

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. 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* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

1. **Sections Affected**

R20-5-601	<u>Rulemaking Action</u>
R20-5-602	Amend
	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
3. **The effective date of the rules:**

August 27, 1998
4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 4 A.A.R. 752, March 20, 1998
Notice of Proposed Rulemaking: 4 A.A.R. 954, April 24, 1998
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Cathy Neville
Address: Division of Occupational Safety and Health
Industrial Commission of Arizona
800 West Washington Street, Suite 203
Phoenix, Arizona 85007
6. **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 (20 CFR 101-134) 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.
7. **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.
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 Federal Occupational Safety and Health Administration has determined that these amendments to the standards are programmatic in nature, reflect current practice at many facilities, and do not require the use of new technology. They find that the standard is clearly technologically feasible for affected firms of all sizes. The greatest costs will be in employee refresher training and fit testing and will largely depend on the extensiveness of respirator use in affected establishments. 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.

Arizona Administrative Register

Notices of Final Rulemaking

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Changes made as a result of comments from the Secretary of State's Office included ensuring all appropriate questions are answered and to delete A.A.C. from in front of the Section numbers and provide the Section heading. Changes were minor and not substantive in nature.

10. A summary of the principle comments and the agency response to them:

None.

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

Not applicable.

12. 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.

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rule 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 edi-

tions 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 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 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.