

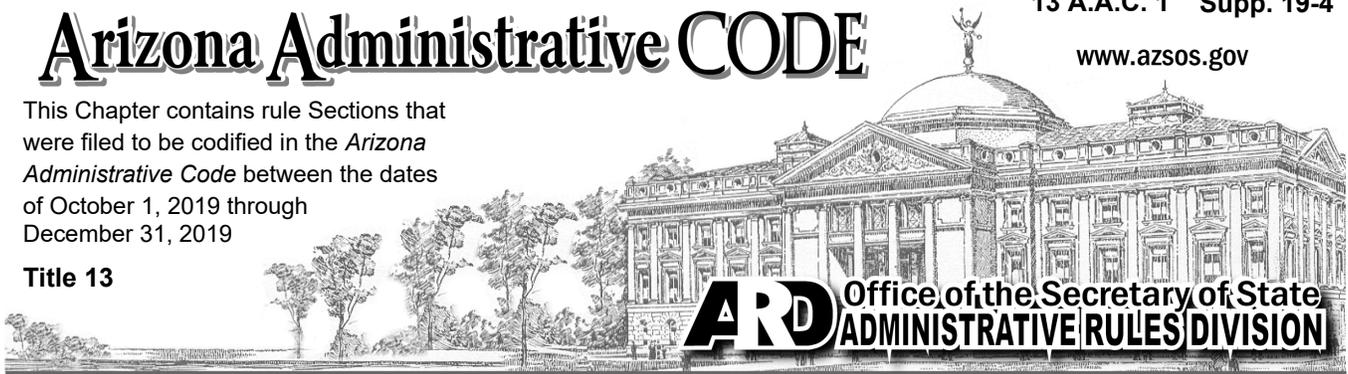
Arizona Administrative CODE

13 A.A.C. 1 Supp. 19-4

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This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of October 1, 2019 through December 31, 2019

Title 13



TITLE 13. PUBLIC SAFETY

CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY - CRIMINAL IDENTIFICATION SECTION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

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The release of this Chapter in Supp. 19-4 replaces Supp. 19-2, 1-10 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.



Administrative Rules Division
The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 13. PUBLIC SAFETY

CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY - CRIMINAL IDENTIFICATION SECTION

(Authority: A.R.S. § 41-1750 et seq.)

Editor's Note: This Chapter was recodified under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4).

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Article 5, consisting of R13-1-501 through R13-1-504, made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

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CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY - CRIMINAL IDENTIFICATION SECTION

ARTICLE 1. CRIMINAL HISTORY RECORDS**R13-1-101. Definitions**

In addition to the definitions in A.R.S. §§ 41-1750 and 41-2201, 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 local, state, and federal criminal justice agencies.
3. "ADRS" means the Arizona Disposition Reporting System, which is maintained by the Department and supports electronic submission of disposition information to the central state repository.
4. "ALETS" means the Arizona Law Enforcement Telecommunications System.
5. "Arizona Computerized Criminal History" means a criminal history record kept by the Department in a database of offenders arrested in this state.
6. "Arresting agency case number" means a unique 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. The first three characters are the AZAFIS-assigned alpha characters that identify the arresting agency.
7. "AZAFIS" means the Arizona Automated Fingerprint Identification System maintained by the Department that stores state-level arrest fingerprints and related information.
8. "AZAFIS Image Scanner" means the scanning system that scans and transmits ink and roll arrest fingerprint records.
9. "AZAFIS Livescan" means the electronic system that captures and transmits arrest information and fingerprints.
10. "CHRI" means Criminal History Record Information.
11. "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.
12. "Date of arrest" means the date a person is taken into custody using the MMDDCCYY format as indicated in Exhibit A.
13. "Date of birth" means the subject's date of birth using MMDDCCYY format as indicated in Exhibit A.
14. "Department" means the Arizona Department of Public Safety.
15. "Disposition date" is the date of final disposition of a charge.
16. "Hot files" means records entered into ACJIS. These records include those regarding 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. "LSI" means local subject identifier, a unique 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 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 a designation that indicates whether an offense is a felony or a misdemeanor.
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. "Place of birth" means the state or country in which a subject of record was born.
30. "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.
31. "Terminal Operator Certification Level A" means a terminal operator who is authorized to access the ACJIS network for entering, updating, clearing, or canceling records; conducting inquiries; and interpreting responses.
32. "Terminal Operator Certification Level B" means a terminal operator who is authorized to inquire into the ACJIS network and interpret responses.
33. "Terminal Operator Certification Level C" means a terminal operator who is authorized to inquire into the ACJIS/NCIC hot files.
34. "Terminal Operator Certification Level D" means technical personnel who are authorized to view information obtained from the ACJIS network.
35. "Terminal Operator Certification Level F" means a terminal operator who is authorized to inquire into, enter information into, or modify information in the ADRS.
36. "TOC" means Terminal Operator Certification.

Historical Note

Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-01; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

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

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- 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 or deletion of arrest records may only be requested by the arresting or booking agency. The Correction of Information form includes:
 - a. Name of the person authorizing the correction or deletion;
 - b. Agency name, ORI, and telephone and fax numbers;
 - c. PCN;
 - d. SID;
 - e. Subject of record's name and date of birth;
 - f. Arresting agency case number;
 - g. Date of arrest; and
 - h. Correction or deletion 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 disposition date.
 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 10 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 whether 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 reaches age 99 or one year after the Department receives notice of the subject of record's death.

Historical Note

Former rule 1. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-02; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

R13-1-103. 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.

Historical Note

Former rule 2. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-03; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

R13-1-104. 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

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files of the Offender-based Tracking System and the Arizona Computerized Criminal History, when applicable.

Historical Note

Former rule 3. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-04; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

R13-1-105. Procedures for a Criminal Court to Forward Dispositions of Criminal Charges to the Central State Repository

- 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.

Historical Note

Former rule 4. Formerly Section R13-1-05; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

R13-1-106. 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,
 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 using the ink-and-roll method of fingerprinting 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. About the individual arrested:
 - a. Name;

- b. Date of birth;
- c. Personal identifiers;
- d. Juvenile fingerprinted, if applicable; and
- e. Place of birth;
2. Date of arrest;
3. ORI, and arresting agency's name and address;
4. Date of offense;
5. Local identification/reference:
 - a. LSI and arresting agency case number are required,
 - b. Local file number and agency tracking number are optional;
6. Citation information/charge description. Citation to the state, county, or city code allegedly violated and description of charge, i.e., A.R.S. § 13-1802, theft.
7. Offense type:
 - a. Designate a felony with an "F,"
 - b. Designate a misdemeanor with an "M";
8. Court ORI;
9. PCN;
10. Name or identification number of official taking fingerprints; and
11. Arrest fingerprints.

Historical Note

Former rule 5. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-06; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

R13-1-107. 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

CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY - CRIMINAL IDENTIFICATION SECTION

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.

Historical Note

Former rule 6. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-07; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

R13-1-108. Procedures for Challenging the Accuracy and Completeness of Criminal History Records

- 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) within 35 days of the date of the response 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 to or deletion from 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 referenced in subsection (B), the Department shall send written notification of the audit result and a copy of any record modification to the subject of record or the subject of record's attorney.
- E. The Department shall include in the notice of audit result referenced in subsection (D) a statement that the subject of record may request a hearing to determine the accuracy of the criminal history record. To request a hearing, the subject of record or the subject of record's attorney shall submit to the Department a written request within 35 days of the date of the notice of audit result referenced in subsection (D).

Historical Note

Former rule 7. Formerly Section R13-1-08; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

R13-1-109. Hearing Procedures

- A. Under A.R.S. § 41-2204(6), a hearing shall be conducted after receipt of a request for a hearing to determine the accuracy of information in a criminal history record maintained by the Central State Repository.

- B. The Office of Administrative Hearing shall conduct a hearing to determine the accuracy of information in a criminal history record maintained by the Central State Repository in accordance with the procedures in A.R.S. Title 41, Chapter 6, Article 10 and the rules issued by the Office of Administrative Hearings.
- C. Under A.R.S. § 41-1092.08, within 30 days after the Office of Administrative Hearings sends the administrative law judge's recommended decision to the Director, the Director shall review the recommended decision and may accept, modify, or reject it.

Historical Note

Former rule 8. Formerly Section R13-1-09; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Former R13-1-109 renumbered to R13-1-111, new Section made by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

R13-1-110. Review or Rehearing of the Director's Decision

- A. In accordance with A.R.S. § 41-1092.09, a party may file with the Department a motion for rehearing or review of a decision issued by the Director under R13-1-109.
- B. A party may amend a motion for rehearing or review at any time before the Department rules on the motion.
- C. The Department may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
 1. Irregularity in the proceedings or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Director, Department staff, or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
 6. The findings of fact are not justified by the evidence or the decision is contrary to law.
- D. The Department may affirm or modify a decision or grant a rehearing or review on all or some of the issues for any of the reasons listed in subsection (C). The Department shall specify with particularity the grounds for an order modifying a decision or granting a rehearing or review. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- E. Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Department may, on its own initiative, order a rehearing or review of the decision for any reason listed in subsection (C). The Department may grant a motion for rehearing or review, timely served, for a reason not stated in a motion.
- F. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service of the motion, serve response affidavits. The Department may extend this period for a maximum of 20 days for good cause or by written stipulation of the parties. The Department may permit reply affidavits.
- G. If, in a particular decision, the Director makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare

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and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision shall be issued as a final decision without an opportunity for a rehearing or review.

Historical Note

New Section made by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

R13-1-111. Information Deemed Useful for the Study and Prevention of Crime or the Administration of Criminal Justice

- 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 or electronic 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) 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.

Historical Note

New Section R13-1-111 renumbered from R13-1-109 and amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

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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.)

Historical Note

Article 1, Exhibit A recodified from Article 5, Exhibit A, effective February 7, 2019 (Supp. 19-1).

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).

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.

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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: 1 yr. 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.)

Historical Note

Article 1, Exhibit B recodified from Article 5, Exhibit B, effective February 7, 2019 (Supp. 19-1).

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 R13-1-204(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;

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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.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

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.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

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.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

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:
 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 incor-

poration 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.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

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.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

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

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State Program Bulletins that the Department determines is necessary to comply with this Section.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

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 or government agency shall submit payment by:
1. Credit card;
 2. Cashier's check;
 3. Money order;
 4. For government agencies a transfer of funds through the State's accounting system; or
 5. Check drawn on a government agency account.
- C.** All charges are non-refundable.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 3558, effective January 18, 2020 (Supp. 19-4).

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, 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, credit card or money order.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 3558, effective January 18, 2020 (Supp. 19-4).

ARTICLE 5. REPEALED**R13-1-501. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Section R13-1-501 repealed by final expedited rulemaking at 25 A.A.R. 1444, effective immediately May 21, 2019 (Supp. 19-2).

R13-1-502. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Section amended by final rulemaking at 23 A.A.R. 3546, effective February 10, 2018 (Supp. 17-4). Section R13-1-502 repealed by final expedited rulemaking at 25 A.A.R. 1444, effective immediately May 21, 2019 (Supp. 19-2).

R13-1-503. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Section R13-1-503 repealed by final expedited rulemaking at 25 A.A.R. 1444, effective immediately May 21, 2019 (Supp. 19-2).

R13-1-504. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Section amended by final rulemaking at 23 A.A.R. 3546, effective February 10, 2018 (Supp. 17-4). Section R13-1-504 repealed by final expedited rulemaking at 25 A.A.R. 1444, effective immediately May 21, 2019 (Supp. 19-2).

Exhibit A. Recodified**Historical Note**

Article 5, Exhibit A made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Article 5, Exhibit A recodified to Article 1, Exhibit B, effective February 7, 2019 (Supp. 19-1).

Exhibit B. Recodified**Historical Note**

Article 5, Exhibit B made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Article 5, Exhibit B recodified to Article 1, Exhibit B, effective February 7, 2019 (Supp. 19-1).