

## 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 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

#### CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R06-164]

#### PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R20-5-601                          | Amend                           |
| R20-5-602                          | 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. A list of all previous notices appearing in the *Register* addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 1346, April 21, 2006  
Notice of Rulemaking Docket Opening: 12 A.A.R. 1347, April 21, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: William M. Wright, Assistant Director  
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
- 5. An explanation of the rule, including the agency's reasons 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. R20-5-601 is amending the rule to incorporate by reference the deletion of § 1926.754(c)(3), Slip Resistance of Skeletal Structural Steel, and Appendix B to subpart R, Steel Erection, as published in 71 FR 2879-2885, January 18, 2006. Due to unavailable technology, OSHA deleted the referenced provision. The Industrial Commission of Arizona is also amending R20-5-601 and R20-5-602 by adopting Subpart Z, Toxic and Hazardous Substances as published in 71 FR 10099-10385, February 28, 2006. OSHA amended the existing standard, which limits occupational exposure to hexavalent chromium. The permissible exposure limit established by rule reduces the significant risk posed to workers exposure to hexavalent chromium. The rule also contains ancillary provisions for worker protection such as requirements for exposure determination, respiratory protection, protective clothing and equipment, hygiene areas and practices, medical surveillance, recordkeeping, and start-up dates that include four years for the implementation of engineering controls to meet permissible exposure limits.

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**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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

**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 amendments will have little impact for the construction and general industry sectors as a whole 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.

**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: William M. Wright, Assistant Director  
Address: Industrial Commission of Arizona  
Division of Occupational Safety and Health  
800 W. Washington St., Suite 203  
Phoenix, AZ 85007  
Telephone: (602) 542-1695  
Fax: (602) 542-1614  
E-mail: wright.william.m@dol.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: June 28, 2006  
Time: 9:00 a.m.  
Location: Hearing Room A, first floor  
Industrial Commission of Arizona  
800 W. Washington St.  
Phoenix, AZ 85007

Written comments may be submitted on or before 9:00 a.m., June 28, 2006

**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:**

29 CFR 1926 The Federal Occupational Safety and Health Standards for Construction and 29 CFR 1910 The Federal Safety and Health Standards for General Industry, with amendments as of February 28, 2006. This incorporation by reference will appear in R20-5-601 and R20-5-602.

**13. 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, published in 29 CFR 1926 with amendments as of ~~September 12, 2002~~, February 28, 2006, 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 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 ~~September 12, 2002~~, February 28, 2006.

**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 Health Standards for General Industry*, as published in 29 CFR 1910, with amendments as of ~~February 17, 2004~~, February 28, 2006, 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 the 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 17, 2004~~, February 28, 2006.