

PROCEDURE FOR ADOPTING EMERGENCY RULES

(Updated August 2018)

Notice

Serve head of department, Legislative Research Council (LRC), and Rules Review Committee with

- (1) proposed rules;
- (2) any materials incorporated by reference (materials incorporated by reference will be returned);
- (3) statement of necessity for emergency procedure;
- (4) notice of intent to adopt emergency rules.

SDCL 1-26-5

Publish notice of intent to adopt emergency rules in at least
3 newspapers of general circulation

SDCL 1-26-5
1-26-4.1

Send notice of intent to adopt emergency rules to interested persons.

SDCL 1-26-4.1

Adoption

Make LRC's recommended changes and any other changes necessary.

SDCL 1-26-6.5

Have rules signed by the person or a majority of the body
with authority to adopt the rules.

SDCL 1-26-6(2)

File final rules with LRC.

SDCL 1-26-6(4)

Obtain LRC signature approving the rules for legality, for form and style,
and for sufficiency of the reasons for the passage of emergency rules.

SDCL 1-26-6(3)
1-26-6.5

Filing with Secretary of State

If three days have passed since notice of intent to adopt emergency
rules was published and if all signatures have been obtained, file
original certificate and copy of final rules with Secretary of State.

SDCL 1-26-6(1)
1-26-6(5)

No more than 30 days may elapse between the first service on the
LRC and filing with the Secretary of State.

SDCL 1-26-4.3

Effective Date

Rules are provisionally effective immediately upon filing
with the Secretary of State.

SDCL 1-26-6
1-26-8

After 90 days, rules are void.

SDCL 1-26-8(2)

PROCEDURE FOR ADOPTING EMERGENCY RULES

Step 1

Forms E-1 to E-5
Serve proposed emergency rules,
notice, and statement of necessity
on department secretary, Legislative
Research Council (LRC), and Rules
Review Committee

No waiting period

Step 2

Forms E-4, E-6 to E-8
Publish notice of intent to adopt
and send notice to interested persons

Wait 3 days

Step 3

Form E-9
Adopt rules

No waiting period

Step 4

Form E-10
Obtain LRC signatures

No waiting period

Step 5

Form E-10
File rules and certificate
with Secretary of State

No waiting period

Rules are immediately effective

After 90 days, rules automatically expire

The form numbers correspond to forms on the following pages. Your agency must create all of these forms, with the exception of Form E-8, affidavit of publication, which is provided by the newspaper publishing your notice.

Keep the **originals** of all of these documents in your agency files, except for the certificate, Form E-10, the original of which must be filed with the Secretary of State. While it is not required by statute, the Secretary of State's office has requested that a copy of Form E-9 be filed with the rules and the certificate.

A fiscal note and small business impact statement are not required with emergency rules.

The maximum time allowed from Step 1 through Step 5 is 30 days.

FORM E-1

See SDCL 1-26-5

IN THE MATTER OF THE
PROMULGATION OF
EMERGENCY RULES

ADMISSION OF SERVICE

Personal service of

- (1) the Board of Metric Conversion's proposed emergency rules §§ 199:02:01:01 to 199:02:01:10, inclusive,
- (2) the notice of intent to adopt the rules,
- (3) the statement of necessity, and
- (4) all materials incorporated by reference

is admitted at Pierre, South Dakota, this ____ day of _____, 20____.

Secretary
Department of Commerce and Consumer Affairs

FORM E-2

See SDCL 1-26-5

IN THE MATTER OF THE
PROMULGATION OF
EMERGENCY RULES

ADMISSION OF SERVICE

Personal service of

- (1) the Board of Metric Conversion's proposed emergency rules §§ 199:02:01:01 to 199:02:01:10, inclusive,
- (2) the notice of intent to adopt the rules,
- (3) the statement of necessity, and
- (4) all materials incorporated by reference

is admitted at Pierre, South Dakota, this ____ day of _____, 20____.

Legislative Research Council

For these rules, the Agency contact person is: _____

Phone Number: _____

FORM E-3
See SDCL 1-26-5

(NOTE: A current list of the members of the Interim Rules Review Committee may be obtained from the Legislative Research Council.)

IN THE MATTER OF THE
PROMULGATION OF
EMERGENCY RULES

AFFIDAVIT

I, Richard Roe, certify that on June 1, 20__, I sent by U.S. mail and electronic mail a correct copy of the following documents:

- (1) a full, true, and correct copy of emergency rules §§ 199:02:01:02 to 199:02:01:10, inclusive, proposed for adoption by the Board of Metric Conversion,
- (2) a copy of the notice of intent to adopt the rules (*Form E-4*), and
- (3) a statement of necessity (*Form E-5*).

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

Representative Julie Bartling
bjbart@gwtc.net

Senator Craig Kennedy
Craig.Kennedy@sdlegislature.gov

Representative Steven Haugaard
Steve@haugaardlaw.com

Senator Lance Russell
Lance.Russell@sdlegislature.gov

Representative Jean Hunhoff
DJHunhoff@iw.net

Senator Alan Solano
Alan.Solano@sdlegislature.gov

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

Representative Julie Bartling
28921 US Hwy. 18
Gregory, SD 57533

Senator Craig Kennedy
101 W. 31st St.
Yankton, SD 57078

Representative Steven Haugaard
47629 258th St.
Sioux Falls, SD 57104

Senator Lance Russell
1938 Lincoln Ave.
Hot Springs, SD 57747

Representative Jean Hunhoff
2511 Mulligan Dr.
Yankton, SD 57078

Senator Alan Solano
3410 Wisconsin Ave.
Rapid City, SD 57701

Subscribed and sworn to before me this 1st day of June, 20__.

Notary Public - South Dakota

Richard Doe

(Seal)

My Commission expires: _____, 20__.

FORM E-4

See SDCL 1-26-5

BOARD OF METRIC CONVERSION

NOTICE OF INTENT TO ADOPT EMERGENCY RULES

Notice is hereby given that the South Dakota Board of Metric Conversion, pursuant to the authority vested by SDCL chapters 1-26 and 36-72, intends to adopt emergency rules to implement statewide conversion to the metric system.

The effect of the rules is to establish the metric system to be used by businesses and schools throughout the state and to set the deadline for conversion.

The reason for adopting the rules is to comply with federal mandates for rapid conversion.

A copy of the proposed rules may be obtained from the

South Dakota Department of Standards
State Capitol
500 East Capitol
Pierre, South Dakota 57501-1234

Published at an approximate cost of \$_____.

FORM E-5

See SDCL subdivision 1-26-5(3)

BOARD OF METRIC CONVERSION

STATEMENT OF NECESSITY FOR EMERGENCY RULE

By enactment of Public Law Number 110-4, the 110th Congress mandated conversion by all states to the metric system by July 1, 2001, and established sanctions for not doing so. The federal rules governing the program were not published until April 15, 20___. The federal deadline for implementation of the law and the sanctions for failing to meet the deadline were not changed.

The time required for promulgation of permanent rules will not allow the state to meet the required deadline; therefore, emergency rules are necessary to meet the federally imposed deadline and to protect the state from federal sanctions.

FORM E-6

See SDCL 1-26-4.1

Board of Metric Conversions
Department of Standards
State Capitol
500 East Capitol
Pierre, South Dakota 57501-1234

May 1, 20__

Capital Journal
333 West Dakota Avenue
Pierre, South Dakota 57501

To whom it may concern:

Please publish the enclosed Notice of Intent to Adopt Emergency Rules in your paper for one issue by May 4, 20__.

Please include your Affidavit of Publication with your invoice.

Sincerely,

John Doe
Supervisor

Enclosure

FORM E-7

See SDCL 1-26-4.1



Capital Journal

AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Hughes

_____ of said county, being, first duly sworn, on oath, says: That he/she is the publisher or an employee of the publisher of the **Capital Journal**, a daily newspaper published in the City of Pierre in said County of Hughes and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated, that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, that said newspaper has been published within the said County of Hughes and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the legal/display advertisement headed _____

_____ a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for _____ successive week(s) to wit:

_____ 19__	_____ 19__
_____ 19__	_____ 19__
_____ 19__	_____ 19__
_____ 19__	_____ 19__
_____ 19__	_____ 19__

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$_____.

Signed: _____

subscribed and sworn to before me this _____ day of _____ 19__

Notary Public in and for the County of _____ Hughes _____, South Dakota.
My Commission expires _____, 20__.

FORM E-8

See SDCL 1-26-4.1

IN THE MATTER OF THE
PROMULGATION OF
EMERGENCY RULES

AFFIDAVIT OF MAILING NOTICE
TO INTERESTED PARTIES

I, John Doe, under oath, do swear, that on May 4, 20__, I mailed a copy of the notice 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 the rule-making proceedings of the Department of Standards.

John Doe

Subscribed and sworn to
before me this 4th day
of May, 20__.

Notary Public - South Dakota

(Seal)

My Commission expires
_____, 20__.

FORM E-9

See SDCL subdivisions 1-26-6(2) and (3)

IN THE MATTER OF THE
PROMULGATION OF
EMERGENCY RULES

APPROVAL OF RULES

Pursuant to notice published as provided by SDCL 1-26-5, the following rules, attached, are approved and will become effective immediately after filing with the Secretary of State:

199:02:01:01 to 199:02:01:10, inclusive

Date _____

Date _____

BOARD OF METRIC CONVERSIONS

LEGISLATIVE RESEARCH COUNCIL
(for legality and for form and style)

Richard Roe

June Doe

Charles Coe

Mary Boe

Fred Moe

(NOTE: This form must be signed by a majority of the members of the board or commission. Make only one original copy of this form. If you need extra signed copies, make photocopies after the original has been signed. Have as many signature lines as there are board members. On Form 22 for 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 in this example.)

FORM E-10

See SDCL subdivision 1-26-6(6)

(NOTE: This certificate must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules.)

IN THE MATTER OF THE
PROMULGATION OF
EMERGENCY RULES

CERTIFICATE

I, Richard Roe, hereby certify that I am a duly appointed member and the duly elected chair of the Board of Metric Conversion and that the attached instruments are full, true, and correct copies of the following emergency rules adopted by the Board of Metric Conversions on May 7, 20__:

199:02:01:01 to 199:02:01:10, inclusive

I further certify that SDCL chapters 1-26-5 and 1-26-6 were complied with in the adoption of these rules. These rules are effective immediately upon filing with the Secretary of State.

Richard Roe, President
Board of Metric Conversions

Subscribed and sworn to
before me this 7th day
of May, 20__.

Notary Public - South Dakota

(Seal)

My Commission expires
_____, 20__.