**PROCEDURE FOR ADOPTING EMERGENCY RULES**

1. Consult the [Drafting Manual: Administrative Rules of South Dakota](https://mylrc.sdlegislature.gov/api/Documents/72140.pdf) for use in drafting the rules.
2. Review [SDCL 1-26-5](http://sdlegislature.gov/Statutes/PrinterStatute.aspx?Type=Statute&Statute=1-26-5).[[1]](#footnote-1)
3. Serve the Department Secretary/Commissioner/Officer [Form E-1], the Legislative Research Council (LRC) [Form E-2], and each member of the Interim Rules Review Committee [Form E-3] with a copy of:
   1. Form E-4 (Notice of Intent to Adopt Emergency Rules);
   2. Form E-5 (Statement of Necessity for Emergency Rules);
   3. Proposed emergency rules; and
   4. To the Secretary/Commissioner/Officer and LRC only:
      1. Any material incorporated by reference.
4. Incorporate LRC recommendations for form, style, clarity, and legality, subject to appeal to the Interim Rules Review Committee.
5. Publish Notice of Intent to Adopt Emergency Rules [Forms E-4 (Notice of Intent to Adopt Emergency Rules), E-6 (Letter to newspaper), and E-7 (Affidavit of Publication)].
6. Mail notice to all persons who have requested advanced notice of rulemaking proceedings [Form E-8].
7. Following publication of Notice of Intent to Adopt an Emergency Rule, complete Form E-9 (Approval of Rules).
8. File with the Office of the Secretary of State:
   1. Form E-10 (Certificate); and
   2. Final rules.
9. Serve LRC with copy of:
   1. Final rules;
   2. Form E-7 (Affidavit of Publication);
   3. Form E-8 (Affidavit of Mailing Notice);
   4. Form E-9 (Approval of Rules); and
   5. Form E-10 (Certificate).
10. Rules are provisionally effective immediately after filing with the Office of the Secretary of State.

**FORM E-1**

Personal service on [Name and Title of Department Secretary, Commissioner, or Constitutional Officer] of

1. [Agency]'s proposed emergency rules §§ [Citations of Proposed Emergency Rules];
2. Notice of Intent to Adopt Emergency Rules;
3. Statement of Necessity; and
4. Material incorporated by reference

is admitted at Pierre, South Dakota, this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

[Name and Title of Secretary, Commissioner, or Officer]

**FORM E-2**

Personal service on the Legislative Research Council of

1. [Agency]'s proposed emergency rules §§ [Citations to Proposed Emergency Rules];
2. Notice of Intent to Adopt Emergency Rules;
3. Statement of Necessity; and
4. Material incorporated by reference

is admitted at Pierre, South Dakota, this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Legislative Research Council

Agency contact person:

Name

Phone Number

E-Mail Address

**FORM E-3**

AFFIDAVIT

I, [Agency Contact Name], certify that on [Date of Mailing], I sent by U.S. mail and electronic mail a correct copy of the following documents:

1. Emergency rules §§ [Citations to Emergency Rules], proposed for adoption by [Agency Name];
2. Form E-4 – Notice of Intent to Adopt Emergency Rules; and
3. Form E-5 – Statement of Necessity for Emergency Rules.

These documents were sent to the Interim Rules Review Committee members at their respective electronic mail addresses listed below:

### Representative Roger DeGroot Senator Taffy Howard

### [Roger.DeGroot@sdlegislature.gov](mailto:Roger.DeGroot@sdlegislature.gov) [Taffy.Howard@sdlegislature.gov](file:///\\lrc-fs1\Kelly.Thompson$\RULES%20REVIEW\Forms\Web%20Forms\Taffy.Howard@sdlegislature.gov)

Representative Jon Hansen Senator Liz Larson

[Jon.Hansen@sdlegislature.gov](mailto:Jon.Hansen@sdlegislature.gov) [Liz.Larson@sdlegislature.gov](mailto:Liz.Larson@sdlegislature.gov)

Representative Erik Muckey Senator Jim Mehlhaff

### [Erik.Muckey@sdlegislature.gov](mailto:Erik.Muckey@sdlegislature.gov) [Jim.Mehlhaff@sdlegislature.gov](mailto:jim.mehlhaff@sdlegislature.gov)

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and to the following members at their respective U.S. mail addresses listed below:

### Representative Roger DeGroot Senator Taffy Howard

1925 Oriole Trail 530 Westberry Dr.

Brookings, SD 57006-6614 Rapid City, SD 57702

Representative Jon Hansen Senator Liz Larson

47484 Dells Dr. 2013 S. Main Avenue

Dell Rapids, SD 57022 Sioux Falls, SD 57105

Representative Erik Muckey

196 E. 6th Street 308

Sioux Falls, SD 57104

[Agency Contact Name]

[Agency Name]

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

Notary Public - South Dakota [Seal]

My Commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

**FORM E-4**

[AGENCY NAME]

NOTICE OF INTENT TO ADOPT EMERGENCY RULES

[Agency Name], in accordance with SDCL 1-26, intends to adopt emergency rules to [Description of Purpose for Emergency Rules].

The effect of the proposed emergency rules will be [Narrative Description of Effect].

The reason for adopting the proposed emergency rules is [Narrative Description of Reason].

Copies of the proposed rules may be obtained without charge from:

[Agency Name]

[Agency Address]

Published at the approximate cost of $\_\_\_\_\_\_\_\_.

**FORM E-5**

[AGENCY NAME]

STATEMENT OF NECESSITY FOR EMERGENCY RULES

[Enter Description of Necessity for Emergency Rules in accordance with [SDCL 1-26-5(3)](http://sdlegislature.gov/Statutes/PrinterStatute.aspx?Statute=1-26-5&Type=Statute)]**FORM E-6**

[Agency Name]

[Department Name]

[Agency Address]

March 19, 2025

[Publication Name]

[Publication Mailing Address]

To whom it may concern:

Please publish the enclosed Notice of Intent to Adopt Emergency Rules (Form E-4) in your newspaper for one issue by [Date].

Please include the enclosed Affidavit of Publication (Form E-7) with your invoice.

Sincerely yours,

[Agency Contact Name]

[Agency Contact Title]

Enclosure

**FORM E-7**

AFFIDAVIT OF PUBLICATION

I, , under oath, do swear, that I am the publisher, or an employee of the publisher, of , a newspaper of general circulation in .

I further swear that the Notice of Intent to Adopt Emergency Rules by was published on .

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public - South Dakota [Seal]

My Commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

**FORM E-8**

AFFIDAVIT OF MAILING NOTICE

I, [Agency Contact Name], under oath, do swear, that on [Date of Mailing], I mailed a copy of the Notice of Intent to Adopt Emergency Rules attached to this affidavit to the list of persons attached to this affidavit.

I further swear that the attached list is a true and correct list of all persons who have requested advance notice of rulemaking proceedings by the [Department Name].

[Agency Contact Name]

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public - South Dakota [Seal]

My Commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

**FORM E-9**

APPROVAL OF RULES

The following emergency rules, attached, are approved and will become provisionally effective immediately after filing with the Office of the Secretary of State:

§§ [Citations to Rules]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Date] [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Agency Name] LEGISLATIVE RESEARCH COUNCIL

A majority of the members of the board or commission must sign this form. Original copies of this form must be maintained by the Agency. Extra signed copies may be photocopied after the original has been signed. Include as many signature lines as there are board members. For any signature by a department secretary, the name of the department and a signature line for the department secretary are substituted for those of the board.

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**FORM E-10**

CERTIFICATE

I, [Agency Contact Name], hereby certify that I am a duly appointed member and the duly elected chair of the [Agency Name], and that the attached instruments are full, true, and correct copies of the following emergency rules adopted by the [Agency Name] on [Date of Adoption]:

§§ [Citations to Adopted Rules]

I further certify that [Agency Name] complied with SDCL 1-26-5 and 1-26-6 in the adoption of the attached rules. The rules will become effective immediately upon filing with the Office of the Secretary of State.

[Agency Contact]

[Agency Name]

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public - South Dakota [Seal]

My Commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

1. Review all time requirements under [SDCL 1-26-4.3](http://sdlegislature.gov/Statutes/PrinterStatute.aspx?Type=Statute&Statute=1-26-4.3), [1-26-6](http://sdlegislature.gov/Statutes/PrinterStatute.aspx?Statute=1-26-6&Type=Statute), and [1-26-8](http://sdlegislature.gov/Statutes/PrinterStatute.aspx?Statute=1-26-8&Type=Statute). [↑](#footnote-ref-1)