

## TREO Rulemaking Guide

### Appendix F-2 – Adoption Justification Template

#### Instructions

- This template is used to draft the Adoption Justification for the rules. It includes the elements required by Government Code Chapters 2001 and 2002.
- The Adoption Justification is attached to the Adoption Order (See Appendix F-1) and is incorporated by reference into the adoption order. The Adoption Order and the Adoption Justification are for the agency’s governing body to review and sign. These documents are internal documents memorializing the rule adoption.
- After the rules are adopted, the Adoption Order and the Adoption Justification are used to build the Adopted Rules Notice that is published in the *Texas Register*. (See Appendix F-3).
- Legal citations are included in parentheses for reference purposes.
- Instructions for each section are highlighted in yellow.
- Complete the Adoption Justification using the template language provided below and the information included in the Proposed Rules Notice.
- Before finalizing the Adoption Justification:
  - remove the “OPENING” heading (this heading is not published in the *Texas Register*);
  - retain all other headings (they will be included in the *Texas Register* notice); and
  - remove the instructions, legal citations, and any unused template language.

#### Start of Template

##### ADOPTION JUSTIFICATION

[Insert Rule Chapter and Title]

##### OPENING

(Authority: Government Code [Section 2002.017](#); and 1 TAC [Section 91.36\(d\)](#))

Insert and complete the following paragraph(s). List the new rules, the amendments to existing rules, and the repeal of existing rules in the opening sentence. The order of the list is based on the numerical order of the rule sections affected.

State whether there are changes to the proposed rules and whether the rules will be republished. Use the first paragraph only if the proposed rules are adopted without changes. Use both paragraphs if the proposed rules are adopted, some without changes and some with changes. The “without changes” paragraph is listed first.

The [Insert Agency Name] (Insert Agency Acronym or Short Reference) adopts [new rules / amendments to existing rules / the repeal of existing rules] at [Insert Title ##] Texas Administrative Code (TAC), Chapter ##, Subchapter \_\_, Section ##, regarding the [Insert Program Name or Chapter Name], without changes to the proposed text as published in the [insert publication date],

issue of the *Texas Register* (## TexReg ###). These rules will not be republished.

The [Insert Agency Name] (Insert Agency Acronym or Short Reference) also adopts [new rules / amendments to existing rules / the repeal of existing rules] at [Insert Title ##] TAC, Chapter ##, Subchapter \_\_\_, Section ##, regarding the [Insert Program Name or Chapter Name], with changes to the proposed text as published in the [insert publication date], issue of the *Texas Register* (## TexReg ###). These rules will be republished.

## EXPLANATION OF AND JUSTIFICATION FOR THE RULES

*(Authority: Government Code [Section 2001.024\(a\)\(1\)](#) and (a)(3); and [Section 2001.033](#). This template includes elements required in the proposed rules notice (explanation) and in the adoption notice (justification). The explanation and justification are included upfront in the proposed rules notice and again in the adoption notice.)*

Insert the same “Explanation and Justification” language from the Proposed Rules Notice. Make any necessary edits resulting from changes to the proposed rules since they were published in the *Texas Register*.

If there is an advisory board/committee associated with the proposed rules, an agency should decide whether to include the advisory board/committee discussions and recommendations under the “Explanation and Justification” section or under a separate “Advisory Board/Committee Recommendations” section (see below).

For this section of the document, change “proposed” rule/section to “adopted” rule/section.

## SECTION-BY-SECTION SUMMARY

*(Authority: Government Code [Section 2001.024\(a\)\(1\)](#) and (a)(3); and [Section 2001.033](#). This template includes elements required in the proposed rules notice and in the adoption notice. These elements are included upfront in the proposed rules notice and again in the adoption notice.)*

Insert the same “Section-by-Section Summary” language from the Proposed Rules Notice.

If changes were made to the proposed rules as a result of public comments, advisory board/committee recommendations, or agency recommended changes, then add language summarizing those changes in each of the affected rule sections under the Section-by-Section Summary.

For this section of the document, change “proposed” rule/section to “adopted” rule/section.

## PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULES

*(Authority: Government Code [Section 2001.024\(a\)\(7\)](#), [Section 2001.024\(a\)\(8\)](#), [Section 2001.029](#), and [Section 2001.033](#).)*

### Introduction Paragraph:

If comments were received only after the proposed rules were published in the *Texas Register*, then insert and complete the following sentences. When stating the number of public comments received, the agency states the number of interested parties who submitted comments, not the number of individual comments. A person who submits multiple, separate comments is not counted multiple times in the total number of interested parties.

The [Insert Agency Acronym or Short Reference] drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the [Insert Proposed Rules Publication Date], issue of the *Texas Register* (## TexReg ###). The [Insert Agency Acronym or Short Reference] requested public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. The public comment period closed on [Insert Date]. The [Insert Agency Acronym or Short Reference] received comments from [Insert #] interested parties on the published proposed rules. The public comments are summarized below. [OR If no public comments were received, “The [Insert Agency Acronym or Short Reference] did not receive any comments from interested parties on the proposed rules.”]

If comments were received in response to the required plain language summary and before the proposed rules were published in the *Texas Register*, then insert and complete the following sentences. When stating the number of public comments received, the agency states the number of interested parties who submitted comments, not the number of individual comments. A person who submits multiple, separate comments is not counted multiple times in the total number of interested parties.

The [Insert Agency Acronym or Short Reference] drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the [Insert Proposed Rules Publication Date], issue of the *Texas Register* (## TexReg ###). The [Insert Agency Acronym or Short Reference] requested public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. The public comment period closed on [Insert Date].

The [Insert Agency Acronym or Short Reference] received comments from [Insert #] interested parties in response to the required plain language summary of the proposed rules, which was posted on the [Insert Agency Acronym or Short Reference]’s website and distributed on [Insert Date]. That was the same day that the proposed rules were filed with the *Texas Register*, but before the official publication of the proposed rules and the official start of the public comment period. Subsequently, the [Insert Agency Acronym or Short Reference] received comments from [Insert #] interested parties on the published proposed rules during the official public comment period. The public comments are summarized below. [OR If no public comments were received, “The [Insert Agency Acronym or Short Reference] did not receive any comments from interested parties on the published proposed rules during the official public comment period.”]

### Summary of the Public Comments:

Insert a summary of the public comments received. Any information received regarding the proposed rules will be treated and handled as public comments. “Public comments” include “traditional” public comments and information related to the cost, benefits, or effect of the proposed rules, including any applicable data, research, or analysis.

All public comments (written and oral) must be considered and addressed. Each individual comment may be summarized, or similar comments may be grouped together and summarized. The summaries must show the names of interested groups or associations, but do not include the names of individuals. The summaries must state whether the persons are for or against the rules, if that information is included in the comments.

*Advisory Board Meeting:* If there is an advisory board meeting on the proposed rules, the written and oral public comments received before or during the advisory board meeting must be included in this section. For written public comments, obtain copies of the comments that were submitted before or during the meeting. For oral public comments, obtain copies of the public comment forms that were submitted before or during the meeting and re-watch the advisory board meeting video for the substance of the comments. Specify in the comment summary whether the comment was provided before or during the advisory board meeting and whether the comment was written or oral.

*Public Hearing:* If there is a public hearing on the proposed rules, the written and oral public comments received during the public hearing must be included in this section. For written public comments, obtain copies of the comments that were submitted during the hearing. For oral public comments, obtain copies of the public comment forms that were submitted during the hearing and re-watch the video or listen to any recording of the public hearing for the substance of the comments. Specify in the comment summary that the comment was provided at the public hearing and specify whether the comment was written or oral.

#### Agency’s Response to the Public Comments:

The agency must respond to all public comments (written and oral). Any information received regarding the proposed rules will be treated and handled as public comments. “Public comments” include “traditional” public comments and information related to the cost, benefits, or effect of the proposed rules, including any applicable data, research, or analysis.

The agency’s response to a public comment must state: (1) whether the agency agrees or disagrees with the comment (or appreciates the comment in support of the proposed rule); (2) the reasons why the agency disagrees with the comment; and (3) whether the agency made any changes to the proposed rules as a result of the comment.

In this section of the document, the text still needs to refer to the rules as “proposed” rules, instead of “adopted” rules.

#### Headings and Template Language:

Insert the following headings to distinguish between comments received in response to the posted plain language summary and comments received in response to the published proposed rules. If there were no comments on the posted plain language summary, then no headings need to be added. The comments and responses will be on the published proposed rules.

*Comments in Response to the Posted Plain Language Summary* [Add this heading, if applicable.]

Comment: [Insert a summary of the comment on the posted summary, if applicable.]

Agency Response: [Insert the agency's response to the comment, if applicable.]

*Comments in Response to the Published Proposed Rules* [Add this heading only if the other heading is added above.]

Comment: [Insert a summary of the comment on the published proposed rules.]

Agency Response: [Insert the agency's response to the comment.]

#### ADVISORY BOARD/COMMITTEE RECOMMENDATIONS (if applicable)

This section applies only if the agency uses an advisory board or committee for the proposed rules. These can be advisory boards or committees permanently established in statute; authorized in statute and established by rule; or created under Government Code, [Chapter 2110](#), Government Code [Section 2001.031](#), or other statutory authority.

If the advisory board/committee met and discussed the proposed rules after publication in the *Texas Register*, insert the heading above and the paragraph below. Insert the advisory board/committee meeting information, any changes to the proposed rules recommended by the advisory board/committee, and the advisory board/committee's recommendations to the agency's governing body. Revise the template sentences as necessary.

If there are changes to the proposed rules, list the affected rule sections and briefly summarize the changes in this section of the document. Also, include a summary of the changes to the affected rule sections in the "Section-By-Section Summary" section of the document.

In this section of the document, the text still needs to refer to the rules as "proposed" rules, instead of "adopted" rules.

The [Insert Full Name of Advisory Board/Committee] met on [insert date], to discuss the proposed rules and the public comments received. The Advisory Board/Committee recommended that the [Insert Agency Acronym or Short Reference] [adopt the proposed rules as published in the *Texas Register*] OR [adopt the proposed rules as published in the *Texas Register* with changes to Section \_\_\_ in response to the public comments, the advisory board/committee's recommendations, and/or the agency's recommended changes as explained in the Section-by-Section Summary.].

If there is no advisory board/committee or if the advisory board/committee did not meet and discuss the proposed rules, then remove the “ADVISORY BOARD/COMMITTEE RECOMMENDATIONS” heading and this entire section from the Rules Adoption Justification.

## STATUTORY AUTHORITY

*(Authority: Government Code [Section 2001.024](#)(a)(3), (a)(3)(A), (a)(3)(B), and (a)(3)(C); [Section 2001.033](#)(a)(2). This template includes elements required in the proposed rules notice and in the adoption notice. All statutory authority requirements are included upfront in the proposed rules notice and again in the adoption notice.)*

Insert the “Statutory Authority” language from the Proposed Rules Notice.

For this section of the document, change “proposed” rule/section to “adopted” rule/section.

\*\*\*INSERT FORMATTED RULES TEXT HERE\*\*\*

*(Authority: Government Code [Section 2002.017](#); and 1 TAC [Section 91.36](#))*

The formatted rule text in this section should incorporate any changes made to the published proposed rules. This section anticipates that the agency’s governing body will adopt the proposed rules (with or without changes) as they are presented by the agency staff. The rule text in this section should be formatted to reflect the anticipated adopted version of the rules that will be filed with the Secretary of State. To assist the agency’s governing body, agency staff may prepare a separate document showing the changes to the published proposed rules with underlines and strikethroughs.

[Insert the text of the adopted rules per *Texas Register* formatting standards.]

[NOTE: In these templates, the legal certification is included in the Adoption Order (Appendix F-1), not in the attached Adoption Justification (Appendix F-2). The legal certification is also included in the Adopted Rules Notice (Appendix F-3) that is published in the *Texas Register*.]