

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first 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. 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 making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 17. TRANSPORTATION

#### CHAPTER 1. DEPARTMENT OF TRANSPORTATION ADMINISTRATION

#### PREAMBLE

- 1. Sections Affected:** **Rulemaking Action:**  
R17-1-104 New Section
- 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. § 28-366  
Implementing statute: A.R.S. § 41-1023
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 8 A.A.R. 3485, August 9, 2002 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	George R. Pavia, Department Rules Supervisor
Address:	Administrative Rules Unit Department of Transportation, Mail Drop 507M 3737 N. 7th Street, Suite 160 Phoenix, AZ 85014-5079
Telephone:	(602) 712-8446
Fax:	(602) 241-1624
E-mail:	gpavia@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.dot.state.az.us/about/rules/index.htm](http://www.dot.state.az.us/about/rules/index.htm).
- 5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**  
The Department makes this Section to provide guidelines for public participation in agency rulemaking oral proceedings. This is a new rulemaking that does not arise from a five-year rule review previously submitted to the Governor's Regulatory Review Council.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**  
The agency will not rely on any study in this rulemaking.

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**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 preliminary summary of the economic, small business, and consumer impact:**

This rulemaking will have negligible economic impact. The only cost is the minimal cost of rulemaking. Benefits are to the agency itself and to potential public participants in any agency rulemaking oral proceeding. The benefits are:

1. Clarity and specificity of oral proceeding protocol,
2. Reduction in confusion or misunderstanding by participants, and
3. Assurance to the public that the agency fully complies A.R.S. § 41-1023 in conducting an oral proceeding.

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

A concerned person may communicate with the official listed in preamble item #4 concerning the economic impact statement.

**10. The time, place, and nature of the proceedings for the making, 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 oral proceeding is scheduled in this rulemaking. A person may request for an oral proceeding in writing to the agency official listed in preamble item #4. If no oral proceeding is requested, the public record in this rulemaking will close at 4:30 p.m. on Friday, September 13, 2002.

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

None

**13. The full text of the rules follows:**

**TITLE 17. TRANSPORTATION**

**CHAPTER 1. DEPARTMENT OF TRANSPORTATION**

**ADMINISTRATION**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R17-1-104. Rulemaking Oral Proceeding

**ARTICLE 1. GENERAL PROVISIONS**

**R17-1-104. Rulemaking Oral Proceeding**

**A. Public request for an oral proceeding: Department action.**

1. A person may request an oral proceeding as prescribed under A.R.S. § 41-1023(C) by submitting the following information in writing to the agency official identified in a proposed rule's preamble:
  - a. Identification of the specific proposed rule for oral proceeding by Section number and Title heading; and
  - b. Requestor information:
    - i. Name;
    - ii. Address;
    - iii. Applicable occupational title;
    - iv. Applicable entity represented; and
    - v. Telephone number during regular state business hours.
2. The Department shall take action on a request for an oral proceeding under this Section by:
  - a. Scheduling the oral proceeding no earlier than 30 days after publication of its notice in the Arizona Administrative Register as required under A.R.S. § 41-1023(D); and
  - b. Posting public notice of each scheduled oral proceeding on the ADOT Administrative Rules Unit web site, [www.dot.state.az.us/about/rules/index.htm](http://www.dot.state.az.us/about/rules/index.htm).

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**B. Oral proceeding protocol.**

1. In addition to a date set under subsection (A)(2), the Department shall determine an oral proceeding's:
  - a. Time;
  - b. Location;
  - c. Maximum duration; and
  - d. Recording medium.
2. Before the beginning of an oral proceeding, a public participant shall submit to the Department the following written information:
  - a. Name;
  - b. Applicable occupational title;
  - c. Applicable entity represented;
  - d. Any Article, Section, or subsection of the proposed rule the participant intends to address; and
  - e. A brief summary of intended comment during the proceeding.
3. A public participant may read comments in the form of a written statement during the proceeding.
4. During an oral proceeding the Department's presiding officer shall:
  - a. Conduct the proceeding in an informal manner to meet requirements of A.R.S. § 41-1023(D) and (E);
  - b. Allow reasonable time for presentation of each public comment and agency response within the limits of the proceeding's scheduled duration;
  - c. Restrict any repetitious comment to a participant's statement of agreement with the original comment presenter based on comment summaries submitted as prescribed under (B)(2)(e); and
  - d. Read into the record as closing remarks any known rulemaking steps the Department intends to take after the oral proceeding.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**PREAMBLE**

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|---|--|
| <b><u>1. Sections Affected</u></b><br>R20-5-629 | <b><u>Rulemaking Action</u></b><br>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. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 8 A.A.R. 3259, August 2, 2002
- 4. 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<br>Industrial Commission of Arizona<br>800 W. Washington, Suite 203<br>Phoenix, AZ 85007 |
| Telephone: | (602) 542-1695  |
| Fax:       | (602) 542-1614  |
| E-mail:    | pat.ryan@osha.gov   |
- 5. 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

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published January 19, 2001 (66 FR 5916-6135), scheduled to take effect on January 1, 2003 (66 FR 52031-52034). This final rule 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](http://www.osha.gov).

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**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 preliminary summary of the economic, small business, and consumer impact:**

The Federal Occupational Safety and Health Administration has determined that these revisions to the occupational injury and illness recording and reporting requirements 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 is available for inspection, review, and copying at the Industrial Commission of Arizona, Division of Occupational Safety and Health, 800 W. Washington, Phoenix, AZ 85007.

**9. 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: 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](mailto:pat.ryan@osha.gov)

**10. The time, place, and nature of the proceedings for the making, 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: September 12, 2002  
Time: 9:00 a.m.  
Location: Hearing Room A  
Industrial Commission of Arizona  
800 W. Washington  
Phoenix, AZ 85007

Written comments may be submitted on or before 9:00 a.m., September 12, 2002.

**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:**

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

**13. 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, as published in 29 CFR 1904, ~~published January 19, 2001, with amendments as of July 1, 2002,~~ 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.