

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 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

Editor's Note: The following Notice of Rulemaking Docket Opening was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 267.) The Governor's Office authorized the notice to proceed through the rulemaking process on December 8, 2009.

[R10-09]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R3-2-708 | New Section |
- 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. § 3-107(A)(1)
Implementing statute: A.R.S. § 3-1350(F)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 16 A.A.R. 12, January 1, 2010
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Casey Cullings |
| Address: | Department of Agriculture
1688 W. Adams St.
Phoenix, AZ 85007 |
| Telephone: | (602) 542-0962 |
| Fax: | (602) 542-5420 |
| E-mail: | casey.cullings@azag.gov |
- 5. An explanation of the rule, including the agency's reasons for initiating the rules:**
This proposed rulemaking implements A.R.S. § 3-1350, which was enacted in 2009, by setting out requirements and a fee for equine rescue facilities to get on the Department's registry of equine rescue facilities. The requirements include minimum standards for the physical condition of the facility and equine care and treatment at the facility. Facilities complying fully with standards that meet or exceed the minimum standards in every respect will be considered in compliance with the minimum standards.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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

Notices of Proposed Rulemaking

8. The summary of the economic, small business, and consumer impact:

The rulemaking will have a minimal impact on the Arizona Department of Agriculture. The Department is only responsible for maintaining a registry and making the registry publicly available. The rulemaking is also expected to have a minimal impact on private industry. Equine rescue facilities that elect to be on the registry pay a \$75 annual fee to the Department and pay for a veterinarian to verify that the facility meets the minimum standards set out in this rulemaking. Some veterinarians will have a small increase in business due to equine rescue facilities hiring them to perform minimum standards certifications.

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: Casey Cullings
Address: Department of Agriculture
1688 W. Adams St.
Phoenix, AZ 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: casey.cullings@azag.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

A person may request an oral proceeding on the proposed rules by contacting the individual identified in item 4 within 30 days of publication of this notice.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Pursuant to Laws 2009, 3rd Special Session, Ch. 7, § 28, the Arizona Department of Agriculture obtained written approval from the Office of the Governor to conduct this rulemaking. Pursuant to A.R.S. § 3-104(F), the Department will discuss this rulemaking with the ADA Advisory Council prior to adopting the rule.

12. Incorporations by reference and their location in the rules:

The rule incorporates the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition.

13. The full text of the rule follows:

TITLE 3. AGRICULTURE

**CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION**

ARTICLE 7. LIVESTOCK INSPECTION

Section
R3-2-708. Equine Rescue Facility Registration

ARTICLE 7. LIVESTOCK INSPECTION

R3-2-708. Equine Rescue Facility Registration

A. “Arizona Equine Rescue Standards” means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf. The American Association of Equine Practitioners is located at 4075 Iron Works Parkway, Lexington, Kentucky 40511.

B. An equine rescue facility shall pay the annual registration fee and file the following documents with the Department’s Animal Services Division for the facility to be included on the Department’s registry of equine rescue facilities:

1. An application form containing the facility’s name, address, and contact person and the contact person’s phone number.
2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility’s current status as a nonprofit corporation in good standing in this state.
3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with

respect to any of the Arizona Equine Rescue Standards and attaching a signed copy of the completed Arizona Equine Rescue Standards' veterinary checklist.

- C. Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D. The annual registration fee is \$75.
- E. A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F. The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

NOTICE OF PROPOSED RULEMAKING

TITLE 20, COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

Editor's Note: The following Notice of Rulemaking Docket Opening was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 267.) The Governor's Office authorized the notice to proceed through the rulemaking process on December 1, 2009.

[R10-08]

PREAMBLE

1. **Sections Affected**

R20-5-601	<u>Rulemaking Action</u>
R20-5-602	Amend
	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: 16 A.A.R. 13, January 1, 2010
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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
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, the Industrial Commission is amending R20-5-601 and R20-5-602, incorporating by reference, amendments to 29 CFR 1910 Subpart G, I, L, Z, and amendments to 29 CFR 1926 Subpart C, D, R, Z as published in *Federal Register* 73 FR 75568-75589, December 12, 2008, which gives clarification that the personal protective equipment and training requirements impose a compliance duty to each and every employee covered by the standards and that noncompliance may expose the employer to liability on a per-employee basis. Further, the Industrial Commission is amending R20-5-602, incorporating by reference, amendments to 29 CFR 1910 Subpart G, I, Q, as published in the *Federal Register* 74 FR 46350-46361, September 9, 2009, which updates OSHA Standards based on National Consensus Standards for selecting eye, face, head and foot protection.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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 have determined that these amendments will have little financial impact for either general industry or construction industry and believe the amendment 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: March 9, 2010
Time: 9:00 a.m.
Location: Hearing Room A, first floor
Industrial Commission of Arizona
800 W. Washington St.
Phoenix, AZ 85007

The close of record is Tuesday, March 9, 2010, 5:00 p.m. A person may also submit written comments on the proposed rules no later than 5:00 p.m. Tuesday, March 9, 2010, 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. Incorporations by reference and their location in the rules:

29 CFR 1910 The Federal Occupational Safety and Health Standards for General Industry, with amendments as of September 9, 2009. This incorporation by reference will appear in R20-5-602.

29 CFR 1926 The Federal Occupational Safety and Health Standards for Construction with amendments as of December 12, 2008. This incorporation by reference will appear in R20-5-601

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 ~~November 15, 2007~~, December 12, 2008, 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 ~~November 15, 2007~~ December 12, 2008.

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 ~~October 29, 2008~~, September 9, 2009, 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 rule 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 ~~October 29, 2008~~ September 9, 2009.