

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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 40. DEPARTMENT OF VETERANS' SERVICES ARIZONA STATE VETERAN HOME

[R08-191]

PREAMBLE

- 1. Sections Affected**
R4-40-301
- Rulemaking Action**
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statutes: A.R.S. § 41-603
Implementing statutes: A.R.S. § 41-603.01
- 3. The effective date of the rules:**
August 2, 2008
- 4. A list of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 13 A.A.R. 1987, June 8, 2007
Notice of Proposed Rulemaking: 14 A.A.R. 190, January 18, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Gabriel M. Forsberg, Plans and Development Manager
Department of Veterans' Services
Address: 3839 N. Third St., Suite 108
Phoenix, AZ 85012
Telephone: (602) 234-8431
Fax: (602) 297-6691
E-mail: gforsberg@azdvs.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Arizona Department of Veterans' Services rules were amended in September 2004. Since that time, there are two minor changes that are necessary:
 1. The web site has been changed for the agency (www.azdvs.gov) and needs to be updated in the rules.
 2. Applicants seeking admission to the Arizona State Veteran Home frequently do not have their military separation documents available. In those instances, the Admission Coordinator can establish the applicant's eligibility by verifying that the individual has been treated as an inpatient or outpatient by the US Department of Veterans Affairs (VA). Evidence of treatment at federal hospitals or outpatient facilities administered by the US Department of Veterans Affairs is accepted as evidence of veteran status. The proposed change will reflect acceptance of this type of documentation.

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7. **A reference to any study relevant to the rule that the agency reviewed and either relied on 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:**
Not applicable
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:**
It is anticipated that the private sector, including small businesses, and political subdivisions will not be economically impacted as the proposed rule language changes are intended to align and clarify the existing rules to current practice. The agency anticipates that there will be a minor cost associated with the time required by the Strategic Planner to promulgate the rules.
10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
A clarification of R4-40-301(C) was recommended, but the intent remained unchanged. There were no supplemental notices filed.
11. **A summary of the comments made regarding the rule and the agency response to them:**
A verbal commend was received by an agency employee to modify the proposed language for R4-40-301(C) for clarification. The sentence was revised, but there was no substantive change.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None are applicable
13. **Incorporations by reference and their location in the rules:**
Not applicable
14. **Was this rule previously made as an emergency rule?**
No
15. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 40. DEPARTMENT OF VETERANS' SERVICES
ARIZONA STATE VETERAN HOME

ARTICLE 3. APPLICATION AND ADMISSION PROCESS

Section
R4-40-301. Application

ARTICLE 3. APPLICATION AND ADMISSION PROCESS

R4-40-301. Application

- A. An applicant or legal representative shall apply for admission to ASVH by submitting a completed ASVH application to the admissions coordinator. If both a veteran and the veteran's spouse are applying for admission, both shall file separate applications. An application may be obtained from the ASVH at 4141 N. Third Street St., Phoenix, AZ 85012, telephone number (602) 248-1550, or from the agency web site at ~~www.azvets.com~~ www.azdvs.gov.
- B. In addition to the ASVH application required under subsection (A), an applicant or legal representative shall submit the following:
 1. Information regarding the applicant's ability to participate in daily living activities and the applicant's psychosocial behavior. The information may be provided through either of the following:
 - a. A functional questionnaire form provided by ASVH that is completed by the applicant or family member, or
 - b. The equivalent medical information provided by a health care provider;
 2. A completed applicant's financial information statement on a form provided by ASVH;
 3. A completed physician's statement by the applicant's physician on a form provided by ASVH or equivalent medical information;
 4. A copy of the veteran's discharge document from the United States military, a certified copy of the separation or discharge document issued by the National Personnel Records Center, or a Statement of Service issued by the VA Regional Office; which includes Form DD214, Form DD215, the Statement of Service issued by the National Person-

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~~nel Records Center, or equivalent separation of service document;~~

5. If requested by the director of nursing, a copy of medical records that assist in determining the level of care required by the applicant. Medical records may include physician's records, nurses' notes, test results, and medication records; and
 6. Evidence of freedom from infectious pulmonary tuberculosis as specified by A.A.C. R9-10-908(6).
- C. Evidence of treatment at a VA Medical Center will satisfy the requirement in (B)(4) of this Section.**

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R08-200]

PREAMBLE

- 1. Sections Affected**

R20-5-601	<u>Rulemaking Action</u>
R20-5-602	Amend
	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:**

June 17, 2008

The effective date of this final rule package will be the date it is filed with the Secretary of State according to A.R.S. § 41-1032. The new changes to the rule directly effects the health and safety of those employees working in the state of Arizona who are required to use personal protective equipment to protect themselves from work place hazards that could cause serious injury or death. This new rule requires the employer to pay the cost of required personal protective equipment and the issue of non-compliance with the use of personal protective equipment due to cost will not be a factor. These new rules will further help to reduce the numbers of deaths and injuries associated with not wearing personal protective equipment due to cost.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 4333, December 7, 2007
Notice of Proposed Rulemaking: 14 A.A.R.163, January 11, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	William M. Wright
Address:	Division of Occupational Safety and Health Industrial Commission of Arizona 800 W. Washington St., Suite 203 Phoenix, AZ 85007
Telephone:	(602) 542-1695
Fax:	(602) 542-1614
E-mail:	wright.william.m@dol.gov
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**

In order to conform to the Federal Occupational Safety and Health Standards as required by Section 18(c) of the Federal Occupational Safety and Health Act of 1970 requiring state administered occupational safety and health programs to adopt standards that are at least as effective as those adopted by the U.S. Department of Labor, The Industrial Commission is amending R20-5-601 and R20-5-602 by adopting amendments to Subpart E, of 29 CFR 1926.95 and Subpart I. of 29 CFR 1910.132, Personal Protective Equipment, as published in 72 FR 64341 – 64430, November 15, 2007. These rules revise the existing Personal Protective Equipment standards by clarifying who is responsible for payment of required personal protective equipment. In this rulemaking, ADOSH will require employers to pay for provided personal protective equipment, with exceptions for specific items outlined in the amendment. The rule does not require employers to provide personal protective equipment where none has been required before. ADOSH believes that when personal protective equipment is provided by the employer at no cost to the employee,

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the correct personal protective equipment will be utilized; the employee will be more inclined to use the personal protective equipment, which will improve the safety culture at the work site and will reduce accidents that could cause serious injuries and/or death.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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

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 Federal Occupational Safety and Health Administration have determined that these amendments will have minimal financial impact on the general industry and construction sector(s) and has determined the amendments to be economically feasible for all industries including small business. 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 W. Washington St., Phoenix, AZ 85007.

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

None

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

The Arizona Division of Occupational Safety and Health did not receive any written or oral comments concerning this rule.

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

None

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

CFR 1910 Federal Occupational Safety and Health Standards for Construction with amendments as of November 15, 2008. This incorporation by reference will appear in A.A.C. R20-5-601.

CFR 1926 Federal Occupational Safety and Health Standards for the General Industry with Amendments as of November 15, 2008. This incorporation by reference will appear in A.A.C. R20-5-602.

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

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH 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 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 ~~August 24, 2006~~, November 15, 2007, incorporated by reference. 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 ~~August 24, 2006~~, November 15, 2007.

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

Each employer shall comply with the standards in Subparts B through Z inclusive of the Federal Occupational Safety and

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Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of ~~February 14, 2007~~, November 15, 2007, incorporated by reference. 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; provided that this rule shall not apply to those conditions and practices which are the subject of rule R20-5-601. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after ~~February 14, 2007~~, November 15, 2007.