

---

---

**NOTICES OF PROPOSED RULEMAKING**

---

---

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, 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)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

---

---

**NOTICE OF PROPOSED RULEMAKING**

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

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

[R15-144]

**PREAMBLE**

- |   |                                 |
|---|---------------------------------|
| <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R20-5-601   | Amend                           |
| R20-5-602   | Amend                           |
- 2. Citations to agency’s statutory rulemaking authority to include the authorizing statute and the implementing statute:**  
 Authorizing statute: A.R.S. § 23-405(4)  
 Implementing statute: A.R.S. § 23-410
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
 Notice of Rulemaking Docket Opening: 21 A.A.R. 2493, October 23, 2015 (*in this issue*)
- 4. The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Larry Gast, ADOSH Assistant Director  
 Address: Industrial Commission of Arizona  
 800 W. Washington St., Suite 203  
 Phoenix, AZ 85007  
 Telephone: (602) 542-1695  
 Fax: (602) 542-1614  
 E-mail: Larry.Gast@azdosh.gov
- 5. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Industrial Commission of Arizona is amending the rules relating to safety standards in construction and general industry to incorporate by reference recent final federal rules. The Arizona Division of Occupational Safety and Health (ADOSH), part of the Industrial Commission of Arizona, is required to adopt standards that are at least as effective as those adopted by federal OSHA (the U.S. Department of Labor). The amendments apply to updating occupational safety and health standards for head protection and cranes and derricks in construction, broaden the digger derrick exemption in the construction standards for cranes and derricks, and to electric power generation, transmission, and distribution in both construction and general industry.

The amendments to the federal safety standards relating to head protection update references to the American National Standard for Industrial Head Protection (“ANSI Z89-1”) as published in the *Federal Register* at 77 FR 37587-37600, June 22, 2012. The federal final rule became effective on September 20, 2012. The amendments are intended to improve and provide worker safety at places of employment in Arizona involved in operations that expose employees to the hazards of head injuries from flying or falling objects and/or electric shock and burns.

The amendments to the federal standards related to cranes and derricks corrected inadvertent errors in the 2010



rulemaking to the underground construction and demolition standards, and applied subpart CC of 29 CFR part 1926, which contained requirements for cranes and derricks used in construction, to underground construction work and demolition, involving equipment covered by subpart CC, as published in the *Federal Register* at 78 FR 23837-23843, April 23, 2013. The federal final rule became effective on May 23, 2013. The amendments also broadened the exemption for digger derricks in construction standards by expanding the digger derrick exemption in the construction standard for cranes and derricks, as published in the *Federal Register* at 78 FR 32110-32116, May 29, 2013. The federal final rule became effective on June 28, 2013.

The amendments related to electric power generation, transmission, and distribution revised outdated construction of transmission and distribution installations standards, last amended in 1972. The construction standards are now consistent with recently promulgated general industry standards covering the operation and maintenance of electric power generation, transmission, and distribution lines and equipment. The final federal rules for general industry and construction include new or revised provisions with consistent requirements on host employers and contractors, training, job briefings, fall protection, insulation and working position of employees working on or near live parts, minimum approach distances, protection from electric arcs, de-energizing transmission and distribution lines and equipment, protective grounding, and operating mechanical equipment near overhead power lines, as published in the *Federal Register* at 79 FR 20315-20743, on April 11, 2014. Although the final rule became effective on July 10, 2014, some provisions have later compliance deadlines.

Exemptions from Executive Order 2015-01 were provided for this rulemaking by Ted Vogt, Chief of Operations in the Office of the Arizona Governor, in e-mails dated June 26, 2015 and February 12, 2015.

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

The agency did not review or rely on any study relevant to the rules.

**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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 Industrial Commission anticipates that the rule change related to incorporating by reference the recent amendments to federal safety standards related to head protection will have little to no economic impact. According to federal OSHA, there are no protective helmets currently available or in use that manufacturers tested in accordance with the prior ANSI standards. The amendments do not require an employer to update or replace head protection solely as a result of the safety standards if the head protection currently in use meets the revised standards. Federal OSHA estimates approximately \$21.6 million in cost savings nationally with respect to the Cranes and Derricks in Construction: Revising the Exemption for Digger Derricks direct final rule. Federal OSHA determined that the Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment final rule is economically significant and that the final rule will likely have a \$100 million or more effect on the national U.S. economy. Federal OSHA estimated average compliance costs at approximately 0.007 percent of revenues and 0.006 percent of profits in the affected industries, across all entities in the U.S. As a result, federal OSHA anticipates a small increase in electricity prices, approximately 0.007 percent, on average, which may be passed along to U.S. consumers. According to federal OSHA, full compliance with the final rule is expected to prevent approximately 79.6 percent of the relevant injuries and fatalities, compared to 52.9 percent of prevented injuries and fatalities with full compliance of the existing standards, and save approximately 19.75 lives and prevent 118.5 serious injuries in the U.S. annually. Federal OSHA estimated the nation-wide monetized benefits at \$179.2 million annually. The monetized benefits are calculated by applying a monetary value on preventive injuries and fatalities; \$62,000 per preventive injury and \$8.7 million per preventive fatality, multiplied by the estimated prevention of 19.75 fatalities and 118.5 serious injuries per year.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Larry Gast, ADOSH 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: Larry.Gast@azdosh.gov



**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments can be submitted to the address listed in item 9 by the close of the comment period, which is at 5:00 p.m. on November 30, 2015. An oral proceeding is scheduled for November 30, 2015, 9:00 a.m., at the Industrial Commission of Arizona, 800 W. Washington St., Room 206, Phoenix, AZ, 85007.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rules do not require issuance of a regulatory permit or license.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

29 CFR 1926 The Federal Occupational Safety and Health Standards for Construction and 29 CFR 1910 The Federal Occupational Safety and Health Standards for General Industry with amendments as of July 10, 2014. These incorporations 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, as published in 29 CFR 1926, with amendments as of ~~March 26, 2012~~, July 10, 2014, 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 ~~March 26, 2012~~, July 10, 2014.

**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 ~~March 26, 2012~~, July 10, 2014, 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 Section shall not apply to those conditions and practices which are the subject of R20-5-601. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after ~~March 26, 2012~~, July 10, 2014.