

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1995, each agency shall begin the rulemaking process by 1st filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
R2-5-303 Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 41-763
Implementing statute: A.R.S. § 41-783
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Gordon Carrigan, Human Resources Generalist
Address: Department of Administration
1831 West Jefferson, Room 107
Phoenix, Arizona 85007
Telephone: (602) 542-4784
Fax: (602) 542-2796
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**
The proposed rulemaking establishes a reduction in pay for a voluntary grade decrease in the amounts of 2.5% for a 1-grade decrease, 5.0% for a 2-grade decrease, and 10% for a 3-grades-or-more decrease. The rationale is that if an employee is given a salary commensurate with a position of higher responsibility and then asks to be relieved of that responsibility through a voluntary grade decrease, there shall be a salary adjustment to reflect the lesser responsibility.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
6. **The preliminary summary of the economic, small business, and consumer impact:**
The proposed rulemaking affects state service employees only and will not have an impact on small businesses and consumers. Any financial impact is a budgetary consideration of the agency involved.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Claudia Smith
Communications Unit Manager
Address: Department of Administration
1831 West Jefferson, Room 103
Phoenix, Arizona 85007
Telephone: (602) 542-4894
Fax: (602) 542-2796

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8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:
No public proceeding is scheduled. A person may submit written comments or a written request that an oral proceeding be held on the proposed rule. Request must be submitted by no later than 5 p.m., January 17, 1997, to the person listed above.
9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
10. Incorporations by reference and their location in the rule:
None.
11. The full text of the rules follows:

TITLE 2. ADMINISTRATION

**CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION**

ARTICLE 3. CLASSIFICATION AND COMPENSATION

Section
R2-5-303. Salary Administration

ARTICLE 3. CLASSIFICATION AND COMPENSATION

R2-5-303. Salary Administration

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.
- K. No change.
- L. No change.
- M. No change.
- N. No change.
- O. Voluntary Grade Decrease

- 1. The salary of a permanent status employee who volunteers for a grade decrease shall be ~~decreased by 2.5% for a 1-grade decrease, 5% for a 2-grade decrease, and 10% for a decrease of 3 grades or more the same as that received prior to the decrease,~~ provided that the ~~decreased salary received prior to the voluntary grade decrease~~ does not exceed the maximum salary or fall below the minimum salary of the range to which a voluntary decrease is accepted. If the ~~decreased salary received prior to the voluntary grade decrease~~ would exceed the maximum salary of the range, the employee's salary shall be established at the maximum salary of the grade to which a voluntary grade decrease is accepted.
- 2. The salary of an employee who is promoted within 1 year to the class held prior to the voluntary grade decrease shall be the salary held by the employee at the time of the voluntary grade decrease plus any intervening general adjustment which the employee received.
- 3. The salary of an employee who is promoted to a class other than the class held prior to the voluntary grade decrease shall be set in accordance with subsection (H).
- 4. The salary of an original probationary employee who volunteers for a grade decrease shall be the entrance salary of the new pay grade.

NOTICE OF PROPOSED RULEMAKING

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

PREAMBLE

- | | |
|---|---|
| <p>1. Sections Affected</p> <ul style="list-style-type: none">R10-4-103R10-4-104R10-4-106R10-4-108 | <p>Rulemaking Action</p> <ul style="list-style-type: none">AmendAmendAmendAmend |
| <p>2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</p> <ul style="list-style-type: none">Authorizing statute: A.R.S. § 41-2405Implementing statute: A.R.S. § 41-2407 | |

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3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Rita J. Yorke, Program Manager
Crime Victims Program

Address: Criminal Justice Commission
1501 West Washington, Suite 207
Phoenix, Arizona 85007

Telephone: (602) 542-1928

Fax: (602) 542-4852

4. An explanation of the rule, including the agency's reasons for initiating the rule:

Public Law 104-132, Antiterrorism and Effective Death Penalty Act of 1996 contains provisions which require states, in order to remain eligible for Victim of Crime Act matching funds, to provide compensation and assistance to their state residents, who while outside of the United States become victims of a terrorist act or mass violence. In addition, the Act prohibits states from awarding victim compensation benefits to any person convicted of a federal crime who is delinquent in paying a fine, monetary penalty, or restitution imposed for the offense.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

6. The preliminary summary of the economic, small business, and consumer impact:

The proposed amendment to the Crime Victim Compensation Rules will impact residents of the state of Arizona who, while outside the United States, become victims of a terrorist act or mass violence. Such residents will be eligible for Crime Victim Assistance and Crime Victim Compensation from the state of Arizona. In addition, persons who have been convicted of a federal crime and are delinquent in paying a fine, monetary penalty, or restitution imposed for the offense will be prohibited from receiving Crime Victim Compensation.

Businesses and employers in this state may ultimately benefit from the rule amendment because of the availability of benefits to victims who previously had not been eligible, thus placing the burden of assistance on community resources and community assistance agencies.

Taxpayers will ultimately benefit from the amendment because the availability of additional federal funds, which are derived from fees and fines paid by persons convicted of federal felonious crimes, to compensate state residents who have been victims of international terrorist acts.

Within the Arizona Criminal Justice Commission and the operational units in each county, there will be no significant costs in implementing the additional eligibility.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Rita J. Yorke, Program Manager
Crime Victims Programs

Address: Criminal Justice Commission
1501 West Washington, Suite 207
Phoenix, Arizona 85007

Telephone: (602) 542-1928

Fax: (602) 542-4852

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Commission has not scheduled any oral proceedings on this rulemaking action. The Commission will schedule oral proceedings on the proposed rule amendment or economic impact statement if 5 or more persons submit written requests for such proceedings to the person specified above no later than 5 p.m., January 21, 1997, which is the close of record date.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

10. Incorporations by reference and their location in the rule:

Title 18 (U.S.C.) 2331, incorporated by reference in R10-4-103(3)(b), (d), (e), and (i); R10-4-103(13), (14), and (19), (21)(b) and (D); R10-4-104(D) and (E); R10-4-106(B)(5), (8), (8)(a), (c), (d), (e), (f), (g), and (h); R10-4-108(A)(1), (2), (3), and (4); (B)(1), (2), (3), and (4); and (D)(3)(a) and (b).

11. The full text of the rules follows:

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TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

Section	
R10-4-103.	Definitions
R10-4-104.	Administration of the Fund
R10-4-106.	Operation Unit Requirements
R10-4-108.	Award Criteria

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

R10-4-103. Definitions

In these rules:

1. "Allowable expense" means ~~expenses a cost~~ for which an ~~awards are award~~ authorized pursuant to under these Rules rules and made by an operational unit units to a victims victim, and derivative victims victim, or both for economic loss.
2. "Board" means the Crime Victim Compensation Board for each an operational unit unit's jurisdiction.
3. "Claimant" means any natural person who is legally present in the United States filing a claim pursuant to under these Rules rules and authorized to receive an a compensation award for economic loss because such the person is:
 - a. No change.
 - b. A resident of this state who is injured by an act of international terrorism as defined in 18 U.S.C. 2331.
 - b.c. A derivative victim;
 - d.e. A person authorized to act on behalf of victim, or a person authorized to act on behalf of a dependent of a deceased victim if such victim died as a direct result of the criminally injurious conduct or; an act of intentional terrorism as defined in 18 U.S.C. 2331; or
 - d.e. A person who assumes the obligation or pays the expense directly related to the economic loss incurred as a direct result of the criminally injurious conduct; or an act of international terrorism as defined in 18 U.S.C. 2331.
 - e.f. Claimant does not include:
 - i. The offender, or an accomplice of the offender, or 1 who encouraged or in any way participated in or facilitated the criminally injurious conduct; or an act of international terrorism as defined in 18 U.S.C. 2331.
 - ii. A person serving a sentence of imprisonment in any detention facility, or any person who has escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct; or
 - iii. A person convicted of a federal crime who is delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim program have access to an accurate and efficient criminal debt

- payment tracking system.
4. "Collateral source" means a source of ~~benefits or advantages compensation~~ for economic loss otherwise compensable that the a claimant has received, or that is available to the a claimant, ~~from any of the following sources including:~~
 - a. No change.
 - b. The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of 2 or more states, unless the law providing for the ~~benefits or advantages compensation~~ makes them if excess or secondary to benefits under this Rule rule; specifically excluding those federal funds granted pursuant to under 42 U.S.C. 10602;
 - c. No change.
 - d. No change.
 - e. No change.
 - f. No change.
 - g. Proceeds of a contract of insurance payable to the claimant for loss that he the claimant sustained because of the criminally injurious conduct; or
 - h. No change.
 5. No change.
 6. No change.
 7. No change.
 - a. No change.
 - b. A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to the a relationship in subparagraph (a) subsection (7)(a).
 - c. No change.
 - d. No change.
 - e. No change.
 8. "Economic loss" means ~~economic financial~~ detriment consisting only of medical expenses, mental health counseling and care, work loss, and funeral expenses.
 9. "Extreme Mental Distress" means a substantial personal disorder of emotional processes, thought, or cognition which impairs judgment, behavior, or ability to cope with the ordinary demands of life.
 10. No change.
 11. "Funeral expense" means any reasonable ~~charges charge~~ that are is incurred for ~~expenses directly related to as a direct result of~~ the victim's funeral, cremation, or burial.
 12. "Jurisdiction" means any County county within this State state.
 13. "Medical expense" means ~~expense a cost~~ related to medical care attributable to a physical injury resulting from criminally injurious conduct ~~or an act of international terrorism, as defined in 18 U.S.C. 2331. It includes damage to prosthetic devices or dental devices.~~ It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institutional engaged in providing nursing care and related services in excess of a charge for semi-private accommodations, unless accommodations other than semi-private accommodations are medically required.
 14. "Mental health counseling and care expense" means the ~~expense a cost~~ related to the assessment, diagnosis, and treatment of an individual's mental and emotional func-

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tioning that is required to alleviate extreme mental distress resulting from the criminally injurious conduct or an act of terrorism, as defined in 18 U.S.C. 2331. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a charge for semi-private accommodations, unless accommodations other than semi-private accommodations are medically required.

15. "Operational Unit" means a ~~victim compensation program public or private agency that is authorized or to established~~ establish and operate a crime victim compensation program pursuant to under these Rules rules and State state law.
16. No change.
17. "Property Damage" does not include damage to prosthetic devices or dental devices, which are covered "medical expenses" as defined in (43) ~~above~~ subsection (13).
18. No change.
19. "Terrorism" means an act defined in 18 U.S.C. 2331, 1992 (and no later editions or amendments) which is incorporated by reference and on file with the Commission and the Office of Secretary of State.
- ~~19-20.~~ "Work loss" means ~~loss of a reduction in~~ income from work that the victim would have performed if the victim had not been injured, reduced by minus any income from substitute work performed by the victim, or by income the victim would have earned in available appropriate substitute work that the victim was capable of performing but unreasonably failed to undertake.
- ~~20-21.~~ "Victim" means a person who suffers physical injury, extreme mental distress, or death as a direct result of any of the following:
 - a. No change.
 - b. An act of international terrorism as defined in 18 U.S.C. 2331.
 - ~~b-c.~~ The A good faith effort of any person to prevent criminally injurious conduct; or
 - ~~c-d.~~ The A good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331.

R10-4-104. Administration of the Fund

- A. The Commission shall deposit all ~~funds monies~~ received pursuant to under A.R.S. § Title 12, Chapter 1, Section 12-116.01 and these funds received monies from any federal source for compensating victims of crime in the Victim Compensation Fund.
- B. ~~The Commission shall designate, at the beginning of each state fiscal year, 1 operational unit within a jurisdiction. One operational unit within a jurisdiction shall be annually designated by the Commission to receive an allocation from the Fund.~~
- C. The Commission shall distribute a portion of the Fund to each designated operational unit based on a uniform base amount to be determined annually by the Commission, ~~from staff recommendations derived from the analysis of the prior year expenditure history,~~ with any remaining monies to be divided among jurisdictions on a population basis.
- D. The Commission shall reserve ~~a portion of the Fund in an amount equal to~~ the lesser of \$50,000 or 10% of the Fund to be used in the event of an unforeseen upsurge increase of victimization by criminally injurious conduct or act of international terrorism as defined in 18 U.S.C. 2331, compensation for which cannot be provided by any operational unit.
- E. ~~In such an event, as stated in subsection (D) of this Rule, If there is an unforeseen increase in victimization by criminally~~

injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, the Commission shall allow a claimant to ~~make direct application apply directly~~ to the Commission for compensation based upon criteria ~~required established~~ by R10-4-108.

- F. No change.
- G. No change.

R10-4-106. Operation Unit Requirements

- A. A letter requesting designation ~~as an operational unit and funding~~ by the Commission shall be submitted to the Commission.
- B. ~~In or to~~ To be eligible to receive designation and funding by the Commission as the operational unit for a jurisdiction the a unit must shall agree to; meet the following requirements:
 1. ~~The unit shall not~~ Not use Commission funds or federal funds to supplant ~~these funds~~ otherwise available to the program for crime victim compensation;
 2. ~~The unit, as to criminally injurious conduct occurring within its jurisdiction, shall make~~ Make compensation awards to victims who are non-residents of the jurisdiction or the State state on the same basis as residents of the jurisdiction; ~~for criminally injurious conduct occurring within its jurisdiction;~~
 3. ~~The unit shall provide~~ Provide compensation to victims of criminally injurious conduct occurring within this State state.
 4. ~~The unit shall provide~~ Provide compensation to victims of criminally injurious conduct occurring within ~~such the~~ unit's jurisdictions.
 5. ~~The unit shall provide~~ Provide compensation to residents of the unit's jurisdiction who are victims of criminally injurious conduct ~~which that~~ occurs in another State state, the District of Columbia, Puerto Rico, or in any other possession or territory of the United States ~~which that~~ does not have a crime victim compensation program which that meets the requirements of 42 U.S.C. § 10602(B)(1-6) ~~or of an act if international terrorism as defined in 18 U.S.C. 2331.~~
 6. ~~The unit shall provide~~ Provide notice to the Commission of any changes in the unit's procedures ~~prior to the time such before~~ the changes take effect. If ~~such the~~ changes are of a material nature, ~~such the~~ unit must shall receive prior written approval from the Commission before instituting ~~such the~~ changes;
 7. ~~The unit shall submit~~ Submit a written quarterly report to the Commission ~~detailing that describes in detail~~ its activities under this Rule rule, ~~with emphasis including on~~ the impact that Commission funds had on the unit. ~~Such The~~ report shall also include:
 - a. The amount and each source of revenue for the unit for victim correspondence;
 - b. ~~Claim statistics, including~~ The total number of claims, awards, denials, pending claims, total amount of awards; and the ethnic background, national origin, national origin, handicap, age, and sex of each victim;
 - c. ~~Claim analysis, including the~~ The average amount of all awards; the number and total amount of awards for federal victims and nonresident victims; the number and amount of awards by type of crime; and the number and amount of awards by type of expenses expense, including medical, mental health counseling, dental, work loss, and funeral;
 - d. ~~Analysis of mental health counseling awards by~~ The type of provider for mental health counseling and care awards including psychiatrist, psychologist, rape crisis center, community mental health centers;

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- the number and amounts of awards; and the duration of awards; and
- e. ~~Referral sources to the unit~~ Sources that referred victims to the unit;
 8. ~~The unit shall make~~ Make application forms available to all persons who claim an award as a result of criminally injurious conduct which that occurred within such the unit's jurisdiction or of an act of international terrorism, as defined in 18 U.S.C. 2331. The application form must ~~shall~~, at a minimum, contain the following information:
 - a. The name, address, ethnic background, national origin, age, and sex of the victim or derivative victim of the criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, the name and address of the claimant, and the relationship of the claimant to the victim;
 - b. If the victim is deceased, the name and address of each derivative victim and the extent to which each was dependent upon the victim for financial support;
 - c. The nature of the criminally injurious conduct or act of international terrorism, as defined in 18 U.S.C. 2331, that is the basis for the claim and the date on which the conduct occurred;
 - d. The law enforcement agency or officer to whom the criminally injurious conduct or act of international terrorism, as defined in 18 U.S.C. 2331, was reported;
 - e. The nature and extent of the injuries that the victim sustained from the criminally injurious conduct or act of international terrorism, as defined in 18 U.S.C. 2331, the name and address of any person who gave medical treatment to the victim for the injuries, the name and address of any hospital or similar institution where the victim received medical treatment for the injuries, and whether the victim died as a result of the injuries;
 - f. The economic loss that a victim, a derivative victim, or a claimant sustained as a result of the criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331;
 - g. The amount of benefits or advantages compensation that the victim, a derivative victim, or a claimant has received or is entitled to receive from any collateral source for economic loss that resulted from the criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, and the name of each collateral source;
 - h. ~~An affirmation That~~ that the claimant is not an illegal alien; is not the offender, accomplice, or facilitator; and is not serving or was not serving a sentence of imprisonment in any detention facility; or has not escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough, at the time of the criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331. ~~A unit shall not exclude a person convicted of a federal crime who is delinquent in paying a fine, monetary penalty, or restitution imposed for the offense, from receiving benefits unless the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that entities administering federal victim programs have access to an accurate and efficient criminal debt payment tracking system.~~
 - i. A release authorizing such the unit's investigative agent to obtain any report, document, or information that relates to the determination of the claim for an award of compensation that is requested in the application.
 9. ~~Upon receipt of an application for compensation such unit shall refer the application to such unit's investigative agent. Within 60 days of receipt of the application by the operational unit, except where due cause exists, a decision whether to make an award and, if so, its terms and amount shall be made by the unit's Board based upon the investigative agent's findings, and the applicant shall be informed of the Board's decision in writing, within 5 days of the decision. The unit's Board shall decide, based upon the investigative agent's findings, whether to make an award and, if so, the terms and amount of the award within 60 days of receipt of the application by the operational unit except where due cause exists, the Board shall inform the applicant of the Board's decision in writing within 5 days of the decision.~~
 10. ~~The unit shall comply~~ Comply with all applicable civil rights requirements;
 11. ~~The unit shall assure~~ Ensure the Commission that it will monitor monitors, investigate investigates, and substantiate substantiates each claim for compensation before making and award; and
 12. ~~The unit shall provide~~ Provide such other information and assurances as the Commission may require in order to carry out any of its duties or responsibilities.
- R10-4-108. Award Criteria**
- A. The operational unit shall not make an a compensation award unless it ensures that:
 1. A crime or an act of international terrorism, as defined in 18 U.S.C. 2331, was committed;
 2. Such The crime or an act of international terrorism, as defined in 18 U.S.C. 2331, directly resulted in physical injury to, extreme mental distress to, or death or, the victim;
 3. The crime or an act of international terrorism, as defined in 18 U.S.C. 2331, was reported to the appropriate law enforcement authorities within 72 hours after its discovery unless good cause is shown to justify a delay; and
 4. The application for an a compensation award was submitted to the operational unit with 1 year of the discovery of the crime or act of international terrorism, as defined in 18 U.S.C. 2331, unless good cause is shown to justify a delay.
 - B. The operational unit shall make compensation awards from the Fund only for the following:
 1. Medical expenses attributable to a victim's physical injury or death resulting from criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331;
 2. Work loss attributable to a victim's physical injury, extreme mental distress, or death resulting from criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, provided such the compensation award does not exceed an amount equal to 40 hours per week at the current federal minimum wage standard; or the maximum allowable per R10-4-108(C)(1); under subsection (C)(1) and shall be awarded as a portion of the maximum award. An A compensation award for work loss attributable to a victim's death resulting from criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, may be made to a surviving spouse, child, sibling, or parent of the victim if the Board determines the death resulted in a loss

of support from the victim to the spouse, child, sibling, or parent provided ~~such an~~ the award does not exceed an amount equal to 40 hours per week at the current federal minimum wage standard; the maximum allowable per ~~R10-4-108(C)(1)~~ under subsection (C)(1); and shall be awarded as a portion of the maximum award. An award to the parent or guardian of a minor victim may be made for work loss attributable to transporting or accompanying the victim to a medical or mental health counseling and care visit, provided the award does not exceed an amount equal to 40 hours per month at the current federal minimum wage standard and the maximum allowable per ~~R10-4-108(C)(1)~~ under subsection (C)(1), and shall be awarded as a portion of the maximum award.

3. Funeral expenses attributable to a victim's death resulting from criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, provided ~~such the compensation~~ award does not exceed \$2,500; and
 4. Mental health counseling and care expenses attributable to a victim's or derivative victim's extreme mental distress resulting from criminally injurious conduct or an act of terrorism, as defined in 18 U.S.C. 2331, provided ~~such the~~ counseling and care ~~shall~~ does not exceed a 12-month period starting with the 1st treatment. Mental health counseling and care for derivative victims shall be included as a portion of the maximum award.
- C. The ~~operational unit Board~~ shall not fund ~~an a~~ compensation award to the extent that it exceeds:
1. Ten thousand dollars in the aggregate for ~~any a~~ victim, or ~~any the~~ victim's dependents in the case of death; and
 2. The amount existing in the Fund and not committed to other compensation awards, at the time the Board makes the compensation award determination.
- D. ~~The Board shall deny or reduce an Awards award to a claimant from any operational unit shall be denied or reduced to the extent that:~~
1. No change.
 2. The degree of responsibility for the cause of the injury or death was attributable to the victim either through negligence or through intentional or knowing unlawful con-

duct, ~~which that~~ substantially provoked or aggravated the incident giving rise to the injury;

3. The claimant has not fully cooperated with appropriate law enforcement agencies. In determining the extent of ~~such any~~ non-cooperation the following criteria shall be used:
 - a. If the claimant failed to ~~prosecute assist in the prosecution~~ of a person who engaged in criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, or failed to appear as a witness, the claim for ~~an a~~ compensation award shall be denied;
 - b. If the claimant initially decided not to prosecute but subsequently decided to prosecute and this causes a person who engaged in criminally injurious conduct or an act of international terrorism, as defined in 18 U.S.C. 2331, to escape prosecution or directly negatively affects the prosecution, the claim for ~~an a~~ compensation award shall be denied;
 - c. If law enforcement authorities indicate that the claimant was reluctant to give information pertaining to the claim, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities, the award ~~may shall~~ be reduced or denied;
 - d. If the claimant can demonstrate that the failure to cooperate was due to a compelling health or safety risk, the ~~operational unit Board may shall~~ make a full award.
- E. ~~In the event of an insufficiency of~~ If there are insufficient funds in a given year, an otherwise valid claim the Board may be denied deny or extend an otherwise valid claim it may be extended for consideration in the next fiscal year.
- F. The ~~operational unit Board~~ shall not fund compensation awards for property damage.
- G. No change.
- H. The ~~operational unit may use funds may be used~~ to pay administrative costs to the extent authorized by the Commission.
- I. No change.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

- | | |
|-----------------------------|--------------------------|
| 1. Sections Affected | Rulemaking Action |
| R20-5-601 | Amend |
| R20-5-602 | Amend |
| R20-5-603 | Amend |
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
- Authorizing statute: A.R.S. § 23-405(4)
- Implementing statute: A.R.S. § 23-410

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3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Cathy Neville, Assistant Director
Division of Occupational Safety and Health

Address: Industrial Commission of Arizona
800 West Washington, Suite 203
Phoenix, Arizona 85007

Telephone: (602) 542-1695

Fax: (602) 542-1614

4. An explanation of the rule, including the agency's reasons for initiating the rule:

R20-5-601 requires change to incorporate amendments to a number of various Sections of the construction standards as published in 61 FR 9228-9255, March 7, 1996, amendments for the consolidation of repetitive provisions as published in 61 FR 31427-31434, June 20, 1996, amendments for the incorporation of general industry health and safety standards applicable to construction work as published in 61 FR 41738, August 12, 1996, amendments for occupational exposure to asbestos, tremolite, anthophyllite, and actinolite as published in 61 43454-43459, August 23, 1996, amendments to the safety standards for scaffolds used in the construction industry as published in 61 FR 46026-46131, August 30, 1996.

R20-5-602 requires change to incorporate amendments to a number of various Sections of the general industry standards as published in 61 FR 9228-9255, March 7, 1996, amendments to the standards for grain handling facilities for general industry as published in 61 FR 9578-9584, March 8, 1996, amendments pertaining to personal protective equipment for general industry as published in 61 FR 19547-19548, May 2, 1996, and 61 FR 21228, May 9, 1996, and amendments for occupational exposure to asbestos, tremolite, anthophyllite, and actinolite as published in 61 FR 43454-43459, August 23, 1996.

R20-5-603 requires change to incorporate amendments to a number of various Sections of the agricultural standards as published in 61 FR 9228-9255, March 7, 1996.

Under its approved state program enforcing the Occupational Safety and Health Act, the state must adopt standards that are at least as effective as those adopted by the U.S. Department of Labor. Therefore, the Industrial Commission updates its occupation safety and health standards by adopting by reference the most current and applicable federal occupational safety and health standards for the construction and general industry.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

6. The preliminary summary of the economic, small business, and consumer impact:

The Federal Occupational Safety and Health Administration has determined that these amendments will have minimal to modest impact for most affected industry groups and has determined the amendments to be economically feasible. Cost and benefit analysis of these amendments is available for inspection, review, and copying at the Industrial Commission of Arizona, Division of Occupational Safety and Health, 800 West Washington Street, Phoenix, Arizona 85007.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Cathy Neville, Assistant Director
Division of Occupational Safety and Health

Address: Industrial Commission of Arizona
800 West Washington Street
Phoenix, Arizona 85007

Telephone: (602) 542-1695

Fax: (602) 542-1614

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: January 30, 1997

Time: 9:30 a.m.

Location: Industrial Commission of Arizona
800 West Washington Street
Phoenix, Arizona 85007

Nature: Oral Proceeding

Written comments may be submitted on or before 9:30 a.m., January 30, 1997.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

Arizona Administrative Register
Notices of Proposed Rulemaking

10. Incorporations by reference and their location in the rule:

29 CFR 1926, Federal Occupational Safety and Health Standards for the Construction Industry, with amendments as of August 30, 1996. This incorporation by reference will appear in R20-5-601.

29 CFR 1910, Federal Occupational Safety and Health Standards for General Industry, with amendments as of August 23, 1996. This incorporation by reference will appear in R20-5-602.

29 CFR 1928, Federal Occupational Safety and Health Standards for Agriculture, with amendments as of March 7, 1996. This incorporation by reference will appear in R20-5-603.

11. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH
CONSTRUCTION STANDARDS**

Section

- R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926
- R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910
- R20-5-603. The Federal Occupational Safety and Health Standards for Agriculture, 29 CFR 1928

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH
CONSTRUCTION STANDARDS**

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

Each employer shall comply with the standards in the federal Occupational Safety and Health Standards for Construction, as published in 29 CFR 1926, with amendments as of ~~September 29, 1995~~ August 30, 1996, incorporated by reference and on file with the Office of the Secretary of State. Copies of these referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after ~~September 29, 1995~~ August 30, 1996.

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

- A. Each employer shall comply with the standards in Subparts C through Z inclusive of the federal Occupational Safety and

Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of ~~October 11, 1995~~ August 23, 1996, incorporated by reference and on file with the Office of the Secretary of State. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to general industry activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after ~~October 11, 1995~~ August 23, 1996.

- B. No change.
C. No change.
D. No change.

R20-5-603. The Federal Occupational Safety and Health Standards for Agriculture, 29 CFR 1928

Each employer pursuant to ~~A.R.S. § 23-403(B)~~ shall comply with the standards enumerated in Subpart A through D inclusive of the federal Occupational Safety and Health Standards for Agriculture, as published in 29 CFR 1928, with amendments ~~up to and including (but not including any later amendments or editions) October 12, 1994, as of March 7, 1996~~, incorporated herein by reference and on file with the Office of the Secretary of State. Copies of these referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. This incorporation by reference does not include amendments or editions to 29 CFR 1928 published after March 7, 1996.