

Overview of Comments Received Regarding LUBA's Fall 2025 Proposed Rule Amendments

In August 2025, LUBA filed a notice of proposed rulemaking that proposed several amendments to LUBA's rules of procedure, at OAR 661-010-0000 to 661-010-0075, and sought public comment. LUBA would like to thank those who read and considered our proposed rule changes, especially those sharp-eyed individuals that alerted us to typographical errors and clarity issues, as well as those who submitted substantive comments. We have reviewed and considered all the comments. The comments are available upon request to members of the public that would like to review them.

Summary of Comments Received

LUBA received three comments from members of the public in response to the August 28, 2025, notice of proposed rulemaking. Those comments consisted of helpful suggestions regarding consistency with existing terminology and typographical errors, as well as more substantive comments regarding our filing and service rules. We have made changes in response to the consistency and typographical comments, to ensure that our cross-referencing tracks our new rule adoptions and our use of terminology remains in line with past practice.

Regarding the comments on filing, a comment expressed concern about the use of a postmark as the date of filing for documents filed under proposed OAR 661-010-0014(1)(a)(A), formerly numbered OAR 661-010-0075(2)(a)(B)(i). The comment points to the current irregularities within the United States Postal Service (USPS) resulting in an inconsistency of mail items receiving postmarks, as well as noting that the USPS is currently undertaking their own rulemaking. *See* Postmarks and Postal Possession, 90 Fed Reg 38176 (Aug 12, 2025) (to be codified at 39 CFR part 111). We have reviewed the information contained within the USPS's rulemaking and quote below helpful advice that rulemaking contains.

USPS explains that they are undertaking rulemaking to “explain the [USPS's] operational use of the postmark and the information conveyed by a postmark.” USPS goes on to “advise the public that customers who want a postmark aligning with the date on which the [USPS] first accepted possession of their mailpiece may request a manual (local) postmark at a retail location[.]” The USPS has not yet adopted these rules, but they offer helpful guidance to the public on how to utilize the mail. If a member of the public has greater interest in

postmarks and the actions of the USPS, we encourage you to review the federal rulemaking materials.

In response to the comment, we have reviewed our proposed language and have made changes to help clarify how a party can file documents with the agency. We appreciate any feedback the public may have on this amended language which can be reviewed here:

https://www.oregon.gov/luba/Pages/notice_of_proposed_rulemaking_2025.aspx.

We also received a comment concerning filing a Notice of Intent to Appeal under proposed OAR 661-010-0015(1)(b)(C). The comment noted a discrepancy in how something could be filed by mail, as opposed to commercial delivery services, and expressed concern that this could be potentially confusing for future filers. In considering this comment, as well as the comment regarding OAR 661-010-0014, we have consolidated the rules concerning filing to all be located under OAR 661-010-0014 and made changes to the rule to expand and define filing options. In considering this rule change we also reviewed the ORS 19.260 requirements for filing an appeal in the Court of Appeals or Supreme Court. The proposed filing rule amendments are an attempt to improve clarity and simplicity in the manners of filing and filing date determinations.

Conclusion

LUBA again thanks those individuals who reviewed the proposed rule amendments and submitted comments. We have filed a new notice of proposed rulemaking which addresses the comments received and we encourage members of the public to review and submit comments regarding these proposed rules, which can be found here:

https://www.oregon.gov/luba/Pages/notice_of_proposed_rulemaking_2025.aspx

Individuals who did not receive notice of proposed rulemaking who would like to in the future, please submit a request to be put on our mailing list by emailing LUBA at luba.support@luba.oregon.gov, by mail at Land Use Board of Appeals, 201 High Street SE, Suite 600, Salem, Oregon 97301-3398, with a subject line of “Rulemaking Notice List” and indicating if you would like to be contacted by email, mail, or both.