

NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

NOTICE OF RULEMAKING DOCKET OPENING THE INDUSTRIAL COMMISSION OF ARIZONA

[R07-51]

1. **Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 5, Industrial Commission of Arizona
Article and its heading: 6, Occupational Safety and Health
Section numbers: R20-5-602
2. **The subject matter of the proposed 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, The Industrial Commission is amending R20-5-602 by adopting amendments to Subpart S, Electrical and Subpart F, Powered Platforms, Manlifts, and Vehicle - Mounted Work Platforms of § 1910, as published in 72 FR 7135 - 7221, February 14, 2007. Copies of the incorporated by reference material are available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 W. Washington St., Rm. 203, Phoenix, AZ 85007, and can be downloaded from the Federal OSHA web site www.osha.gov.
3. **A citation to all published notices relating to the proceeding:**
None
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: William M. Wright, Assistant Director
Address: Division of Occupational Safety and Health
Industrial Commission of Arizona
800 W. Washington St., Ste. 203
Phoenix, AZ 85007
Telephone: (602) 542-1695
Fax: (602) 542-1614
E-mail: wright.william.m@dol.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
To be published in Notice of Proposed Rulemaking.
6. **A timetable for agency decisions or other action on the proceeding, if known:**
Not yet known

NOTICE OF RULEMAKING DOCKET OPENING

INDUSTRIAL COMMISSION OF ARIZONA

[R07-53]

- 1. Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 5, Industrial Commission of Arizona
Articles and their heading: 12, Arizona Minimum Wage Act Practice and Procedure
Section numbers: R20-5-1201 through R20-5-1220 (The Department may add, delete, or modify additional Sections as necessary.)

2. The subject matter of the proposed rules:

On November 7, 2006, the Arizona voters approved Proposition 202, referred to as the "Raise the Arizona Minimum Wage for Working Arizonans Act," ("Act"). On December 4, 2006, the Arizona Secretary of State certified the election results by signing the Official Canvas of the general election. Under § 23-364(A), as added by 2006 Proposition 202, § 2, the Industrial Commission of Arizona ("Commission") is given the authority to enforce and implement the Act. Under § 5, as added by 2006 Proposition 202, the Act becomes effective January 1, 2007. The rules, set forth in Article 12 to Title 20, Chapter 5, are amending and making permanent the emergency rules currently in effect and will:

- a. Define relevant terms and identify non-exclusive factors for determining an employment relationship;
- b. Provide criteria for the calculation of minimum wage, including the treatment of commissions, tips, tools, equipment, uniforms, board and lodging;
- c. Implement the posting and recording keeping requirements of the Act by specifying where notices shall be posted and how, and what, records are required to be kept for different classes of employees (e.g. employees receiving tips, employees working on a fixed schedule, and salaried employees who are exempt under 29 CFR 541);
- d. Establish requirements for the filing of administrative complaints, including applicable deadlines for minimum wage complaints and complaints of retaliation;
- e. Address hearing procedures under the Act, including the right to request to a hearing before a Commission Administrative Law Judge, the conduct of the hearing and the right to request review or rehearing;
- f. Address procedures for the collection of money, the assessment of civil penalties (including the assessment of penalties for engaging in conduct that hinders an investigation under the Act), and the informal resolution of disputes; and
- g. Provide a mechanism for a small employer (or class of small employers) to request relief from certain recordkeeping requirements.

The agency docket number, if applicable:

Not applicable

3. A citation to all published notices relating to the proceedings:

Notice of Emergency Rulemaking: 13 A.A.R. 473, February 16, 2007

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

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

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Department will accept written comments at the locations listed in item #4 until the close of record, which has not yet been determined. The Department has not scheduled any oral proceedings at this time.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be announced in the Notice of Proposed Rulemaking.