

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

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 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

1.

<u>Section Affected</u> R20-5-601 R20-5-602	<u>Rulemaking Action</u> Amend Amend
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2. The statutory 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

3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Cathy Neville, Assistant Director

Address: Industrial Commission of Arizona
Division of Occupational Safety and Health
800 West Washington Street, 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 the respiratory protection standards (29 CFR 1926.103) of the construction standards as published in 63 FR 1152-1300 on January 8, 1998.

R20-5-602 requires change to incorporate amendments to the respiratory protection standards (29 CFR 1910.134) of the general industry standards as published in 63 FR 1152-1300 on January 8, 1998.

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 occupational 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 to the standards are programmatic in nature, reflects current practice at many facilities, and do not require the use of new technology. Thus, they find that the standard is clearly technologically feasible for affected firms of all sizes. Cost and benefit analysis of these amendments are 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.

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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
Address: Industrial Commission of Arizona
Division of Occupational Safety and Health
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:**

An oral proceeding has been scheduled as follows:

Date: June 4, 1998
Time: 9:30 a.m.
Location: Industrial Commission of Arizona
3rd Floor Conference Room
800 West Washington Street
Phoenix, Arizona 85007

Written comments may be submitted on or before 9:30 a.m., June 4, 1998.

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. **Incorporation by reference and their location in the rules:**

29 CFR 1926, *Federal Occupational Safety and Health Standards for the Construction Industry*, with amendments as of January 8, 1998. This incorporation by reference will appear in A.A.C. R20-5-601.

29 CFR 1910, *Federal Occupational Safety and Health Standards for General Industry*, with amendments as of January 8, 1998. This incorporation by reference will appear in A.A.C. R20-5-602.

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

**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 enumerated in the *Federal Occupational Safety and Health Standards for Construction*, as published in 29 CFR 1926, with amendments as of January 8, 1998~~January 10, 1997~~, 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 January 8, 1998~~January 10, 1997~~.

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 January 8, 1998~~January 10, 1997~~, 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 January 8, 1998~~January 10, 1997~~.
- B. No change.
C. No change.
D. No change.