

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

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|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| 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. The effective date of the rules:**
- The effective date of this final rule package will be the date it is filed with the Secretary of State according to § 41-1032. The new changes to the rule(s) directly affect the health and safety of those employees working in the State of Arizona who are required to follow occupational safety and health standards for head protection, cranes and derricks in underground construction and demolition, 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. These new rules will further help to reduce the numbers of deaths, injuries and illnesses associated with these standards.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
- Notice of Rulemaking Docket Opening: 21 A.A.R. 2475, October 23, 2015
Notice of Proposed Rulemaking: 21 A.A.R. 2445, October 23, 2015
- 5. The name and address of agency personnel with whom persons may communicate regarding rulemaking:**

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6. An explanation of the rule, including the agency's reason for initiating the rule:

Therefore, 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 relating to head protection update references to the American National Standard Institute (ANSI) for Industrial Head Protection as published in the Federal Register at 77 FR 37587-37600, June 22, 2012 and became a final rule effective September 20, 2012. This final rule updates the references in its general industry standards to recognize the 2009 edition of the ANSI Z89-1 and deleted the reference to 1986 edition because it is considered out of date. With respect to the construction standards, it updates the references to recognize the 1997, 2003, and 2009 editions of the ANSI Z89-1 and deleted the references to the 1969 and 1971 editions. With these revisions, there is now consistency between the different PPE standards with respect to the references to the ANSI Z89-1, meaning both the construction and general industry PPE standards reference the 1997, 2003, and 2009 editions of the ANSI Z89-1.

The Industrial Commission is also amending R20-5-601, by adopting amendments related to cranes and derricks which 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 Industrial Commission is also amending R20-5-601, by adopting 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

7. 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.

8. 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

9. 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.

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 1926 Federal Occupational Safety and Health Standards for Construction Industry with Amendments as of July 10, 2014. This incorporation by reference will appear in A.A.C. R20-5-601.

CFR 1910 Federal Occupational Safety and Health Standards for the General Industry with Amendments as of July 10, 2014. This incorporation by reference will appear in A.A.C. R20-5-602.

14. Was the 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 ~~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.