



Republic of the Philippines

CIVIL AVIATION REGULATIONS (CAR)

PART 13

**ACCIDENT & INCIDENT REPORTING &
INVESTIGATION**

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Republic of the Philippines
 Department of Transportation and Communications
CIVIL AVIATION AUTHORITY OF THE PHILIPPINES
Office of the Corporate Board Secretary

BOARD RESOLUTION NO. 2012-068

WHEREAS, based on the audit result of the ICAO Universal Safety Oversight Audit Programme (USOAP) on CAAP in CY-2009, it was found out that Civil Aviation Regulation (CAR) Part 13 s-2009 and Aircraft Accident Investigation Policies and Procedures Manual (AAIPPM) s-2009 still need significant updates to implement the corrective actions proposed (CAPs) to the CY-2009 USOAP Audit AIG Findings and to input the published amendments to Annex 13;

WHEREAS, the Civil Aviation Authority of the Philippines (CAAP) has come up with the updated/revised regulations, namely: PCAR Part 13 s-2012, AAIPPM s-2012, and Accident Investigation Handbook (AI HBK) s-2012;

WHEREAS, the afore-mentioned updated/revised regulations contain the amendments to implement the proposed corrective actions to the CY-2009 USOAP Audit AIG Findings in CAAP and the pertinent amendments to Standards and Recommended Practices (SARPs) under Annex 13 of ICAO Chicago Convention;

WHEREAS, the Board finds the updated/revised regulations to be necessary in addressing ICAO safety significant concerns.

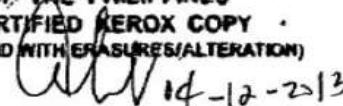
WHEREFORE, Resolve, as it is hereby **RESOLVED**, that the following updated/revised regulations, namely: PCAR Part 13 s-2012, AAIPPM s-2012, and Accident Investigation Handbook (AI HBK) s-2012 are hereby approved, provided that they shall be valid and effective after receipt of copies thereof by the University of the Philippines Law Center-Office of the National Administrative Register (UP-ONAR) and after publication thereof in the Official Gazette or in two (2) newspapers of general circulation.

Adopted and approved during the 25th Regular Board Meeting held on 17th day of December 2012 at CAAP Conference Room, Civil Aviation Authority of the Philippines, Old MIA Road, Pasay City.

for

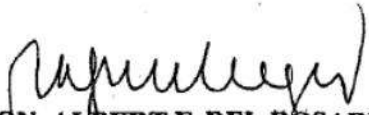
HON. JOSEPH EMILIO A. ABAYA
 Chairman/Secretary, DOTC


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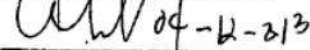

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 04-12-213

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RECORD OF AMENDMENTS

Amendment No.	Date	Subject	Incorporated By
Original Issue	24 June 2009		LT GEN William K Hotchkiss III AFP (Ret)
First Amendment (Recalled)	01 August 2013	Inclusion of vertical bars on the previous amendments. (Output of Team Neil that was published on 28 August 2012 without approval of CAAP Board. To be recalled upon publication of new version approved by CAAP Board dated on 17 December 2012.)	LT GEN William K Hotchkiss III AFP (Ret)
First Amendment	17 December 2012	<ol style="list-style-type: none"> 1) Upon its publication it will become the first 1st Amendment since; the output of Team Neil will be recalled from publication as if it did not exist. Therefore, there are only two existing PCAR Part 13, the original issued as 24 June 2009 and the first 1st Amendment dated 17 December 2012. 2) Change of Board Resolution No. 09-016 to 2012-068 3) Replacement of the old PCAR Part 13 to the latest Amendment of PCAR Part 13 which incorporated of amendment 13 of annex 13 	LT GEN William K Hotchkiss III AFP (Ret)
Second Amendment	21 January 2014	<ol style="list-style-type: none"> 1) Cover Page 2) Record of Amendment 	LT GEN William K Hotchkiss III AFP (Ret)

		<p>3) List of Effected Pages</p> <p>4) Table of Content</p> <p>5) Alignments of Paragraph</p>	
Third Amendment	01 July 2016	<p>13.005 Definitions and Application</p> <ul style="list-style-type: none"> ➤ Contributing Factors ➤ State Safety Program (SSP) <p>13.125 Entitlement of Accredited Representative, Advisers and Experts from Other Contracting States</p> <p>13.145 Publication of Reports</p> <p>13.140 Actions of Investigator-in-charge</p> <p>13.150 Safety Recommendations</p> <p>IS 13.030 List of Examples of Serious Incidents</p>	LT GEN William K Hotchkiss III AFP (Ret)
Fourth Amendment	01 July 2017	<p>13.005 Definitions and Application</p> <ul style="list-style-type: none"> ➤ (3) Accident Investigation Authority ➤ (10) Chairman ➤ (35) State of Manufacture <p>13.015 Purpose of Investigation (c) (2)</p> <p>13.055 Occurrence in the Republic of the Philippines –Note 1-</p> <p>13.095 Obligation to Investigate (c) (d)</p> <p>13.110 Powers of Investigator-in-Charge (b) (6)</p> <p>13.220 Protection of Accident and Incident Investigation Records</p> <p>13.221 Information –</p>	Captain Jim C. Sydiongco

		Accidents and Incidents IS: 13.220 Protection of Accident and Incident Investigation Records	
Fifth Amendment	03 December 2018	13.150 Safety Recommendations (g) and (h)	Captain Jim C. Sydiongco

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Board Resolution	iii-iv	Amendment 02	21 January 2014
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FOREWORD

This Philippine Civil Aviation Regulation (PCAR) Part 13 s-2012, titled: “Aircraft Accident and Incident Investigation”, contains amendments to implement the new provisions of Standards and Recommended Practices (SARPs) of Annex 13 under Article 26 of ICAO (Chicago) Convention, and the Corrective Actions Proposed (CAPs) per USOAP Audit Findings on Accident Investigation Group (AIG) conducted to CAAP in CY-2009 which were duly considered and accepted by ICAO.

This is the first revision from the original Republic of the Philippines Civil Aviation Regulation (CAR) Part 13 initially developed by CAAP in CY-2009, titled: Aircraft Accident and Incident Investigation.

SUBPART A: GENERAL**13.001 APPLICABILITY**

- (a) This Part contains requirements of the Republic of the Philippines pertaining to—
- (1) Personal responsibility for initial notification and later reporting of aircraft incidents and accidents and certain other occurrences in the operation of aircraft, wherever they occur, when they involve civil aircraft registered or operated by Republic of the Philippines; when they involve certain public aircraft, as specified in this part, wherever they occur; and when they involve foreign civil aircraft where the events occur in Republic of the Philippines.
 - (2) Preservation of aircraft wreckage, mail, cargo, and records involving all civil and certain public aircraft incidents and accidents, as specified in this part, in Republic of the Philippines.
 - (3) Conformance to the international Standards for accident and incident reporting.
- (b) This Part is applicable to the—
- (1) Organizations and operators that operate aircraft or provide services associated with the safe operation of aircraft; and
 - (2) All Government agencies necessary to ensure the timely and correct investigation and reporting of accidents.
- (c) This Part is also applicable to—
- (1) All persons associated with the safe operations of aircraft;
 - (2) The general public where they have information pertinent to an accident or incident investigation; and
 - (3) The technical persons that participate in the investigations.

13.005 DEFINITIONS AND APPLICATION

- (a) As used in this part the following words or phrases are defined as follows—
- (1) **Aeronautical Information Publication (AIP)**, means the publication issued by the Authority in accordance with ICAO Annex 15.
 - (2) **Accident**, means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of flight until such time it comes to rest at the end of the flight and the primary propulsion system is shut down, in which –
 - (i) A person is fatally or seriously injured as a result of—
 - (A) being in the aircraft;
 - (B) Direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
 - (C) Direct exposure to jet blast, except where the injuries arise from natural causes, self-inflicted or inflicted by other persons, or where the person injured is a stowaway hiding outside the areas normally available to the passengers and crew;
 - (ii) The aircraft sustains damage or structural failure which—
 - (A) Adversely affects the structural strength, performance or flight

characteristics of the aircraft, and

- (B) Would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), for minor damages to main rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or

- (iii) The aircraft is missing or is completely inaccessible

Note 1. For statistical uniformity only, an injury resulting in death within thirty days of the date of the accident is classified by ICAO, as a fatal injury.

Note 2. An aircraft is considered to be missing when the official search has been terminated and the wreckage has not been located.

Note 3. The type of unmanned aircraft system to be considered for investigation is only those with a design and/or operational approval.

Note 4. The guidance for the determination of aircraft damage as accident is found in Attachment G of Annex 13 to the Convention on International Civil Aviation, Tenth Edition July 2010.

- (3) **Accident investigation authority.** The authority designated by a State as responsible for aircraft accident and incident investigations within the context of this Part.
- (4) **Accredited representative.** means a person designated by a Contracting State, on the basis of his or her qualifications, for the purpose of participating in an investigation conducted by another State. Where the State has established an accident investigation authority, the designated accredited representative would normally be from that Authority;
- (5) **Adviser/Advisor.** means a person appointed by a Contracting State, on the basis of his or her qualifications, for the purpose of assisting its accredited representative in an investigation conducted by another State;
- (6) **Aircraft.** means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;
- (7) **Annex 13.** means Annex 13 to the Chicago Convention on International Civil Aviation as amended from time to time by the Council of the ICAO;
- (8) **ATS.** means air traffic services and includes flight information service, alerting service, air traffic advisory service, air traffic control service, area control service, approach control service and aerodrome control service;
- (9) **Causes.** means actions, omissions, events, conditions, or a combination thereof, which led to the accident or incident. The identification of causes does not imply the assignment of fault or the determination of administrative, civil or criminal liability;
- (10) **Chairman.** means the Head of the Aircraft Accident Investigation and Inquiry Board.
- (11) **Civil aircraft.** Any aircraft other than a State aircraft.
- (12) **Contracting state.** means any State which is a party to the Chicago Convention;

- (13) **Contributing Factors.** Actions, omissions, events, conditions, or a combination thereof, which, if eliminated, avoided or absent, would have reduces the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident. The identification of contributing factors does not imply the assignment of fault or the determination of administrative, civil or criminal liability.
- (14) **Final Report.** means a report of an accident or incident in the format set out in ICAO Annex 13 and which may be adapted to the circumstances of the accident or incident under investigation;
- (15) **Flight recorder.** means any type of recorder installed in the aircraft for the purpose of complementing accident or incident investigation;
- Note. Refer to Annex 6 ICAO, Parts I, II, III, for specifications relating to flight recorders.*
- (16) **Flying display.** means a civilian organized event (including any rehearsal for such event) which —
- (i) consists, wholly or partly, of an exhibition of flying of any civil or military aircraft; and
 - (ii) takes place at an aerodrome or premises other than a naval, military or air force aerodrome or premises;
- (17) **Government.** The Government of the Philippines.
- (18) **Incident.** An occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of such operation;
- Note 1: The Mandatory Reportable Incidents are listed in IS 13.175 1, 2, & 3.*
- Note 2: The types of incidents which are of main interest to the ICAO for accident prevention studies are listed in IS 13.030. (List of Examples of Serious Incidents).*
- (19) **Investigation.** A process conducted for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and/or contributing factors and, when appropriate, the making of safety recommendations.
- (20) **Investigator.** means an Investigator of Accidents appointed under paragraph 13.100(b);
- (21) **Investigator-in-charge.** means a person designated by the Chairman on the basis of his or her qualifications as such under paragraph 13.100(d) and charged with the responsibility for the organization, conduct and control of an investigation;
- Note. Nothing in the above definition is intended to preclude the functions of an investigator-in-charge being assigned to a commission or other body.*
- (22) **Maximum mass.** Maximum certificated take-off mass.
- (23) **Military aircraft.** means an aircraft —
- (i) belonging to the Republic of the Philippines Armed forces; or
 - (ii) belonging to any of the naval, military or air forces of any State;
- (24) **Non-contracting state.** means any State which is not a party to the Chicago Convention;

- (25) **Operator.** means a person, organization or enterprise engaged in or offering to engage in aircraft operation;
- (26) **Owner.** in relation to an aircraft which is registered, means the registered owner of the aircraft;
- (27) **Pilot-in-command.** in relation to an aircraft, means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;
- (28) **Preliminary Report.** means the communication used for the prompt dissemination of data obtained during the early stages of the investigation;
- (29) **Republic of the Philippines aircraft.** means an aircraft that is registered in the Republic of the Philippines;
- (30) **Republic of the Philippines operator.** means an operator whose principal place of business is located in or permanent residence is in Republic of the Philippines;
- (31) **Safety recommendation.** A proposal of an accident investigation authority based on information derived from an investigation, made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident. In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources, including safety studies;
- (32) **Serious incident.** An incident involving circumstances indicating that there was a high probability of an accident and is associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time it comes to rest at the end of the flight and the primary propulsion system is shut down.

Note 1: The difference between an accident and a serious incident lies only in the result.

Note 2: The types of incidents which are of main interest to the ICAO for accident prevention studies are listed in ICAO Appendix 4. (List of Examples of Serious Incidents.

- (33) **Serious injury.** in relation to a person. An injury which is sustained by a person in an accident and which:
- (i) requires hospitalization for a period of more than 48 hours, commencing within 7 days from the date the injury was received; or
 - (ii) results in a fracture of any bone (except simple fracture of fingers, toes or the nose); or
 - (iii) involves lacerations which cause severe hemorrhage, nerve, muscle or tendon damage; or
 - (iv) involves injury to any internal organ; or
 - (v) involves second or third degree burns or any burns affecting more than 5% of the surface of the body; or
 - (vi) involves verified exposure to infectious substances or injurious radiation;

- (34) **State aircraft.** An aircraft used only on behalf of the Government (except for commercial purposes) or exclusively leased for at least 90 continuous days
- (35) **State of design.** means the State having jurisdiction over the organization responsible for the type design of the aircraft;
- (36) **State of manufacture.** means the State having jurisdiction over the organization responsible for the final assembly of the aircraft, engine or propeller;
- (37) **State of occurrence.** means the State in whose territory an accident or incident occurs;
- (38) **State of the operator.** means the State in which the operator's principal place of business is located or, if there is no such place of business, the operator's permanent residence;
- (39) **State of registry.** means the State on whose register the aircraft is entered.

Note: In the case of the registration of aircraft of an international operating agency or other than a national basis, the States constituting the agency are jointly and severally bound to assume the obligations which, under the Chicago Convention, attach to a State of Registry. Refer to the Council Resolution of 14 December 1967 on Nationality and Registration of Aircraft Operated by International Operating Agencies which can be found in Policy and Guidance Material on the Economic Regulation of International Air Transport (Doc 9587).

- (40) **State Safety Program (SSP).** An integrated set of regulations and activities aimed at improving safety. (per Memorandum Circular No. 18-15, series of 2015)
- (41) **Substantial damage.** Damage or failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component.

Note: Engine failure or damage limited to an engine if only one engine fails or is damaged, bent failings or cowling, dented skin, small punctured holes in the skin or fabric, ground damage to rotor or propeller blades, and damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered "substantial damage" for the purpose of this Part.

13.010 ACRONYMS & ABBREVIATIONS

- (a) The following acronyms and abbreviations are used in this Part—

ACCID – Accident

AFTN – Aeronautical Fixed Communication Network

AIP – Aeronautical Information Publication

AOC - Air Operator Certificate

ICAO – International Civil Aviation Organization

IIC – Investigator-in-Charge

INCID – Incident

IS – Implementing Standards

Kg - Kilogram

PIC – Pilot-in-Command

UTC – Universal Coordinated Time

13.015 PURPOSE OF INVESTIGATION

- (a) The sole objective of the investigation of an accident or incident under this Part shall be the prevention of accident and incident.
- (b) The Investigation conducted in accordance with the provisions of this Regulation (PCAR Part 13) shall not apportion blame or liability and it shall remain separate from any administrative or judicial proceedings that may apportion blame or liability.
- (c) The accident investigation authority shall have independence in the conduct of the investigation and have unrestricted authority over its conduct, consistent with the provisions of this Part. The investigation shall include —
 - (1) the gathering, recording and analysis of all relevant information on the accident or incident;
 - (2) the protection of certain accident and incident investigation records in accordance with Part 13.220;
 - (3) if possible, the determination of the causes and/or contributing factors; and
 - (4) the completion of the Final Report.

**SUBPART B: PERSONAL RESPONSIBILITY: ACCIDENT/INCIDENT
INITIAL REPORTING****13.020 APPLICABILITY**

- (a) This Subpart is applicable to operators and individuals (relevant persons) who are involved in or have knowledge of an aircraft accident or incident:
- (1) Occurring within the Republic of the Philippines and its Airspace; or
 - (2) Occurring outside the Republic of the Philippines involving a Republic of the Philippines registered aircraft or operated by a Republic of the Philippines Air Operator Certificate (AOC) holder.
- (b) The relevant person shall, as soon as is reasonably practicable after he becomes aware of the accident or serious incident —
- (1) send notice thereof to the Chairman by the quickest means of communication available; and
 - (2) in the case of an accident occurring in Republic of the Philippines, notify a police officer of the accident and the place where it occurred.

13.025 IMMEDIATE NOTIFICATION

- (a) The operator of any Philippine-registered civil aircraft, or any State aircraft not operated by the military, or any foreign aircraft shall immediately, and by the most expeditious means available, notify the Authority/Chairman when an aircraft accident or incident listed in IS 13.030, IS 13.175-1 to IS 13.175-3 occur.
- (b) This initial notification requirement also applies when an aircraft is overdue and is believed to have been involved in an accident.

Note: The initial report may be made to the nearest air traffic service unit or flight information unit or directly to the Authority as prescribed in the Aeronautical Information Publication.

13.030 CONTENT OF THE NOTIFICATION)

- (a) The notice to the Chairman referred to in Section 13.025 shall state, as far as possible the following information —
- (1) in the case of an accident, the identifying abbreviation "ACCID" or, in the case of a serious incident or other incident, the identifying abbreviation "INCID";(Refer to IS 13.030 - List of samples of Serious Incidents, IS 13.175-1 to IS 13.175-3).
 - (2) the manufacturer, model, nationality and registration marks and serial number of the aircraft;
 - (3) the name of the owner, operator and hirer, if any, of the aircraft;
 - (4) the qualification of the pilot-in-command of the aircraft and the nationality of the crew and passengers;
 - (5) the date and time (local time or UTC) of the accident or serious incident;
 - (6) the last point of departure and point of intended landing of the aircraft;
 - (7) the position of the aircraft with reference to some easily defined geographical point and latitude and longitude;

- (8) the number of crew members and passengers; aboard killed and seriously injured; others, killed and seriously injured;
 - (9) a description of the accident or incident and the extent of damage to the aircraft so far as is known;
 - (10) an indication to what extent the investigation will be conducted or is proposed to be delegated by the State of Occurrence.
 - (11) the physical characteristics of the area in which the accident or incident occurred and any indication of access difficulties or special requirements to reach the site;
 - (12) the identification of the originating authority and means to contact the Investigator-in-Charge and the accident investigation authority of the State of Occurrence at any time; and
 - (13) the presence and description of dangerous goods, explosives, radioactive materials or other dangerous articles on board the aircraft.
- (b) Where an incident, other than a serious incident as listed in IS 175-1, IS 13.175-2, IS 13.175-3 (Mandatory reportable incidents), occurs —
- (1) in Republic of the Philippines; or
 - (2) outside Republic of the Philippines involving a Republic of the Philippines' registered aircraft or an aircraft operated by a Republic of the Philippines operator/AOC holder, the owner, operator, pilot-in-command or hirer of the aircraft shall notify the Authority/Chairman using the fastest means available and if so required by notice in writing by the Chairman, send to the Chairman, such information as is in his possession or control with respect to the incident in such form and at such time as may be specified.

13.035 RELEVANT PERSONS

- (a) In this Sub-part, "relevant person" means —
- (1) the owner, operator, pilot-in-command or hirer of the aircraft at the time of the accident or incident; or
 - (2) where the accident or incident occurs on or adjacent to an aerodrome in Republic of the Philippines, the owner or operator of the aerodrome.

13.040 FORWARDING BY THE OPERATOR OF AN ACCIDENT OR INCIDENT REPORT

- (a) The operator of a civil, state or foreign aircraft shall file a report in the form and manner prescribed by the Authority—
- (1) Within 10 days after an accident or incident; or
 - (2) After 7 days if an overdue aircraft is still missing.
- (b) An Operator Incident Report on an incident for which immediate notification is required shall be filed to the Chairman as required by notice in writing with such information as is in his possession or control with respect to the incident and in such form and at such time as may be specified by the Chairman.

13.045 CREWMEMBER STATEMENT

- (a) Each crew member, if physically able at the time the formal report is submitted, shall

attach a statement setting forth the facts, conditions, and circumstances relating to the accident or incident as they appear to him.

- (b) If the crewmember is incapacitated, he shall submit the statement as soon as he is physically able.

13.050 WHERE TO FILE THE REPORTS

- (a) The operator of an aircraft shall file any initial notification or accident or incident report with the Chairman thru the Authority as specified in the Aeronautical Information Publication.

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SUBPART C: ACTIONS UPON RECEIPT OF NOTIFICATION**13.055 OCCURRENCE IN THE REPUBLIC OF THE PHILIPPINES**

- (a) Where an accident or a incident occurs in Republic of the Philippines involving a civil aircraft, the Chairman or Investigator-in-Charge shall do the following:
- (1) with the least possible delay and by the quickest means of communication available, forward a notification of the accident or serious incident containing as much of the information referred to in paragraph 13.030(a) as may be available to
 - (i) a Contracting State that is the State of Registry, the State of the Operator, the State of Design or the State of Manufacture; and
 - (ii) if the aircraft is of a maximum certificated take-off mass of over 2,250 kg, or is a turbojet-powered aeroplane, the International Civil Aviation Organization;
Note 1.— A list of addresses of aircraft accident investigation authorities can be found in the Aircraft Accident Investigation Handbook.
 - (2) inform the States referred to in sub-paragraph (a)(1) either in the communication forwarding the notification or as soon as practicable —
 - (i) as to whether, and, if so, the extent to which an investigation will be conducted or is proposed to be delegated to another Contracting State; and
 - (ii) as to the means by which he and the investigator-in-charge may be contacted;
 - (3) as soon as it is practicable to do so, provide the States referred to in sub-paragraph (a)(1) with any other information referred to in 13.030(a) which becomes subsequently available to the Chairman and any other known relevant information pertaining to the accident or serious incident.
 - (4) The notification shall be in plain language and contain as much of the information readily available per 13.030(a) but its dispatch shall not be delayed due to lack of complete information.
 - (5) the collection and recording of information shall not be delayed to await the arrival of an accredited representative.

13.060 OCCURRENCE OUTSIDE THE REPUBLIC OF THE PHILIPPINES

- (a) Upon receipt of a notification of an accident or a serious incident which occurs outside Republic of the Philippines involving a Republic of the Philippines aircraft or an aircraft operated by a Republic of the Philippines operator, the Chairman shall do the following:
- (1) acknowledge the receipt of the notification;
 - (2) where the State of Occurrence, the State of Registry or the State of the Operator which is investigating the accident or serious incident is a Contracting State, provide the State with the following information with the least possible delay:
 - (i) any relevant information he has regarding the aircraft and flight crew involved in the accident or serious incident; and
 - (ii) if Republic of the Philippines is the State of the Operator, details of any dangerous goods on board the aircraft;
 - (3) inform the State referred to in 13.060(a)(2) —

- (i) whether the Authority intends to appoint or has appointed an accredited representative; and
- (ii) if such accredited representative will be or has been appointed and will be traveling to the State in which the investigation is being carried out, the contact details and the expected date of arrival of the accredited representative in such State.

SUBPART D: PRESERVATION OF WRECKAGE AND RECORDS**13.065 APPLICABILITY**

- (a) Subject to Section 13.055, where an accident or incident occurs in Republic of the Philippines —
- (1) no person other than the Chairman, the investigator-in-charge or an authorized person shall have access to the aircraft involved in the accident or incident, the contents thereof or the site of the accident or incident; and
 - (2) no person shall move or interfere with the aircraft, its contents or the site of the accident or incident except under the authority of the Chairman or the investigator-in-charge.
- (b) In this paragraph, “authorized person” means —
- (1) any person authorized by the Chairman or the investigator-in-charge either generally or specifically to have access to any aircraft involved in an accident or a serious incident and includes any police officer or any officer of customs; and
 - (2) in relation to an accident involving a military aircraft belonging to the Armed Forces of the Philippines (AFP), includes any person authorized by the Chief of Staff, AFP or Commander of an AFP Major Service where the aircraft belongs.

13.070 RESPONSIBILITY: PRESERVATION & PROTECTION OF WRECKAGE AND ACCIDENT SITE

- (a) The operator and pilot-in-command shall ensure as much as is practical that the wreckage and accident site is protected and preserved in accordance with the requirements of Sec 13.075 of this PCAR Part 13 until the Chairman or Investigator-in-Charge takes custody thereof.
- (b) Notwithstanding 13.065(a), - all persons involved in the rescue, search and investigation of an accident shall take all reasonable measures to protect the evidence and to maintain safe custody of the aircraft and its contents for such a period as may be necessary for the purposes of an investigation.
- (1) Protection of evidence shall include the preservation, by photographic or other means of any evidence which might be removed, effaced, lost or destroyed.
 - (2) Safe custody shall include protection against further damage, access by unauthorized persons, pilfering and deterioration.
- (c) The operator of an aircraft involved in an accident or incident for which notification must be given is responsible for preserving to the extent possible any aircraft wreckage, cargo, and mail aboard the aircraft, and all records, including all recording mediums of flight, maintenance, and voice recorders, pertaining to the operation and maintenance of the aircraft and to the airmen until the Chairman or Investigator-in-Charge takes custody thereof or a release is granted.
- (d) The operator of an aircraft involved in an accident or incident shall retain all records, reports, internal documents, and memoranda dealing with the accident or incident, until authorized by the Chairman to the contrary.

13.075 MOVING OR REMOVING THE WRECKAGE

- (a) Prior to the time the Chairman or its authorized representative takes custody of aircraft wreckage, mail, or cargo, such wreckage, mail, or cargo may not be disturbed or moved except to the extent necessary to—

- (1) Remove persons or animals injured or trapped;
 - (2) Protect the wreckage from further damage; or
 - (3) Protect the public from injury.
- (b) Where it is necessary to move aircraft wreckage, mail, or cargo, sketches, descriptive notes, and photographs shall be made, if possible, of the original positions and condition of the wreckage and any significant impact marks.
- (c) If a request is received from the State of Registry, the State of the Operator, the State of Design or the State of Manufacture that the aircraft, its contents, and any other evidence remain undisturbed pending inspection by an accredited representative of the requesting State, the investigator-in-charge shall take all necessary steps to comply with such request, so far as this is reasonably practicable and compatible with the proper conduct of the investigation; provided that the aircraft may be moved—
- (1) To the extent necessary to extricate persons, animals, mail and valuables;
 - (2) To prevent destruction by fire or other causes; or
 - (3) To eliminate any danger or obstruction to air navigation, to other transport or to the public, and
 - (4) Provided that it does not result in undue delay in returning the aircraft to service where this is practicable.
 - (5) To remove any dangerous goods, radioactive material and other dangerous articles carried by the aircraft.
- (d) Where the Chairman or the investigator-in-charge is of the opinion that the aircraft involved in the accident or serious incident is likely to be a danger or obstruction to the public, air navigation or other transport, he may order the owner, operator or hirer of such aircraft to remove it to such place as the Chairman or the investigator-in-charge shall indicate.
- (e) In the absence of the owner, operator or hirer or in the event of non-compliance with the order referred to in paragraph (d), the Chairman or the investigator-in-charge shall be empowered to remove or cause the removal of the aircraft.

13.080 ACCESS OF AIRCRAFT

- (a) if the aircraft is wrecked in water, the aircraft or any contents thereof may be removed to such extent as may be necessary for bringing the aircraft or its contents to a place of safety.
- (1) For this purpose the investigator-in-charge shall facilitate access to the aircraft, its contents or any parts thereof, provided that, if the aircraft, its contents, or any parts thereof lie in an area within which the investigator-in-charge finds it impracticable to grant such access, it shall itself effect removal to a point where access can be given.

13.085 REMOVING GOODS OR BAGGAGE FROM THE AIRCRAFT

- (a) Where the Chairman or the investigator-in-charge has authorized any person to remove any goods or passenger baggage from the aircraft or to release any goods or passenger baggage from the custody of the Chairman or the investigator-in-charge, the person may —

- (1) remove the goods or passenger baggage from the aircraft subject to the supervision of a police officer not below the rank of inspector of police; and
- (2) release the goods or passenger baggage from the custody of the Chairman or the investigator-in-charge subject to clearance by or with the consent of an officer of customs, if the aircraft has come from a place outside Republic of the Philippines.

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SUBPART E: ACCIDENT & INCIDENT INVESTIGATION**13.090 APPLICABILITY**

- (a) This Subpart is applicable to the conduct of accident and incident investigations, the persons who conduct the investigations and those persons that have information or records pertinent to the investigations.

13.095 OBLIGATION TO INVESTIGATE

- (a) Subject to paragraph (c), the Chairman shall cause an investigation to be carried out into an accident in the following circumstances:
- (1) where the accident occurs in Republic of the Philippines;
 - (2) where the accident occurs in any Non-contracting State which does not intend to carry out an investigation of the accident in accordance with ICAO Annex 13 and involves a Republic of the Philippines aircraft or an aircraft operated by a Republic of the Philippines operator;
 - (3) where the accident involves a Republic of the Philippines aircraft or an aircraft operated by a Republic of the Philippines operator and the investigation has been delegated to Republic of the Philippines by another Contracting State by mutual arrangement and consent;
 - (4) where the accident occurs in a location which cannot be definitely established as being in the territory of any State and involves a Republic of the Philippines aircraft.
- (b) The Chairman may, when he expects to draw air safety lessons from it, cause an investigation to be carried out into an incident other than that listed in 13.175 which occurs —
- (1) in Republic of the Philippines; or
 - (2) outside the Republic of the Philippines involving a Republic of the Philippines aircraft or an aircraft operated by a Republic of the Philippines operator.
- (c) The Chairman shall institute an investigation into the circumstances of the accident and serious incident be responsible for the conduct of the investigation, but it may delegate the whole or any part of the conducting of such investigation to another State or a regional accident and incident investigation organization by mutual arrangement and consent. In any event, the State of Occurrence shall use every means to facilitate the investigation.
- (d) The Chairman shall institute an investigation into the circumstances of a serious incident when the aircraft is of a maximum mass of over 2 250 kg. Such the Authority may delegate the whole or any part of the conducting of such investigation to another State or a regional accident and incident investigation organization by mutual arrangement and consent. In any event the State of Occurrence shall use every means to facilitate the investigation.

Note 1.— The investigation of a serious incident does not exclude other already existing types of investigation of incidents (serious or not) by other organizations.

Note 2.— When the whole investigation is delegated to another State or a regional accident and incident investigation organization, such a State is expected to be responsible for the conduct of the investigation, including the issuance of the Final Report and the ADREP reporting. When a part of the investigation is delegated, the

State of Occurrence usually retains the responsibility for the conduct of the investigation.

Note 3.— In the case of investigation of an unmanned aircraft system, only aircraft with a design and/or operational approval are to be considered.

Note 4.— In the case of serious incidents, the State of Occurrence may consider delegating the investigation to the State of Registry or the State of the Operator, in particular those involving occurrences in which it might be beneficial or more practical for one of these States to conduct the investigation.

Note 5.— Guidance related to the establishment and management of a regional accident and incident investigation organization (RAIO) is contained in the Manual on Regional Accident and Incident Investigation Organization (Doc 9946).

13.100 APPOINTMENT OF INVESTIGATORS AND ADVISERS

- (a) For the purpose of carrying out investigations into accidents and incidents referred to in 13.095 paragraph (a) and (b), the Chairman may appoint such number of persons as he thinks fit as Investigators of Accidents & Incidents for every occurrence and shall initiate the investigation immediately.
- (b) The Chairman shall appoint one of the Investigators as the investigator-in-charge who shall be relieved of all other duties until the Final Report is distributed.
- (c) The Chairman may arrange for any of his powers and obligations under this Part to be performed on his behalf by an Investigator designated by him to be his Deputy.
- (d) The Chairman may designate himself or any Investigator as investigator-in-charge for the purpose of carrying out an investigation referred to in 13.095 paragraph (a) or (b).
- (e) Without prejudice to the power of an investigator-in-charge to seek such advice or assistance as he may consider necessary in carrying out an investigation, the Chairman may appoint any person as an adviser to assist an investigator-in-charge in a particular investigation carried out under this Part.
- (f) In any case where the Chairman is of the view that more than one Investigator is needed to carry out an investigation, he may designate one or more Investigators, one of whom shall be designated Deputy investigator-in-charge, to assist the investigator-in-charge.

13.105 PUBLIC NOTICE

- (a) Where the Chairman is of the opinion that it would be desirable for public notice to be given that an investigation is taking place, he may do so in such manner as he thinks fit.
- (b) The notice may, if the Chairman thinks appropriate, state that any person who desires to make representations concerning the circumstances or causes of the accident or incident may do so in writing within a time to be specified in the notice.

13.110 POWERS OF INVESTIGATOR-IN-CHARGE

- (a) For the purpose of enabling him to carry out an investigation into an accident or incident in the most efficient way and within the shortest time possible, an investigator-in-charge shall have the access rights and powers specified in

paragraphs (b) and (c) where the whole or any part of the investigation is carried out in the Republic of the Philippines.

- (b) The investigator-in-charge shall —
- (1) have free and unhampered access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage;
 - (2) have immediate and unrestricted access to and use of the contents of the flight recorders, ATS records and any other recordings;
 - (3) have access to and be provided with the results of examination of the bodies of victims or of tests made on samples taken from the bodies of the victims;
 - (4) have immediate access to and be provided with the results of examinations of the persons involved in the operation of the aircraft or of tests made on samples taken from such persons; and
 - (5) have free access to any relevant information or records held by the owner, the operator, the operator's maintenance contractors and sub-contractors, the hirer, the designer or the manufacturer of the aircraft and by the authorities for civil aviation or airport operation or ATS.
 - (6) have unrestricted access to all evidential material without delay.
- (c) The investigator-in-charge may —
- (1) by summons under his hand —
 - (i) call before him and examine any person as he thinks fit;
 - (ii) require such person to answer any question or furnish any information or produce any books, papers, documents and articles which he may consider relevant; and
 - (iii) make copies of and retain any such books, papers, documents and articles until the completion of the investigation;
 - (2) take statements from all such persons as he thinks fit and require any such person to make and sign a declaration of the truth of the statement made by him;
 - (3) on production, if required, of his credentials, enter and inspect any place, building or aircraft the entry or inspection whereof appears to him to be necessary for the purposes of the investigation;
 - (4) on production, if required, of his credentials, remove, test, take measures for the preservation of or otherwise deal with any aircraft other than an aircraft involved in the accident or incident where it appears to him to be necessary for the purposes of the investigation;
 - (5) take possession of, examine, remove, test or take measures for the preservation of any object or evidence as he considers necessary for the purposes of the investigation;
 - (6) require an immediate listing of evidence and removal of debris or components for examination or analysis purposes;
 - (7) require the readout of the flight recorders;
 - (8) in the case of a fatal accident, require a complete autopsy examination of fatally injured flight crew, and, subject to the particular circumstances, of fatally injured passengers and cabin crew members, by a pathologist, preferably experienced in the investigation of aircraft accidents, provided provisions of local law protecting religious beliefs with respect to autopsies shall be observed;

- (9) where appropriate, require the medical and toxicological examination of the crew, passengers and aviation personnel involved in the accident or incident by a medical practitioner, and if a medical practitioner experienced in the investigation of aircraft accidents is available, by such medical practitioner;
 - (10) require the crew, passengers and aviation personnel involved in the accident or incident to undergo such other tests (including a breathalyzer test) as he considers necessary for the purposes of the investigation;
 - (11) ensure that the autopsy and medical examinations shall be expeditious and complete.
 - (12) seek such advice or assistance as he considers necessary for the purposes of the investigation including professional or expert opinions on technical and medical matters related to the investigation.
- (d) Every person summoned as a witness in accordance with paragraph (c) shall be allowed such expenses as the Authority may, from time to time, determine.
- (e) Without prejudice to the generality of sub-paragraph (c)(12), the investigator-in-charge may request another Contracting State to provide such information, facilities or experts as he may consider necessary for the purposes of an investigation.

13.115 DEPUTY IIC AND ADVISERS

- (a) The following persons may, where the whole or any part of the investigation is carried out in Republic of the Philippines, exercise the rights and powers of an investigator-in-charge specified in 13.110 (b) and (c):
- (1) the Deputy investigator-in-charge and any Investigators designated by the Chairman to assist the investigator-in-charge under paragraph 13.100(f);
 - (2) any adviser appointed by the Chairman under paragraph 13.100(e) to assist the investigator-in-charge, but only to the extent specified by the Chairman.

13.120 FORM AND CONDUCT OF INVESTIGATIONS

- (a) An investigation shall be held in private.
- (b) The extent of investigations and the procedure to be followed in carrying out investigations required or authorized under this Part shall be determined by the Chairman taking into account —
- (1) the purpose of the investigation set out in paragraph c;
 - (2) the principles and objectives of ICAO Annex 13; and
 - (3) the lessons he expects to draw from the accident or incident for the improvement of safety.
- (c) If, in the course of an investigation into an accident or incident, it becomes known or is suspected that an act of unlawful interference was involved in the accident or incident, the investigator-in-charge shall, after consultation with the Chairman and the Authority —
- (1) immediately inform the Republic of the Philippines Police; or
 - (2) take steps to ensure that the aviation security authorities of other Contracting States concerned are informed of the fact.

13.125 ENTITLEMENT OF ACCREDITED REPRESENTATIVE, ADVISERS AND EXPERT FROM OTHER CONTRACTING STATES

- (a) Where an investigation into an accident or a serious incident is being carried out by an investigator-in-charge under this Part, each of the following States that is a Contracting State shall be entitled to appoint an accredited representative to participate in the investigation and one or more advisers, to assist the accredited representative:
- (1) the State of Registry;
 - (2) the State of the Operator;
 - (3) the State of Manufacture;
 - (4) the State of Design;
 - (5) a State which has, on request, provided information, facilities or experts to the investigator-in-charge in connection with the investigation.
- (b) An accredited representative shall be entitled to participate in all aspects of an investigation under the control of the investigator-in-charge and shall be entitled, in particular, to —
- (1) visit the scene of the accident;
 - (2) examine the wreckage;
 - (3) obtain witness information and suggest areas for questioning witnesses;
 - (4) have full access to all relevant evidence as soon as possible;
 - (5) receive copies of all pertinent documents;
 - (6) participate in readouts of recorded media;
 - (7) participate in off-scene investigative activities such as component examinations, technical briefings, tests and simulations;
 - (8) participate in investigation progress meetings, including deliberations related to analysis, findings, causes, contributing factors and safety recommendations; and
 - (9) make submissions in respect of various aspects of the investigation.
- (c) Notwithstanding paragraph (b), the participation of the accredited representative of a Contracting State other than the State of Registry, the State of the Operator, the State of Design and the State of Manufacture may be limited to those matters in respect of which the State has, on request, provided information, facilities or experts to the investigator-in-charge in connection with the investigation.
- (d) A Contracting State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens shall, be entitled to appoint an expert.
- (e) An expert appointed under paragraph (d) shall be entitled to —
- (1) visit the scene of the accident;
 - (2) have access to the relevant factual information, which is approved for public release by the State conducting the investigation and information on the progress of the investigation; and
 - (3) receive a copy of the Final Report.
- (f) An adviser assisting an accredited representative shall be entitled to participate in the investigation under the accredited representative's supervision and to the extent necessary to make the accredited representative's participation effective.

- (g) The accredited representative, his advisers and the expert appointed under paragraph (d) —
 - (1) shall provide the investigator-in-charge with all relevant information available to them; and
 - (2) shall not disclose any information on the progress and findings of the investigation without the express consent in writing of the investigator-in-charge.

13.130 APPOINTMENT OF ACCREDITED REPRESENTATIVE, ADVISERS AND EXPERT TO THE STATE CONDUCTING THE INVESTIGATION

- (a) The Chairman may appoint an accredited representative to participate in the investigation into an accident or incident which occurs in another Contracting State and one or more advisers to assist the accredited representative in any of the following cases:
 - (1) where Republic of the Philippines is the State of Registry, State of the Operator, State of Manufacture or State of Design of the aircraft involved in the accident or incident; or
 - (2) where Republic of the Philippines has, at the request of the Contracting State conducting the investigation, provided information, facilities or experts to the State in connection with the investigation.
- (b) The accredited representative and, to the extent specified by the Chairman, an adviser appointed by the Chairman under paragraph (a) may, for the purposes of the investigation in which they are participating, exercise all or any of the rights and powers of the investigator-in-charge specified in 13.110(b) and (c) in respect of any aircraft, records, information, documents, objects, witnesses or other evidence in Republic of the Philippines or held by any person in Republic of the Philippines which or whom the accredited representative or adviser considers to be relevant or necessary to the investigation.
- (c) The Chairman may appoint an expert to participate in the investigation into an accident which occurs in another Contracting State where Republic of the Philippines has a special interest in the accident by virtue of fatalities or injuries to citizens of Republic of the Philippines.

SUBPART F: INVESTIGATION REPORTS**13.135 APPLICABILITY**

- (a) Where an investigation is carried out into an accident involving —
- (1) an aircraft of a maximum certificated take-off mass of more than 2,250 kg; or
 - (2) an aircraft of a maximum certificated take-off mass of 2,250 kg or less and when airworthiness or matters considered to be of interest to other Contracting States are involved, the investigator-in-charge shall, unless an Accident Data Report has been sent within 30 days of the accident, send a Preliminary Report within that period to —
 - (i) each of the following States that is a Contracting State:
 - (A) the State that instituted the investigation;
 - (B) the State of Registry or the State of Occurrence, as appropriate;
 - (C) the State of the Operator;
 - (D) the State of Design;
 - (E) the State of Manufacture;
 - (F) any State that provided relevant information, significant facilities or experts; and
 - (ii) where the aircraft is of a maximum certificated take-off mass of more than 2,250 kg, the International Civil Aviation Organization.

13.140 ACTIONS OF INVESTIGATOR-IN-CHARGE

- (a) The investigator-in-charge of the State conducting the investigation shall, as soon as possible after the completion of an investigation into an accident, do the following:
- (1) send a copy of the draft Final Report to the Contracting State that instituted the investigation and all the Contracting States that participated in the investigation, inviting their significant and substantiated comments on the draft Final Report;
 - (2) if any such comments are received within 60 days of the date on which the draft Final Report is sent out, amend the draft Final Report to include the substance of the comments received or, if desired by the Contracting State that provided the comments, append the comments to the Final Report;
 - (3) if no comments are received within 60 days of the date on which the draft Final Report is sent out and no extension of time has been agreed upon with the Contracting State to whom it was sent, issue and send out the Final Report to the following parties —
 - (i) the Contracting States referred to in 13.135 (a);
 - (ii) any Contracting State that has suffered fatalities or serious injuries to its citizens; and
 - (iii) where the accident involves an aircraft of a maximum certificated take-off mass of more than 5,700 kg, the International Civil Aviation Organization;
 - (4) where the accident involves an aircraft of a maximum certificated take-off mass of more than 2,250 kg, send the Accident Data Report to the International Civil Aviation Organization.

- (b) The investigator-in-charge shall, where an investigation is carried out into an incident involving an aircraft of a maximum certificated take-off mass of more than 5,700 kg, send to the International Civil Aviation Organization after the completion of the investigation into the incident —
- (1) the Final Report of the incident, if the Final Report has been released; and
 - (2) the Incident Data Report.
- (c) The Final Report of an investigation shall state the sole objective of the investigation as set out in paragraph b.
- Note 1: Analyze, as appropriate, only the information documented in 1. – Factual information and which is relevant to the determination of conclusions and causes and/or contributing factors.*
- Note 2: List the findings, causes and/or contributing factors established in the investigation. The list of causes and/or contributing factors should include both the immediate and the deeper systematic causes and/or contributing factors.*
- (d) The Final Report shall be forwarded by the Chairman or investigator-in-charge to the Authority for Notation before its dissemination to any contracting State under this Part or its subsequent publication.
- (e) In this Part, “Accident Data Report” and “Incident Data Report” mean the Accident Data Report and Incident Data Report referred to in ICAO Annex 13.

13.145 PUBLICATION OF REPORTS

- (a) The Chairman shall cause the Final Report of an investigation into an accident or incident to be made public only upon consideration/notation of the Authority.
- (b) The Final report shall be made public —
- (1) after the Final Report has been sent out to the relevant Contracting States under paragraph 13.140(a)(3);
 - (2) in the shortest time possible; and
 - (3) in such manner as the Chairman thinks fit.
- (c) In the interest of accident prevention, the Aircraft Accident investigation and Inquiry Board (AAIIB) shall make the Final Report publicly available as soon as possible, and, if possible, within twelve months. Making a Final Report publicly available can be achieved by posting the Final Report on the internet, and does not necessarily require a hard-copy publication of the Final Report.
- Note: In addition to the provisions of this Part other provisions relative to the promotion of accident prevention by collection and analysis of safety data and by a prompt exchange of safety information, as part of the State Safety Program (SSP), will be included in Part 19 (on-going deliberation) – Safety Management System and, to this effect, are applicable to this Part. Further guidance is contained in the Safety Management Manual (SMM) (Doc 9859).*
- (d) If the report cannot be made publicly available within twelve months, the AAIIB shall make an interim statement publicly available on each anniversary of the occurrence, detailing the process of the investigation and any issues raised.
- (e) No person shall circulate, publish, disclose or give access to any draft report or any part of its contents or any documents obtained during an investigation of an accident or incident which is carried out under this Part or carried out by another Contracting State without the expressed consent of the investigator-in-charge or the State which

conducted the investigation unless the report has already been published by the investigator-in-charge or the State concerned, as the case may be.

- (f) The AAIB shall establish and maintain an accident and investigated incident database to facilitate the effective analysis of information on actual or potential safety deficiencies and to determine any preventive actions required.

Note: Additional information on which to base preventive actions may be contained in the Final Report on accidents and incidents that have been investigated.

- (g) The Authority is responsible for the implementation of the State Safety Program (SSP) and should have access to the accident and investigated incident database to support its safety responsibilities.

Note: An accident and incident database may be included in a safety database, which may refer to a single or multiple database(s). Further provisions on a safety database are contained in Annex 19 – Safety Management Additional guidance is also included in the Safety Management Manual (SMM) (Doc 9859).

13.150 SAFETY RECOMMENDATIONS

- (a) The Chairman or the investigator-in-charge may, at any stage of an investigation carried out under this Part, do the following:

- (1) recommend to the appropriate authorities, including those in other Contracting States, any preventive action that the investigator-in-charge considers necessary to be taken promptly to enhance aviation safety; and
- (2) address, when appropriate, any safety recommendation arising out of the investigation to the accident investigation authorities of the other Contracting States concerned and where International Civil Aviation Organization documents are involved, to the International Civil Aviation Organization.

- (b) The Chairman shall cause to be communicated to such relevant person or authority in Republic of the Philippines as he may determine —

- (1) the recommendation of preventive action or safety recommendation referred to in sub-paragraph (a)(1); or
- (2) any recommendation of preventive action or safety recommendation forwarded to the Authority or Chairman by another Contracting State.

- (c) Any person or authority in Republic of the Philippines to whom or to which a recommendation for preventive action or safety recommendation is communicated under sub-paragraph (b)(2) shall, without delay —

- (1) take that recommendation into consideration and, where appropriate, act upon it;
- (2) send to the Chairman —
 - (i) full details of the measures, if any, he or it has taken or proposes to take to implement the recommendation and, if such measures are to be implemented, the schedule for the implementation; or
 - (ii) a full explanation as to why no measures will be taken to implement the recommendation; and
- (3) give notice to the Chairman if at any time any information provided to the Chairman under sub-paragraph (b) concerning the measures it proposes to take or the schedule for securing the implementation of the recommendation is rendered inaccurate by any change of circumstances.

- (d) A recommendation for preventive action or safety recommendation shall, in no case, create a presumption of liability for an accident or incident.
- (e) Where any recommendation for preventive action or safety recommendation has been forwarded to the Authority or the Chairman by another Contracting State, the Chairman shall notify the State of the preventive action taken or under consideration or the reasons as to why no action will be taken.
- (f) In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources, including safety studies. If safety recommendations are addressed to an organization in other State, these should also be transmitted to that State's investigation authority.
- (g) The Chairman shall implement procedures to record the responses received on the preventive actions or safety recommendations issued under paragraph (a).
- (h) The Chairman shall implement procedures to monitor the progress of the action taken in response to the safety recommendation received under paragraph (e).

Note.- Guidance on the identification, drafting and follow-up of safety recommendation is contained in the Manual of Aircraft Accident and Incident Investigation (Doc 9756), Part IV – Reporting.

13.155 REOPENING OF INVESTIGATION

- (a) The Chairman shall, in the case of an accident, a serious incident listed in IS 13.030 and incident listed in IS 13.175-1, IS 13.175-2, 13.175-3, cause the investigation to be re-opened if evidence has been disclosed after the completion of the investigation which, in his opinion, is new and significant.
- (b) The Chairman may cause the investigation of an occurrence (other than that listed in IS 13.175) which endangers or which, if not corrected, would endanger an aircraft, its occupants or any other person per 13.175(c), to be re-opened if evidence has been disclosed after the completion of the investigation which, in his opinion, is new and significant.
- (c) Where the investigation of an accident or incident was instituted by another Contracting State, the Chairman shall obtain the consent of that State before causing the investigation to be re-opened under paragraph (a) (b).
- (d) Any re-opened investigation shall be carried out in accordance with this Part.

SUBPART G: MANDATORY & VOLUNTARY INCIDENT/OCCURRENCE REPORTING**13.160 GENERAL APPLICABILITY**

- (a) This Subpart G prescribes the general requirements and administrative rules for implementation and on-going administration of processes for mandatory and voluntary reporting of occurrences where such reports are required by the Philippines civil aviation regulations.
- (b) The general requirements of this Subpart G apply to all occurrence reports required by any Section of the civil aviation regulations.
- (c) The reporting requirements of this Subpart G are mandatory for the persons and organizations involved when the occurrence is related to—
 - (1) Any aircraft operated under an AOC granted by the Authority;
 - (2) Any turbine-powered aircraft which has a certificate of airworthiness issued by the Authority.
- (d) In the case of organizations providing a service or facility for aircraft operating over or in the Philippines, any occurrence meeting the required criteria should be reported regardless of the nationality of the aircraft involved.

13.165 APPLICABILITY TO PERSONS & ORGANIZATIONS INVOLVED

- (a) The mandatory reporting requirements of this Subpart are applicable to persons and organizations involved in the—
 - (1) Operations, maintenance and support of Philippines-registered aircraft worldwide;
 - (2) Operations, maintenance and support of aircraft operating in the Philippines; and
 - (3) The provision of services to aircraft and crews in the operational airspace controlled by the Philippines and the aerodromes located in the Philippines.
- (b) Persons and organizations included in this applicability are—
 - (1) The operator and the flight crew of a turbine-powered aircraft which has a certificate of airworthiness issued by the Authority;
 - (2) The operator and the flight crew of an aircraft operated under an AOC granted by the Authority;
 - (3) A person who carries on the business of manufacturing a turbine-powered aircraft that is to be operated in commercial air transport, or any equipment or part thereof, in the Philippines;
 - (4) A person who carries on the business of maintaining or modifying a turbine-powered aircraft, which has a certificate of airworthiness issued by the Authority, and a person who carries on the business of maintaining or modifying any equipment or part of such an aircraft;
 - (5) A person who carries on the business of maintaining or modifying an aircraft, operated under an AOC granted by the Authority, and a person who carries on the business of maintaining or modifying any equipment or part of such an aircraft;
 - (6) A person who signs an airworthiness review certificate, or a certificate of release to service in respect of a turbine-powered aircraft, which has a certificate of airworthiness issued by the Authority, and a person who signs an

airworthiness review certificate or a certificate of release to service in respect of any equipment or part of such an aircraft;

- (7) A person who signs an airworthiness review certificate, or a certificate of release to service in respect of an aircraft, operated under an AOC granted by the Authority, and a person who signs an airworthiness review certificate or a certificate of release to service in respect of any equipment or part of such an aircraft;
 - (8) A person who performs a function which requires him to be authorized by the Authority as an air traffic controller or as a flight information service officer;
 - (9) A licensee and a manager of a licensed aerodrome or a manager of an airport
 - (10) A person who performs a function in respect of the installation, modification, maintenance, repair, overhaul, flight-checking or inspection of air navigation facilities which are utilized by a person who provides an air traffic control service under an approval issued by the Authority;
 - (11) A person who performs a function in respect of the ground-handling of aircraft, including fuelling, servicing, load-sheet preparation, loading, de-icing and towing at an airport.
- (c) This list of persons and organizations defines those who have to report, but any person or organization may file a report should they consider it necessary or pertinent to aviation safety.

13.170 OBJECTIVE OF THE REPORTING REQUIREMENTS

- (a) The sole objective of occurrence reporting is the prevention of accidents and incidents through the collection and dissemination of relevant safety information and not to attribute blame or liability.
- (b) The mandatory reporting requirements contribute to the improvement of air safety by ensuring that free and full reporting of relevant information on safety is collected, stored, protected and disseminated.
- (c) The voluntary reporting of persons contributes to the improvement of air safety in the interest of flight safety through the same processes and policies applicable to the mandatory reporting requirements.

13.175 ITEMS TO BE REPORTED

- (a) The Authority shall prescribe the mandatory occurrences that shall be reported under the provisions of this Subpart.
- (b) These reportable occurrences shall be categorized for purposes of assessing trends as—
 - (1) Aircraft flight operations (IS 13.175-1, Mandatory reports: Aircraft Flight Operations);
 - (2) Aircraft technical (IS 13.175-2, Mandatory reports: Aircraft Technical); and
 - (3) Air navigation (IS 13.175-3, Mandatory reports: Air Navigation Occurrences).
- (c) A reportable occurrence in relation to an aircraft means any incident which endangers or which, if not corrected, would endanger an aircraft, its occupants or any other person.
- (d) A person required to make a mandatory report of an occurrence shall report

any occurrence of which he has positive knowledge, even though this may not be first hand, unless he has good reason to believe that appropriate details of the occurrence have already been, or will be, reported by someone else.

- (e) A report should also be submitted on any occurrence which involves a defective condition or unsatisfactory behavior or procedure which did not immediately endanger the aircraft but which, if allowed to continue uncorrected, or if repeated in different, but likely, circumstances, would create a hazard to aircraft safety.

13.180 VOLUNTARY REPORTING

- (a) The Authority shall encourage and facilitate voluntary reporting to the same criteria across the whole spectrum of civil aviation operations.
- (b) The Authority's organization and procedures for processing and recording reports shall not substantially differentiate between voluntary and mandatory reports.
- (c) A voluntary occurrence report is that report made by a person or organization who are not required to report in accordance with the requirements of this Subpart.
- (d) The occurrences reported and trends developed shall be retained in a limited format which removes information and data which is likely to identify the person reporting.
- (e) The confidentiality of these voluntary reports shall be protected by the Authority and the Chairman, and information disclosed in these reports shall be inadmissible for any future proceedings relating to the person reporting.

13.185 SELF-DISCLOSURE OF NON-COMPLIANCE

- (a) The Authority shall encourage self-disclosure of non-compliance with regulations whether associated with mandatory or voluntary reporting processes of this Subpart and shall not take legal enforcement action if the reporter is found to be in compliance with the conditions of paragraph (b).
- (b) In evaluating whether an apparent non-compliance is covered by this Section, the Authority shall ensure that the following conditions are met—
 - (1) The regulated entity has notified the Authority of the apparent non-compliance immediately after detecting it and before the Authority has learned of it by other means.
 - (2) The notification did not occur during, or in anticipation of, an investigation or inspection by the Authority or in association with an accident or incident..
 - (3) The apparent non-compliance with the regulations was inadvertent.
 - (4) The apparent non-compliance with regulations does not indicate a lack, or reasonable question, of qualification of the regulated entities.
 - (5) Immediate action, satisfactory to the Authority was taken upon discovery to terminate the conduct that resulted in the apparent non-compliance.
 - (6) The regulated entity has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the Authority.
 - (7) The comprehensive fix includes a follow-up self-audit to ensure that the action taken corrects the noncompliance.
 - (8) This self-audit is in addition to any audits conducted by the Authority.

13.190 CONFIDENTIALITY OF REPORTS

- (a) Without prejudice to the proper discharge of its responsibilities in this regard, the Authority shall not disclose the name of the person submitting the report or of a person to whom it relates unless required to do so by law or unless, in either case, the person concerned authorizes disclosure.
- (b) Should any flight safety follow-up action arising from a report be necessary, the Authority shall take all reasonable steps to avoid disclosing the identity of the reporter or of those individuals involved in the reportable occurrence.

13.195 ASSURANCE REGARDING PROSECUTION

- (a) The Authority shall not institute proceedings in respect of unpremeditated or inadvertent breaches of the law which come to its attention only because they have been reported under the mandatory or voluntary provisions of this Subpart, except in cases involving dereliction of duty amounting to gross negligence.

13.200 ACTION IN RESPECT OF LICENCES & CERTIFICATES

- (a) The Authority has a duty under international treaties and conventions to vary, revoke or suspend a license or certificate as appropriate if it ceases to be satisfied that the holder of the license or certificate is competent, medically fit and a fit person to exercise the privileges of the license.
- (b) If an occurrence report suggests that the license or certification holder does not continue to meet the standards for issuance of the license or certificate, the Authority must take appropriate action to re-examine the holder. The purpose of this review is solely to ensure safety and shall not be conducted to penalize the holder.

13.205 POSSIBLE ACTION BY EMPLOYERS

- (a) Where a reported occurrence indicated an unpremeditated or inadvertent lapse by an employee, the employer shall act responsibly and to share its view that free and full reporting is the primary aim, and that every effort should be made to avoid action that may inhibit reporting.

SUBPART H: RELEASE FROM CUSTODY AND DISPOSAL OF AIRCRAFT WRECKAGE & RECORDS**13.210 RELEASE FROM CUSTODY**

- (a) If the retention of the aircraft involved in an accident or incident, its parts, wreckage, or any contents is no longer necessary for the purposes of an investigation, the Chairman shall release custody of the aircraft, parts, wreckage or contents to the following person or persons:
- (1) if the aircraft is a Republic of the Philippines aircraft —
 - (i) the owner of the aircraft, parts, wreckage or contents;
 - (ii) where the owner is dead, his personal representative; or
 - (iii) a person authorized in writing by the owner or his personal representative to take custody on behalf of the owner or the owner's personal representative;
 - (2) in any other case, to the person or persons designated by the State of Registry or the State of the Operator, as the case may be.
- (b) If a person to whom custody of the aircraft, parts, wreckage or contents is to be released refuses to take custody thereof or fails to take custody within a reasonable period, the aircraft, parts, wreckage or contents may be disposed of in such manner as the Chairman considers fit.

13.215 DISPOSAL OF WRECKAGE & RECORDS

- (a) The Authority, the Chairman and an investigator-in-charge shall not be required to hold aircraft records or factual information concerning an accident or incident beyond such time as is necessary for the completion of the investigation and reports.
- (b) The records and information referred to in paragraph (a) include —
- (1) photographs;
 - (2) written statements; and
 - (3) documents pertaining to the accident or incident, the circumstances of the accident or incident, or the aircraft or personnel involved.
- (c) Such records shall be returned to the persons from whom they were obtained and if not claimed by such persons after a reasonable period, may be disposed of in any manner that the Chairman considers fit.

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SUBPART I: MISCELLANEOUS**13.220 PROTECTION OF ACCIDENT AND INCIDENT INVESTIGATION RECORDS**

- (a) Subject to paragraph (b), no person shall make the following records available for purposes other than accident or incident investigation, unless the competent authority designated by that State determines, in accordance with national laws and subject to IS 13.220, that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or any future investigations:
- (1) cockpit voice recordings and airborne image recordings and any transcripts from such recordings;
 - (2) records in the custody or control of the accident investigation authority being:
 - (i) all statements taken from persons by the accident investigation authority in the course of their investigation;
 - (ii) all communications between persons having been involved in the operation of the aircraft;
 - (iii) any medical or private information regarding persons involved in the accident or incident;
 - (iv) recordings and transcripts of recordings from air traffic control units;
 - (v) analysis of and opinions about information, including flight recorder information, made by the accident investigation authority and accredited representatives in relation to the accident or incident; and
 - (vi) the draft Final Report of an accident or incident investigation.
- (b) A record referred to in paragraph (a) shall be included in the Final Report or its appendices only when pertinent to the analysis of the accident or incident. Parts of the records not relevant to the analysis shall not be disclosed.
- Note —The records listed in Part 13.220 (a) include information relating to an accident or incident. The disclosure or use of such information for purposes where the disclosure or use is not necessary in the interest of safety may mean that, in the future, the information will no longer be openly disclosed to investigators. Lack of access to such information would impede the investigation process and seriously affect aviation safety.*
- (c) Such parts of the record which are not relevant to the analysis of the accident or incident shall not be included in the Final Report.
 - (d) The names of the persons involved in the accident or incident shall not be disclosed to the public by the accident investigation authority.
 - (e) The Authority shall ensure that requests for records in the custody or control of the accident investigation authority are directed to the original source of the information, where available.
- Note: The accident investigation authority should retain, where possible, only copies of records obtained in the course of an investigation.*
- (f) The Authority shall take measures to ensure that audio content of cockpit voice recordings as well as image and audio content of airborne image recordings are not disclosed to the public.
 - (g) The Authority issuing or receiving a draft Final Report shall take measures to ensure that it is not disclosed to the public.

13.221 INFORMATION — ACCIDENTS AND INCIDENTS

Note.—The Authority may determine the limitations on disclosure or use that will apply to information before it is exchanged between them for the purposes of an accident or incident investigation.

13.225 OBSTRUCTION OF INVESTIGATION

- (a) No person shall obstruct or impede an Investigator/inspector or any person acting under the authority of the Authority or the Chairman in the exercise of any rights, powers or duties under this Part.
- (b) No person shall without reasonable excuse and after having had the expenses (if any) to which he is entitled tendered to him, fail to comply with any summons of —
 - (1) an investigator-in-charge carrying out an investigation under this Part; or
 - (2) any person empowered to exercise the powers of the investigator-in-charge under Sec 13.115 of this PCAR Part 13;.
- (c) The onus of proving reasonable excuse for failing to comply with a summon shall lie on the person relying on such excuse.

13.230 RESPONSIBILITY FOR EXPENSES

- (a) Any expenses incurred by reason of anything done by the investigator-in-charge or the persons specified in Sec 13.115 in exercise of any rights or powers referred to in Sec 13.110 (b) or (c) for the purposes of the investigation as referred in Sec 13.110(a), shall be borne by the owner or operator of the aircraft and be recoverable from either or both of them.
- (b) Any expenses incurred by the accredited representative, advisers and expert by reason of their participation in an investigation under Sec 13.140 and by reason of anything done during, in, or incidental to the investigation by the accredited representative, advisers and expert in exercise of the rights and powers specified in Sec 13.110(b)&(c), shall be borne by and be recoverable from the owner or operator of the aircraft or both.
- (c) The expenses incurred in moving or removing such aircraft involved in accident/incident as ordered by the Chairman or the investigator-in-charge under Sec 13.080, shall be borne by the owner, operator or hirer of the aircraft or all of them. Likewise, where the aircraft is removed from the accident site to an accessible place as ordered by the Chairman or the investigator-in-charge under Sec 13.080 in the absence of the owner, operator or hirer of the aircraft, the expenses incurred shall be recoverable from the owner, operator or hirer or from all of them.

13.235 OFFENCES

- (a) Any person mentioned in Section 13.035 who contravenes Section 13.025, Sec 13.065, Sec 13.160, Sec 13.175, Sec 13.220,& Sec 13.225) shall be guilty of an offence and shall be liable on conviction to a fine ranging from Fifty thousand pesos (Php50,000.00) but not exceeding Two hundred thousand pesos (Php200,000.00) or equivalent penalty as may be prescribed by the Authority or to imprisonment for a term not exceeding three (3) years or to all.

13.240 SAVING POWERS

(a) Nothing in this Part shall limit the powers of canceling, suspending or endorsing any license, certificate or other document issued by the Authority under the Act or any related subsidiary legislation hereafter.

13.245 REPEALING PROVISION

(a) This Philippine Civil Aviation Regulation (PCAR) Part 13 titled, "Aircraft Accident & Incident Investigation" repeals Civil Aviation Regulation (CAR) Part 13 issued in CY-2009 also titled, "Aircraft Accident & Incident Investigation".

13.250.1.1 EFFECTIVITY

(a) This Philippine Civil Aviation Regulation (PCAR) Part 13 takes effect upon its approval by the CAAP Board.

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IS: 13.030

LIST OF EXAMPLES OF SERIOUS INCIDENTS

The incidents listed are typical examples of incidents that are likely to be serious incidents. The list is not exhaustive and only serves as guidance to the definition of serious incidents.

1. A near collision requiring an avoidance maneuver to avoid a collision or an unsafe situation or when an avoidance action would have been appropriate.
2. Collisions not classified as accidents.
3. A controlled flight into terrain only marginally avoided.
4. An aborted take-off on a closed or engaged runway, on a taxiway (excluding authorized operations by helicopters) or unassigned runway.
5. A take-off from a closed or engaged runway, from a taxiway (excluding authorized operations by helicopters) or unassigned runway.
6. A landing or an attempted landing on a closed or engaged runway, on a taxiway (excluding authorized operations by helicopters) or unassigned runway.
7. A gross failure to achieve predicted performance during take-off or initial climb.
8. Fire and/or smoke in the cockpit, in the passenger compartment, in the cargo compartment or engine fire, even though such a fire was extinguished by the use of extinguishing agents.
9. An event requiring the emergency use of oxygen by the flight crew.
10. An aircraft structural failure or engine disintegration, including uncontained turbine engine failure, not classified as an accident.
11. Multiple malfunctions of one or more aircraft systems seriously affecting the operation of the aircraft.
12. Flight crew incapacitation in flight.
13. Fuel quantity level or distribution situations requiring the declaration of an emergency by the pilot, such as insufficient fuel, fuel exhaustion, fuel starvation, or inability to use all usable fuel on board.
14. Runway incursions classified with severity A. (per Manual on the Prevention of Runway Incursions (Document 9870) contains information on the severity classifications.
15. A take-off or landing incident such as undershooting, overrunning or running off the side of runways.
16. A system failure, weather phenomenon, an operation outside the approved flight envelope or other occurrence which caused or could have caused difficulties controlling the aircraft.
17. Failures of more than one system in a redundancy system mandatory for flight guidance and navigation.
18. Aircraft collide in flight.
19. Damage to property, other than the aircraft, estimated to exceed \$25,000 for repair (including materials and labor) or fair market value in the event of total loss, whichever is less.

20. For large multiengine aircraft (more than 5,700 kg maximum takeoff weight);
- (a) In-flight failure of electrical systems which requires the sustained use of an emergency bus powered by a backup source such as a battery, auxiliary power unit, or air driven generator to retain flight control or essential instruments;
 - (b) In-flight failure of hydraulic systems that results in sustained reliance on the sole remaining hydraulic or mechanical system for movement of flight control surfaces;
 - (c) Sustained loss of the power or thrust produced by two or more engines; and
 - (d) An evacuation of an aircraft in which an emergency egress system is utilized.
21. The unintentional or, as an emergency measure, the intentional release of a slung load or any other load carried external to the aircraft.

IS: 13.175-1**MANDATORY INCIDENT REPORTS: AIRCRAFT FLIGHT OPERATIONS**

- (a) **Occurrences during operations of an aircraft** that involve—
- (1) Avoidance maneuvers—
 - (i) Risk of collision with another aircraft, terrain or other object or an unsafe situation when avoidance action would have been appropriate;
 - (ii) An avoidance maneuver required to avoid a collision with another aircraft, terrain or other object;
 - (iii) An avoidance maneuver to avoid other unsafe situations.
 - (2) Take-off or landing incidents, including precautionary or forced landings. Incidents such as—
 - (i) Under-shooting, overrunning or running off the side of runways
 - (ii) Take-offs, rejected take-offs, landings or attempted landings on a closed, occupied or incorrect runway; and
 - (iii) Runway incursions.
 - (3) Inability to achieve predicted performance during take-off or initial climb.
 - (4) Critically low fuel quantity or inability to transfer fuel or use total quantity of usable fuel.
 - (5) Loss of control (including partial or temporary) regardless of cause.
 - (6) Occurrences close to or above V1 resulting from or producing a hazardous or potentially hazardous situation (e.g. rejected take-off, tail strike, engine-power loss etc.).
 - (7) Go around producing a hazardous or potentially hazardous situation.
 - (8) Unintentional significant deviation from airspeed, intended track or altitude (more than 300 ft.) regardless of cause.
 - (9) Descent below decision height/altitude or minimum descent height/altitude without the required visual reference.
 - (10) Loss of position awareness relative to actual position or to other aircraft.
 - (11) Breakdown in communication between flight crew "C R M" (crew resource

management) or between flight crew and other parties (cabin crew, ATC [air traffic control] engineering).

- (12) Heavy landing - a landing deemed to require a "heavy landing check".
 - (13) Exceeding of fuel imbalance limits.
 - (14) Incorrect setting of an "SSR" (secondary surveillance radar) code or of an altimeter subscale.
 - (15) Incorrect programming of or erroneous entries into, equipment used for navigation or performance calculations, or use of incorrect data.
 - (16) Incorrect receipt or interpretation of radio-telephony messages.
 - (17) Fuel system malfunctions or defects, which had an effect on fuel supply and/or distribution.
 - (18) Aircraft unintentionally departing from a paved surface.
 - (19) Collision between an aircraft and any other aircraft, vehicle or other ground object.
 - (20) Inadvertent and/or incorrect operation of any controls.
 - (21) Inability to achieve the intended aircraft configuration for any flight phase (e.g. landing gear and gear doors, flaps, stabilizers, slats etc.).
 - (22) A hazard or potential hazard which arises as a consequence of any deliberate simulation of failure conditions for training, system checks or training purposes.
 - (23) Abnormal vibration.
 - (24) Operation of any primary warning system associated with maneuvering the aircraft, such as a configuration warning, stall warning (stick shaker), over-speed warning etc. unless—
 - (i) The crew conclusively established that the indication was false and provided that the false warning did not result in difficulty or hazard arising from the crew response to the warning; or
 - (ii) Operated for training or test purposes.
 - (25) "GPWS" (ground proximity warning system)/"TAWS" (terrain awareness and warning system) "warning" when—
 - (26) GPWS/TAWS "alert" when any difficulty or hazard arises or might have arisen as a result of crew response to the "alert".
 - (27) "ACAS" (air collision advisory system) "RA"s (resolution advisories).
 - (28) Jet or prop blast incidents resulting in significant damage or serious injury.
 - (29) Landing at the wrong aerodrome.
- (b) **Occurrences resulting in emergencies**, including—
- (1) Fire, explosion, smoke or toxic or noxious us fumes, even though fires were extinguished.
 - (2) The use of any non-standard procedure by the flight or cabin crew to deal with an emergency when—
 - (i) The procedure exists but is not used;
 - (ii) The procedure does not exist;

- (iii) The procedure exists but is incomplete or inappropriate;
 - (iv) The procedure is incorrect;
 - (v) The incorrect procedure is used.
- (3) Inadequacy of any procedures designed to be used in an emergency, including when being used for maintenance, training or test purposes.
 - (4) An event leading to an emergency evacuation. Depressurization.
 - (5) The use of any emergency equipment or prescribed emergency procedures in order to deal with a situation.
 - (6) An event leading to the declaration of an emergency ("Mayday" or "PAN").
 - (7) Failure of any emergency system or equipment, including all exit doors and lighting, to perform satisfactorily, including when being used for maintenance, training or test purposes
 - (8) Events requiring any use of emergency oxygen by any crew member.
- (c) **Occurrences involving crew incapacitation**, including—
 - (1) Incapacitation of any member of the flight crew, including that which occurs prior to departure if it is considered that it could have resulted in incapacitation after take-off.
 - (2) Incapacitation of any member of the cabin crew which renders them unable to perform essential emergency duties.
 - (d) **Occurrences involving injury**, including any occurrences which have or could have led to significant injury to passengers or crew but which are not considered reportable as an accident.
 - (e) **Occurrences related to meteorology**, including—
 - (1) A lightning strike which resulted in damage to the aircraft or loss or malfunction of any essential service.
 - (2) A hail strike which resulted in damage to the aircraft or loss or malfunction of any essential service.
 - (3) Severe turbulence encounter, an encounter resulting in injury to occupants or deemed to require a "turbulence check" of the aircraft.
 - (4) A wind shear encounter.
 - (5) Icing encounter resulting in handling difficulties, damage to the aircraft or loss or malfunction of any essential service.
 - (f) **Security occurrences**, including—
 - (1) Unlawful interference with the aircraft including a bomb threat or hijack.
 - (2) Difficulty in controlling intoxicated, violent or unruly passengers.
 - (3) Discovery of a stowaway.
 - (g) **Other occurrences**, including—
 - (1) Repetitive instances of a specific type of occurrence which in isolation would not be considered "reportable" but which due to the frequency with which they arise, form a potential hazard.
 - (2) A bird strike which resulted in damage to the aircraft or loss or malfunction of any essential service.

- (3) Wake-turbulence encounters.
- (4) Any other occurrence of any type considered to have endangered or which might have endangered the aircraft or its occupants on board the aircraft or persons on the ground.

IS: 13.175-2**MANDATORY Incident REPORTS: AIRCRAFT TECHNICAL****(a) Structural occurrences, including—**

Note: Not all structural failures need to be reported. Engineering judgment is required to decide whether a failure is serious enough to be reported. The following examples can be taken into consideration:

- (1) Damage to a "PSE" (principal structural element) that has not been designated as damage-tolerant (life - limited element). PSEs are those which contribute significantly to carrying flight, ground, and pressurization loads, and the failure of which could result in a catastrophic failure of the aircraft;
- (2) Defect or damage exceeding admissible damages to a PSE that has been designated as damage-tolerant;
- (3) Damage to or defect exceeding allowed tolerances of a structural element, the failure of which could reduce the structural stiffness to such an extent that the required flutter, divergence or control reversal margins are no longer achieved;
- (4) Damage to or defect of a structural element, which could result in the liberation of items of mass that may injure occupants of the aircraft;
- (5) Damage to or defect of a structural element, which could jeopardize proper operation of systems.
- (6) Loss of any part of the aircraft structure in flight.

(b) Aircraft systems occurrences, including—

- (1) Loss, significant malfunction or defect of any system, subsystem or set of equipment when standard operating procedures, drills etc. could not be satisfactorily accomplished;
- (2) Inability of the crew to control the system, including—
 - (i) Un-commanded actions,
 - (ii) Incorrect and/or incomplete response, including limitation of movement or stiffness,
 - (iii) Runaway,
 - (iv) Mechanical disconnection or failure;
- (3) Failure or malfunction of the exclusive function(s) of the system (one system could integrate several functions);
- (4) Interference within or between systems;
- (5) Failure or malfunction of the protection device or emergency system associated with the system;
- (6) Loss of redundancy of the system;
- (7) Any occurrence resulting from unforeseen behavior of a system.

- (8) For aircraft types with single main systems, subsystems or sets of equipment, loss, significant malfunction or defect in any main system, subsystem or set of equipment.
 - (9) For aircraft types with multiple independent main systems, subsystems or sets of equipment, the loss, significant malfunction or defect of more than one main system, subsystem or set of equipment.
 - (10) Operation of any primary warning system associated with aircraft systems or equipment unless the crew conclusively established that the indication was false, provided that the false warning did not result in difficulty or hazard arising from the crew response to the warning;
 - (11) Leakage of hydraulic fluids, fuel, oil or other fluids which resulted in a fire hazard or possible hazardous contamination of aircraft structure, systems or equipment, or risk to occupants;
 - (12) Malfunction or defect of any indication system when this results in the possibility of misleading indications to the crew;
 - (13) Any failure, malfunction or defect if it occurs at a critical phase of the flight and is relevant to the system operation;
 - (14) Significant shortfall of the actual performances compared to the approved performance which resulted in a hazardous situation (taking into account the accuracy of the performance- calculation method) including braking action, fuel consumption etc.;
 - (15) Asymmetry of flight controls; e.g. flaps, slats, spoilers etc.
- (c) **Propulsion (including engines, propellers and rotor systems) and APUs (auxiliary power units)—**
- (1) Flameout, shutdown or malfunction of any engine.
 - (2) Over-speed or inability to control the speed of any high-speed rotating component (for example: APU, air starter, air cycle machine, air turbine motor, propeller or rotor).
 - (3) Failure or malfunction of any part of an engine or power-plant resulting in any one or more of the following—
 - (i) Non-containment of components/debris;
 - (ii) Uncontrolled internal or external fire, or hot gas breakout;
 - (iii) Thrust in a direction different from that demanded by the pilot;
 - (iv) Thrust-reversing system failing to operate or operating inadvertently;
 - (v) Inability to control power, thrust or revolutions per minute;
 - (vi) Failure of the engine mount structure;
 - (vii) Partial or complete loss of a major part of the power-plant;
 - (viii) Dense visible fumes or concentrations of toxic products sufficient to incapacitate crew or passengers;
 - (ix) Inability, by use of normal procedures, to shutdown an engine;
 - (x) Inability to restart a serviceable engine.
 - (xi) An un-commanded thrust/power loss, change or oscillation which is classified as a "LOTC" (loss of thrust or power control)—

- (xii) For a single-engine aircraft; or
 - (xiii) Where it is considered excessive for the application; or
 - (xiv) Where this could affect more than one engine in a multi-engine aircraft, particularly in the case of a twin-engine aircraft; or
 - (xv) For a multi-engine aircraft where the same, or similar, engine type is used in an application where the event would be considered hazardous or critical.
- (4) Any defect in a life-controlled part causing its withdrawal before completion of its full life.
 - (5) Defects of common origin which could cause an in-flight shut-down rate so high that there is the possibility of more than one engine being shut down on the same flight.
 - (6) An engine limiter or control device failing to operate when required or operating inadvertently.
 - (7) Exceedance of engine parameters.
 - (8) "FOD" (foreign objects damage).
 - (9) Propellers and transmission
- (d) **Occurrences involving rotors and transmissions**, including—
- (1) Failure or malfunction of any part of a propeller or power-plant resulting in any one or more of the following—
 - (i) An over-speed of the propeller;
 - (ii) The development of excessive drag;
 - (iii) A thrust in the opposite direction to that commanded by the pilot;
 - (iv) A release of the propeller or any major portion of the propeller;
 - (v) A failure that results in excessive imbalance;
 - (vi) The unintended movement of the propeller blades below the established minimum in-flight low-pitch position;
 - (vii) An inability to feather the propeller;
 - (viii) An inability to change propeller pitch;
 - (ix) An un-commanded change in pitch;
 - (x) An uncontrollable torque or speed fluctuation;
 - (xi) The release of low-energy parts.
 - (2) Damage or defect of main rotor gearbox/attachment which could lead to in-flight separation of the rotor assembly and/or malfunctions of the rotor control.
 - (3) Damage to tail rotor transmission and equivalent systems.
- (e) **Occurrences involving APUs**, including—
- (1) Shut down or failure when the APU is required to be available by operational requirements, e.g. ETOPS, "MEL" (minimum equipment list).
 - (2) Inability to shut down the APU.
 - (3) Overspeed.
 - (4) Inability to start the APU when needed for operational reasons.

- (f) **Human factors occurrences**, including any incident where any feature or inadequacy of the aircraft design could have led to an error of use that could contribute to a hazardous or catastrophic effect.
- (g) **Other aircraft technical occurrences**, including—
 - (1) Any incident where any feature or inadequacy of the aircraft design could have led to an error of use that could contribute to a hazardous or catastrophic effect.
 - (2) An occurrence not normally considered as reportable (e.g., furnishing and cabin equipment, water systems), where the circumstances resulted in endangering the aircraft or its occupants.
 - (3) A fire, explosion, smoke or toxic or noxious fumes.
 - (4) Any other event which could endanger the aircraft, or affect the safety of the occupants of the aircraft, or people or property in the vicinity of the aircraft or on the ground.
 - (5) Failure or defect of passenger addresses system resulting in loss of, or inaudible, passenger address system.
 - (6) Loss of pilot seat control during flight,

IS: 13.175-3**MANDATORY INCIDENT REPORTS: AIR NAVIGATION OCCURRENCES**

- (a) **Near collision incidents** (encompassing specific situations where one aircraft and another aircraft/the ground/a vehicle/person or object are perceived to be too close to each other)—
 - (1) Separation minima infringement;
 - (2) Inadequate separation;
 - (3) "Near-CFIT" (near-controlled flight into terrain);
 - (4) Runway incursion where avoiding action was necessary.
- (b) **Potential for collision or near collision** (encompassing specific situations having the potential to be an accident or a near collision, if another aircraft is in the vicinity)—
 - (1) Runway incursion where no avoiding action is necessary;
 - (2) Runway excursion;
 - (3) Aircraft deviation from ATC clearance;
 - (4) Aircraft deviation from applicable "ATM" (air traffic management) regulation—
 - (i) Aircraft deviation from applicable published ATM procedures;
 - (ii) Unauthorized penetration of airspace;
 - (iii) Deviation from aircraft ATM-related equipment carriage and operations, as mandated by applicable regulation(s).
- (c) **ATM-specific occurrences** (encompassing those situations where the ability to provide safe ATM services is affected, including situations where, by chance, the safe operation of aircraft has not been jeopardized. This shall include the following occurrences—

- (1) Inability to provide ATM services:
 - (i) inability to provide air traffic services;
 - (ii) inability to provide airspace management services;
 - (iii) inability to provide air traffic flow management services;
- (2) Failure of Communication function;
- (3) Failure of Surveillance function;
- (4) Failure of Data Processing and Distribution function;
- (5) Failure of Navigation function
- (6) ATM system security.
- (7) Examples of include—
 - (i) Provision of significantly incorrect, inadequate or misleading information from any ground sources, e.g. ATC, "ATIS" (automatic terminal information service), meteorological services, navigation databases, maps, charts, manuals, etc.
 - (ii) Provision of less than prescribed terrain clearance.
 - (iii) Provision of incorrect pressure reference data (i.e. altimeter setting).
 - (iv) Incorrect transmission, receipt or interpretation of significant messages when this results in a hazardous situation.
 - (v) Separation minima infringement.
 - (vi) Unauthorized penetration of airspace.
 - (vii) Unlawful radio communication transmission.
 - (viii) Major ATC/ATM failure or significant deterioration of aerodrome infrastructure.
 - (ix) Aerodrome movement areas obstructed by aircraft, vehicles, animals or foreign objects, resulting in a hazardous or potentially hazardous situation.
 - (x) Errors or inadequacies in marking of obstructions or hazards on aerodrome movement areas resulting in a hazardous situation.
 - (xi) Failure, significant malfunction or unavailability of aerodrome lighting.
- (d) **"ATC" (air traffic control) Navigation and Communications** - significant malfunction or deterioration of service.
- (e) An aircraft was or could have been endangered by impairment of any member of around staff (e.g. ATC, "FD" (flight dispatchers), Maintenance, etc.).
- (f) ATC overload.
- (g) Failure or unplanned shutdown of a major operational ATC computer system, requiring reversion to manual back-up and resulting in disruption to the normal flow of air traffic.

IS: 13.220 PROTECTION OF ACCIDENT AND INCIDENT INVESTIGATION RECORDS**INTRODUCTION**

Note 1.— The disclosure or use of records listed in Part 13.220, in criminal, civil, administrative or disciplinary proceedings, or their public disclosure, can have adverse consequences for persons or organizations involved in accidents and incidents, likely causing them or others to be reluctant to cooperate with accident investigation authorities in the future. The determination on disclosure or use required by Part 13.220 is designed to take account of these matters.

Note 2.— In accordance with Part 13.220, the provisions specified in this IS are intended to:

- (1) *assist the Authority in developing national laws, regulations and policies to protect accident and incident investigation records appropriately; and*
 - (2) *assist the competent authority in making the determination as required by Part 13.220.*
- (a) Throughout this Implementing Standards:
- (1) *balancing test* refers to the determination by the competent authority, in accordance with Part 13.220, of the impact the disclosure or use of accident and incident investigation records may have on current or future investigations; and
 - (2) *record(s)* refers to those listed in Part 13.220.

GENERAL

- (a) The Authority shall accord the protections in Part 13.220 and this IS to the entire recording of the cockpit voice recorder and airborne image recorder, and any transcripts from such recordings. These protections shall apply from the time an accident or incident occurs and continue after the publication of the Final Report.
- (b) The Authority shall accord the protections in Part 13.220 and this IS to the other records listed in Part 13.220 (b). These protections shall apply from the time they come into the custody or control of the accident investigation authority and continue after the publication of the Final Report.

NON-DISCLOSURE OF AUDIO OR IMAGE RECORDINGS TO THE PUBLIC

- (a) The Authority shall take action to achieve the non-disclosure of audio content of cockpit voice recordings as well as image and audio content of airborne image recordings to the public, as per Part 13.220 (f), such as:
 - (1) prevention of disclosure through the adoption of national laws, regulations and policies; or
 - (2) adoption of authoritative safeguards such as protective orders, closed proceedings or in-camera review; or
 - (3) prevention of disclosure of recordings, through technical means such as encrypting or overwriting, before returning the cockpit voice recorders or airborne image recorders to the owners.

Note.— Ambient workplace recordings required by SARPs contained in the Annexes to the Chicago Convention, such as cockpit voice recordings and airborne image recordings, may be perceived as constituting an invasion of privacy for operational personnel if they are disclosed or used for purposes other than those for which the recordings were made.

COMPETENT AUTHORITY

In accordance with Part 13.220, the designated competent authority or competent authorities shall be tasked of administering the balancing test.

Note.— Different competent authorities may be designated for different circumstances. For example, the competent authority designated for applying the balancing test in criminal or civil proceedings may be a judicial authority. Another competent authority may be designated for applying the balancing test in cases where the purpose of the request for disclosure is for public accessibility.

ADMINISTRATION OF THE BALANCING TEST

(a) Where the request is for a record to be disclosed or used in a criminal, civil, administrative or disciplinary proceeding, the competent authority shall be satisfied that a material fact in question in the proceedings cannot be determined without that record, before administering the balancing test.

Note.— A material fact in question is a legal term used to refer to a fact that is significant or essential to the matter at hand; that one party alleges and that the other controverts; and is to be determined by the competent authority administering the balancing test.

(b) When administering the balancing test, the competent authority shall take into consideration factors such as:

- (1) the purpose for which the record was created or generated;
- (2) the requester's intended use of that record;
- (3) whether the rights or interests of a person or organization will be adversely affected by the disclosure or use of that record;
- (4) whether the person or organization to whom that record relates has consented to make that record available;
- (5) whether suitable safeguards are in place to limit the further disclosure or use of that record;
- (6) whether that record has been or can be de-identified, summarized or aggregated;
- (7) whether there is an urgent need to access that record to prevent a serious risk to health or life;
- (8) whether that record is of a sensitive or restrictive nature; and
- (9) whether that record reasonably indicates that the accident or incident may have been caused by an act or omission considered, in accordance with national laws and regulations, to be gross negligence, wilful misconduct, or done with criminal intent.

Note 1.— The administration of the balancing test can be done once for a certain category of records and the result incorporated into national laws and regulations.

Note 2.— The competent authority may need to administer a balancing test for determining whether to permit the disclosure of a record, and a separate balancing test for determining whether to permit the use of a record.

Note 3.— Guidance material on the balancing test can be found in the Manual on Protection of Safety Information, Part I — Protection of Accident and Incident Investigation Records (ICAO Doc 10053).

RECORDS OF THE DECISIONS

Note 1.— The competent authority should record the reasons for its determination when administering the balancing test. The reasons should be made available and referred to as necessary for subsequent decisions.

Note 2.— States may submit the decisions recorded to the International Civil Aviation Organization in one of the working languages of the Organization to be archived in a public database.

FINAL REPORT

Note 1.— In order to limit the use of the Final Report for purposes other than the prevention of accidents and incidents, the competent authority should consider:

- (1) instituting a separate investigation for those other purposes; or*
- (2) differentiating between the parts of the Final Report in order to allow the use of factual information contained therein while preventing use of analysis, conclusions and safety recommendations for apportioning blame or liability; or*
- (3) preventing the use of the Final Report as evidence in proceedings to apportion blame or liability.*

Note 2.— In accordance with Part 13.145, Final Reports are publicly available in the interest of accident prevention and are not subject to protection under Part 13.220. However, the use of portions of the Final Report, in particular the analysis, conclusions and safety recommendations, as evidence before national courts in view of assigning blame or determining liability is against the purposes for which the investigation was undertaken.

ACCIDENT AND INCIDENT INVESTIGATION PERSONNEL

Note.— In the interest of safety and in accordance with Part 13.170, the competent authority should consider that accident investigation personnel not be compellable to give an opinion on matters of blame or liability in civil, criminal, administrative or disciplinary proceedings.

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