

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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS

[R05-137]

PREAMBLE

- 1. Sections Affected**

| | |
|-----------|---------------------------------|
| Article 6 | <u>Rulemaking Action</u> |
| R4-18-601 | New Article |
| R4-18-602 | New Section |
| R4-18-603 | New Section |
| R4-18-604 | New Section |
| R4-18-605 | 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. § 32-1504(A)(1)
Implementing statutes: A.R.S. §§ 32-1501(21), 32-1504(A)(3), 32-1524, 32-1526, 32-1527, and 32-1559
- 3. The effective date of the rules:**

June 4, 2005
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 3404, August 27, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 4310, October 29, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Dr. Craig Runbeck, Executive Director
Address: 1400 W. Washington, Suite 230
Phoenix, AZ 85007
Telephone: (602) 542-8242
Fax: (602) 542-3093
E-mail: craig.runbeck@npbpmex.az.gov
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**

The Board is making rules for certification of medical assistants including qualification requirements, and initial and renewal application requirements. Additionally, the Board is making a rule that prescribes procedures that may and may not be performed by a certified medical assistant under the direct supervision of a licensed physician.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule 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:**

The Board did not review or rely on any study.
- 8. 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

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

Annual cost/revenue changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000.

The Board bears moderate costs for writing rules to implement its statutes, preparing the related economic, small business, and consumer impact statement, and mailing the new rules to interested persons.

The Board anticipates receiving moderate revenue each year from persons submitting fees with their certificate applications and certificate issuance fees. The Board should receive moderate revenue each year from certificate renewal fees. This revenue is used to pay the operating costs of the Board, including salaries of Board staff who review qualifications of applicants, process applications, prepare enforcement actions, prepare for Board meetings, and meet other requirements set forth in A.R.S. § 32-1501 *et seq.*

The Board anticipates that it will bear moderate costs to process initial applications each year.

The Board anticipates that it will bear moderate costs to process renewal applications each year.

An applicant bears minimal costs to apply for a certificate and pay the \$100 application fee and \$50 certificate issuance fee.

A certificate holder will bear the cost to pay an annual minimal fee of \$100 for renewal of a certificate.

Applicants and the Board benefit from clear and concise standards for applications.

Businesses that hire certified medical assistants benefit from the rules because they can pay a medical assistant to perform tasks stated in the rules instead of paying a higher salary to a naturopathic physician to perform the same tasks. The rules ensure that medical assistants working for the businesses meet the specified standards.

Consumers of naturopathic medical services benefit from the rules because the rules ensure that certified medical assistants meet minimal competencies.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The Board made technical and grammatical changes to the rules at the suggestion of Board staff.

11. A summary of the comments made regarding the rule and the agency response to them:

The Board received no written or oral comments.

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

Not applicable

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

None

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS

ARTICLE 6. ~~RESERVED~~ NATUROPATHIC MEDICAL ASSISTANTS

- R4-18-601. Definitions
- R4-18-602. Medical Assistant Qualification
- R4-18-603. Application for Medical Assistant Certification
- R4-18-604. Renewal of Medical Assistant Certificate
- R4-18-605. Authorized Procedures for Medical Assistants

ARTICLE 6. ~~RESERVED~~ NATUROPATHIC MEDICAL ASSISTANTS

R4-18-601. Definitions

In addition to the definitions in A.R.S. § 32-1501 and A.A.C. R4-18-101, the following definitions apply to this Article:

- I. “Approved medical assistant program” means a course of study for medical assistants that is provided:
 - a. At an institution that is accredited by:
 - i. The Commission on Accreditation of Allied Health Education Programs.

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- ii. The Commission for the Accrediting Bureau of Health Education Schools, or
- iii. An accrediting agency recognized by the United States Department of Education or the Armed Forces of the United States, or
- b. By an organization recognized by the American Association of Naturopathic Physicians.
- 2. “Employ” means to compensate by money or other consideration for work performed.
- 3. “Medical history” means an account of an individual’s past and present physical and mental health including the individual’s illness, injury, or disease.
- 4. “Medication” means a drug as defined in A.R.S. § 32-1501 or a natural substance as defined in A.R.S. § 32-1581.
- 5. “Naturopathic practice” means a place where the practice of naturopathic medicine as defined in A.R.S. § 32-1501 takes place.
- 6. “Training” means classroom and clinical instruction completed by an individual as part of an approved medical assistant program.
- 7. “Treatment” means any of the acts included in the practice of naturopathic medicine as defined in A.R.S. § 32-1501.

R4-18-602. Medical Assistant Qualification

An individual shall complete an approved medical assistant program to qualify for certification as a medical assistant.

R4-18-603. Application for Medical Assistant Certification

An applicant for a medical assistant certificate shall submit an application packet to the Board that contains the following:

- 1. An application form provided by the Board, signed and dated by the applicant that contains:
 - a. The applicant’s name, mailing address, telephone number, and Social Security number;
 - b. The applicant’s date and place of birth;
 - c. The applicant’s height, weight, and eye and hair color;
 - d. The name, address, and telephone number of the applicant’s employer, if applicable;
 - e. The name of the licensed physician who will supervise the applicant;
 - f. The name and address of the institution where the applicant completed an approved medical assistant program;
- 2. A copy of a certificate of completion from an approved medical assistant program or a letter of completion from an approved medical assistant program signed by the person in charge of the approved medical assistant program;
- 3. A completed and legible fingerprint card; and
- 4. The fees required by the Board under A.R.S. § 32-1527.

R4-18-604. Renewal of Medical Assistant Certificate

An applicant for a renewal certificate shall submit to the Board:

- 1. A renewal form, provided by the Board, that is signed and dated by the applicant and contains the applicant’s:
 - a. Name,
 - b. Social Security number,
 - c. Residence and naturopathic practice addresses, and
 - d. Telephone number; and
- 2. The fee required by the Board under A.R.S. § 32-1527.

R4-18-605. Authorized Procedures for Medical Assistants

A. A medical assistant may perform the following under the direct supervision of a physician:

- 1. Obtain a patient’s medical history;
- 2. Obtain a patient’s vital signs;
- 3. Assist a physician in performing a physical examination, surgical procedure, or treatment;
- 4. Perform a diagnostic test ordered by a physician including:
 - a. An electrocardiogram;
 - b. A peripheral vein puncture;
 - c. A capillary puncture;
 - d. Urine analysis;
 - e. A hematology test; or
 - f. Respiratory function testing;
- 5. Administer a medication:
 - a. By mouth; or
 - b. By subcutaneous or intra-muscular injection if the medical assistant received training on performing this type of administration from an approved medical assistant training program;
- 6. Monitor and remove an intravenous administration of a medication established by a supervising physician if the medical assistant received training on monitoring and removing an intravenous administration from an approved medical assistant training program.
- 7. Perform physiotherapy, which includes the following:
 - a. Whirlpool treatment,

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- b. Diathermy treatment.
 - c. Electronic stimulation treatment.
 - d. Ultrasound therapy.
 - e. Massage therapy.
 - f. Traction.
 - g. Transcutaneous nerve stimulation.
 - h. Colon hydrotherapy, or
 - i. Hot and cold pack treatment.
- B.** A medical assistant shall not:
- 1. Diagnose a medical condition;
 - 2. Design or modify a treatment program;
 - 3. Prescribe a medication or natural substance;
 - 4. Provide a patient with a prognosis;
 - 5. Unless authorized by law, perform:
 - a. An ionizing radiographic procedure.
 - b. A surgical procedure.
 - c. A central venous catheterization.
 - d. An acupuncture needle insertion, or
 - e. Manipulative therapy;
 - 6. Administer or establish an intravenous medication;
 - 7. Perform any procedure that requires precise placement of a needle into a patient by single or multiple injections including:
 - a. Sclerotherapy.
 - b. Prolotherapy.
 - c. Mesotherapy, or
 - d. Neurotherapy; or
 - 8. Employ the medical assistant's supervising physician or have any financial interest in a naturopathic practice where the supervising physician is employed.
- C.** While assisting a naturopathic physician or performing a procedure delegated to the medical assistant, the medical assistant shall wear a clearly visible tag that states the individual is a medical assistant.

NOTICE OF FINAL RULEMAKING

TITLE 13. PUBLIC SAFETY

**CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY
CRIMINAL IDENTIFICATION SECTION**

[R05-133]

PREAMBLE

1. Sections Affected

Article 1
R13-1-101
R13-1-102
R13-1-103
R13-1-104
R13-1-105
R13-1-105
R13-1-106
R13-1-107
R13-1-108
R13-1-108
R13-1-109
R13-1-109

Article 2
R13-1-201
R13-1-202
R13-1-203
R13-1-204

Rulemaking Action

Amend
New Section
New Section
New Section
New Section
Repeal
New Section
New Section
New Section
Repeal
New Section
Repeal
New Section

New Article
New Section
New Section
New Section
New Section

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| | |
|-----------|-------------|
| Article 3 | New Article |
| R13-1-301 | New Section |
| R13-1-302 | New Section |
| Article 4 | New Article |
| R13-1-401 | New Section |
| R13-1-402 | New Section |
| Article 5 | New Article |
| R13-1-501 | New Section |
| R13-1-502 | New Section |
| R13-1-503 | New Section |
| R13-1-504 | New Section |
| Exhibit A | New Exhibit |
| Exhibit B | New Exhibit |

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. § 41-1750

Implementing statute: A.R.S. § 41-1750

3. The effective date of the rules:

June 4, 2005

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 10 A.A.R. 321, January 23, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 3161, August 13, 2004

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

Name: Lieutenant Laurence Burns, Licensing and Regulatory Bureau Commander

Address: P.O. Box 6638
Mail Drop 1170
Phoenix, AZ 85005-6638

Telephone: (602) 223-2387

Fax: (602) 223-2928

E-mail: lburns@dps.state.az.us

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

The Department has the authority to operate the Central State Repository under A.R.S. § 41-1750(H). The Department is amending the rules under the rulemaking authority specified in A.R.S. § 41-1750(B) by adding guidelines for submission and retention of criminal justice information; defining other pertinent information and establishing the form and manner in which chief officers of criminal justice agencies are to submit information; establishing training and proficiency guidelines for chief officers of criminal justice agencies; defining the information to be submitted by chief officers of criminal justice agencies concerning crimes that manifest evidence of prejudice; adding charges for non-criminal justice fingerprint checks and for Department reports; specifying the process involved in collection of charges; adding limitations on dissemination of criminal information; and adding security measures to ensure access is limited to authorized parties.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule 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:

The agency did not review any study relevant to this rulemaking.

8. 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

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

Under the requirements found in A.R.S. § 41-1750(J), a charge of \$24.00 is charged to those authorized users who submit fingerprint cards to cover the cost of federal non-criminal justice fingerprint processing. The Federal Bureau of Investigation (FBI) sets this charge. The Department collects the charge on behalf of the FBI and passes it along to the United States Government. Under A.R.S. § 41-1750(M), monies in the fund that are required for payment to the United States are not revertible.

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Under A.R.S. § 41-1750(K), \$9.00 for up to nine pages and \$1 for each additional page is charged to cover the cost of processing copies of Department reports of accident scenes. Four dollars is charged for photograph reproduction. These photographs are generally 8" X 10" color photographs. Governmental agencies are exempt from this charge. The major users of this service are county attorneys, state risk management, private auto insurance companies, private investigative firms that are contracted by auto insurance companies, and citizens who have been involved in an accident and desire a copy of accident photographs and the report. Under A.R.S. § 41-1750(N), any balance in the fund not required for support of the functions related to providing these documents reverts to the state general fund.

Under the authority granted the director of the Department of Public Safety by A.R.S. § 41-1750(J), a charge of \$6.00 was initiated in 1997 to recover the costs of state non-criminal justice fingerprint processing. On October 1, 2003, this charge was reduced to \$5.00 and was expanded to include non-criminal fingerprint processing for local, state, and federal non-criminal justice agencies. Because the Department does not receive any general fund appropriations to cover the cost of providing these services, the charges collected are used to fund the personnel, equipment, and supplies for these functions. Under A.R.S. § 41-1750(M), any balance in the fund at the end of the fiscal year that is not required to support the Department's non-criminal justice fingerprint-processing duties reverts to the state general fund.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor technical and grammatical changes were made at the suggestion of Governor's Regulatory Review Council staff.

11. A summary of the comments made regarding the rule and the agency response to them:

During the public meeting of September 23, 2004, a question was asked concerning Section R13-1-108, "Procedures for Review of Accuracy and Completeness of Criminal History Records."

Ms. Paula Burkland asked when criminal history records are considered accurate and complete.

Ms. Patty Morris of the Criminal History Section of the Department of Public Safety responded that when the Department refers to the completeness of a criminal history record it is based on whether the fingerprint card submitted by a law enforcement agency of a person who has been charged with, summoned to court, or indicted for a criminal offense matches what has been entered into the Arizona Computerized Criminal History (ACCH) System.

Ms. Burkland inquired if the arrest record is considered complete when there is only an arrest and no disposition.

Ms. Morris responded that it was not complete if there was not a disposition.

Through e-mail correspondence dated October 4, 2004, Ms. Burkland reiterated her concern regarding R13-1-108. She stated that arrest records should not be considered complete when there is no disposition.

Lieutenant Burns of the Arizona Department of Public Safety, in a letter dated January 6, 2005, responded that the Department agrees with Ms. Burkland's concern and will continue its efforts to improve the level of disposition reporting to ensure that the Department obtains disposition records.

Through e-mail correspondence dated October 4, 2004, regarding R-13-1-102, Submission and Retention of Criminal Justice Information, Ms. Burkland questioned the purge schedule, which requires the Department to retain arrest records until a person is 99 years old.

Lieutenant Burns responded in a letter dated January 6, 2005, that the Department is required by federal guidelines to retain criminal records until the subject is 99 years old.

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:

- a. 28 CFR Part 20, incorporated by reference in R13-1-204;
- b. Federal Bureau of Investigation Training Guide for Hate Crime Data Collection Manual, and Federal Bureau of Investigation Hate Crime Data Collection Guidelines, dated October 1999, incorporated in R13-1-301;
- c. Federal Bureau of Investigation National Incident Based Reporting System (NIBRS) Handbooks, incorporated in R13-1-301 as follows:
 - Uniform Crime Reporting Handbook, NIBRS Edition, dated 1992,
 - Volume 1 – Data Collection Guidelines, dated August 2000,
 - Volume 2 – Data Submission Specifications, dated May 1992, and NIBRS addendum for submitting LEOKA data, dated October 2002, and
 - Volume 4 – Error Message Manual, dated December 1999; and
- d. Federal Bureau of Investigation Uniform Crime Reporting Handbook, dated 2004, incorporated in R-13-1-302.

14. Was this rule previously made as an emergency rule?

No.

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15. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY

**CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY
CRIMINAL IDENTIFICATION SECTION**

ARTICLE 1. ~~GENERAL PROVISIONS~~ CRIMINAL HISTORY RECORDS

- R13-1-101. ~~Expired~~ Definitions
R13-1-102. ~~Expired~~ Submission and Retention of Criminal Justice Information
R13-1-103. ~~Expired~~ Procedures for Law Enforcement Agencies and Prosecutors' Offices to Forward Dispositions of Criminal Proceedings to the Central State Repository
R13-1-104. ~~Expired~~ Procedures for Juveniles Remanded as Adults and Procedures for the Department of Corrections to Forward Information Regarding Inmates to the Central State Repository
R13-1-105. ~~Procedures and Restrictions on Dissemination of Information~~ Procedures for a Criminal Court to Forward Dispositions of Criminal Charges to the Central State Repository
R13-1-106. ~~Expired~~ Arrest Fingerprint Record Submission
R13-1-107. ~~Expired~~ Procedures for Review of Accuracy and Completeness of Criminal History Records
R13-1-108. ~~Procedures for Dissemination to, or Correction of Information by the Subject of the Records~~ Procedures for Challenging the Accuracy and Completeness of Criminal History Records
R13-1-109. ~~Right to Hearing after Denial or Restriction of Information~~ Information Deemed Useful for the Study and Prevention of Crime or the Administration of Criminal Justice

ARTICLE 2. ACJIS NETWORK

- R13-1-201. ACJIS Security Measures
R13-1-202. Arizona Criminal Justice Information System Training and Proficiency Guidelines
R13-1-203. Terminal Operator Certification Training or Criminal Justice Practitioner's Program
R13-1-204. Procedures for and Restrictions on Dissemination of Information

ARTICLE 3. ARIZONA CRIME STATISTICS

- R13-1-301. Submittal of Hate Crimes Information
R13-1-302. Submittal of Uniform Crime Information

ARTICLE 4. APPLICANT FINGERPRINT PROCESSING

- R13-1-401. Non-criminal Justice Fingerprint Processing Charges
R13-1-402. Refusal of Service

ARTICLE 5. DEPARTMENT RECORDS

- R13-1-501. Procedure for Obtaining a Traffic Accident Report or Photograph
R13-1-502. Charges for Copies of Traffic Accident Reports and Photographs
R13-1-503. Procedure for Obtaining Copies of Offense, Arrest, or Incident Reports
R13-1-504. Charges for Copies of Offense, Arrest, or Incident Reports
Exhibit A. Disposition Report Form Block Completion Instructions for Law Enforcement and Prosecutors
Exhibit B. Disposition Report Form Block Completion Instructions for Criminal Courts

ARTICLE 1. ~~GENERAL PROVISIONS~~ CRIMINAL HISTORY RECORDS

R13-1-101. ~~Expired~~ Definitions

In addition to the definitions in A.R.S. § 41-1750, the following definitions apply to this Chapter:

1. "Access authorization list" means a list that contains the names of agency personnel who are authorized to receive information directly or indirectly from the ACJIS network.
2. "ACJIS" means the Arizona Criminal Justice Information System, a statewide network housing various databases on persons and property in this state. The ACJIS network is maintained by the Department and is available to authorized

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- local, state, and federal criminal justice agencies.
3. "ALETS" means the Arizona Law Enforcement Telecommunications System.
 4. "Arizona Computerized Criminal History" means a criminal history record kept by the Department in a database of offenders arrested in this state.
 5. "Arresting agency case number (OCA)" means a unique identifier consisting of a combination of 15 numbers and letters used to identify a criminal justice agency's case number such as the Department case number, Department report number, or case report number.
 6. "AZAFIS" means the Arizona Automated Fingerprint Identification System maintained by the Department that stores state-level arrest fingerprints and related information.
 7. "AZAFIS Image Scanner" means the scanning system that scans and transmits ink and roll arrest fingerprint records.
 8. "AZAFIS Livescan" means the electronic system that captures and transmits arrest information and fingerprints.
 9. "CHRI" means Criminal History Record Information.
 10. "Classifiable Fingerprints" means fingerprint impressions that meet the criteria of the FBI as contained in Form FD-258 (5-11-99), U.S. Government Printing Office: 2004-304-373/80029, incorporated by reference, available from the Department and the FBI (Attn: Logistical Support Unit (LSU), CJIS Division, 1000 Custer Hollow Road, Clarksburg, WV 26306). This incorporation contains no future editions or amendments.
 11. "Date of Arrest" means the date a person is taken into custody using the MMDDCCYY format as indicated in Exhibit A.
 12. "Date of Birth" means the subject's date of birth using MMDDCCYY format as indicated in Exhibit A.
 13. "Department" means the Arizona Department of Public Safety.
 14. "Disposition date" is the date of final disposition of a charge.
 15. "Hit confirmation" means to verify a record entry with the agency that holds the record.
 16. "Hot files" means records entered into ACJIS. These records may include wanted persons and stolen vehicles.
 17. "Juvenile fingerprinted" means identification signifying that an individual is a juvenile on an arrest fingerprint card if the juvenile is being remanded as an adult.
 18. "Law Enforcement Agency" means a municipal, county, or state agency with powers of arrest.
 19. "Local Subject Identifier (LSI)" means a unique identifier consisting of a combination of 15 numbers and letters used by local law enforcement agencies to identify an individual. It is the local equivalent of a State Identification (SID) number. The first three characters are the AZAFIS-assigned mnemonic alpha characters that identify the agency.
 20. "NCIC" means the National Crime Information Center maintained by the FBI, a national repository of files on persons and property relating to a crime.
 21. "NIBRS" means the National Incident-Based Reporting System, a system designed to collect data on each crime occurrence and each incident and arrest within that occurrence for 22 crime categories.
 22. "NLETS" means the National Law Enforcement Telecommunications System, a message switching system for the interstate exchange of criminal justice information.
 23. "Offender-based Tracking System" means a computer system database that indexes information from selected Arizona Criminal Justice Information System data files.
 24. "Offense" means an offense listed in the Arizona Revised Statutes or a city ordinance that is used to arrest an offender.
 25. "Offense Type" means whether the offense is a felony, designated as "F," or a misdemeanor, designated as "M."
 26. "ORI" means a unique identifier assigned by the FBI to an agency.
 27. "PCN" means Process Control Number.
 28. "Personal identifiers" means a subject's sex, race, height, weight, hair color, and eye color.
 29. "Photo contact sheet" means an 8" X 10" photo paper containing pictures from an entire roll of film.
 30. "Place of Birth (state or country)" means a subject's place of birth.
 31. "Private Entity" means a non-governmental agency or company.
 32. "Redact" means to edit a record based on legal considerations or to withhold sensitive or private, personal information.
 33. "State Identification Number (SID)" means an identification number that is assigned by the Department to an individual whose set of arrest fingerprints has been submitted to AZAFIS.
 34. "Terminal Operator Certification Level A" means a terminal operator who is authorized to access the ACJIS network for entering, updating, clearing, canceling records, conducting inquiries, and interpreting responses.
 35. "Terminal Operator Certification Level B" means a terminal operator who is authorized to inquire into the ACJIS network and interpret responses.
 36. "Terminal Operator Certification Level C" means a terminal operator who is authorized to inquire into the ACJIS/NCIC hot files.
 37. "Terminal Operator Certification Level D" means technical personnel who are authorized to view information obtained from the ACJIS network.
 38. "TOC" means Terminal Operator Certification.

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39. “Uniform Crime Reporting (UCR)” means a collective effort on the part of city, county, state, tribal, and federal law enforcement agencies to present a nationwide view of crime.

R13-1-102. ~~Expired~~ Submission and Retention of Criminal Justice Information

- A.** The chief officer of a criminal justice agency in this state shall ensure that CHRI is submitted to the Department’s Central State Repository as follows.
1. A law enforcement agency shall submit arrest fingerprints to the Department through the AZAFIS or through the mail.
 2. A law enforcement agency shall submit any corrections to previously submitted arrest fingerprints to the Department by fax or mail on the “Correction of Arrest Information” form available from the Department. The Department’s Central State Repository shall correct the record as requested. Corrections to arrest records may only be requested by the agency that created the arrest record. The Correction of Information form includes:
 - a. Agency name and ORI;
 - b. PCN;
 - c. SID; and
 - d. Correction needed.
 3. Law enforcement agencies, prosecutors’ offices, and courts shall submit dispositions related to an arrest fingerprint to the Department’s Central State Repository within 40 days from the date of disposition.
 4. A court shall submit court orders that affect criminal history records to the Department’s Central State Repository. The Department shall update the criminal history record based on the information received in the court order.
 5. A county medical examiner shall provide to the Department’s Central State Repository a full set of ten inked and rolled fingerprints of a deceased person whose death is required to be investigated by the county medical examiner’s office. The Department shall search the fingerprints to determine if any criminal record is maintained and, if so, update the record to indicate notification of the death. The county medical examiner shall ensure that the complete fingerprint record submitted to the Department includes:
 - a. Deceased person’s full name,
 - b. Date-of-birth, and
 - c. Personal identifiers.
- B.** The Department’s Central State Repository shall retain a criminal history record until the subject of record either reaches age 99 or the Department receives death notification.

R13-1-103. ~~Expired~~ Procedures For Law Enforcement Agencies and Prosecutors’ Offices to Forward Dispositions of Criminal Proceedings to the Central State Repository

- A.** A law enforcement agency and prosecutor office shall submit a completed Disposition Report form for crimes specified in A.R.S. § 41-1750(C) to the Department’s Central State Repository as outlined in A.R.S. § 41-1750.
- B.** The law enforcement agency that prepares the Disposition Report form shall complete the information in blocks #1 through 16 on the Disposition Report form as shown in Exhibit A for the arrest charges filed by the agency.
1. The law enforcement agency that prepares the Disposition Report form shall forward the form to the appropriate prosecutor’s office. If the arresting agency makes a decision not to pursue criminal charges, the arresting agency shall complete blocks #1 through #16 and blocks #18, 25, and 26, and submit the completed form to the Department’s Central State Repository.
 2. The Department’s Central State Repository shall update the criminal history record with the disposition report information.
- C.** The prosecutor’s office shall verify the arrest charges listed on the Disposition Report form by the law enforcement agency, and add or amend the arrest charges listed by completing blocks #10 and 17, if applicable. The prosecutor’s office shall reflect a decision to terminate one or all of the arrest charges on the Disposition Report form by completing all of the applicable blocks on the form.
1. For criminal charges filed with a court by the prosecutor, the prosecutor shall verify or complete information in blocks #10 through 16 and block #17, if applicable, on the Disposition Report form and forward the form to the appropriate court as required by Arizona Rule of Criminal Procedure 37.2.
 2. If the prosecutor decides not to file with the court one or more of the arrest charges listed on the Disposition Report form, the prosecutor shall complete blocks #18, 25, and 26. The prosecutor shall forward the completed Disposition Report form to the Central State Repository, and the prosecutor shall forward a photocopy of the form to the appropriate court, if one or more charges are being filed with the court. The Central State Repository shall update the criminal history record to indicate the disposition for arrest charges not filed by the prosecutor.
- D.** Agencies may submit disposition information electronically to the Department instead of in paper form if the agency enforces quality control measures and follows the electronic disposition format provided by the Department.

R13-1-104. ~~Expired~~ Procedures for Juveniles Remanded as Adults and Procedures for the Department of Corrections to Forward Information Regarding Inmates to the Central State Repository

- A.** The Department maintains criminal history records in the Central State Repository for juveniles as the subject of record only if the juvenile is remanded to an adult court. If a criminal justice agency is processing a juvenile who is remanded to an adult court, the agency shall use the procedures in this Article to submit criminal history records to the Department's Central State Repository.
- B.** The Arizona Department of Corrections shall forward each week to the Department a computer tape that includes for each inmate within the prison system the inmate's full name, date of birth, sex, race, inmate number assigned by the agency, arrest information for which the inmate is serving time in prison, and custody status. The Department shall update computerized files of the Offender-based Tracking System and the Arizona Computerized Criminal History, when applicable.

R13-1-105. ~~Procedures and Restrictions on Dissemination of Information~~ Procedures for a Criminal Court to Forward Dispositions of Criminal Charges to the Central State Repository

- A.** ~~The employees of the Criminal Identification Section of the Department of Public Safety shall not release information until after determining that the requesting party is, in fact, entitled to said information. After this determination has been made, information shall be disseminated in the following manner:~~
 - 1. ~~In-person request: Information shall be released after satisfactory identification has been made.~~
 - 2. ~~Telephone requests: Requested information shall be recorded along with the requesting party's name, identification number, agency of employment, dated and time stamped. Information to be disseminated will only be given by return phone call, teletype, or letter to a previously designated phone number or address at the agency of employment. Information will not be returned to a private phone number.~~
 - 3. ~~Mail requests: Requests for information received by mail will only be accepted on agency letterhead, when signed by the chief officer of the requesting agency or his authorized representative. All written requests must contain the name of the requesting party and the purpose for obtaining the requested information. All requested information shall be return addressed to the requesting officer and directed to the requesting agency's physical address.~~
 - 4. ~~Teletype requests: Teletype requests will be answered as soon as possible by return teletype and, if requested, additional information will be forwarded to the requesting agency by mail.~~
- B.** ~~The chief officer of any agency receiving information from the Criminal Identification Section shall cooperate with officers of the Department of Public Safety in the investigation of violations of A.R.S. § 41-1750 and these rules.~~
- C.** ~~In addition to the penalties provided by law, any department or agency which misuses or releases information contrary to law or violates any provision of these rules may be temporarily denied information from the Criminal Identification Section pending an investigation by the Department and shall not be reinstated until such time as the chief of the Criminal Identification Section is satisfied that the department or agency is in full compliance with the law and these rules.~~
- D.** ~~Any person convicted under the provisions of A.R.S. § 41-1750(D) shall be denied further information from such files unless such request for information is accompanied by an affidavit signed by the chief of the requesting agency. Such affidavit shall set forth:~~
 - 1. ~~The facts and circumstances surrounding the prior conviction, and~~
 - 2. ~~A statement by the chief of the agency stating that he assumes full responsibility for the lawful use of any released information.~~
- A.** A criminal court shall submit the disposition of all charges to the Central State Repository under Rule 37 of the Arizona Rules of Criminal Procedure.
- B.** The court shall verify the arrest charges listed on the Disposition Report form and complete the applicable blocks for each charge addressed by the court.
- C.** If there is more than one arrest charge listed on the Disposition Report form and any of the charges are being adjudicated by another court, the court shall photocopy the Disposition Report form and forward it to the other court.
- D.** The court shall complete and forward the disposition form to the Department's Central State Repository. The Department shall update the criminal history record with the disposition report information.
- E.** A criminal court shall use a Disposition Report supplemental form provided by the Department to report additional arrest charges and dispositions of the charges. The Disposition Report form is used to record the first three charges of an arrest event and the disposition of these charges. The Disposition Report supplemental form is used to record additional charges and the dispositions of those additional charges.
- F.** Agencies may submit disposition information electronically to the Department's Central State Repository instead of a paper form if the agency enforces quality control measures and follows the electronic disposition formats provided by the Department.

R13-1-106. ~~Expired~~ Arrest Fingerprint Record Submission

- A.** The chief officer of a criminal justice agency shall ensure that a completed arrest fingerprint record prescribed by subsection (D) in a format prescribed by the Department is sent to the Department's Central State Repository within 10 days from the date of fingerprinting using one of the following methods:
 - 1. AZAFIS Livescan.

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2. AZAFIS Image Scanner, or
3. Ink-and-roll arrest fingerprint card.
- B.** The chief officer of a criminal justice agency shall ensure that only one arrest fingerprint record is sent to the Department's Central State Repository for each arrest.
- C.** A criminal justice agency utilizing the ink-and-roll method shall obtain blank arrest fingerprint cards from the FBI using the CJIS Supply Requisition Form (I-178).
- D.** A completed arrest fingerprint record contains the following information:
 1. Name;
 2. Date of birth;
 3. Personal identifiers;
 4. Juvenile fingerprinted, if applicable;
 5. Date of arrest;
 6. ORI, and arresting agency's name and address;
 7. Date of offense;
 8. Place of birth (state or country);
 9. Arresting agency case number;
 10. LSI;
 11. Offense;
 12. Court ORI;
 13. PCN;
 14. Name or identification number of official taking fingerprints; and
 15. Arrest fingerprints.

R13-1-107. ~~Expired Procedures for Review of Accuracy and Completeness of Criminal History Records~~

- A.** The subject of record or the subject's attorney may request criminal history record information maintained by the Department for the sole purpose of reviewing the accuracy and completeness of the subject of record's criminal history record.
- B.** To obtain a copy of a criminal history record, the subject of record shall submit a completed Record Review Instruction Packet provided by the Department.
- C.** A completed Record Review Instruction Packet includes the following for the subject of record:
 1. Full set of classifiable fingerprints taken by an official at a law enforcement agency.
 2. Name.
 3. Date of birth.
 4. Personal identifiers.
 5. Place of birth.
 6. Social Security number.
 7. Address of residence.
 8. Date fingerprinted, and
 9. Signature.
- D.** The completed Record Review Instruction Packet shall be returned to the Department in the envelope provided.
- E.** The subject of record's attorney may obtain the subject of record's criminal history record by providing a notarized letter of authorization from the subject of record with the completed Record Review Instruction Packet.
- F.** Within 15 days of receipt of the completed Record Review Instruction Packet, the Department shall provide a response to the subject of record or the subject's attorney. The Department shall include in the response arrest and disposition information maintained by the Department on the subject of record and a Review and Challenge of Arizona Criminal History Record Information form that requests:
 1. Subject of record's full name;
 2. Signature of subject of record or attorney representing the subject of record;
 3. Date of submission of the challenge;
 4. Summary of the exceptions and reasons for the exceptions, specifying each arrest, and including:
 - a. Name of arresting agency.
 - b. Date of arrest.
 - c. Arrest number, and
 - d. Charge;
 5. Subject of record's mailing address; and
 6. Signature of the subject of record, verifying the summary of exceptions and reasons.

R13-1-108. ~~Procedures for Dissemination to, or Correction of Information by the Subject of the Records Procedures for Challenging the Accuracy and Completeness of Criminal History Records~~

- A.** The subject of record or his attorney may be provided information contained on the "Arizona Criminal Offender Identification Records," DPS Form 30.60.04. The information on this record shall consist of dates and arrests, contributors of fin-

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gerprints, arrest numbers, charges of dispositions (where possible) which have occurred within the state of Arizona. The listing of this record shall be supported by fingerprints or other official documents contained in the Criminal Identification Section Criminal Offender Jacket relating to the subject of the record.

- B.** The information may be reviewed, or for specific need a copy obtained, after proper completion of a "Review of Criminal Offender Record Information" form (DPS Form 30.60.05). The subject of the record to be reviewed must have his fingerprints imprinted upon this form. If a copy of the record is desired, the signature of the individual to whom the copy is released must be in the appropriate spaces both on the "Review of Criminal Offender Record Information" form and the "Arizona Criminal Offender Identification Record" being released. The name and identification number of the employee releasing the information must also be recorded on both forms.
- C.** The fingerprints on the "Review of Criminal Offender Record Information" form must be verified as being identical to the fingerprints of the subject of record on file in the Criminal Identification Section by a Criminal Identification Section fingerprint technician or identification officer prior to any record being reviewed by the individual of record or his attorney.
- D.** The reviewing individual may challenge any entry contained on the "Arizona Criminal Offender Identification Record" that he knows to be incorrect. To challenge any entry on the "Arizona Criminal Offender Identification Records," DPS Form 30.60.07 the "Exception Taken to Criminal Offender Record Information" form must be properly completed. This form must then be signed by the subject of the record to which exceptions are taken. This form will then be filed with the Criminal Identification Section.
- E.** Upon receipt of an "Exception Taken to Criminal Offender Record Information" form, the employee accepting the form will place the current date and his/her serial number in the appropriate spaces. An audit of the record in question will begin within five days of receipt of this form and will be completed within 15 working days.
- F.** To conduct an audit, the Criminal Identification Section shall contact each agency whose arrests are challenged as exceptions. The Criminal Identification Section will obtain a set of fingerprints relating to the arrest in question and verify whether or not they belong to the subject of the record in question. The Criminal Identification Section will obtain a disposition for each of the entries challenged and record such dispositions in its files and cause such dispositions to be recorded with the appropriate federal agency whose responsibilities involve maintaining records of arrests and dispositions.
- G.** Upon completion of an audit, the "Exception Taken to Criminal Offender Record Information" form will be filed by the Criminal Information Section in the subject of such record's jacket. The chief of the Criminal Identification Section shall then complete DPS Form 30.60.06 "Notice of Results of Audit of Criminal Offender Record Information." The form shall be prepared in duplicate. The original shall be filed in the Criminal Identification Section jacket of the subject of the record. The copy shall be sent to the individual who submitted the exceptions.
- A.** To challenge a criminal history record, the subject of record or the subject of record's attorney shall complete and return the Review and Challenge of Arizona Criminal History Record Information form referenced in R13-1-107(F).
- B.** The Department shall complete an audit of the challenged entries within 15 days of receipt of the form by:
 1. Contacting the contributing agencies,
 2. Verifying the information, and
 3. Researching dispositions on any challenged entry.
- C.** If the Department determines that a correction of the criminal history record is necessary, the Department shall modify the record and notify the Federal Bureau of Investigation.
- D.** Upon conclusion of the audit, the Department shall send written notification of the result and a copy of any modification to the subject of record or the subject of record's attorney.

R13-1-109. Right to Hearing after Denial or Restriction of Information Information Deemed Useful for the Study and Prevention of Crime or the Administration of Criminal Justice

- A.** Any party or agency who has been denied information or has suffered a penalty or restriction under these rules and regulations due to the actions or inactions of the Department of Public Safety shall have a right to a hearing regarding the denial of information or the penalty or restriction suffered – except any temporary denial of information under R13-1-105 pending an investigation by the Department of Public Safety which does not exceed three working days does not constitute a penalty or restriction, and no hearing shall be provided for departments or agencies affected by such temporary denial.
- B.** The hearing shall be conducted by from two to three officers holding the rank of Lieutenant or above in the Department of Public Safety and one to two chief officers of any agency served or an authorized representative of any such agency, to be appointed by the Director or, in his absence or at his direction, the chief of the Criminal Identification Section.
- C.** The required notice and hearing shall be in compliance with A.R.S. § 41-1009 et seq.
- A.** An individual or agency that wishes to obtain criminal history records from the Central State Repository for the purpose of research, evaluative or statistical activities, the prevention of crime, or to provide services for the administration of criminal justice shall:
 1. Provide a written request to the Department that specifies the purpose of the study, or how the records will be used to prevent crime or administer criminal justice; and
 2. If the request is approved, sign a non-disclosure agreement that meets the requirements of A.R.S. § 41-1750(G)(9)

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and is prepared and provided by the Department.

- B.** The Department shall review the signed non-disclosure agreement and authorize the exchange of information in accordance with the agreement.

ARTICLE 2. ACJIS NETWORK

R13-1-201. ACJIS Security Measures

- A.** All criminal justice agencies that collect, store, disseminate, or access criminal justice information or criminal history information from the ACJIS shall sign and return to the Department's Access Integrity Unit an ACJIS User Agreement. The ACJIS User Agreement states that the agency will follow state and federal requirements as specified in R-13-1-204(A) relating to the collection, storage, dissemination, and access of criminal justice information and criminal history record information obtained directly or indirectly from the ACJIS.
- B.** A criminal justice agency accessing the ACJIS network shall meet the following security guidelines:
1. Access and dissemination of information from the ACJIS network is limited to criminal justice agencies for the administration of criminal justice or for criminal justice employment.
 2. An agency that enters records into the ACJIS network is responsible for the accuracy, timeliness, and completeness of the record entries.
 3. An agency shall have an ACJIS misuse policy that outlines the sanctions imposed on agency personnel who misuse ACJIS.
 4. An agency shall ensure that agency equipment connected to the ACJIS network is fully compatible with existing ACJIS computer equipment and upgraded as necessary to remain compatible with ACJIS configurations and architecture.
 5. An agency shall ensure that agency personnel maintain appropriate operator certification levels as specified in R13-1-203.
- C.** A criminal justice agency that interfaces its record management system with the ACJIS network shall meet the following interface standards and security requirements as set by the Department:
1. Provide to the Department a complete and accurate schematic of agency network and hardware configuration;
 2. Ensure that there are security controls to prevent unauthorized access to ACJIS information;
 3. Follow user identification and password configurations specified by the Department;
 4. Establish a process to review system logs and store the logs for one year; and
 5. Sign the Department's ACJIS interface addendum agreeing to follow the standards in this subsection.

R13-1-202. Arizona Criminal Justice Information System Training and Proficiency Guidelines

A criminal justice agency that accesses the ACJIS Network shall follow the ACJIS terminal operator certification (TOC) testing guidelines developed and maintained by the Department. The guidelines are:

1. Each agency with terminal access to the ACJIS Network shall appoint an ACJIS System Security Officer (SSO) to act as liaison to the Department's CJIS Systems Officer.
2. The agency SSO shall:
 - a. Oversee the development and maintenance of the agency's ACJIS Network and TOC training outlines;
 - b. Oversee the Terminal Operator Certification Training Program;
 - c. Oversee the Criminal Justice Practitioner's Training Program; and
 - d. Ensure that all agency terminal operators pass a test by obtaining at least a score of 70 percent for the appropriate Terminal Operator Certification Level before accessing the ACJIS.

R13-1-203. Terminal Operator Certification Training or Criminal Justice Practitioner's Program

- A.** The SSO shall ensure that the Terminal Operator Certification Training Programs for terminal operator levels A, B, C, and D contain the following areas of training as applicable to the certification level:
1. Privacy and security of the ACJIS/NCIC system;
 2. Record inquiry and entry procedures on all databases;
 3. Validation procedures;
 4. Hit confirmation procedures;
 5. Dissemination procedures;
 6. Terminal operator certification procedures;
 7. Use of ALETS and the NLETS; and
 8. Viewing the ACJIS operations overview video.
- B.** The agency SSO shall ensure that the Criminal Justice Practitioner's Program includes, at a minimum, viewing the ACJIS operations overview video.

R13-1-204. Procedures for and Restrictions on Dissemination of Information

- A.** A criminal justice agency shall follow the terms and conditions for dissemination of criminal justice or criminal history record information obtained from the ACJIS network outlined in:

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1. A.R.S. § 41-1750;
 2. 28 CFR Part 20 dated July 2004, incorporated by reference, available from the Department and the FBI at 1000 Custer Hollow Road, Clarksburg, WV 26306. This incorporation by reference contains no future editions or amendments; and
 3. The ACJIS User Agreement as stated in R13-1-201;
- B.** A criminal justice agency shall provide an access authorization list to the Department. The Department shall disseminate criminal justice or criminal history record information only to individuals on the agency's access authorization list. The authorization list shall include:
1. Name of agency;
 2. Name of authorized individual;
 3. Date of birth of authorized individual;
 4. Date of hire of authorized individual, if applicable;
 5. Terminal operator certification number of authorized individual, if applicable; and
 6. Phone numbers of authorized individual.

ARTICLE 3. ARIZONA CRIME STATISTICS

R13-1-301. Submittal of Hate Crimes Information

- A.** A law enforcement agency shall submit hate crime information to the Department as outlined in the following publications that are incorporated by reference, available from the Department's Access Integrity Unit and the FBI at 1000 Custer Hollow Road, Clarksburg, WV 26306, and include no future editions or amendments:
1. Federal Bureau of Investigation Training Guide for Hate Crime Data Collection, Appendix C; and Federal Bureau of Investigation Hate Crime Data Collection Guidelines, dated October 1999;
 2. Federal Bureau of Investigation National Incident Based Reporting System Handbooks:
 - a. Uniform Crime Reporting Handbook, NIBRS Edition, dated 1992;
 - b. Volume 1 – Data Collection Guidelines, dated August 2000;
 - c. Volume 2 – Data Submission Specifications, dated May 1992;
 - d. NIBRS Addendum for Submitting LEOKA data, dated October 2002; and
 - e. Volume 4 – Error Message Manual, dated December 1999.
- B.** The Department shall provide law enforcement agencies with information contained in the FBI's Uniform Crime Reporting State Program Bulletins that the Department determines is necessary to comply with this Section.

R13-1-302. Submittal of Uniform Crime Information

- A.** A law enforcement agency shall submit uniform crime information to the Department as outlined in the following publications that are incorporated by reference, available from the Department's Access Integrity Unit and the FBI at 1000 Custer Hollow Road, Clarksburg, West Virginia, and contains no future editions or amendments:
1. Federal Bureau of Investigation Uniform Crime Reporting Handbook, dated 2004;
 2. Federal Bureau of Investigation National Incident Based Reporting System Handbooks incorporated in R13-1-301(A)(2).
- B.** The Department shall provide law enforcement agencies with information contained in the FBI's Uniform Crime Reporting State Program Bulletins that the Department determines is necessary to comply with this Section.

ARTICLE 4. APPLICANT FINGERPRINT PROCESSING

R13-1-401. Non-criminal Justice Fingerprint Processing Charges

- A.** For an applicant for non-criminal justice employment, fingerprint processing charges are:
1. For a state criminal records check, \$5; and
 2. If a federal criminal record check by the FBI is requested by the applicant, the Department shall collect an additional charge to cover the cost billed to the Department by the FBI for the federal criminal records check.
- B.** For a state criminal records check, an individual shall submit payment by:
1. State companion action transfer;
 2. State direct deposit form;
 3. Cashier's check;
 4. Money order;
 5. Check drawn on a government agency account; or
 6. For Department sections submitting applicant fingerprint cards, via a Department funds transmittal form.
- C.** All charges are non-refundable.

R13-1-402. Refusal of Service

- A.** If any form of payment is not accepted by the Department's banking facility, the Department shall send the state agency,

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- company, or individual that submitted the payment a notice of nonpayment.
- B.** The notice of nonpayment informs the state agency, company, or individual that the Department will not accept non-criminal justice fingerprint submissions from the agency, company, or individual until past due payment is made.
 - C.** At the Department's discretion, the Department may require the delinquent party to submit all future payments in the form of a cashier's check or money order.

ARTICLE 5. DEPARTMENT RECORDS

R13-1-501. Procedure for Obtaining a Traffic Accident Report or Photograph

- A.** Any individual or entity, public or private, may obtain traffic accident reports and photographs from the Department.
- B.** A governmental agency requesting a traffic accident report may obtain the report free of charge. The Department shall charge the general public or a private entity a processing fee as listed in R13-1-502.
- C.** To obtain a copy of a Department traffic accident report or photograph, the requester shall:
 - 1.** Complete and submit the Department Request for Copy of Report form, available from the Department Records Unit. The Request for Copy of Report form includes:
 - a.** The requester's name;
 - b.** The requester's address;
 - c.** The requester's phone number;
 - d.** All information known regarding the traffic accident; and
 - e.** The requirement to specify whether the request is for:
 - i.** The traffic accident report only;
 - ii.** Photographs only; or
 - iii.** The traffic accident report and photographs; and
 - 2.** Pay the charge under R13-1-502, if applicable.
- D.** Once the investigating officer submits the traffic accident report, the Department shall make accident reports and photographs available upon request. The Department shall release available traffic accident reports and photographs promptly after receiving the Request for Copy of Report form and payment of charges.
- E.** The Department redacts Social Security information from traffic accident reports released to the general public.
- F.** As specified in A.R.S. § 28-667, the Department shall not provide traffic accident reports for commercial solicitation.

R13-1-502. Charges for Copies of Traffic Accident Reports and Photographs

- A.** The charges for copies of traffic accident reports and photographs are:
 - 1.** For traffic accident reports, \$9.00 for nine pages or less and one dollar for each additional page over nine;
 - 2.** \$4.00 per photograph; and
 - 3.** \$10.00 per photo contact sheet.
- B.** A person shall mail fees to the Department in the form of a cashier's check, money order, or a business check payable to the Arizona Department of Public Safety. If paying in person, the person shall pay with a cashier's check, money order, business check, exact change in cash, or personal check if accompanied by valid picture identification.

R13-1-503. Procedure for Obtaining Copies of Offense, Arrest, or Incident Reports

- A.** Any individual or entity, private or public, in accordance with A.R.S. § 39-121 may request an Offense, Arrest, or Incident report by contacting the Department's custodian of public records.
- B.** A government agency requesting an Offense, Arrest, or Incident report may obtain the report free of charge. The Department shall charge the general public or a private entity a processing charge as listed in R13-1-504.
- C.** To obtain a copy of a Department Offense, Arrest, or Incident report, the requester shall:
 - 1.** Complete and submit the Department's Public Records Unit Request form provided on the Department web site at www.dps.state.az.us, or provide a written request that includes:
 - a.** The requester's name;
 - b.** The requester's address;
 - c.** The requester's phone number, fax number, or both; and
 - d.** All information known regarding the offense, arrest, or incident, including the Department report number; and
 - 2.** Pay the charge under R13-1-504, if applicable.
- D.** Once the Offense, Arrest, or Incident report is submitted by the investigating officer, the Department shall make the report available upon request. The Department shall release available Offense, Arrest, or Incident reports promptly in accordance with A.R.S. § 39-121.
- E.** The Department may redact certain information in a Department report based on legal considerations.

R13-1-504. Charges for Copies of Offense, Arrest, or Incident Reports

- A.** Charges for copies of Offense, Arrest, or Incident reports are \$9.00 for nine pages or less and \$1.00 for each additional page over nine.
- B.** A person shall mail charges to the Department in the form of a cashier's check, money order, or a business check payable

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to the Arizona Department of Public Safety. If paying in person, the person shall pay with a cashier's check, money order, business check, or exact change in cash.

Exhibit A. Disposition Report Form Block Completion Instructions for Law Enforcement and Prosecutors

Block #1: SID NUMBER/AZ: If subject was previously arrested, the State Identification number may be obtained from the Arizona Computerized Criminal History (ACCH) files via terminal inquiry.

Block #2: NAME: Subject's complete name as shown on the arrest fingerprint record that was completed for this arrest.

Block #3: DATE OF BIRTH (DOB): As shown on the arrest fingerprint record (MMDDCCYY) MM = month, DD = day, CCYY = full year. Example: 03/20/1954.

Block #4: DATE OF ARREST: As shown on the arrest fingerprint record (MMDDCCYY) MM = month, DD = day, CCYY = full year. Example: 04/20/2001.

Block #5: PCN: PCN assigned for specific arrest incident via AZAFIS.

Block #6: ARRESTING AGENCY ORI: The NCIC-assigned originating agency identifier (ORI).

Block #7: ARRESTING AGENCY CASE NUMBER: The arresting agency's case number.

Block #8: BOOKING AGENCY ORI: The NCIC-assigned originating agency identifier (ORI).

Block #9: BOOKING NUMBER: The number assigned by the detention facility.

Block #10: CHARGES: Each offense charged at the time of arrest MUST be listed on line "a". Line "b" is used only for amendments to the initial arrest charge(s).

Block #11: ARIZONA REVISED STATUTE (A.R.S.) or Ordinance: Enter the correct A.R.S. number or the County/City Ordinance number for each charge (as indicated on the arrest fingerprint record.)

Block #12: DATE OF OFFENSE/VIOLATION: Enter the date the offense/violation was committed (MMDDCCYY).

Block #13: OFFENSE TYPE: Circle "M" for misdemeanor. Circle "F" for felony.

Block #14: PREPARATORY OFFENSE CODE: Enter the appropriate code from the list on the front of this form. Indicate "A" for Attempted, "C" for Conspiracy to Commit, "F" for facilitate, or "S" for solicit.

Block #15: DOMESTIC VIOLENCE & VICTIM INFORMATION CODE: Enter the appropriate code from the list on the front of the form. Indicate "D" for a crime involving domestic violence, "M" when the victim is a minor, "A" when the victim is a vulnerable adult, "L" when the victim is a law enforcement officer, "C" for a dangerous crime against a child/children.

Block #16: DESIGNATED COURT NAME/IDENTIFIER: Enter the designated court name or NCIC-assigned originating identifier (ORI) for each charge.

Block #17: AMENDED TO: Enter the letter "X" in block 17, line "a"; then write amended charge(s) and sentence information on the corresponding "b" line, beginning in block 10, completing all applicable blocks through block 27.

Block #18: DISPOSITION CODE: Enter the appropriate disposition code from the following: "NF" for no complaint filed, "NR" for not referred to prosecution, or "DP" for deferred prosecution.

Block #25: DISPOSITION DATE: Enter the official disposition date (MMDDCCYY).

Block #26: AGENCY ORI MAKING DISPOSITION DECISION: The NCIC-assigned originating agency identifier (ORI) of the agency making the disposition decision.

Block #27: FURTHER EXPLANATIONS OR MODIFICATIONS: Further explanation regarding a particular charge/disposition (list the charge number) may be entered in this section.

Block #28: RIGHT INDEX FINGERPRINT: (lower right corner of the form) At the time of arrest/fingerprinting, the subject's right index fingerprint may be placed in this box. (This fingerprint is optional and not required to process the Disposition Report form.)

EXHIBIT B. Disposition Report Form Block Completion Instructions for Criminal Courts

Block #1: SID NUMBER/AZ: If subject was previously arrested, the State Identification number may be obtained from the Arizona Computerized Criminal History (ACCH) files via terminal inquiry.

Block #2: NAME: Subject's complete name as shown on the arrest fingerprint record that was completed for this arrest.

Block #3: DATE OF BIRTH (DOB): As shown on the arrest fingerprint record (MMDDCCYY) MM = month, DD = day, CCYY = full year. Example: 03/20/1954.

Block #4: DATE OF ARREST: As shown on the arrest fingerprint record (MMDDCCYY) MM = month, DD = day, CCYY = full year. Example: 04/20/2001.

Block #5: PCN: PCN assigned for specific arrest incident via AZAFIS.

Block #6: ARRESTING AGENCY ORI: The NCIC-assigned originating agency identifier (ORI).

Block #7: ARRESTING AGENCY CASE NUMBER: The arresting agency's case number.

Block #8: BOOKING AGENCY ORI: The NCIC-assigned originating agency identifier (ORI).

Block #9: BOOKING NUMBER: The number assigned by the detention facility.

Block #10: CHARGES: Each offense charged at the time of arrest MUST be listed on line "a". Line "b" is used only for amendments to the initial arrest charge(s).

Block #11: ARIZONA REVISED STATUTE (A.R.S.) or Ordinance: Enter the correct A.R.S. number or the County/City Ordinance number for each charge (as indicated on the arrest fingerprint record).

Block #12: DATE OF OFFENSE/VIOLATION: Enter the date the offense/violation was committed (MMDDCCYY).

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Block #13: OFFENSE TYPE: Circle "M" for misdemeanor. Circle "F" for felony.

Block #14: PREPARATORY OFFENSE CODE: Enter the appropriate code from the list on the front of this form. Indicate "A" for attempted, "C" for Conspiracy to Commit, "F" for facilitate, or "S" for solicit.

Block #15: DOMESTIC VIOLENCE & VICTIM INFORMATION CODE: Enter the appropriate code from the list on the front of the form. Indicate "D" for a crime involving domestic violence, "M" when the victim is a minor, "A" when the victim is a vulnerable adult, "L" when the victim is a law enforcement officer, "C" for a dangerous crime against a child/children.

Block #16: DESIGNATED COURT NAME/IDENTIFIER: Enter the designated court name or NCIC-assigned originating identifier (ORI) for each charge.

Block #17: AMENDED TO: Enter the letter "X" in block 17, line "a"; then write amended charge(s) and sentence information on the corresponding "b" line, beginning in block 10, completing all applicable blocks through block 27.

Block #18: DISPOSITION CODE: Enter the appropriate disposition or appellate code from the list on the front of the form.

AC — Acquitted/ Not guilty

CD — Court Dismissed

DP — Deferred Prosecution

DS — Deferred Sentencing

GG — Guilty

GI — Guilty but Insane

NF — No complaint filed

NP — Nolo contendere plea

NR — Not referred for prosecution

PD — Pardoned

PM — Pending due to mental incompetency

PO — Plea to other charges

RI — Not responsible by reason of insanity

APPELLATE CODES:

AF — Affirmed

AR — Affirmed, Remanded for Re-sentencing

RR — Reversed and Remanded

RV — Reversed and Conviction Overturned

SM — Sentence Modified

Block #19: PRISON/JAIL: If the defendant was sentenced to confinement, circle "P" for prison or "J" for Jail.

Block #20: LENGTH OF CONFINEMENT: Indicate the length of confinement (in days, months, years, etc.) to which the defendant is sentenced. Example: 1yr. 2 mo.

Block #21: SENTENCE CODE: Enter the appropriate sentence code from the list on the front of the form.

CC — Concurrent

CS — Consecutive

PS — Public or Community Service

SS — Court Suspended Sentence

Block #22: PROBATION LENGTH: Indicate the length of probation in days, months, years, etc. to which the subject is sentenced. Example: 3 yrs.

Block #23: FINE: Circle "Y" for Yes, to indicate that a fine was imposed. Circle "N" for No, to indicate that a fine was not imposed.

Block #24: COURT CASE COMPLAINT NUMBER: The case number assigned by the Justice/Municipal/Superior Court.

Block #25: DISPOSITION DATE: Enter the official disposition date (MMDDCCYY).

Block #26: AGENCY ORI MAKING DISPOSITION DECISION: The NCIC-assigned originating agency identifier (ORI) of the agency making the disposition decision.

Block #27: FURTHER EXPLANATIONS OR MODIFICATIONS: Further explanation regarding a particular charge/disposition (list the charge number) may be entered in this block.

Block #28: RIGHT INDEX FINGERPRINT: (lower right corner of the form) At the time of arrest/fingerprinting, the subject's right index fingerprint may be placed in this box. (This fingerprint is optional and not required to process the Disposition Report form.)

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

[R05-132]

PREAMBLE

1. Sections Affected

R19-1-213
R19-1-214
R19-1-214

Rulemaking Action

Repeal
Repeal
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. § 4-112(B)(1)(b)
Implementing statute: A.R.S. § 4-112(G)(6)

3. The effective date of the rules:

June 4, 2005

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 10 A.A.R. 4273, October 22, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 4256, October 22, 2004

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

Name: Sergeant Wes Kuhl
Address: 800 W. Washington St., 5th Floor
Phoenix, AZ 85007
Telephone: (602) 542-9072
Fax: (602) 542-5707

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

The agency is informing the public of the Department's revised rule on prohibited acts inside licensed establishments. The revisions comply with a United States District Court ruling that struck unconstitutional language from the previous rules.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule 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 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

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

The rule imposes a minimal economic impact on the agency in the rewriting of the rule. The rule imposes less of a burden than the previous rules because there are fewer restrictions. The rule is more readable and easier for the general public and small business owners to understand. Unclear terms were removed to reduce interpretation problems, which will assist in the enforcement of this rule. The economic impact on other state agencies, such as the Office of the Secretary of State and the Governor's Regulatory Review Council, is expected to be minimal.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor nonsubstantive changes were made at the request of G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

No comments about the proposed rulemaking were received.

Notices of Final Rulemaking

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:

None

14. Was this rule previously made as an emergency rule?

The rule was not previously made as an emergency rule.

15. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

ARTICLE 2. DIRECTOR

R19-1-213. ~~Clothing Requirements, Employees Repealed~~

R19-1-214. ~~Sex Acts Prohibited, Real or Simulated Prohibited Acts~~

ARTICLE 2. DIRECTOR

R19-1-213. ~~Clothing Requirements, Employees Repealed~~

~~A.~~ No licensee shall, on the licensed premises:

- ~~1. Employ or use any person as an entertainer or in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast or any portion of his or her pubic hair, anus, cleft of the buttocks, vulva, or genitals;~~
- ~~2. Employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subsection (A)(1);~~
- ~~3. Encourage or permit any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals, of any other person; or~~
- ~~4. Permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.~~

~~B.~~ If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provisions or application, and to this end the provisions of this rule are severable.

R19-1-214. ~~Sex Acts Prohibited, Real or Simulated Prohibited Acts~~

No licensee shall permit, on the licensed premises, any person to perform acts of or acts which constitute or simulate:

- ~~1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;~~
- ~~2. The touching, caressing, or fondling of the breast, buttocks, anus, or genitals;~~
- ~~3. The displaying of any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva, or genitals; or~~
- ~~4. Any violation enumerated in A.R.S. Title 13, Chapter 14, Sexual Offenses, including the following sections:
 - ~~a. 13-1402: indecent exposure; classifications;~~
 - ~~b. 13-1403: public sexual indecency; public sexual indecency to a minor; classifications;~~
 - ~~e. 13-1404: sexual abuse; classifications;~~
 - ~~d. 13-1405: sexual conduct with a minor; classifications;~~
 - ~~e. 13-1406: sexual assault; classification; increased punishment;~~
 - ~~f. 13-1406.01: sexual assault of a spouse; definition, violation, classification;~~
 - ~~g. 13-1410: molestation of child; classification;~~
 - ~~h. 13-1411: crime against nature; classification;~~
 - ~~i. 13-1412: lewd and lascivious acts; classifications.~~~~

A. A licensee shall not permit, on the licensed premises, an employee or other person to:

1. Expose any portion of his or her anus, vulva, or genitals;
2. Grope, caress or fondle, or cause to be groped, caressed, or fondled the breasts, anus, vulva, or genitals of any other person with any part of the body; or
3. Perform acts of sexual intercourse, masturbation, sodomy, bestiality, or oral copulation.

Notices of Final Rulemaking

- B.** The provisions of this Section are severable. If any provision of the Section or the application of the Section to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Section that can be given effect without the invalid provision or application.

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

[R05-135]

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R19-2-126 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. § 5-104(A)(2) and (T)
Implementing statute: A.R.S. § 5-104(G)
- 3. The effective date of the rules:**
June 4, 2005
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 2440, June 18, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 2985, July 30, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: William J. Walsh
Address: Arizona Department of Racing
1110 W. Washington St., Suite 260
Phoenix, AZ 85007
Telephone: (602) 364-1700
Fax: (602) 364-1703
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**
An amendment to A.R.S. § 5-104(G) authorized a horse adoption program. The law further directed the Arizona Racing Commission to adopt rules to oversee the program.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule 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:**
The agency did not rely on any study in this rulemaking.
- 8. 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:**
None
- 9. The summary of the economic, small business, and consumer impact:**
The amendment to the law authorized the Arizona Racing Commission to add a five percent surcharge to civil penalties collected from horse licensees. The surcharge will affect those licensees who violate the rules. The estimated surcharge amount during the initial fiscal year is \$2,500. Through the first three months of Fiscal Year 2005, \$355 has been collected. The Department will incur costs to administrate the program. Based on the costs to administer a similar program for greyhounds, it is estimated the Department's expenses will be minimal, less than \$250, during each fiscal year.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
There have been several non-substantive changes made.

Notices of Final Rulemaking

11. A summary of the comments made regarding the rule and the agency response to them:

The agency did not receive any written comments to the rules.

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:

None

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 1. HORSE RACING

Section

R19-2-126. Race Horse Adoption Grants

ARTICLE 1. HORSE RACING

R19-2-126. Race Horse Adoption Grants

- A.** The Commission shall provide financial grants to nonprofit enterprises to promote the adoption of retired race horses. The Commission shall distribute all of the retired race horse adoption surcharge funds generated from A.R.S. § 5-104(G) to nonprofit enterprises.
- B.** Procedures.
1. A nonprofit enterprise that wishes to receive a financial grant shall submit a Department-generated application form to the Commission. In 2005, the Commission shall set the date by which applications are to be received. After 2005, the Commission shall accept applications until March 1 of each year. The nonprofit enterprise shall provide the following information:
 - a. A written description of the nonprofit enterprise.
 - b. Proof of nonprofit status.
 - c. The proposed use of the grant.
 - d. A description of the nonprofit enterprise's procedures to acclimate the horses as required by subsection (C)(6).
 - e. A description of the nonprofit enterprise's adoption procedures as required by subsection (C)(7).
 - f. A copy of the application form and adoption agreement required by subsections (C)(7)(a) and (c), and
 - g. A copy of the transfer of registration or bill of sale required by subsection (C)(8).
 2. If the Commission finds that the adoption program of a nonprofit enterprise is in the best interest of the racing industry and this state, the Commission shall decide whether to make a grant to the nonprofit enterprise, the amount of the grant, and the date of disbursement of the grant.
 3. A recipient of a grant shall report annually to the Commission on a form provided by the Department to gather the following information:
 - a. The number of horses the nonprofit enterprise received;
 - b. The number of horses adopted;
 - c. The number of horses returned by an adoptee and reason for each return;
 - d. The actual use of the grant;
 - e. A list of people who adopted the horses, or a copy of the contract between the nonprofit enterprise and each adoptee; and
 - f. The most recent Articles of Incorporation filing with the Arizona Corporation Commission.
- C.** Minimum qualifications.
1. The enterprise shall be nonprofit.
 2. The enterprise shall not:
 - a. Allow a horse to be used for racing, wagering, or slaughter; or
 - b. Place a horse with a humane society or research facility;
 3. The enterprise shall not euthanize an adoptable horse unless, as determined by a licensed veterinarian, it is medically necessary for humane reasons.

Notices of Final Rulemaking

4. The enterprise shall be affiliated with a racetrack that conducts horse racing. Affiliation is satisfied when the general manager or other executive from the racetrack submits to the Commission a written recommendation on behalf of the enterprise.
5. The enterprise shall require that a licensed veterinarian perform a complete check-up on each horse before releasing the horse to an adoptee. The enterprise shall ensure that each horse receives all medical care necessary to maintain its good health.
6. The enterprise shall employ procedures for acclimating a horse that include:
 - a. Exposure to the public.
 - b. Exposure to a new diet, and
 - c. Training for off-track life.
7. The enterprise shall employ procedures for adopting-out horses that include:
 - a. An application process for prospective adoptees;
 - b. A visual check of each prospective adoptee's farm with written documentation of the visit;
 - c. A written adoption agreement between the enterprise and adoptee;
 - d. At a minimum, follow-ups conducted by phone or visit after seven and 30 days with written documentation; and
 - e. Procedures for the return of a horse.
8. Before assuming care of a horse, the enterprise shall obtain a transfer of registration or bill of sale for the horse.
9. The enterprise shall make available a person to complete and submit all filing requirements and to answer questions from a prospective or current adoptee.
10. The enterprise shall keep a file on each horse that includes:
 - a. The transfer of registration or bill of sale;
 - b. The vaccination record, health record, and all veterinarian reports;
 - c. The adoptee's application form;
 - d. The written adoption agreement between the enterprise and adoptee; and
 - e. The written documentation of pre-adoption check and follow-ups.
11. The enterprise shall state in the adoption agreement the rules and responsibilities required of the adoptee.
12. The enterprise shall make the records required in subsection (C)(11) available for inspection by a representative of the Department.
13. The enterprise shall allow the Department to inspect the facilities, farm, or location of the adopted horses.