

## 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

[R08-249]

#### PREAMBLE

- 1. Sections Affected**  
R20-5-101
- Rulemaking Action**  
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. §§ 41-1003; 23-107(A)(1); 23-921  
Implementing statute: A.R.S. §§ 23-907 (H), (I), and (J)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 14 A.A.R. 1145, April 11, 2008
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Nancy O. Johnson, Attorney  
Legal Division  
Address: Industrial Commission of Arizona  
800 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 542-5948  
Fax: (602) 542-6783  
E-mail: njohnson@ica.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
A.R.S. §§ 23-907 (H), (I), and (J) allows employers who have been assessed a fine for failing to have workers' compensation insurance to request a hearing before an Administrative Law Judge. Those hearings have historically been held using the procedure specified in A.A.C. Title 20, Chapter 5, Article 1. This rulemaking is being initiated to amend R20-5-101 to specifically include hearings under A.R.S. §§ 23-907 (H), (I), and (J).
- 6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, 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 authority of a political subdivision of this state:**  
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**  
Annual costs/revenues changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues.  
The Commission will bear minimal to moderate costs for promulgating and enforcing the rules. Costs for promulgating the rules include staff time to write, review, and direct the rules through the rulemaking process.

Notices of Proposed Rulemaking

As hearings under A.R.S. §§ 23-907 (H), (I), and (J) have historically been held using the procedures in A.A.C. Title 20, Chapter 5, Article 1, and this amendment merely codifies procedures already in place this amendment will not have any additional economic impact.

**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: Nancy O. Johnson, Attorney  
Legal Division  
Address: Industrial Commission of Arizona  
800 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 542-5948  
Fax: (602) 542-6783  
E-mail: njohnson@ica.state.az.us

**10. 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 ICA has scheduled an oral proceeding on the proposed rulemaking:

Date: Tuesday, September 16, 2008  
Location: 800 W. Washington St., Room 305  
Phoenix, AZ 85007  
Time: 2:00 p.m.

The close of record is Tuesday, September 16, 2008, 5:00 p.m.

A person may also submit written comments on the proposed rules no later than 5:00 p.m., Tuesday, September 16, 2008, to the individual listed in items 4 and 9.

**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:**

None

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

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 1. WORKERS' COMPENSATION PRACTICE AND PROCEDURE**

Section

R20-5-101. Application of the Article; Notice of Rules; Part of Record; Effective Date

**ARTICLE 1. WORKERS' COMPENSATION PRACTICE AND PROCEDURE**

**R20-5-101. Application of the Article; Notice of Rules; Part of Record; Effective Date**

- A.** This Article applies to all actions and proceedings before the Commission resulting from:
1. Injuries that occurred on or after January 1, 1969; ~~and~~
  2. Petitions to Reopen or Petitions for Readjustment or Rearrangement of Compensation filed on or after that date; ~~and~~
  3. Requests for hearing under A.R.S. §§ 23-907 (H), (I), and (J).
- B.** This Article is part of the record in each action or proceeding without ~~formal introduction of or~~ reference to the Article.
- C.** The Commission deems all parties to have knowledge of this Article.
- D.** The Commission shall provide a copy of this Article upon request to any person free of charge.
- E.** ~~This article is effective as provided in A.R.S. § 41-1031.~~