *See Bruen*, 597 U.S. at 28-29 (quotation marks omitted).

⁶⁰ *Rahimi*, 602 U.S. at 680.

⁶¹ *Powell*, 423 U.S. at 91 (citing H.R. Rep. No. 610, 69th Cong., 1st Sess. (1926); 66 Cong. Rec. 726 (1924)).

the longstanding cooperation between state and federal governments in the area of firearms regulation.

As the Supreme Court has recognized, since “the founding, our Nation’s firearm laws have included provisions preventing individuals who threaten physical harm to others from misusing firearms.”⁶² In accordance with that historical tradition, federal, state, and local governments across the country have enacted laws prohibiting certain classes of potentially dangerous persons, such as felons,⁶³ unlawful users of controlled substances,⁶⁴ persons with certain mental health histories or who have been adjudicated by a court as mentally incompetent,⁶⁵ and persons implicated in domestic violence⁶⁶ from acquiring firearms. To effectuate state and federal laws restricting certain classes of potentially dangerous persons from possessing firearms, governments have passed licensing laws and background check requirements. For example, federal law requires that FFLs conduct a background check through NICS prior to the transfer of a weapon to ensure (among other things) that a person in a prohibited category does not receive a firearm that he or she is prohibited from possessing.⁶⁷

The longstanding limitations on using a federal agency—the USPS—to ship handguns are integral to the proper functioning of federal, state, and local restrictions that lawfully and

⁶² *Rahimi*, 602 U.S. at 690.

⁶³ See 18 U.S.C. § 922(g)(1); Ariz. Rev. Stat. § 13-904; Ark. Code § 5-73-103; Cal. Penal Code § 29800(a); Colo. Rev. Stat. § 18-12-108(1); Del. Code tit. 11, § 1448(a)(6); Fla. Stat. § 790.23; Ga. Code § 16-11-131; 720 Ill. Comp. Stat. 5.24-1.1(a); Kan. Stat. § 21-6304; Ky. Rev. Stat. § 527.040(1); Me. Rev. Stat. tit. 15 § 393(a); Miss. Code § 97-37-5(1); Mo. Rev. Stat. § 571.070(1); Nev. Rev. Stat. § 202.360(1); N.M. Cent. Code § 62.1-02-01(1)(a); Okla. Stat. tit. 21 § 1283(A); Or. Rev. Stat. § 166.270; Tenn. Code § 39-17-1307(f)(1)(C); Tex. Penal Code § 46.04(e); Utah Code § 76-10-503; Va. Code § 18.2-308.2; Wash. Rev. Code § 9.41.040; D.C. Code § 7-2502.03; W. Va. Code § 61-7-7(a)(1); Wis. Stat. § 941.29; Wyo. Stat. § 6-8-102.

⁶⁴ See 18 U.S.C. § 922(g)(3); Cal. Penal Code § 29800(a); 430 Ill. Comp. Stat. 65.8(d); Kan. Stat. § 21-6301(a)(10); Me. Rev. Stat. tit. 15, § 393(1)(G); Mo. Rev. Stat. § 571.070; Nev. Rev. Stat. § 202.360(1); Ohio Rev. Code § 2923.13; Tenn. Code § 39-17-1307(f)(1)(C); Utah Code § 76-10-503(1)(b); D.C. Code § 22-4503(a); W. Va. Code § 61-7-7.

⁶⁵ See 18 U.S.C. § 922(g)(4); Ariz. Rev. Stat. § 13-3101; Ark. Code § 5-7-103; Cal. Wel. & Inst. Code § 8100; Del. Code tit. 11, § 1448(a)(2); Fla. Stat. § 790.064(1); 720 Ill. Comp. Stat. 5.24-3.1(4); Kan. Stat. § 21-6301; Me. Rev. Stat. tit. 15 § 393(1)(E); Nev. Rev. Stat. § 202.360(2); N.D. Cent. Code § 62.1-02-01; Ohio Rev. Code § 2923.13(A)(5); Or. Rev. Stat. § 166.250; 18 Pa. Cons. Stat. § 6105; R.I. Gen. Laws § 11-47-6; Tenn. Code § 39-17-1307(f)(1)(C); Utah Code § 76-10-503; Va. Code § 18.2-308.1:3(a); Wash. Rev. Code § 9.41.040; D.C. Code § 7-2502.03(a); W. Va. Code § 61-7-7(a)(4); Wis. Stat. § 941.29(1m)(e).

⁶⁶ See 18 U.S.C. § 922(g)(8); Cal. Penal Code § 29805(a); Colo. Rev. Stat. § 18-6-801(8)(a)(I)(A); Del. Code tit. 11 § 1448(a)(7); 430 Ill. Comp. Stat. 65-4(a)(2)(ix); Ind. Code § 35-47-4-6; Iowa Code § 724.26(2); Kan. Stat. § 21-6301(a)(18); La. Rev. Stat. § 14:35.3(C)(1); Me. Rev. Stat. tit. 15 § 393(1-B); Minn. Stat. § 609.2242(3)(d); Nev. Rev. Stat. § 202.360(1)(a); N.M. Stat. § 30-7-16(A); Or. Rev. Stat. § 166.255(1)(b); 18 Pa. Cons. Stat. § 6105(c)(9); R.I. Gen. Laws § 11-47-5(a)(4); S.D. Codified Laws § 22-14-15.2; Tenn. Code § 39-17-1307(f)(1)(A); Texas Penal Code § 46.04(b); Utah Code § 76-10-503(1)(b)(xi); Vt. Stat. tit. 13, § 4017(a); Va. Code Ann. 18.2-308.1:8; Wash. Rev. Code § 9.41.010; D.C. Code § 7-2502.03(a)(4)(B), (D); W. Va. Code § 61-7-7(a)(8).

⁶⁷ 18 U.S.C. § 922(t).

legitimately prevent potentially dangerous persons from possessing firearms. In contrast, the Proposed Rule allows the unregulated shipping of handguns of mail, which would make the Postal Service an “instrumentality for the violation of local laws which prohibited the purchase and possession of weapons,”⁶⁸ exactly as Congress sought to prevent.

Moreover, allowing the shipment of handguns by mail would open up a new and powerful opportunity for the trafficking of illegal guns. States with strong firearm laws have long relied on the existence of the established prohibition on mailing firearms to reduce trafficking of illegal guns, which are often transported from states with looser laws and fewer firearm dealer regulations.⁶⁹ Allowing private individuals to send firearms by mail will only increase the illegal firearm trade, with grave adverse impacts on law enforcement, local communities, and the individuals placed in harm’s way through the unfettered mailing of firearms.

The Second Amendment does not dictate such an outcome. The Proposed Rule ignores that the current restrictions on shipping handguns are supported by the historical tradition of preventing potentially dangerous persons from possessing firearms.

b. The existing limitations are analogous to Founding-era restrictions on the shipment and distribution of dangerous weapons.

The existing limitations on shipping firearms are similarly well-grounded in the Founding-era tradition of regulating the distribution of deadly weapons. During the colonial era and up to the Founding, “colonial governments substantially controlled the firearms trade.”⁷⁰ While colonial policy focused on ensuring that the populace was well-armed, it also recognized the dangers inherent in having arms fall into the hands of dangerous persons. The colonies thus enacted laws restricting the sale of weapons to persons who were perceived as threatening—and even to law-abiding citizens of other colonies. For example, while Virginia law provided that all persons were at “liberty to sell armes and ammunition to any of his majesties loyall subjects inhabiting *this colony*,” that liberty “did not, however, extend to sales to others.”⁷¹ The colonies “also tightly regulated the transportation of both gunpowder and ammunition.”⁷²

⁶⁸ *Powell*, 423 U.S. at 91.

⁶⁹ See generally Bureau of Alcohol, Tobacco, Firearms and Explosives, *National Firearms Commerce and Trafficking Assessment: Crime Guns – Volume Two* (Mar. 24, 2024), <https://www.atf.gov/media/15426/download> (explaining that New Jersey, New York, Massachusetts, Hawaii, and Maryland had the highest percentages of recovered crime guns sourced from out-of-state FFLs, with New Jersey having nearly 82% of its recovered crime guns sourced from out of state).

⁷⁰ *Teixeira v. County of Alameda*, 873 F.3d 670, 685 (9th Cir. 2017), *abrogated in part on other grounds by Bruen*, 597 U.S. at 17.

⁷¹ *Teixeira*, 873 F.3d at 685 n.18 (quoting 2 William Waller Henig, *The Statues at Large: Being a Collection of All the Laws of Virginia* 403) (emphasis added).

⁷² *United States v. Vereen*, 152 F.4th 89, 100 (2d Cir. 2025) (collecting historical sources).

This historical practice of denying gun and ammunition sales to dangerous persons continued into the eighteenth century. The Third Congress—which included James Madison, the drafter of the Second Amendment—passed a law declaring that “it shall not be lawful to export from the United States any cannon, musket, pistol, bayonets, swords, cutlasses, musket balls, lead” and other weapons and ammunition “for and during the term of one year.”⁷³ Clearly, the Framers understood the Second Amendment as not affording an unbridled right to transport firearms to anyone and everyone.

While these statutes are not identical to the current USPS regulations restricting the mailing of handguns, they are “relevantly similar” and thus satisfy the Supreme Court’s test as established in *Bruen* and applied in *Rahimi*. Specifically, these historical analogues restricted the shipment of guns and ammunition in certain ways, while permitting law-abiding citizens to obtain guns and ammunition locally, much like the existing regulatory framework for mailing handguns today. Moreover, the shared purpose of these existing USPS regulations and the historical analogues was and is to prevent weapons from being transported to “those deemed dangerous.”⁷⁴ These similarities amply suffice to support the constitutionality of the existing limitations on shipping handguns between unlicensed individuals. As such, the Proposed Rule rests on an erroneous legal premise that the existing USPS regulations are unconstitutional.

⁷³ *An Act Prohibiting for a limited time the Exportation of Arms and Ammunition, and encouraging the Importation of same*, 3 Cong. ch. 33, 1 Stat. 369 (May 22, 1794).

⁷⁴ *Vereen*, 152 F.4th at 103.