

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3016.)

[R12-213]

PREAMBLE

- 1. Article, Part, or Sections Affected**

R20-5-601	<u>Rulemaking Action</u>
R20-5-602	Amend
	Amend
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 23-405(4)
Implementing statute: A.R.S. § 23-410
- 3. The effective date of the rules:**

October 24, 2012

 - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

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 the new Hazard Communication standard in the scope of their employment. These new rules will further help to reduce the numbers of deaths, injuries and illnesses associated with improper use and handling of hazardous chemicals.
 - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 852, April 6, 2012
Notice of Rulemaking Docket Opening: 18 A.A.R. 976, April 27, 2012
Notice of Proposed Rulemaking: 18 A.A.R.1539, July 6, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**

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6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

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 incorporating by reference, amendments from 29 CFR 1910, as published in *Federal Register* 76 FR 75782-75786, December 5, 2011 and became a final rule effective March 5, 2012. This direct final rule revises the Acetylene Standard, by updating a reference in the standard, published by the Compressed Gas Association, a standards developing organization. This rule adopts the Compressed Gas Association most current references, CGA G-1, 2009, replacing CGA G-1, 2003. By adopting this rule employees will be trained and utilize the most current safety methods and practices methods available.

The Industrial Commission is also amending R20-5-601 and R20-5-602, by incorporating by reference, amendments from 29 CFR 1910 and CFR 1926 as published in the *Federal Register* 77 FR 17574-17896, March 26, 2012. This final rule is modifying the Hazard Communication Standard, 29 CFR 1910.1200, to conform to the United Nation's Globally Harmonization System of classification and labeling of chemicals. The new modification(s) to the standard are standardize the Safety Data Sheet so that the format for all data sheets are the same, expanded the hazard classes of chemicals and developed a picture gram safety label that will be required to be placed on the chemical container.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did 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:

None

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

The Federal Occupational Safety and Health Administration have determined that the Acetylene direct final rule is not economically significant regulatory action under Executive Order 12866 or a major rule under section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, and does not impose significant additional costs on private or public sector entities'. The adoption of the revisions to OSHA's Hazard Communication Stand has four main areas that will generate potential costs to employers; 1.) Cost of reclassification and revision of Safety Data Sheets (SDS) and labels, 2.) Cost of management to familiarization and other management costs associated with the administration of the hazard communication programs, 3.) Cost of employee training and 4.) Cost of printing labels for hazardous chemicals in color. OSHA has determined that the first three main cost areas are a one-time cost and will not re occur in years following implementation. The fourth cost area will continue but solely for the cost of the colored ink used to print labels. The major portion of cost will apply to the chemical manufactures and the cost will be negligible the years following implementation.

10. A description of any changes between the proposed rulemaking to include supplemental notices, and the final rule-making:

None

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The Arizona Division of Occupational Safety and Health did not receive any written or oral comments concerning this rule.

12. 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:

None

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:

Not applicable

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:

Not applicable

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

CFR 1926 Federal Occupational Safety and Health Standards for Construction Industry with Amendments as of March 26, 2012. 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 December 5, 2011, and became a final order on March 5, 2012. This incorporation by reference will appear in A.A.C. R20-5-602.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

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 ~~July 8, 2011~~, March 26, 2012, 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 ~~July 8, 2011~~, March 26, 2012.

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 ~~July 8, 2011~~, March 26, 2012, 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 ~~July 8 2011~~, March 26, 2012.