

TREO Rulemaking Guide

Appendix B - Using the Standardized Planning Document (SPD)

This Appendix describes how the SPD captures each topic broadly described in Chapter 3.

For purposes of the SPD descriptions, a “field” is a single text box for inputting information, a “prompt” is a written description of what information goes in a field, and a “section” is one or more fields under a shared subject matter header.

Documentation and Standard Planning Documents.

- **Initial project communications.** The SPD is designed to contain all the details required to understand what is expected from a rulemaking in a predictable format. This makes it an ideal document for initial project communications. The SPD can also serve as an effective handout for a project kickoff meeting or distributed to division or program area directors as internal notice of the contemplated rulemaking so they can evaluate if the proposed rulemaking impacts their area.
- **Collaborative Review.** Before finalizing the plan, the agency can distribute the SPD to project team members or other subject matter experts to ask clarifying questions or propose modifications before the initial plan is finalized. This should include staff with operational or specialized knowledge such as budget and IT to ensure the agency is capable of implementing the new rule.
- **Document Accessibility and Maintenance.** The SPD should be accessible to agency staff working on the rulemaking throughout the rulemaking process and updated by the project lead if changes are made to the rulemaking plan. Having an accurate, single point of reference helps align individual contributions and deadlines with the intended goals of the rulemaking. The practice of actively updating the SPD when changes to the plan are approved also ensures that such changes are not made casually or unintentionally. If the SPD is continuously updated in this fashion, the dates and reasons for changes should also be documented. The SPD contains a revision history field for this purpose.
- **Termination.** If a rulemaking is terminated, the SPD can also be updated to document the reasons supporting termination. This documentation can serve as a valuable resource for staff if the same policy issues arise in the future.

Rulemaking Purpose and Scope.

The SPD contains a section for documenting the rulemaking’s purpose and a section for describing the rulemaking’s scope. The section on the rulemaking’s scope includes a field to list the specific rules that are being created or amended, a field to describe any topics that are included or expressly excluded from the scope of the rulemaking, and a field to list any forms or guidance materials that need to be developed or modified in conjunction with the rulemaking.

For a more condensed SPD, any of the fields or prompts from the section on the rulemaking's scope can be consolidated into the initial content description section, described below. The field for related forms or guidance materials can also be eliminated, reserving the identification of these tasks for the project team.

Legal Foundation.

The SPD contains a section for documenting the statutory authority supporting the rulemaking, with a field for the specific statute or legislation supporting the rulemaking and a field for general enabling statutes or other authorizing law. For a more condensed SPD, these two fields can be consolidated into a single field for all authorizing statutes. If the agency's processes involve a more thorough legal review during project initiation, the agency may wish to add a field to document any known exceptions or statutory limitations that may constrain the agency's policy options. For example, if the agency's enabling statute expressly prohibits certain types of restrictions, this should be documented early to prevent the development of policy solutions that are not legally permissible. Alternatively, these limitations can be captured by adding an appropriate prompt to the initial content description field described below.

The SPD also contains a section for related law. This contains one field dedicated to other rules, policies, or decisions the agency has made, one field for related statutes, and one broad field for federal law and industry standards. This information will help harmonize the proposed rule with other applicable laws, including rules adopted by other Texas agencies that regulate aspects of the activity and federal regulations that present potential preemption issues or mandate specific state standards for program eligibility.

Preliminary Guidance on the Rule Content.

The SPD contains a section titled "initial content description" to document this preliminary guidance including a prompt to describe alternative approaches. As described above, this section can be consolidated with the section on the rulemaking's scope for a more streamlined SPD. This section can also be removed if the agency prefers to provide the rulemaking team with more discretion in developing the initial rule proposal. If guidance is provided, it is essential that the team lead has firm direction on whether the contents of the proposed rule can deviate from this initial guidance and what approvals are required to do so.

Expected Costs and Benefits.

The SPD includes a section for a preliminary impact scan that includes fields for the expected public benefit, fiscal implications, and compliance costs of the rulemaking. An agency with rulemakings that are frequently subject to other preliminary analysis requirements, such as the requirements related to major environmental rules under Texas Government Code, Section 2001.0225 or the requirement that any new regulatory costs be balanced out by regulatory savings under Texas Government Code, Section 2001.0045, may wish to add fields related to

these requirements. Alternatively, the agency that has separate processes established for regulatory analysis may elect to remove this section and rely on its existing processes.

Project Identification.

The SPD has a section for project identification with fields for a project number and style. If the agency has jurisdiction over multiple industries or otherwise subdivides its regulations into categories (e.g., "Occupational Licensing" vs. "Enforcement"), it should consider including a field for the appropriate project classification.

Agency Staff Roles.

The SPD includes fields for project team lead, project team members, and the project supervisor. An agency that requires multiple supervisory approvals or involves different members of staff at each stage of the rulemaking should add or remove fields to reflect these roles.

The SPD also contains a field to list any external participants that will work in conjunction with staff on the rulemaking. This field is included because agencies often work with advisory boards, contractors, or other governmental entities on regulations such that these individuals are more properly viewed as collaborators rather than stakeholders. An agency that regularly works with specific advisory boards, contractors, or other governmental entities with overlapping jurisdiction should consider replacing this generic external field with a specific field to list the participant from that particular entity. An agency for which is not a frequent occurrence should remove this field from its SPD.

Stakeholder Engagement.

The SPD includes a section for stakeholder engagement with two fields. The first field contains a prompt to list any stakeholders that have been identified for outreach and a prompt to list any specific issues that will require stakeholder input. The second field is dedicated to stakeholder engagement planning and contains a prompt to describe any planned or contemplated stakeholder engagement activities such as informal conferences, consultations, meetings, workshops, or questions. For a more streamlined SPD, this section can be removed in favor of allowing agency staff to identify the relevant issues and stakeholders. If an agency elects to remove this section, it should consider incorporating scheduled stakeholder activities into its project timeline, described below.

Timeline and Deadlines.

The SPD includes a section for the project timelines with fields for the target adoption date, project milestones, and the final deadline. For a more streamlined SPD, this section could be condensed down to a single field for key dates. For a more detailed SPD, the agency can expand the project milestones field to include specific stages of its internal review process, such as executive approvals or advisory board review.

