

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* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *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**
R20-5-629
- Rulemaking Action**
Amend
- 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 effective date of the rules:**
February 19, 2003. To better preserve the safety and health of employees throughout the state of Arizona, the Division is proposing an immediate effective date.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 3259, August 2, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 3289, August 9, 2002
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Patrick Ryan
Address: Division of Occupational Safety and Health
Industrial Commission of Arizona
800 W. Washington, Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1695
Fax: (602) 542-1614
E-mail: pat.ryan@osha.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Division of Occupational Safety and Health (ADOSH) is amending R20-5-629 in order to conform with the Federal Occupational Safety and Health Administration's recent changes to 29 CFR 1904. ADOSH / OSHA is revising the hearing loss recording provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule published January 19, 2001 (66 FR 5916-6135), effective January 1, 2003 (66 FR 52031-52034). This rulemaking revises the criteria for recording hearing loss cases in several ways, including requiring the recording of Standard Threshold Shifts (10 dB shifts in hearing acuity) that have resulted in a total 25 dB level of hearing above audiometric zero, averaged over the frequencies at 2000, 3000, and 4000 Hz, beginning in year 2003. Copies of the material are available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 W. Washington, Room 203, Phoenix, AZ 85007, and can be downloaded from the Federal OSHA web site (www.osha.gov).
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None

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8. 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

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

The Arizona Division of Occupational Safety and Health has determined that these revisions to the Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904, will have little to no impact for affected industry groups and has determined the revisions to be economically feasible for all industries including small business. 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 W. Washington, Phoenix, AZ 85007.

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

The agency made minor, non-substantial syntactical and grammatical changes upon recommendation by the Governor's Regulatory Review Council staff.

11. A summary of the comments made regarding the rule and the agency's response to them:

The Division received one written comment from Mr. Dennis M. Leonard, of Kiewit Western Co., concerning the effective date of the rulemaking. Because Kiewit Western Co. has operations throughout the nation, Mr. Leonard feels it would be best to have the same effective date for all areas of their operations. The Division agrees with Mr. Leonard and therefore proposes that this rulemaking become effective immediately.

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

Not applicable

13. Incorporations by reference and their location in the rules:

Occupational Injury and Illness Recording and Reporting Requirements, as published in 29 CFR 1904, with amendments as of July 1, 2002, in R20-5-629

14. Was this rule previously made as an emergency rule?

No

15. 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

R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904.

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH CONSTRUCTION STANDARDS

R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904.

All employers, both public and private, shall comply with the Occupational Injury and Illness Recording and Reporting Requirements, published in 29 CFR 1904, as amended July 1, 2002 ~~published January 19, 2001~~, incorporated by reference and on file with the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. Copies of the 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.