

Drafting Manual

Administrative Rules of South Dakota



TABLE OF CONTENTS

	Page
INTRODUCTION	1
OVERVIEW OF THE DRAFTING PROCESS	1
PREPARING TO DRAFT RULES	3
COMMON ERRORS TO AVOID.....	4
ESSENTIAL COMPONENTS OF A RULE.....	4
NUMBERING AND CATCHLINE	4
TEXT OF A RULE	4
SOURCE NOTES	5
GENERAL AUTHORITY AND LAW IMPLEMENTED.....	5
COMMON COMPONENTS OF AN ADMINISTRATIVE RULE	5
DEFINITIONS.....	6
INCORPORATION BY REFERENCE.....	6
COMPONENTS TO AVOID IN RULES	7
FORM AND STYLE COMPONENTS OF AN ADMINISTRATIVE RULE.....	7
GENDER	7
PUNCTUATION	7
SUBSECTIONS	8
VERBS	8
PREPARING THE DRAFT	8
STYLE AND FORM EDITING GUIDELINES.....	10
CAPITALIZATION	10
CITATIONS TO AUTHORITY.....	10
FEDERAL REGULATIONS.....	11
HEADINGS	11
HYPHENATION	11
INTERNAL CROSS-REFERENCES	11
LAW IMPLEMENTED	12
NOTES.....	12
NUMBERS, DATES, AND TIME	13
STATUTES	13
WORDS AND PHRASES	14 - 16
RULE FORMAT EXAMPLES.....	17 - 37

INTRODUCTION

Rule promulgation is a quasi-legislative function of an executive branch agency. An agency may promulgate rules only after the Legislature delegates authority to the agency and provides understandable standards to guide the administrative action.

The Administrative Procedures Act (APA), codified in chapter 1-26, provides the process for rule promulgation. Under the APA, a six-member Interim Rules Review Committee (Committee) provides legislative oversight of rule promulgation. The Committee must review and approve each proposed rule before it goes into effect. The Committee's meeting dates are determined at the end of each legislative session and are published in the [South Dakota Register](#). Each meeting is open to the public.

In addition to the procedural requirements of the APA, an agency must follow the LRC guidelines for style, form, and clarity in rule drafting. This manual contains those style and form guidelines.

OVERVIEW OF THE DRAFTING PROCESS

The following statutes are paraphrased to provide an overview of the rule promulgation process under the APA:

§ 1-26-4:

An agency must follow the same process to adopt, amend, or repeal a rule.

Before rule promulgation may begin, an agency must receive written approval to proceed from the department secretary or the state entity to which the agency is attached.

At least twenty days prior to the public hearing to adopt a proposed rule, the agency must:

- 1) Serve the director of the Legislative Research Council (LRC) with a copy of:
 - a. The proposed rule;
 - b. Any publication incorporated by reference;
 - c. A fiscal note;
 - d. An impact statement on small business; and
 - e. The notice of public hearing; and
- 2) Serve the commissioner of the Bureau of Finance and Management (BFM) with a copy of:
 - a. The proposed rule;
 - b. A fiscal note;
 - c. An impact statement on small business; and
 - d. The notice of public hearing; and
- 3) Publish the notice of public hearing in three newspapers of general circulation.

After the LRC reviews the proposed rule for form, style, clarity, and legality, the LRC sends a letter to the agency recommending corrections. The agency must incorporate all LRC recommendations, subject to the agency's appeal to the Committee.

All interested persons have a reasonable opportunity to submit amendments, data, opinions, or arguments at a public hearing for the rule. The hearing may be continued from time

to time. The agency must keep minutes of the hearing. A majority of the members of any board or commission authorized to adopt rules must be present at the public hearing.

An agency headed by a full-time public officer or entity must accept written comments regarding the proposed rule for ten days following the public hearing. A part-time citizen board, commission, committee, or task force may close the comment period at the end of the public hearing. Any hearing may be specifically continued for taking additional comments.

The agency must consider all amendments, data, opinions, or arguments regarding a proposed rule. A proposed rule may be modified or amended to include or exclude matters described in the notice of public hearing.

At least five days before the Committee hearing to review the rule, the agency must serve the Committee with:

- a. Minutes of the public hearing;
- b. A complete record of written comments;
- c. The impact statement on small business;
- d. The fiscal note;
- e. The information required to increase a fee; and
- f. The rule in final form.¹

The Agency may extend any period under this section. The Committee chair may waive the service requirement on the Committee if the agency presents sufficient reasons that the agency is unable to comply with the time limit. The waiver may not be granted solely for the convenience of the agency.

§ 1-26-4.1:

The notice of public hearing to adopt a rule must notify persons likely to be affected by the proposed rule.

At a minimum, at least twenty days prior to the public hearing, the notice of public hearing must be published in at least three newspapers of general circulation in different parts of the state.

The notice of public hearing must be mailed to each person who has requested notice.

The notice of public hearing must contain a narrative description of:

- 1) The effect of the proposed rule; and
- 2) The reasons for adopting the proposed rule.²

A notice of public hearing must include:

- 1) Date and location of the hearing;
- 2) How amendments, data, opinions, and arguments may be presented; and
- 3) How the public may obtain copies of the proposed rule:

¹ Although not required by statute, the Committee requires each agency to provide a completed Rules Presentation Format, the initial draft of the proposed rule showing LRC recommended edits, and the LRC letter to the agency.

² The "effect" is what the agency is doing; the "reason" is why agency is doing it. A simple declarative sentence stating the effect and the reason is enough. The notice does not need to be an index that outlines the entire contents of the rule.

- a. The agency's website, if available; or
- b. <https://rules.sd.gov>.

§ 1-26-6:

A rule is adopted when:

- 1) The agency meets all the requirements of section 1-26-4;
- 2) A majority of the members of a multi-member body or the officer having the authority to adopt the rule signs the rule approval form;
- 3) The director of the LRC signs the rule approval form;
- 4) An agency files a copy of the rule with the director for use in the Administrative Rules of South Dakota;
- 5) The agency appears and presents the proposed rule to the Committee; and
- 6) The agency files with the Office of the Secretary of State the rule and a certificate³ affirming that the rule is a true and correct copy, and that the agency has complied with chapter 1-26.

A rule is provisionally effective on the twentieth day after the agency files it with the Office of the Secretary of State, not counting the day of filing. The agency may specify a delayed effective date.

The Committee may suspend a rule that is not yet effective or that is provisionally effective before the first day of July of the following year. A rule's provisional status ends on the first day of July, and the Committee may not suspend the rule following that date.

A provisional rule may be enforced in the same manner as a permanent rule.

PREPARING TO DRAFT RULES

Prior to drafting a rule, locate and review the statutes that grant rule promulgation authority to the agency and the statutes containing the policy to be implemented by the rule. A rule may not exceed or extend the authority granted to the agency in statute or correct mistakes in statute. Each rule may only carry out the functions delegated to an agency by the Legislature.

Except for definitions, the text of a rule may not repeat the text of any statute.⁴

COMMON ERRORS TO AVOID

When drafting rules, avoid the following common errors:

1. Proofread your rules before submitting them to the LRC or the Interim Committee;
2. Use the most recent rule downloaded from the LRC website;
3. When repealing a section, ensure all other sections that reference the repealed section are amended; and
4. Verify that all internal cross-references to other rules or statutes are correct.

³ The certificate is an affidavit that is signed by the officer authorized by law to promulgate the rule. For a multi-member body, the certificate is signed by its presiding officer.

⁴ See [§ 1-26-6.1](#).

ESSENTIAL COMPONENTS OF A RULE

A properly prepared administrative rule consists of:

1. Numbering and catchline;
2. The text of the rule;
3. Source notes; and
4. General authority and law implemented.

Numbering and Catchline

The LRC will provide the title, article, and chapter numbers to agencies writing new rules.

For any new section inserted between two existing sections, the number of the existing section immediately preceding the new section must be used with a two-digit decimal number added after it. For example, the new section between sections 99:99:99:01 and 99:99:99:02 is numbered 99:99:99:01.01.

Rules are organized by: title, article, chapter, and section. For example: Title 99; Article 99:99; Chapter 99:99:99; and Section 99:99:99:01. The specific number assigned to a rule allows for the rule to be located more easily.

For any repealed section, the number is not reused unless the proposed section covers the same subject. Numbers and catchlines of repealed sections are retained, and sections following a repealed section are not renumbered. Repealed sections may be dropped if the rules are adopted under other numbers. In unusual cases, the LRC may authorize repealing and reenacting a rule with a new number.

The title or heading given to each rule is called a catchline. A catchline provides a summary of the section's subject. The catchline serves as an index to the rules but is not part of the rule itself. Everything in the catchline must be contained in the body of the rule. An emergency rule must include the words "EMERGENCY RULE" in the catchline.

Refer to the catchlines in the [South Dakota Codified Laws](#) for examples.

Capitalize only the first letter of the first word, proper names, and the first letter following a dash. Use a bold font for the section number and all words in the catchline.

Use a space before and after a dash in the catchline. For example:

41:08:01:08.01. Bobcat trapping and hunting season established -- Hunting restrictions -- Tagging requirements. The bobcat trapping and hunting season is open from sunrise on the second Saturday of December to sunset on January 31 in all counties west of the Missouri River....

Text of A Rule

Legal jargon does not make a rule enforceable.

A rule should clearly and simply state who is responsible for taking an action. Use simple words and short sentences with active-tense verbs. Even technical requirements should use plain language.

Use the same words to express the same ideas and refer to the same object. Do not give different meanings to one word. Be clear, concise, and uniform.

Source Notes

The LRC provides the source note. The source note is placed below the text of the rule and above the citations to general authority. It gives the history of the rule, citing the volume and page number of the South Dakota Register on which the date of filing with the Office of the Secretary of State and the effective date are recorded. The source note is retained even when a rule is repealed.

For any section that is transferred, the agency should add "transferred from 99:99:99:01" to the source note.

General Authority and Law Implemented

Each rule must contain a citation to the statutory authority granting the agency the power to adopt the rule and a citation to the law implemented by the rule. The general authority is the statute authorizing the agency to adopt the rule (i.e., "... shall promulgate rules in accordance with chapter 1-26 to ..."). The law implemented is the statute containing the policy that the rule administers. In many instances, the general authority and the law implemented are the same. Rules are not accepted or effective without these citations.⁵

The citations to general authority and law implemented must be to specific sections, including subdivisions of the statute, and not to chapters. If there is more than one statute that grants authority for the rules or that is implemented, cite all the statutes. In addition to the South Dakota Codified Laws, some citations may be to an executive order, federal law or regulations, or court cases.

In citing South Dakota Codified Laws, use the form shown in **CITATIONS TO AUTHORITY**.

If there is more than one code section to be cited, do not use the word "and" to separate them. Place commas between the code section numbers: SDCL §§ 3-3-2, 3-4-2, 3-12-47(19), 3-12-52 through 3-12-55.

When citing federal statutes, use references to the source in the following order of priority: United States Code, Statutes at Large, and Public Laws. The form is shown in **CITATIONS TO AUTHORITY**.

Use a semicolon to separate references from different sources. (For example: SDCL § 45-8-17; 9 C.F.R. § 75.1 (January 1, 1998))

Double-space all legal citations and reference notes and place a period at the end.

COMMON COMPONENTS OF AN ADMINISTRATIVE RULE

The common components of an administrative rule include:

1. Definitions; and
2. Incorporation by Reference.

⁵ See [§ 1-26-6.2](#).

Definitions

Definitions are shortcuts to save space in the body of a rule. They provide the meaning of terms as used in the rule. Definitions of terms that are defined in statute may be repeated in the rule,⁶ or may be incorporated by reference into the definitions section of rules.

The definitions section uses the form of subdivisions. Defined terms are placed in alphabetical order.

Definitions do not include substantive provisions. For example, "executive secretary" may be defined in the definitions section, but the executive secretary's duties may not be included. The duties must be the subject of a separate rule.

The defined term should say either "means" (the definition is exhaustive and excludes all elements not included in the definition) or "includes" (the definition is not exhaustive and may be applied to elements not included in the definition).

Do not define acronyms.

Incorporation by Reference

A rule may enforce federal regulations or other published standards. A rule may incorporate by reference lengthy or generally available regulations or standards.⁷ Material published by a South Dakota state agency may not be incorporated by reference.⁸

For material that is incorporated by reference, the rule must cite the specific portion being incorporated which may be one section or a whole volume. If material incorporated by reference is amended or updated, the portion incorporated by reference continues to apply in the rule until the agency amends the rule with an updated reference to the material.

Incorporating a future rule or regulation of another state or the federal government is an unconstitutional delegation of legislative authority.⁹ A date certain is therefore required for the incorporation by reference.

Under SDCL section 1-26-6.6, any publication incorporated by reference must be generally available to the public. If an agency cannot afford to buy a copy, the material is not available "at a reasonable cost" as required by SDCL section 1-26-6.6.

An agency must provide a copy of the incorporated material to the LRC for review. The material will be returned to the agency upon completion of the review. An agency must retain a copy of any incorporated material.¹⁰

The cover of incorporated material must have a label that lists the name of the agency, the filing date of the rule, and citation to the specific rule adopting the outside material.

For example:

Reference to: § 20:54:02:01

Filed by: State Plumbing Commission

Date filed: 11-28-96¹¹

A reference note located beneath the citations to General Authority and Law Implemented must contain the title of the publication, the date of publication, and the author of the

⁶ See [§ 1-26-6.1](#).

⁷ See **CITATIONS TO AUTHORITY** for the form of material incorporated by reference.

⁸ See [§ 1-26-6.6](#).

⁹ See *State v. Johnson*, 84 S.D. 556, 173 N.W.2d 894 (1970).

¹⁰ See §§ [1-26-4](#) and [1-26-6](#).

¹¹ Use the date the rules are filed with the Office of the Secretary of State.

material incorporated by reference. The note must also contain information about where and at what cost the publication may be obtained.

A reference note is unnecessary if a rule incorporates material from the Code of Federal Regulations, Federal Register, United States Code, or Statutes at Large, so long as the rule cites to the specific provision incorporated.

COMPONENTS TO AVOID IN RULES

Avoid using examples and forms in any rule.

Examples

Do not use examples in the text of a rule. Place any example after the citation for the Law Implemented.

Forms

To prescribe a form, a rule should provide a narrative description of the form's essential contents. This allows an agency to change the style of the form without going through the rule promulgation process each time the form is updated.

FORM AND STYLE COMPONENTS OF AN ADMINISTRATIVE RULE

Eliminate jargon. The meaning of professional language used among colleagues may be lost on the readers of rules. Do not use repetitive legalese such as: "any and all" or "each and every."

Use proper rules of grammar. Keep number in mind when matching subjects and verbs. Watch the antecedents of pronouns. A "board" may mean a group of persons, but the word is singular.

Be mindful about how the rules will look when published. Keep paragraphs and rules short. Use no more words than necessary.

Gender. Use gender-neutral terms, such as "applicant," "individual," or "person." The terms "he," "she," "his," "him," or "her" may be used if there is no alternative. Do not use "he or she" or "his/her." Do not use "their" with a singular subject. Pronouns may sometimes be omitted without losing meaning, or nouns may be repeated. [Section 2-14-5](#) addresses the legal effect of words expressing gender.

Punctuation. Punctuation used in rules follows accepted punctuation in English. Punctuate precisely. The meaning of a rule may hang on the location of a comma. Extensive punctuation indicates faulty arrangement and ambiguous construction. Short, simple sentences prevent possible misinterpretation.

Colons should be used to introduce a series and after "Source," "General Authority," "Law Implemented," and other note headings.

Quotation marks should be used around a word being defined but otherwise should be avoided. Commas and periods are ordinarily placed inside quotation marks, but other punctuation marks are placed outside unless they are part of the quotation.

Semicolons should be used preceding clauses beginning with conjunctions like "however" and after each subdivision of a section except the last.

Periods should be used at the end of the citations and the notes below each section.

Commas should be used instead of parentheses to set apart phrases, clauses, or other expressions. A comma should be used before the conjunction in a series.

Subsections. For greater clarity, a section may be subdivided as follows:

1. [Subsection]

(A) [Paragraph]

(1) [Subparagraph]

(a) [Item]

Verbs. The verb used in a rule should be active and in the present tense. Passive verbs bury the identity of the subject of the sentence and create doubt as to who is required to take an action. A verb is generally imperative, permissive, or prohibitive. This is a guide to usage:

- shall = required action ("has the duty to")
- may = permitted action ("has the discretion to")
- may only = restricted action
- may not = prohibited action
- must = action required as a condition of something; used with inanimate subjects
- must be = required condition
- is = statement of condition

A rule giving discretion to an officer or board using "may" must also establish guidelines to be followed in exercising that discretion. A negative used with "may" negates the obligation and permission to act and is the stronger prohibition. A negative used with "shall" negates the obligation but not the permission to act and therefore should be avoided.

Do not use made-up words ending in "-ize" or "-zation." Avoid legalisms, jargon, and redundancies. Use shorter, simpler words when you have a choice.

Avoid adjectives such as "real," "true," and "actual," and adverbs such as "duly" and "properly." These ideas are normally implied. Expressing them creates doubt whether they are implied elsewhere. Do not use "adequate," "sufficient," "promptly," "approved," or "reasonable" unless you specify what these words mean or refer to the standards that must be met.

PREPARING THE DRAFT

All rules promulgated, whether new, amended, transferred, or repealed, are subject to review and editing for form, style, clarity, and legality by the Legislative Research Council.¹²

Each rule in a set of proposed rules must be complete. A complete rule includes the number, catchline, text, source note, General Authority, and Law Implemented.

Agencies can find copies of their rules on the Legislative Research Council website at <http://www.sdlegislature.gov/Rules/RulesList.aspx>. Copies of proposed rules are available at <https://rules.sd.gov/default.aspx>.

Rules may be downloaded from the LRC website in Microsoft Word format. Click on "Download file in Microsoft Word format" on the upper left of the screen. The downloaded files contain an entire article. Delete any sections or chapters not affected by the proposed rule in your draft.

Proposed rules should be presented:

¹² See [§ 1-26-6.5](#).

1. In numerical order;
2. Double-spaced; and
3. On single-sided pages with page numbers.

Amendments, transfers, and repeals of existing rules are shown in the form used for legislative bills: deletions overstricken followed by insertions underscored.

New material **always** follows stricken material. If stricken material consists of more than one sentence, the underscored material replacing stricken material should be inserted at the end of the sequence of all stricken material. Periods should logically be carried to the end of the sentence where new material is being inserted. New material is inserted after a specified word and before the period.

Never overstrike or underscore part of a word, number, or citation:

- not animals, but ~~anima~~ animals
- not § 32-14-~~79~~ 87, but § ~~32-14-79~~ 32-14-87
- not forty-~~five~~, but ~~forty-five~~ forty

If new rules are being added to existing rules, the new material must be underscored.

Any change in the title of the article or chapter, any change in the catchline of a section in the table of contents, or any addition to the table of contents must also be included in the set.

The agency must e-mail an electronic copy of the final rules, showing overscores and understrikes, in Microsoft Word format to the LRC. A printed copy of the same final draft, showing overscores and understrikes, must be filed with the Office of the Secretary of State.

STYLE AND FORM EDITING GUIDELINES

Rules are edited according to the following guidelines:

1. CAPITALIZATION. Some specific examples commonly found in the text of rules are the following:

Governmental Offices and Institutions. The full proper name of a department or a governmental agency or institution is capitalized: "Department of Labor," "University of South Dakota," "Hughes County Commission," "Environmental Protection Agency," "Board of Pharmacy," "Human Services Center," and "Division of Insurance," but not "department," "university," "county commission," "agency," "board," or "division." The titles of smaller offices or programs within departments are not capitalized. "Supreme Court" and "Legislature" are capitalized.

Governmental Officials. The titles of state, county, municipal, or district officials are not capitalized: "secretary of agriculture," "county commissioner," "mayor," and "supervisor." Substitutions for official titles, such as "secretary" or "director," are not capitalized. "Governor" is capitalized.

Acts. The official titles of state or federal acts are capitalized: "Securities and Exchange Act of 1934" and "South Dakota Human Relations Act of 1972." Before capitalizing the name of a particular state act, check the South Dakota Codified Laws to ensure it has a specific name. For an example, see [section 20-13-56](#). A reference to laws on a particular subject, such as "insurance statutes," is not capitalized. The words "Session Laws" are capitalized.

Geographic Names. If not part of a proper name, "federal," "state," "city," and "county" are not capitalized. Examples include: "federal area," "State of South Dakota," "county of Hughes," and "city of Mitchell," in contrast to "Hughes County" and "Rapid City." Other examples are: "rivers," "state parks," and "state game refuges," in contrast to "White River," "Custer State Park," and "Wall Lake State Game Refuge."

Words Used with Numbers or Letters. Words denoting unit and class are capitalized if followed by specific Arabic numbers or specific letters: "Class 3," "Interstate 29," "State Highway 13," "Class 2 misdemeanor," "Class A," "Unit 400A," "several classes," and "third class." The words Fahrenheit and Celsius are capitalized.

Private Associations. The names of professional and private associations, corporations, and businesses are capitalized.

References to SDCL and ARSD. The words "title," "article," "chapter," "section," and "rule" are not capitalized.

Notes Following Rules. All of the words introducing notes after the text of rules are capitalized: "Source," "General Authority," "Cross-Reference," and "Note."

2. CITATIONS TO AUTHORITY. Citations to South Dakota documents take the following form:

South Dakota Codified Laws	SDCL chapter 2-14 SDCL 2-14-2 SDCL subdivision 2-14-2(18)
Laws of South Dakota (Session Laws)	SL 1982, ch 316, §6
South Dakota Register	10 SDR 76

Other authorities in the text of a rule or in the notes following the text should be cited as follows:

United States Code	42 U.S.C. § 1983
United States Statutes at Large	85 Stat. 1043
Public Laws	Pub. L. No. 94-45 (July 3, 1975)
Code of Federal Regulations	45 C.F.R. § 1060.2 (March 5, 1981)
Federal Register	45 Fed. Reg. 45, 259 (July 31, 1980) (to be codified at 14 C.F.R. § 39.13)

See **GENERAL AUTHORITY AND LAW IMPLEMENTED** and **INCORPORATION BY REFERENCE**.

3. COLLATERAL REFERENCES. See **NOTES**.

4. CROSS-REFERENCES. See **NOTES**.

5. FEDERAL REGULATIONS. If the task is to adopt the federal regulations as an agency's own rather than incorporating federal regulations by reference, translate the federal language into plain English as much as possible and break the lengthy federal rules into smaller rules. Federal rules are often incorporated by reference. See **INCORPORATION BY REFERENCE**.

6. HEADINGS. Titles, articles, and chapters have headings; sections have catchlines. Catchlines may be any length. See **CATCHLINES**. Headings are limited only by the space available for the "headers" at the top of each page of the printed rules.

Each title heading is followed by an index or table of contents, which is a list of the articles in the title. Similarly, each article has an index or table of contents, which is a list of the chapters in the article, and each chapter has an index or table of contents, which is a list of sections in the chapter.

7. HYPHENATION. Hyphens are used in written numbers and fractions and in some adjective forms. Do not hyphenate words beginning with "semi" or "non." Hyphenate words beginning with "self-," and the words "long-term," "short-term," and "secretary-treasurer."

Consult a dictionary for the hyphenation of other words.

Frequently used words that should not be hyphenated include: prima facie, percent, prorate, pro rata, ex parte, nonresident, interstate, intrastate, and statewide.

8. INTERNAL CROSS-REFERENCES. Internal cross-references are references in the text of rules to other sections of the Administrative Rules of South Dakota or to sections of the South Dakota Codified Laws.

Administrative rules may be referenced in the following manner:

- one section: § 55:10:12:04
- two sections: §§ 55:10:12:04 and 55:10:12:05
- three or more sections: §§ 55:10:12:01 through 55:10:12:10
- a subdivision: subdivision 55:10:12:01(3)
- sections connected by "or": § 55:10:12:04 or 55:10:12:05

Codified laws may be referenced in the following manner:

- one section: SDCL 3-12-71
- two sections: SDCL 3-12-71 and 3-12-72

- three or more sections: SDCL 3-12-71 through 3-12-75
- a subdivision: SDCL subdivision 2-14-2(18)
- two subdivisions: SDCL subdivisions 2-14-2(18) and (19)
- three or more subdivisions: SDCL 2-14-2(18), (19), and (23)
- sections connected by "or": SDCL 3-12-71 or 3-12-75

Note: Citation to codified laws within the text of a rule differs from the citation in the General Authority and Law Implemented.

References to chapters, articles, and titles are spelled out in the text, followed by the number. Examples include:

- chapter 55:10:12
- article 55:10
- ARSD title 55
- SDCL chapter 1-26
- SDCL title 32

"Chapter" and "article" are abbreviated in cross-references. See **NOTES**.

Use the section symbol (§) instead of the word "section" except at the beginning of a sentence.

9. LAW IMPLEMENTED. See **GENERAL AUTHORITY AND LAW IMPLEMENTED**.

10. NOTES. Informational notes are not considered part of the rules. They follow law implemented citations and are placed in the order in which they are listed below:

References provide publishing information for material incorporated by reference.

See **INCORPORATION BY REFERENCE**.

For example:

Reference: National Standard Plumbing Code, 1996 edition, pages numbered by chapter, National Association of Plumbing-Heating-Cooling Contractors. Copies may be obtained from the National Association of Plumbing-Heating-Cooling Contractors, Box 6808, Falls Church, Virginia 22046. Cost: \$45.

Collateral References cite to other material such as cases, texts, and other departmental publications which may add to an understanding of the rule. For an example, see [section 67:12:05:51](#).

Collateral Reference: Definition, *King v Smith*, 392 U.S. 309 (1968).

Cross-References cite to the South Dakota Codified Laws or to other rules which may be similar, or which may provide further information. The form for cross-references includes the catchline. For an example, see [section 41:06:01:02](#).

Cross-References:
 Combination licenses, SDCL 41-6-10.1, § 41:06:02:01.01.
 Basic or general hunting license required, SDCL 41-6-11.
 Safety instruction required for licensing of child under sixteen - - Fee waived, SDCL 41-6-16.

Examples illustrate the way the rule is to operate. For an example, see [section 64:06:02:80](#).

Example: A tourist drives a car into a city from Interstate 90 to be repaired and then drives back to the highway to continue the trip. The receipts from the repair are subject to the city's sales tax.

Notes explain the rule or provide additional information. For an example, see [section 70:03:01:61.02](#). Notes may be added by the agency writing the rules or by the LRC.

Note: The draw bar length may not exceed eight feet.

11. NUMBERS, DATES, AND TIME. Spell out numbers ten and under. Use Arabic numerals for numbers over ten. Spell out dollar amounts under \$11 unless they include cents. If a sentence contains several numbers, some of which should be in Arabic numerals, use Arabic numerals for all. Numbers following words such as "unit" and "class" should be Arabic numerals.

Do not spell out decimals. Drop zeros from the right side of decimals. Fractions may be spelled out or written in numerals, depending upon readability. Spell out times of the day or use numerals with a colon. The designations "a.m.," "p.m.," "noon," and "midnight" are always lower case. Technical rules and tables may require specific individual styles. Understanding and readability are primary goals. Examples of the style for numbers are as follows:

25	225
52,925	four
ten dollars	25 cents
\$4.30	\$403
\$4,081	\$4,081.34
8:00 a.m.	Class 2
one-half, 1/2, .5	12:00 midnight
90 degrees Fahrenheit	45 degrees
October 31	1.3

12. REFERENCES. See **NOTES**.

13. STATUTES. An agency may not copy material from statute in the agency's rules without permission from the Code Counsel.¹³ Rules may refer to a statute in an internal reference but may not copy statutory material.

¹³ See [§§ 1-26-6.1](#) and [2-16-8.1](#).

14. WORDS AND PHRASES. The following words and phrases are often used incorrectly:

AVOID	USE
aforesaid, aforementioned, before-mentioned	"the," "that," or "those"
afforded or accorded	given
and/or	"either A or B, or both"
any and all	(either word)
as provided in this chapter	(delete)
at such time as	when
at the time of	when
authorized and empowered to	may
be and the same is hereby	is
carry out	"execute" or "complete"
commence	begin
constitute and appoint	appoint
deal with	"address" or "conduct"
deem	consider
deemed to be	is
during such time as	while
during the course of	during
each and all	(either word)
either directly or indirectly	(delete)
employ (meaning to use)	use
every person, all persons	a person
except when otherwise provided	(delete)
expend	spend
fail, refuse, or neglect	fail
feasible	"practicable" or "workable"
following section	§ (fill in number)
formulate	make
for the duration of	during
for the reason that	because
forthwith	immediately
from and after	after
full and complete	full
give consideration to	consider
greater than	more than
have need of	need

hereby	(delete)
hereinafter, hereinbefore, hereinabove, above, below, following, preceding	(if reference is necessary, specify the article, chapter, section, or subdivision by number)
in case	if
in order to	to
in the event that	if
in the interests of	for
inquire	ask
institute	"begin" or "start"
is able to	can
is applicable	applies
is authorized to	may
is binding upon	binds
is defined and shall be construed to mean	means
is directed to	shall
is empowered to	may
is entitled to	may
is hereby authorized and it shall be his duty to	shall
is required to	shall
is unable to	cannot
it is a person's duty to	shall
it is lawful to	may
make application	apply
make a determination	"determine" or "decide"
make payment	pay
make provision for	provide for
maximum	most
means and includes	"means" or "includes"
minimum	least
modify	change
necessitate	require
no later than June 30	before July 1
none whatever	"none" or "no"
not later than	before
null and void	void
occasion (verb)	cause
of a technical nature	technical

on or after July 1	after June 30
on or before July 1	by July 1
on a person's own application	upon request
or, in the alternative	or
per (person, year, day)	"a" or "for each"
per annum	a year
per centum	percent
period of time	"period" or "time"
prior to	before
provided (conjunction)	"if" or "but"
provided, however, that	"except," "but," or "however"
provision of law	law
purchase	buy
render (meaning "to make")	make
retain	keep
said	"the," "that," or "those"
same	(the appropriate pronoun)
shall be	is
shall be construed to mean	means
shall be deemed to be	is
shall have the power to	may
shall not	may not
sole and exclusive	exclusive
subsequent to	after
such	"the," "that," or another pronoun
suffer	allow
terminate	end
timeframe	"schedule" or "period"
to wit	(delete or use "namely")
under the provisions of	under
unless and until	"unless" or "until"
until such time as	until
utilize (meaning "to use")	use
when, where (as a condition)	if
whatsoever	whatever
whensoever	"when" or "if"
wheresoever	where
whosoever	whoever
whomsoever	(archaic; improper)

RULE FORMAT EXAMPLES

EXAMPLE: Format for new rules: title heading and analysis showing new material added, article heading and analysis, chapter heading and analysis, section defining terms for the article, source note, and citations. The section illustrates the form of subdivisions.

TITLE 74

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Article

74:01	General administration, Transferred to Article 74:25.
74:02	Water rights.
74:03	Water pollution control program, Transferred to Articles 74:50 through 74:56.
74:04	Water hygiene.
74:05	Water development.
74:06	Reserved.
74:07	Environmental financial assurance.
74:08	Administrative fees.
. . . .	
74:56	Storage facilities -- Remediation.
<u>74:57</u>	<u>Concentrated animal feeding operations.</u>

ARTICLE 74:57

CONCENTRATED ANIMAL FEEDING OPERATIONS

Chapter

<u>74:57:01</u>	<u>Inspections of concentrated animal feeding operations.</u>
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CHAPTER 74:57:01

INSPECTIONS OF CONCENTRATED ANIMAL FEEDING OPERATIONS

Section

74:57:01:01 Definitions.

74:57:01:02 Scope.

74:57:01:03 Construction inspections.

74:57:01:04 Annual inspections.

74:57:01:05 Triennial inspections.

74:57:01:06 Closure inspections.

74:57:01:07 Permission.

74:57:01:08 Search warrants.

74:57:01:09 Enforcement.

74:57:01:10 Appeals process.

74:57:01:01. Definitions. Words and phrases defined in SDCL chapter 34A-2 have the same meaning when used in this chapter. As used in this chapter:

(1) "Manure management system" means any piping, containment structures, or disposal appurtenances associated with the collection, storage, treatment, and disposal of manure or wastewater at a concentrated animal feeding operation; and

(2) "Secretary" means the secretary of the South Dakota Department of Environment and Natural Resources or an authorized representative.

Source: 24 SDR 99, effective February 1, 1998.

General Authority: SDCL 1-40-38.

Law Implemented: SDCL 1-40-38, 34A-2-45, 34A-2-46.

74:57:01:02. Scope. The secretary may inspect all concentrated animal feeding operations, records, and reports necessary under SDCL chapter 34A-2 or this article. The scope of an inspection is limited to that reasonably necessary to ensure that pollution of waters of the state and other natural resources is not occurring, that reports filed with the

secretary are accurate, and that the operation is being conducted pursuant to the permits, approvals, or orders required by SDCL chapter 34A-2 or this article.

The secretary only has access to the inside of an animal confinement building if access is necessary in order to determine compliance with a water pollution control permit under SDCL chapter 34A-2. If access is necessary, the secretary shall abide by all security measures implemented by the producer to ensure protection of the health of the animals at the animal feeding operation.

Source: 24 SDR 99, effective February 1, 1998.

General Authority: SDCL 1-40-38.

Law Implemented: SDCL 1-40-38, 34A-2-45, 34A-2-46.

EXAMPLE: Amendment of the chapter analysis (table of contents), showing amendments, repeals, and additions.

CHAPTER 67:16:05

HOME HEALTH SERVICES

Section

- 67:16:05:01 ~~Definition of a home health agency~~ terms.
- 67:16:05:02 Repealed.
- 67:16:05:03 ~~Home health services for individuals not eligible for medicare~~ Individuals eligible for home health services.
- 67:16:05:04 ~~Payments for home health services for individuals eligible for medicare and medicaid~~ Repealed.
- 67:16:05:05 ~~Home health services payable~~ Covered services.
- 67:16:05:05.01 Service restrictions.
- 67:16:05:05.02 Physician's orders required before services begin -- Plan of care -- Certification and recertification.
- 67:16:05:05.03 Supervisory visit required when home health aide services provided.
- 67:16:05:05.04 Extended services -- Prior authorization required.
- 67:16:05:05.05 Respiratory therapy -- Limitations.
- 67:16:05:05.06 Postpartum services -- Limitations.
- 67:16:05:06 ~~Home health services~~ Services not covered.
- 67:16:05:06.01 Medical records.
- 67:16:05:07 Basis of payment.
- 67:16:05:07.01 Submission of claims.
- 67:16:05:07.02 Cost not to exceed institutional care.
- 67:16:05:07.03 Services provided outside South Dakota.

EXAMPLE: Amended catchline and text and addition of a cross-reference. See the corresponding change in the example of the chapter analysis.

67:16:05:03. ~~Home health services for individuals not eligible for medicare~~ Individuals eligible for home health services. The following home health services are available to individuals not eligible for medicare.

—— (1) ~~Post hospital services of up to one hundred home visits within one year after the individual's most recent discharge from a hospital in which he was an in-patient for not less than three days. The physician shall arrange for these services within fourteen days after the patient's discharge from the hospital and periodically review the necessity for continued visits by the home health agency; and~~

—— (2) ~~Payment for one hundred home health agency visits to patients per calendar year for covered home health services without prior hospitalization. The attending physician shall determine the necessity for these services and periodically review the plan for home health services. Home health services are available to an individual in the individual's place of residence. The individual must be eligible for Medicaid and the required services must meet the conditions of this chapter.~~

Source: 1 SDR 30, effective October 13, 1974; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.

Cross-Reference: Service restrictions, § 67:16:05:05.01.

EXAMPLE: Repeal of a section. See the corresponding change in the example of the chapter analysis.

67:16:05:04. Payments for home health services for individuals eligible for medicare and medicaid. ~~Payments to participating providers for home health services provided to individuals eligible for medicare and medicaid shall be limited to the coinsurance and deductible insurance charges relating to such services~~ Repealed.

Source: 1 SDR 30, effective October 13, 1974; 4 SDR 35, effective December 22, 1977; 5 SDR 109, effective July 1, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

~~**General Authority:** SDCL 28-6-1.~~

~~**Law Implemented:** SDCL 28-6-1.~~

EXAMPLE: Addition of new section between existing sections. See the corresponding change in the example of the chapter analysis.

67:16:05:05.05. Respiratory therapy -- Limitations. An individual receiving home respiratory therapy must meet the following requirements:

(1) Be medically dependent on a ventilator for life support at least six hours a day and must have been dependent for at least 30 consecutive days;

(2) Except for the availability of these respiratory care services at home, would require respiratory care as an inpatient in a hospital, a skilled nursing facility, or an intermediate care facility and would be eligible for long-term nursing care under this article;

(3) Have adequate support services to be cared for at home; and

(4) Wishes to be cared for at home.

Source:

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.

EXAMPLE: Amended section with subdivisions. See example of chapter analysis for corresponding change to catchline.

67:16:05:06. ~~Home health services~~ Services not covered. The following ~~home health services~~ are not covered under ~~the medical assistance program~~ this chapter:

- (1) Physician's medical or surgical services;
- (2) ~~Full time nursing care;~~
- ~~(3) Drugs and biologicals;~~
- ~~(4) (3) Personal comfort items;~~
- ~~(5) (4) General housekeeping services;~~
- ~~(6) (5) Meals or other nutritional items delivered to the ~~patient's~~ individual's home;~~
- ~~(7) (6) ~~Post hospital~~ Posthospital benefits which include services by a home health agency operating primarily for the treatment of mental illness;~~
- ~~(8) Transportation involved in furnishing home health services on an out patient basis; and~~
- ~~(9) Physical, occupational, or speech therapy provided for residents in nursing homes.~~
- (7) Mileage or travel time incurred by the home health agency; and
- (8) Visits by a dietitian.

Source: SL 1975, ch 16, § 1; 1 SDR 30, effective October 13, 1974.

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.

EXAMPLE: Repeal of an entire chapter.

ARTICLE 20:09

HOUSING DEVELOPMENT AUTHORITY

Chapter

20:09:01	Definitions.
20:09:02	Initiated procedures.
20:09:04	General provisions.
20:09:05	Single-family mortgages.
20:09:06	Multifamily rental housing.
20:09:07	Subdivision development mortgages.
20:09:08	Interim construction loans, <u>Repealed</u> .
20:09:09	Single-family portfolio purchases.

CHAPTER 20:09:08

INTERIM CONSTRUCTION LOANS

(Repealed)

Section

20:09:08:01	Methods of financing.
20:09:08:02	Mortgage limits.
20:09:08:03	Loan inclusions.
20:09:08:04	Mortgage terms.
20:09:08:05	Applications and processing.
20:09:08:06	Bonds and completion assurances.
20:09:08:07	Terms and conditions governing the authority's participation with administrative agents in making interim construction financing loans.
20:09:08:08	Fees and charges.

~~20:09:08:09~~—Interest rates.

NOTE: Print the entire chapter with overstrikes.

EXAMPLE: Transfer of a section.

CHAPTER 24:03:08

SPECIAL SERVICES

Section

24:03:08:01 Health services.

24:03:08:02 ~~Supportive personnel~~ Transferred.

24:03:08:03 Disaster plan and drills.

24:03:08:02. Supportive personnel. ~~All supportive personnel shall be licensed or trained to perform the specific responsibility assigned.~~ Transferred to § 24:03:05:11.

Source: ~~SL 1975, ch 16, § 1; 3 SDR 23, effective September 29, 1976; 5 SDR 110, effective July 5, 1979; 11 SDR 96, 11 SDR 112, effective July 1, 1985.~~

General Authority: ~~SDCL 13-1-12, 13-3-47.~~

Law Implemented: ~~SDCL 13-1-12, 13-3-47.~~

CHAPTER 24:03:05

INSTRUCTIONAL STAFF

Section

24:03:05:01 Instructional staff.

24:03:05:01.01 In-service education and staff development plan required.

24:03:05:02 Transferred.

24:03:05:03 Guidance counselor.

24:03:05:04 Librarian.

24:03:05:05 Repealed.

24:03:05:06 Teacher aide.

24:03:05:07 Noncertified teacher substitute defined -- Minimum qualifications -- Time limit and procedure for extension -- In-service training required.

- 24:03:05:08 Certified teacher substitute and temporary administrator defined -- Minimum qualifications -- Time limit and procedure for extension -- In-service training required.
- 24:03:05:09 Minimum secondary staff requirements.
- 24:03:05:10 School nurse -- Health services.
- 24:03:05:11 Support personnel.

~~24:03:08:02~~ 24:03:05:11. Supportive Support personnel. All ~~supportive~~ support personnel shall be licensed or trained to perform the specific responsibility assigned.

Source: SL 1975, ch 16, § 1; 3 SDR 23, effective September 29, 1976; 5 SDR 110, effective July 5, 1979; 11 SDR 96, 11 SDR 112, effective July 1, 1985; transferred from § 24:03:08:02.

General Authority: SDCL 13-1-12, 13-3-47.

Law Implemented: SDCL 13-1-12, 13-3-47.

NOTE: Changes in the database required to accomplish the transfer must be shown at both the old and new locations of the rule. The changes should be placed in their number order in the set of proposed rules.

EXAMPLE of the transfer of a chapter.

ARTICLE 41:07

FISHING SEASONS AND METHODS

Chapter

41:07:01	General provisions.
41:07:02	Fishing seasons.
41:07:03	Fish limits.
41:07:04	Snagging of salmon, Repealed.
41:07:05	Snagging of paddlefish.
41:07:06	Spearing.
41:07:07	Underwater spearing, <u>Transferred</u> .
41:07:08	Hoop nets and setlines.
41:07:09	Bullfrogs.
41:07:10	Turtles.

CHAPTER 41:07:07

UNDERWATER SPEARING

(Transferred to Chapter 41:07:06)

Section

41:07:07:01	— Repealed.
41:07:07:02	— Season and area open to taking of largemouth bass.
41:07:07:03	— Limits.
41:07:07:04	— Season and areas open to taking of catfish without limit.
41:07:07:05	— Restricted areas.
41:07:07:06	— Use of divers down flag.

~~41:07:07:01. Season and areas open to taking of all game fish species. Repealed.~~

~~41:07:07:02. Season and area open to taking of largemouth bass. Legal spearguns may be used in the underwater spearing of largemouth bass during the hours between sunrise and sunset from July 1, 1974, to December 31, 1974, both dates inclusive, in the Pactola reservoir.~~

~~Source: SL 1975, ch 16, § 1.~~

~~General Authority: SDCL 41-2-32, 41-12-1, 41-12-4, 41-12-12.~~

~~Law Implemented: SDCL 41-12-1, 41-12-4, 41-12-12, 41-3-10, 41-12-5.~~

NOTE: Print out the entire chapter with overstrikes.

CHAPTER 41:07:06

SPEARING

Section

41:07:06:01 Spearing of rough fish in inland waters.

41:07:06:02 Spearing of rough fish in South Dakota-Minnesota boundary waters.

41:07:06:03 Areas open to spearing of all species of fish.

41:07:06:04 Season and area open to taking of largemouth bass.

41:07:06:05 Season and areas open to taking of catfish without limit -- Exception.

41:07:06:06 Limits.

41:07:06:07 Restricted areas.

41:07:06:08 Use of diver-down flag.

~~41:07:07:02~~ **41:07:06:04. Season and area open to taking of largemouth bass.** Legal spearguns, spears, and bows and arrows may be used in the underwater spearing of largemouth bass during the hours between sunrise and sunset from July 1, ~~1974,~~ through December 31, ~~1974,~~ in the Pactola ~~reservoir~~ Reservoir.

Source: SL 1975, ch 16, § 1; transferred from § 41:07:07:02.

General Authority: SDCL ~~41-2-32~~, 41-2-18, 41-12-1, ~~41-12-4~~, 41-12-12.

Law Implemented: SDCL 41-2-18, 41-12-1, 41-12-5, 41-12-12.

NOTE: Continue by showing the rest of the transfers. Changes in the database required to accomplish the transfer of the chapter must be shown at both the old and new locations. The changes should be placed in their number order in the set of proposed rules.

Example: Amended section with a delayed effective date.

CHAPTER 12:02:16

CONCESSIONS AND COMMERCIAL EXHIBITS

Section

- 12:02:16:01 License required.
- 12:02:16:02 Contracts for commercial exhibits and concessions.
- 12:02:16:03 Substitute locations.
- 12:02:16:04 Application for space.
- 12:02:16:05 Maps.
- 12:02:16:06 (Effective through September 3, 1995) Reservations. (Effective September 4, 1995) Renewal of space contracts.
- 12:02:16:07 Contracts.
- 12:02:16:08 Payment.
- 12:02:16:09 Expiration of contracts.
- 12:02:16:10 Cancellations by lessee.
- 12:02:16:11 Electrical service.
- 12:02:16:12 Business operations.
- 12:02:16:13 Repealed.
- 12:02:16:14 Advertising.
- 12:02:16:15 Sanitation and appearance.
- 12:02:16:16 Supply trailers.
- 12:02:16:17 Construction of buildings.
- 12:02:16:18 Maintenance of permanent buildings.
- 12:02:16:19 Privately owned buildings.
- 12:02:16:20 Taxes.
- 12:02:16:21 Buildings subject to inspection.
- 12:02:16:22 Prices.

12:02:16:23 Access of officials.

12:02:16:24 Noncompliance with health or electrical regulations cause for cancellation of contract.

12:02:16:25 Temporary wiring for carnivals and shows.

12:02:16:06. (Effective through September 3, 1995) Reservations. The manager shall mail reservations for space requests to previous year's exhibitors and concessionaires by February 1. The forms must be completed and returned to the state fair office by March 1.

(Effective September 4, 1995) Reservations-Renewal of space contracts. The manager shall mail ~~reservations~~ applications to renew contracts for space ~~requests~~ to the previous year's exhibitors and concessionaires by ~~February~~ January 1. The forms must be completed and returned to the state fair office by ~~March 1~~ February 1 and must include payment of the first half of space rent.

Source: 2 SDR 74, effective May 18, 1976; 12 SDR 128, 12 SDR 154, effective July 1, 1986; 18 SDR 14, effective July 30, 1991; 21 SDR 213, effective September 4, 1995.

General Authority: SDCL 1-21-10.

Law Implemented: SDCL 1-21-10.

**Example: Addition of a new appendix by amending chapter analysis and a section.
Format for a cover page for the appendix.**

CHAPTER 20:06:13

MEDICARE SUPPLEMENT INSURANCE

Section

- 20:06:13:01 Repealed.
- 20:06:13:02 Definitions.
- 20:06:13:02.01 Requirements for definition of "accident" and similar words in policies.
- 20:06:13:02.02 Requirements for definitions in policies.
- 20:06:13:03 Applicability.
- 20:06:13:04 to 20:06:13:12 Repealed.
- 20:06:13:13 Coverage of sickness -- Other insurance.
- 20:06:13:14 Eligible expenses under Medicare.
- 20:06:13:14.01 Health care expenses defined -- Exclusions.

. . . .

20:06:13:76 Compliance with data requests.

Appendix A Medicare Supplement Refund Calculation Forms.

Appendix B Form for Reporting Medicare Supplement Policies.

Appendix C Notice to Applicant Regarding Replacement of Medicare Supplement Insurance.

Appendix D Outline of Medicare Supplement Coverage Policies Plans A through J.

Appendix E Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare.

20:06:13:31. Notice requirements for policies or certificates that are not Medicare supplement policies. The disclosure notice required by § 20:06:13:30 must be in at least twelve-point type. The notice must be printed on or attached to the first page of the policy, subscriber contract, or certificate or the first page of an outline of coverage under

a policy, subscriber contract, or certificate if an outline is provided at the time of application. The notice must contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CONTRACT). If you are eligible for Medicare, review the 1997 Guide to Health Insurance for People with Medicare available from the company."

Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in § 20:06:13:30 must disclose, using the applicable statement in Appendix E at the end of this chapter, the extent to which the policy duplicates Medicare. Disclosure used by an issuer must be in substantially the same form and in no less than twelve-point type. For purposes of this section, "form" means the language, format, type size, type proportional spacing, bold character, line spacing, and usage of boxes around text. The issuer shall provide the disclosure statement as a part of, or together with, the application for the policy or certificate.

Source: 8 SDR 174, effective July 1, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 143, effective March 29, 1989; 17 SDR 58, effective October 29, 1990; 18 SDR 225, effective July 17, 1992; 22 SDR 107, effective February 18, 1996; 23 SDR 236, effective July 13, 1997.

General Authority: SDCL 58-17A-7.

Law Implemented: SDCL 58-17A-7.

Reference: **1997 Guide to Health Insurance for People With Medicare**, National Association of Insurance Commissioners and Health Care Financing Administration, U.S. Department of Health and Human Services. Free copies may be obtained from the local Social Security or Health Care Financing Administration Office or the Health Care Financing Administration, 6325 Security Boulevard, Baltimore, MD 21207.

DEPARTMENT OF COMMERCE AND REGULATION

DIVISION OF INSURANCE

INSTRUCTIONS FOR USE OF THE DISCLOSURE STATEMENTS
FOR HEALTH INSURANCE POLICIES SOLD TO
MEDICARE BENEFICIARIES THAT DUPLICATE MEDICARE

Chapter 20:06:13

APPENDIX E

SEE: § 20:06:13:31

Source: 22 SDR 107, effective February 18, 1996; 23 SDR 236, effective July 13, 1997.

APPENDIX E

DISCLOSURE STATEMENTS

Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare

1. Federal law, P.L. 103-432, prohibits the sale of a health insurance policy (the term policy or policies includes certificates) that duplicate Medicare benefits unless it will pay benefits without regard to other health coverage and it includes the prescribed disclosure statement on or together with the application.
2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement must be in substantially the same form and in no less than twelve-point type. For purposes of this section, form means the language, format, type size, type proportional spacing, bold character, line spacing, and usage of boxes around text.
3. State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement.
4. Property/casualty and life insurance policies are not considered health insurance.
5. Disability income policies are not considered to provide benefits that duplicate Medicare.
6. The federal law does not preempt state laws that are more stringent than the federal requirements.
7. The federal law does not preempt existing state form filing requirements.