
EBOOK VOLUME 13. COMPLIANCE ENFORCEMENT & RESOLUTION OF IDENTIFIED SAFETY DEFICIENCIES

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CHAPTER 1. INTRODUCTION TO COMPLIANCE ENFORCEMENT AND THE RESOLUTION OF IDENTIFIED SAFETY DEFICIENCIES

Section 1. GACA Compliance Enforcement Philosophy and Policy

13.1.1.1. APPLICABILITY. The Civil Aviation Law approved via Royal Decree M/44 dated 18/7/1426H forms the foundation of the Kingdom of Saudi Arabia's State Safety Program. This law and the implementing General Authority of Civil Aviation Regulations (GACAR) provide requirements that all civil users of the aviation system must abide by. Compliance with these requirements in an essential aspect for maintaining aviation safety at an acceptable level. This section provides an introduction to compliance enforcement and the resolution of all identified safety deficiencies.

13.1.1.3. GACA COMPLIANCE ENFORCEMENT PHILOSOPHY.

A. Background. The General Authority of Civil Aviation (GACA) compliance enforcement program has three broad aims and activity areas. It includes all those activities carried out by GACA to ensure that:

- Regulated entities (e.g. certificate holders, holders of other authorizing documents issued by the President) comply with the regulations on a continuing basis through a thorough and systematic surveillance program.
- Regulated entities that have been identified to be in violation of an applicable regulation are brought back into full regulatory compliance without delay.
- Regulated entities are deterred from committing violations by imposing appropriate punitive measures when circumstances warrant.

Aviation organizations required by GACAR Part 5 to have a Safety Management System (SMS) are allowed certain freedoms from punitive enforcement actions provided the organization self-identifies violations and then takes proactive steps to correct any noncompliances and safety deficiencies in a timely manner and in addition take the necessary actions to prevent a reoccurrence. The compliance

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enforcement program commences whenever the GACA Aviation Standards and Environmental Sustainability Sector (AVSES) learns of a violation, or alleged violation, of the GACARs by way of one of the following means:

- Routine and non-routine surveillance
- Incident investigations
- Accident investigations
- Public complaints
- Law enforcement agencies
- Self-disclosure
- Any other means

1) No matter how Aviation Standards and Environmental Sustainability (AVSES) Sector learns of a violation, if left unresolved, violations have the potential to adversely affect aviation safety and thus they must be rectified in a timely manner. For the GACA AVSES safety oversight programs to be effective, and for the Kingdom of Saudi Arabia to meet its international obligations under International Civil Aviation Organization (ICAO), GACA AVSES must resolve all identified regulatory noncompliances in a timely and effective manner.

2) The President has published a policy on the resolution of safety concerns and noncompliances. This policy is stated in paragraph 13.1.1.5, below. All GACA aviation safety inspectors (Inspectors) shall follow this policy for the resolution of identified safety concerns and noncompliances that fall within their jurisdiction.

13.1.1.5. GACA POLICY ON THE RESOLUTION OF IDENTIFIED SAFETY CONCERNS & NONCOMPLIANCES.

A. All identified safety concerns and regulatory noncompliances shall be resolved in accordance with this policy and related work processes.

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B. Since not all safety concerns are of equal seriousness, the GACA policy on the resolution of identified safety concerns is to assign a deadline for resolution that is inversely proportional to the seriousness of the concern. That is to say, the most serious safety concerns must be resolved immediately (e.g. before further flight) while those concerns of least seriousness may be given up to sixty days to resolve. System improvements to correct the root causes of identified safety deficiencies may be given up to ninety days to implement provided that short term corrective actions are implemented to resolve the identified safety concern.

C. Noncompliances are sometimes unintentional and/or of an isolated nature, while others are intentional and/or of a repetitive nature. The GACA policy on the resolution of noncompliances is to be intolerant of repetitive and intentional noncompliances by assigning short deadlines for resolution. Conversely, for error based and isolated noncompliances longer deadlines may be permitted for resolution provided the safety severity is low.

D. For violators who fail to meet the established deadlines or who fail to implement corrective actions to resolve the identified safety concern, the GACA must take remedial certificate actions. These actions may involve suspending or revoking the certificate, rating, authorization, or other privileges. The GACA may also pursue punitive measures in order to deter future violations.

E. Records shall be generated and retained in the certificate holder's file that describes the corrective actions taken by the certificate holder and the final acceptance by GACA. For cases where actions against the certificate have been taken, the relevant documents and correspondence shall also be retained in the file.

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Section 2. Inspector Responsibilities

13.1.2.1. INSPECTOR RESPONSIBILITIES.

- Aviation safety inspectors (Inspectors) are responsible for having the knowledge, skill, and ability to counsel and instruct the general public, the aviation public, and the aviation industry on the accepted methods of compliance with the General Authority of Civil Aviation Regulations (GARAR)
- Inspectors are also responsible for preventing violations of regulations whenever possible. One way to assure this is through the certification process where an Inspector assures that applicants are in full compliance with the GACARs before issuing any certificate, rating, or authorization
- Inspectors also ensure that all applicable persons comply with the regulations on a continuing basis through a thorough and systematic surveillance program
- If, during the performance of any of these duties, the Inspector finds or becomes aware of any violation of the GACARs, the Inspector must investigate and report according to GACAR Part 13

13.1.2.3. DISCHARGING COMPLIANCE ENFORCEMENT RESPONSIBILITIES. Inspectors must remember some very important issues when carrying out compliance enforcement responsibilities:

A. GACARs are the minimum standards for aviation safety. Inspectors can and should encourage compliance with the highest possible standards; however, when it comes to enforcement, the Inspector can only require compliance with the regulation, precisely as it is written.

B. Regulations are sometimes permissive, sometimes restrictive. Restrictive regulations are

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enforceable; permissive regulations are not. If the regulation does not specifically say a person cannot, then a person can. This is not to say that either the stringent or lenient understanding of the GACARs should always be followed. Rather, the GACA's compliance enforcement program shall not be used for a reprisal against those in the public who are uncooperative so long as they are in compliance. On the other hand, Inspectors shall not:

- “Wink” at the enforcement of regulations they do not like or do not understand
- “Shrug” at regulatory standards with which they do not agree or at the failure of “good guys” to comply
- Have “double standards” for those who are friendly or hostile to “The Cause”—aviation safety

C. However, Inspectors shall:

- 1) Always be mindful of the difference in being nosy and investigating, and use the latter to establish guilt or innocence and to find both mitigating and aggravating circumstances.
- 2) Be objective, i.e., report what they find, both bad and good—the good in those whom the Inspector finds offensive and the bad in those the Inspector likes.
- 3) Leave the final sanction (if applicable) to those who must decide it, but be sure to give those individuals the basis for sound decisions in the technical analysis.
- 4) Include the Inspector's feelings, opinions, and conjecture in the analysis, clearly separating them from the facts.
- 5) Report what the Inspector must instead of what the Inspector wants; be detached and not emotionally involved.
- 6) Take a positive, objective approach, not wasteful of diminishing resources, and always considering safety; keep in mind that proper regulation and promotion of the aviation industry are the same thing.
- 7) Try to avoid emotional reporting. The Inspector should always read what he wrote in aggravation after a “cooling off” period, and see if it still reflects a true and accurate picture

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of the event. Consultation with other Inspectors and the supervisor can sometimes be very effective, provided the Inspector is willing to take the advice given. If the Inspector is unwilling to accept that advice, his investigatory and reporting problems are likely to multiply.

13.1.2.5. UNIT SUPERVISOR AND REVIEWING PRINCIPAL INSPECTOR RESPONSIBILITIES.

A. Immediate supervisors and principal inspectors (PIs) are responsible for assuring that their Inspectors are trained and given proper guidance in the investigation and reporting of violations. They are also responsible for:

- Assigning the best qualified, available Inspectors to investigate and report on violations
- Tracking the investigation and reporting process to assure timely progression
- Assisting Inspectors during the investigation and reporting process by giving advice and counsel

B. Carefully and thoroughly reviewing each report to be sure it is prepared in accordance with General Authority of Civil Aviation (GACA) policy and guidelines. The review shall include a reference to and an analysis of each GACAR. This “look in the book” is absolutely essential to assure that a violation has indeed occurred and that there is evidence in the file to support all applicable elements of the rule.

13.1.2.7. GACA MANAGEMENT RESPONSIBILITIES. GACA managements (including General Managers) has overall responsibility for the effectiveness and propriety of the compliance program. Among those responsibilities are the quality and timeliness of each investigation and its corresponding report.

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**Section 3. The Aviation Safety & Environmental Sustainability Compliance Enforcement
Committee (CEC)**

13.1.3.1 General.

A. The Aviation Safety & Environmental Sustainability (AVSES) Compliance Enforcement Committee (CEC) was formed in adherence to the executive administrative order 4/1/29568, dated 09/02/2023, by the GACA Executive Vice President Aviation Safety & Environmental Sustainability.

B. The General Manager of the Safety & Risk Department heads the CEC or whomever the Executive Vice President of Aviation Safety & Environmental Sustainability deems appropriate for this position.

C. The CEC members are all the departments' Managers and General Managers within the GACA Aviation Safety & Environmental Sustainability Sector.

D. If the committee agrees on a course of action, but one or more of its members disagrees with the majority decision for whatever reason, the majority decision will be taken into action. In contrast, the disagreeing members' reasoning will be listed in the committee's agenda for future reference.

13.1.3.3 Roles and Responsibilities of the CEC.

A. The CEC must ensure that all compliance enforcement cases encountered by the Aviation Safety & Environmental Sustainability Sector are handled in full compliance with GACAR Part-13 and Volume-13 of this handbook.

B. The CEC will maintain complete records and archives of all compliance enforcement cases handled by the Aviation Safety & Environmental Sustainability Sector. Such filing is in addition to the filing performed by each respective department in accordance with this volume.

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C. The CEC must approve All compliance enforcement formal actions taken by the GACA Aviation Safety & Environmental Sustainability Sector. The CEC must forward Compliance Enforcement actions requiring senior GACA management approvals with the CEC's recommendations.

D. The CEC will ensure the appropriate channeling of compliance enforcement data into the safety information system of the KSA State Safety program.

E. The CEC will compile a periodic compliance enforcement report to the Executive Vice President of Aviation Safety & Environmental Sustainability (every six months). The information must at least include the following:

- 1) Shortlisting of the compliance enforcement cases during the reporting period.
- 2) Analysis of the regulatory violations that include root causes and accumulated historical trends of such violations.
- 3) Recommendations to enhance the level of regulatory compliance.

13.1.3.5 Compliance Enforcement Procedure.

A. Each Aviation Safety & Environment Sustainability Department will investigate alleged regulatory violations by Chapter-2 of this volume.

B. Each Aviation Safety & Environment Sustainability Department will follow the GACA Compliance Enforcement Program following Chapter-3 of this volume except for taking any action against the alleged regulatory violators.

C. For any compliance enforcement case, the concerned Aviation Safety & Environment Sustainability Department(s) will compile a complete report following Chapter-2 and Chapter-3 of this volume and forward it to the CEC.

D. The head of the CEC, upon receiving a case of non-compliance, calls the members of the committee for a physical or virtual meeting, the committee consisting of the General Managers and whomever the head of the CEC deems appropriate.

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E. The above committee will:

- 1) Evaluate the compliance enforcement case to ensure it was handled entirely with this volume.
- 2) In cases where compliance enforcement actions require senior GACA management approvals, the committee will evaluate those actions. The committee will forward the proposed compliance enforcement actions to the GACA senior management if approved.
- 3) The committee will evaluate all other proposed compliance enforcement actions not requiring GACA senior management approvals. If approved, those actions will be executed by the concerned department's General Manager.
- 4) The CEC will extract any safety data from each compliance enforcement case and ensure that such data is appropriately fed into the KSA SSP Safety Data Collection System.

13.1.3.7 Compliance Enforcement Central Records

A. The CEC will maintain a centralized record system for all compliance enforcement cases handled by the Aviation Safety & Environment Sustainability Sector. This record system is separate from the filing and recording of compliance enforcement cases performed by individual departments following this volume.

B. The minimum contents of the compliance enforcement centralized record system are:

- 1) Each compliance enforcement case will be assigned a unique reference number.
- 2) A copy of the compliance enforcement report prepared by the department(s) that handled the case.
- 3) Exact references to the GACARs that have been violated.
- 4) Identification of the violator(s), both; individuals and organizations as applicable.
- 5) The Safety Risk Level, the Conduct Category, and the proposed type of Compliance Enforcement action determined for each violated GACAR under the Enforcement Decision Tool

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(EDT) in Chapter-3 of this volume.

13.1.3.9 Periodic Compliance Enforcement Reports.

A. The CEC will compile a periodic compliance enforcement report every six months. The report will be submitted to the Executive Vice President of Aviation Safety & Environmental Sustainability and circulated to all departmental General Managers of the Aviation Safety & Environmental Sustainability Sector.

B. The minimum contents of the CEC periodic report are:

- 1) Shortlisting of all compliance enforcement handled during the reporting period.
- 2) Clear identification of the alleged violators (both; individuals and organizations).
- 3) Precise listing of the GACARs violated during the reporting period. For example, the GACAR part and the GACAR section (and subsections) as applicable.
- 4) Accumulated statistical analysis of all compliance enforcement cases.
- 5) Any correlation between the compliance enforcement data and other safety information data collected under GACAR Part-4.
- 6) Root cause analysis of the GACARs violations.
- 7) Evaluation of the results of previously recommended actions.
- 8) Recommendations to improve regulatory compliance.

13.1.3.11 Aviation Safety & Environmental Sustainability Compliance Enforcement Data System.

A. The Aviation Safety & Environmental Sustainability Compliance Enforcement Data System (CEDS) is a centralized computerized data storage and retrieval system designed for the storage and retrieval of all compliance enforcement cases handled in accordance with this volume.

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B. The owner of the CEDS is the Safety & Risk Department which is responsible for the management and update of the CEDS in addition to providing the system's accessibility to the appropriate management staff within the Aviation Safety & Environmental Sustainability Sector.

C. The CEDS data structure contains all the data fields listed under (13.1.3.7 Compliance Enforcement Central Records).

D. The CEDS provides dynamic data retrieval and reporting capabilities required by Aviation Safety & Environmental Sustainability management to analyze compliance enforcement data efficiently.

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CHAPTER 2. INVESTIGATIONS

Section 1. Conduct a Complaint Investigation

13.2.1.1. GACA ACTIVITY REPORTING (GAR).

A. Resolved as a Complaint.

- 1) 1737 (OP)
- 2) 3740 (AW)

B. Other.

- 1) 1771 (OP)
- 2) 3766 (AW)

13.2.1.3. OBJECTIVE. The objective of this section is to provide guidance to aviation safety inspectors (Inspectors) on how to process and investigate complaints received by the General Authority of Civil Aviation (GACA). Through analysis and investigation, Inspectors must determine the appropriate resolution of complaints. Successful completion of this task may result in several different outcomes based on the nature and type of the complaint and its method of resolution. Complaints about noncompliance with the GACA Regulations (GACARs) should be handled as a formal complaint and processed using the provisions of GACAR 13 and Chapter 2, Section 2 of Volume 13 of this handbook. Complaints that do not allege noncompliance with the GACARs may be about safety or non-safety issues. Complaints about safety issues should be thoroughly analyzed and the necessary corrective actions taken. Non-safety complaints, such as noise complaints, passenger handling, etc., may or may not be investigated by the GACA and could be referred to another GACA Sector or Department or even another government agency.

13.2.1.5. GENERAL.

A. Authority. The Kingdom of Saudi Arabia (KSA) Civil Aviation Law authorizes the President to prescribe rules, regulations, orders and minimum standards in the national interest. GACAR Part 13 derives its authority from the KSA Civil Aviation Law and authorizes the President to conduct investigations. GACAR § 13.27, describes what is considered to be a

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formal complaint of noncompliance with the GACARs, and gives guidance as to what the complaint must contain and how it is to be submitted. Complaints that do not meet the requirements to be a formal complaint of noncompliance, as specified in GACAR § 13.27(b), are considered to be reports, as defined in GACAR § 13.23 and may, or may not, fall under the provisions of that section.

B. Determination of GACA Responsibility. Areas of Aviation Standards and Environmental Sustainability (AVSES) responsibility for complaint issues may be determined by using the following criteria:

- There was an alleged noncompliance with the GACA Regulations (GACARs)
- The performance of Air Navigation Service (ANS) facilities or functions was a factor (i.e., Air Traffic Service (ATS), Navigational Aids (NAVAID))
- The airworthiness of aircraft of Saudi Arabian-registry was a factor
- The competency of GACA certificated airmen was involved
- The adequacy of the GACARs was in question

Note: Complaints concerning the GACA Economic Regulations are outside of the scope of this section. Any complaints concerning the Air Transport Regulations should be forwarded to the Air Transport Department.

C. Inspector Responsibilities. GACA aviation safety inspectors (Inspectors) must first determine the type of the complaint. Once the type of complaint has been established, the Inspectors should determine whether it is a simple matter that can be resolved on the spot, whether it requires further GACA action, whether it is a formal complaint of noncompliance and may warrant an investigation, or whether it should be referred to another GACA Sector or Department or to another government agency. Complaints about issues beyond normal GACA Inspector responsibilities should be coordinated with the appropriate GACA AVSES offices and should be referred to the appropriate department, agency, or division. Examples of such issues are: complaints about aerodromes, which should be forwarded to the Aerodrome Safety Division; complaints about Air Navigation Service, which should be forwarded to the ANS Safety Division, etc.

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- 1) Many complaints are not a clear case of noncompliance with the GACARs. Further analysis usually indicates whether noncompliance has occurred or not.
- 2) When noncompliance has not occurred, a complaint may often be resolved quickly by explanation to the complainant and the complaint can be closed without further action.
- 3) Sometimes there is a limited amount of evidence of noncompliance; but not enough to support further action. In that case, the Inspector may leave the complaint open until sufficient information is available to pursue an investigation, or the Inspector may close the complaint with a record stating that insufficient evidence is available to pursue an investigation.
- 4) In non-safety related complaints that do not apply to GACA AVSES areas of responsibilities, the complaint should be referred to the government agency or division that is responsible for handling the issue identified in the complaint. In cases where the Inspector is not sure who has jurisdiction in the area of complaint, they should consult their supervisor.
- 5) Inspectors must thoroughly document any complaint that may require long term GACA attention or involvement.
- 6) In addition to obtaining a complete statement from the complainant, the Inspector may benefit by making an on site visit or by compiling a file of photographs, charts, maps, etc. Since the information in the file could be used in an ensuing compliance enforcement action, completeness and accuracy of the evidence is crucial.
- 7) Once an Inspector determines that compliance enforcement action is a likely option, formal evidence must be gathered. At that point, since formal evidence gathering is beyond the scope of this section, the Inspector should follow the instructions contained in Section 2 of this chapter.
- 8) When investigating a complaint, the Inspector should:
 - Gather any data or information that may be pertinent to the case,
 - Analyze how safety may have been affected and the possible impact on life or

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property, and

- Analyze and report any mitigating or aggravating circumstances involved in the complaint.

9) The information gathered during the complaint investigation may indicate the need for a compliance enforcement action. Should this occur, the information gathered may become the evidence necessary as proof in compliance enforcement action. The methods used to gather evidence given that are presented in Section 2 of this chapter apply equally well to the process of investigating complaints.

10) Complaints and concerns should receive prompt handling, including a written GACA response. The written response, whether a final answer, an interim response, or an acknowledgement, will be sent within ten working days from the time of receipt.

11) Even if the complaint investigation does not result in a finding of GACAR noncompliance, there should still be a response in writing to the complainant explaining the results of the investigation.

12) The final letter of reply to the complainant should respond directly to the concerns or issues cited in the complaint. A final response should be courteous, concise, and free of generalities and should thoroughly respond to the original complaint.

13) Before replying to complaints concerning sensitive or significant issues, the Inspector should discuss the content, form, and manner of response with their supervisor.

14) Specific information regarding possible or pending compliance enforcement actions should not be discussed within a response.

13.2.1.7. COMPLAINTS. It is GACA policy to respond to all complaints that come to the attention of the GACA, whether received by email, mail, phone, or in person.

A. Complainants. Persons employed in the aviation industry, private individuals, or organizations with an interest in aviation can contact the GACA with a specific complaint or concern regarding an element of the industry regulated under the GACARs.

1) Although permissible, individuals or entities who complain via telephone should be

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requested to submit their specific complaint(s) in writing.

2) While information provided anonymously may be useful in planning surveillance, response to an anonymous complaint is hindered because direct access to the complainant may be limited or non-existent. However, anonymous safety-related complaints and complaints of noncompliance with the GACARs must be investigated to the extent possible.

B. Kinds of Complaints.

1) *Formal Complaints and Reports.* See GACAR § 13.27 for the applicable rule language.

2) *Complaints within the Inspector's Area of Responsibility.* Certain complaints can and should be investigated at the lowest level. This would include complaints against regulated entities such as certificated aircraft, flight crew members, authorized ANS service providers, air agencies and air operators within the purview of the Inspectors responsibilities. If, during a complaint investigation, it becomes evident that compliance enforcement action, surveillance, or inspection is required, the Inspector should close the complaint and initiate the appropriate action.

a) If the complaint investigation results in a finding of GACAR noncompliance, a determination is made of whether remedial administrative or remedial certificate action should be taken. If remedial administrative action is appropriate, the violator will be issued a Noncompliance Record (NCR) as specified in GACAR Part 13, Subpart D. If remedial certificate action or punitive action is warranted, the violator may be subject to certificate action, issuance of an order, or punitive action, as specified in GACAR Part 13, Subparts F or G, as appropriate.

b) The complaint investigation may prompt the GACA to work with the regulated entity in order to prevent a recurrence of the action or incident that brought about the complaint.

3) *Complaints about GACA AVSES Personnel.* The Inspector will forward all complaints that involve actions or behavior of GACA AVSES personnel, regardless of area of responsibility, to the appropriate General Manager.

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4) *Complaints Outside GACA AVSES Responsibility.* GACA Inspectors deal only with issues specified in the GACARs. If an Inspector receives a complaint that does not involve GACA AVSES responsibilities (see paragraph 13.2.1.5C), that complaint must be referred to the appropriate governmental office.

a) Environmental Concerns. This involves complaints about noise in the vicinity of aerodromes, pollution, proximity of aerodromes to persons, etc. Other environmental concerns, such as agricultural chemicals sprayed by aerial work operators operating under GACAR Part 133 operators, may not be the concern of the GACA AVSES when no aviation safety issues are involved.

b) GACA certificated Air Operators. The complainant will refer consumer complaints (e.g., lost luggage, late departures or arrivals, etc.) about GACA certificated air operators directly to the air operator. This also applies to foreign air carriers operating under GACAR Part 129.

c) Equipment Failure. This category of complaints involves flight procedures, faulty navigational aids, or ATS procedures. This type of complaint generally comes from flight crew members rather than the general public, and the Inspector should refer them to the ANS Safety Division, who will coordinate with the appropriate ANS facility or service provider.

d) Hazardous Aerodrome Conditions. This type of complaint may come from the public or from flight crew members, and may involve the physical condition or layout of an aerodrome or hazards posed by construction. Inspectors should refer these complaints to the Aerodrome Safety Division, who will coordinate with the aerodrome operator.

e) Security. Security complaints may involve such diverse areas as people who feel security is not adequate enough or people who feel they have been treated unfairly by security personnel. Inspectors should refer these complaints to the appropriate security facility.

f) Military Complaints. Complaints involving military aerodromes, personnel, or operations usually involve noise or low flying, and often come from people who live close to areas of military operations. Refer the complainant to the senior officer of the subject military facility.

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g) Alleged Criminal Activity. Complaints of this nature can also be very diverse. The Inspector should not become involved unless aviation safety is also an issue. Refer these to the appropriate law enforcement facility.

5) Above all else, identified noncompliances must be processed in accordance with the compliance enforcement procedures prescribed in Chapter 3 of Volume 13 of this handbook and GACAR Part 13.

13.2.1.9. COMPLAINT RESOLUTION TECHNIQUES. When the problem appears to be within the Aviation Standards and Environmental Sustainability Sector areas of responsibility, the Inspector should obtain a complete statement of the alleged occurrence.

A. Taking Statements. Complainant or witness statements are normally acquired during an interview with the complainant. Figures 13.2.1.5 and 6 contain information on interviewing, which may be helpful in obtaining statements from complainants or witnesses.

1) The demeanor of the Inspector is very important. It is critical to remain objective and emotionally detached from the issues concerning the complaint. Even if the occurrence or the potential consequences are serious, the Inspector must never personalize the case. This is true even when the facts seem to develop very clearly. A case that may eventually require substantiation for formal proceedings must be built on a carefully, objectively, and thoroughly constructed assemblage of the facts. Sometimes a long period of time elapses between the occurrence and the formal proceeding, and many facts may be forgotten or unobtainable by then. Objectivity and clear thinking allow the Inspector to gather seemingly unrelated pieces of information that may be relevant later. It is best to deliver comprehensive evidence with a technical viewpoint.

2) It is essential to take complete and accurate information from the person initiating the complaint. At a minimum, a complete report includes:

- a) The name, address, and daytime and home telephone numbers of the person initiating the complaint. Sometimes the Inspector must investigate an anonymous complaint; however, it is preferable to be able to maintain contact with the source.
- b) Information concerning the witness' occupation, particularly any aviation experience.

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c) A complete statement of the specific incident. What happened? Who was involved? Does the complainant have information about the aircraft, especially the aircraft registration marks? What were the date, time, and location of the occurrence? Was an aerodrome involved and which one?

d) The signature of the witness or complainant, when practicable.

3) When possible, the Inspector should take physical evidence such as photographs, charts, maps, diagrams. The witness may present the information or may know of another source of the information which the Inspector may contact. In any case, the Inspector either receives or gathers any supporting evidence. How much evidence to gather, in what form, and who may be informally contacted are areas requiring the Inspector's judgement. However, if and when the information indicates a noncompliance investigation, then the complaint becomes a noncompliance investigation task and the guidance in Section 2 of this chapter should be followed.

B. Active Listening. Communication is a two way process: speaking and listening. Much emphasis is placed on acquiring good speaking skills, especially for Inspectors who have a great deal of public contact. More often than not, an emphasis on listening is left out, and listening is so crucial to assuring that the receiver of the communication (the Inspector) gets the message accurately. Effective or active listening is a skill that comes from practice and from a genuine desire to know what the other person means. During the resolution of a complaint, an Inspector must gather information from many sources, but the predominant source is people. The Inspector conducts personal interviews as part of a complaint resolution or an investigation, and this is often the source of a great deal of valuable information. However, for the information obtained in the interview to be valuable, it must be accurate. Thus, the Inspector must exercise effective listening skills to ensure accuracy. The primary step toward effective listening is to stop talking. An Inspector must listen to complaints from many sources, and the Inspector's response will vary, depending on the source and the nature of the complaint. Inspectors receiving complaints over the telephone usually encounter a complainant who may be irate or emotional. The complainant has probably selected the telephone number of the office that the complainant feels is most likely to help; however, it may or may not be the correct office. The Inspector must remember that, no matter how irate, obnoxious, or emotional the complainant may be, the matter must not be taken personally. Figure 13.2.1.1, Tips for Active Listening, contains some listening tips that are good to remember when handling complainants, either by telephone or in person.

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1) *Inspector's Role in Active Listening*. The inspector who initially receives a complaint, whether by telephone or by personal contact, represents the GACA in a “frontline position.” Whatever the circumstances of the contact, or nature of the complaint, the inspector should assume an attitude of quiet, active listening and helpfulness. The inspector’s demeanor should be calm, restrained, and respectful. Most of all, the Inspector must truly listen for what is actually said, not for what he wants to hear.

2) *Handling Referrals*. If it seems immediately clear that the nature of the problem is not within the scope of the GACA AVSES, the Inspector should allow the contact to finish talking, and then repeat the witness’s description of the event. This brief reiteration of the complaint sends a signal to the complainant that the complaint was heard, understood, and considered. Then the Inspector may proceed to explain clearly and patiently that the complaint may be referred to the appropriate government office. If the complainant resists being referred elsewhere, positive use of assertiveness techniques should generally convince the complainant.

3) *Follow-up*. The Inspector should follow up on any complaint by giving the complainant the name of the appropriate office and, if possible, the telephone number. In some instances, the Inspector may wish to make the initial contact for the complainant. If the Inspector is not certain whom the complainant should contact, it is acceptable to acknowledge that fact. The Inspector should obtain the complainant’s name and daytime telephone number and promise to return the call as soon as possible. Then the Inspector should consult their supervisor or conduct independent research before calling the complainant back with the appropriate information.

C. Enlisting Assistance. Sometimes the Inspector needs the support and assistance of personal contacts in order to gather information about the complaint. Inspectors may use the assistance of law enforcement persons, aerodrome personnel, air operator personnel, or other contacts.

13.2.1.11. PREREQUISITES AND COORDINATION REQUIREMENTS.

A. Prerequisites. For GACA Inspectors, this task requires knowledge of the GACARs, GACA policies and orders, and the investigative process.

B. Coordination. This task may require coordination with a variety of contacts, including:

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- Inspectors of a different specialty (i.e.; airworthiness or operations)
- Other GACA offices
- Law enforcement agencies
- Air traffic service providers
- The military
- The aerodrome manager
- Other KSA government agencies

13.2.1.13. REFERENCES, FORMS, AND JOB AIDS.

A. References:

- Related GACAR parts
- Volume 13, Chapter 2, Section 1 of this handbook, Conduct a Violation Investigation

B. Forms:

- GAR

C. Job Aids.

- Sample letters and techniques contained in Figures 13.2.1.1 through 13.2.1.6

13.2.1.15. COMPLAINT RESOLUTION/INVESTIGATION PROCEDURES.

A. Initial Notification. Upon receipt of a telephonic complaint, office visit, or written complaint, determine the nature of the complaint.

- 1) Collect and record as much information as possible from the complainant.
- 2) Assess whether it can be immediately resolved, whether it warrants further action by

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GACA, or whether it should be referred.

B. GACA Activity Report. Open a GAR record and insert all information received from the complainant. (see paragraph 13.2.1.1 for GAR codes)

C. Determine Appropriate Action.

1) *Complaints Requiring No action.* If upon initial contact the complaint can be resolved by the Inspector through an explanation, fill out the GAR record with the name, address, and telephone number of the complainant. Enter a thorough description of the complaint in the remarks section. Close the GAR record with a “No Action.”

2) *Complaints Warranting Referrals.* Examine the evidence and make referrals to the appropriate office as necessary. Consult the most recent GACA guidance for detailed instructions on handling consumer inquiries. Complete a GAR report documenting the issue of the complaint and the details of the referral.

- a) Refer complaints about noise to the appropriate aerodrome.
- b) Refer complaints about agricultural chemicals sprayed by GACAR Part 133 operators to the aerial work operator when no aviation safety issues are involved.
- c) For non-safety related consumer complaints concerning air operators, inform the complainant that he must contact the air operator directly. If possible, provide the address or telephone number.
- d) Refer complaints involving instrument flight procedures to the GACA ANS Sector.
- e) Refer complaints about faulty navigational aids or about air traffic service procedures to the appropriate ATS facility.
- f) Refer complaints about hazardous aerodrome conditions to the aerodrome manager.
- g) Refer complaints about aerodrome security to the to the appropriate aerodrome manager and to the appropriate GACA security office.
- h) For complaints involving military aerodromes or military personnel, contact the

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appropriate military facility.

i) Refer complaints concerning alleged criminal activity to the appropriate law enforcement office.

3) *Complaints Requiring GACA Action.* Advise the complainant that you or another Inspector will investigate the complaint.

a) Fill out a complete witness statement (Figure 13.2.1.2).

b) Forward the completed witness statement to the supervisor for assignment and coordination with the appropriate unit.

D. Investigation of Complaints. When the Inspector is assigned a complaint to handle that may involve an investigation:

1) Gather any evidence essential to the investigation. Be certain that the evidence includes any aircraft registration or HZ numbers, flight crew member certificate, and previous noncompliance and accident/incident history.

2) If appropriate, make an informal phone call to the subject of the complaint in order to gather information.

3) If necessary, visit the scene or area involved in the complaint in order to become familiar with the setting and to gather complete information.

4) After gathering all information and evidence, determine if the evidence warrants opening an investigation of noncompliance or whether it requires no action.

5) When an investigation of noncompliance is warranted and initiated, refer to Section 2, Conduct a Violation Investigation, and to GACAR Part 13.

6) If no action is required, close out the GAR record appropriately.

E. Follow-up to Complainant. Advise the complainant in writing of the results of the Inspector's preliminary investigation (Figure 13.2.1.3 or 13.2.1.4, as appropriate).

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- 1) If there is insufficient information to proceed with an investigation, inform the complainant and indicate what additional information is required. Provide the complainant with a suspense date to provide the additional information. If that information is not received by the suspense date, close out the complaint in the GAR record.
- 2) If the inspector is proceeding with a formal investigation, inform the complainant that the matter is being investigated. Indicate that the complainant will be informed of the disposition of the investigation and give an estimated time to expect a further update.

F. Prepare GACA File. Prepare an office file which includes any evidence, correspondence, witness statements, and the disposition of the complaint.

G. GAR. Annotate the GAR record with explanatory remarks as to whether the case was referred or is being handled with a formal investigation.

13.2.1.17. TASK OUTCOMES. Completion of this task results in one or more of the following:

- A letter to the complainant indicating the disposition of the complaint
- A record in the GAR system documenting the disposition of the complaint
- Initiation of an investigation of noncompliance
- Referral of the complaint to another government office or to another area of the GACA

Figure 13.2.1.1. Tips for Active Listening

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1.	Stop talking.
2.	Empathize with the witness person.
3.	Ask organized questions.
4.	Be patient.
5.	Concentrate on what the person is saying.
6.	Show the other person that you want to listen and that you are listening.
7.	Put the talker at ease.
8.	Be aware of your emotions and prejudices.
9.	Control your anger.
10.	Get rid of distractions.
11.	Get the witness' main points.
12.	React to ideas, not to the person.
13.	Don't argue with the visibly, verbally, or mentally.
14.	Listen for what is not said.
15.	Listen to how something is said.
16.	Don't antagonize the witness.
17.	Listen for the witness' personality.
18.	Avoid classifying the witness prematurely.
19.	Avoid jumping to conclusions.
20.	Again, stop talking and just listen.

Figure 13.2.1.2. Sample Witness Statement and Referral Job Aid

WITNESS STATEMENT:

Date and time of complaint: _____

Name of Caller: _____

Home phone number: _____

Daytime phone number: _____

Occupation: _____

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Aviation Experience: _____

Name of Person Involved: _____

Aircraft Registration Marks: _____

(or description)

Description of Complaint:

REFERRALS CHECKLIST:

1. Air Operator Service: Call appropriate air operator if issue of complaint
2. Aircraft Noise: Call appropriate facility/agency or affected entities
3. Aerodrome Security: Call Aerodrome Manager at _____.
4. For Aerodrome Hazards: Call Aerodrome Manager at _____.
5. Military Aircraft: Call appropriate military facility/unit at _____.
6. Air Traffic Service: Appropriate ATS facility at _____.
7. Near Mid air Collision: Appropriate ATS facility at _____.
8. Criminal Activity: Local police at _____.
9. Dangerous Goods: Call appropriate certificate holder (Air Operator or Preparer) or Aerodrome Manager at _____.
10. Navigational Facilities: Call responsible ATS facility at _____.
11. Aviation Medical: Call the Aviation Medicine Division at _____.
12. GACA Management: Notify GACA General Manager
_____.

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Inspector: _____ Date: _____

[Note: Inspector should sign and date to attest to the information's accuracy.]

Figure 13.2.1.3. Sample Letter of Closing Out a Complaint That Requires Further Action

GACA LETTERHEAD

Date

Name

Address

Dear _____,

This letter responds to your inquiry on [insert date complaint was received] regarding [insert brief description of the nature of the complaint]. Our findings indicate that further action may be warranted and we will investigate. If you have any additional information, please contact this office as soon as possible.

Thank you for your concern and cooperation in this matter.

Sincerely,

[Inspector's signature]

Figure 13.2.1.4. Sample Letter of Closing a Complaint Without Further Action

GACA LETTERHEAD

Date

Name

Address

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Dear _____,

This letter responds to your inquiry on [insert date complaint was received] regarding [insert brief description of the nature of the complaint]. We have found insufficient evidence to proceed with noncompliance action, and we consider this matter closed. However, if you have any further information that would assist the GACA in pursuance of an action, please contact this office.

Thank you for your concern and cooperation in this matter.

Sincerely,

[Inspector's signature]

Figure 13.2.1.5. Interviewing Techniques

Interview Technique. One of the best ways to obtain evidence from witnesses and certificated airmen is through a one on one interview. As an interviewee, the certificated airman should be interviewed in private with just the interviewer, the investigating inspector, present, unless the certificated airman specifically requests someone, i.e., legal assistance, to be present also. As the interviewer, the Inspector must honor this request and not attach any inferences of guilt to it. Witnesses as interviewees should also be interviewed individually so that the Inspector will be more likely to obtain untainted information about what that person saw or heard. If Witness B is allowed to hear the information provided by Witness A, Witness B's account may be prejudiced by what he has heard. That is, the evidence will not be as "pure" as when the interviews are conducted separately. When interviewing anyone who may be in noncompliance, both a witness and especially a certificated airman, it is important to remember that the goal is to obtain information through a free exchange and not to interrogate.

- 1) An interview means a meeting where the interviewer approaches the interviewee as a peer. The interviewee is encouraged to cooperate and allowed to relate observations or information without interruption or intimidation. An interview is usually conducted informally, with a voluntary answering of questions.
- 2) Interrogation means formal questioning done by someone in a position of authority or power, such as a lawyer witness confrontation in a court proceeding or a law enforcement officer in questioning a suspect. Interrogation presumes non cooperation and fosters an adversarial

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relationship. The free giving of information is restricted by the aim of eliciting a confession. In this situation, questioning by the interviewer is likely to be devious, shrewd, or clever with the intention of tricking, trapping, or antagonizing the interviewee to get information at any cost. The negative connotations are obvious.

3) Inspectors shall use the interview rather than the interrogation technique in the questioning of witnesses or flight crew members in noncompliance.

4) Generally, when people are offered the opportunity to act as witnesses and assist in aviation safety by voluntarily giving a statement or account in an atmosphere of mutual respect and courtesy, most willingly provide information. Information given voluntarily by witnesses is generally untainted and could aid in the justification for the recommendation of a remedial approach to correcting safety deficiencies.

Figure 13.2.1.6. Examples of how to Degrade An Interview Or Lose A Witness

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Waiting or Procrastinating	Not contacting the witness immediately gives the witness time to forget, flee, or lie. They may also get cooled off, told off, paid off, laid off, or otherwise be subjected to social, political, or economic pressures. Thinking the issue will go away is wrong.
Arguing	Arguing with the witness, especially if he thinks he is overly smart, can make him defensive or combative and greatly degrade the quality of the interview.
Rushing	Not taking the time to get acquainted or letting the witness know by your words and actions that you can't waste time talking to him can lessen his willingness to respond.
Overreacting	Adding your values and philosophy concerning the witness' response may alter or inhibit further responses to the Inspector's questions.
Phoning rather than Face-to-Face	Calling and asking the witness to send a statement removes much of the Inspector's opportunity to "read" the witness and generate questions on-the-fly which can only result from a face-to-face interview.
Berating	Reprimanding the witness or inferring how stupid he is can lessen the witness' willingness to respond accurately to questions.
Frightening	Using words like "confession," "stool pigeon," "thief," etc.; can frighten the witness.
Bluffing	Telling the witness that he is obligated by law to answer your questions; demanding to see the witness' records, etc. can frighten and intimidate the witness unnecessarily.
Using Legalese	Impressing the witness with big, legal-sounding words can confuse or inhibit the witness.
Interrogating	Overly pressing the witness for facts can make the witness defensive.
Being Formal	Keeping the witness at a distance; not befriending the witness even though the witness may want to communicate.
Interrupting	Not letting the witness finish replying; hurrying the witness.
Accusing the Witness	Convincing the witness that he has done something wrong or he wouldn't be questioned.
Being Impolite	Giving the witness the impression that the "bandit" deserves the inquisition.
Being Rude	By letting the witness think that his thoughts and feelings mean nothing. By not rephrasing a question if the witness doesn't understand the it. Making the witness respond to whatever you ask.
By Talking	Especially if the witness doesn't want to.
Not Replying	Giving the witness the impression that YOU the Investigator are superior.
Not Listening	By never admitting you didn't understand what the witness said, the witness might think you're stupid. Always listen actively.
Interviewing In A Crowd	Allowing others to hear your questions and the answers of the witness may inhibit his responses and compromise the security of the issue being discussed.
Showing Disinterest	Not showing any sympathy or empathy when appropriate can distance the witness and alter his responses.
Calling The	Accusing a witness of not responding with the truth can inhibit or alter further

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Witness A Liar	responses and degrade the interview process.
Letting The Witness Control	Letting the witness pick the subjects and stray from the issues means the Inspector has lost control of the interview.
Showing Suspicion	Giving the witness the impression that he is guilty from the start may alter his responses.
Writing Quickly	Be sure clipboard and pen are in hand as soon as the witness starts talking so every thought and word can be captured.
Asking Multiple Questions	Asking “when did you do it, where did you do it, and why” in one question may confuse the witness.
Being Disorganized	By not organizing your objective and questions beforehand can result in loss of control of the interview and can cause disassociated responses from the witness, thus degrading the effectiveness of the interview.

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CHAPTER 2. INVESTIGATIONS

Section 2. Conduct a Violation Investigation

13.2.2.1. GACA ACTIVITY REPORTING (GAR).

A. 1731, 1733, 1734, 1735 (OP)

B. 3731, 3732, 3733, 3734 (AW)

13.2.2.3. OBJECTIVE. The objective of this section is to provide guidance to General Authority of Civil Aviation (GACA) aviation safety inspectors (Inspectors) on how to conduct an investigation of noncompliance with the GACA Regulations (GACARs). Depending on factors determined during the investigation, further remedial actions and/or punitive actions may be warranted as prescribed in the GACA Compliance Enforcement Program which is described in greater detail in Chapter 3. This section offers guidance and a process to Inspectors for preparing supporting documentation where further compliance enforcement action is warranted. Such investigations are conducted in accordance with the provisions of the Civil Aviation Law of the Kingdom of Saudi Arabia (KSA) and GACAR Part 13 and the guidance in this section. Identified noncompliance must be processed in accordance with the procedures prescribed in Chapter 3 of this volume of the handbook.

13.2.2.5. GENERAL.

A. Authority. The Kingdom of Saudi Arabia (KSA) Civil Aviation Law authorizes the President to prescribe rules, regulations, orders and minimum standards in the national interest. GACAR Part 13 derives its authority from the Civil Aviation Law which authorizes the President to conduct investigations of noncompliance.

B. Discrepancies. Inspectors must have a thorough understanding of the Compliance and Enforcement Program's procedures. The following discrepancies/deficiencies in reports of noncompliance may result in the GACA being unable to take appropriate action during compliance enforcement proceeding:

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- Lack of sufficient evidence
- Inadequate and/or inaccurate reporting of facts and analysis

13.2.2.7. INVESTIGATIVE TECHNIQUES. An overview of investigative techniques is included in the following paragraphs:

A. Purpose of Investigations. The sole purpose of conducting an investigation of a possible act of noncompliance is to develop the facts and gather evidence and circumstances of the incident in order to assure future compliance and justify rehabilitation but not to exact retribution. In other words, the Inspector needs to gather all the information necessary to affect a “fix,” not a punishment. The Inspector, once he learns of a possible act of noncompliance, must approach the investigation with rehabilitation foremost in mind.

- 1) An investigation of a specific incident seeks to discover what exactly did occur based on concrete facts and substantiated evidence—not innuendo or even an airman’s previous history if it is unrelated to the current investigation.
- 2) An investigation uncovers why something occurred, the aggravating and mitigating circumstances which led to what was, at the time, an irreversible event. Through that discovery of circumstances and eventual analysis of them, the Inspector can help to assure that compliance is restored.
- 3) An investigation reveals the appropriate role of the GACA in the compliance process, and the most positive role the GACA can play is that of a rehabilitator.

B. Role of the Inspector. In an investigation the Inspector is the primary fact and evidence gatherer as well as the case analyst. The disposition of the compliance issue depends on the Inspector’s judgment and aviation expertise.

- 1) It is incumbent upon the Inspector to gather all relevant facts. However, the Inspector should approach the fact finding with an attitude aimed at rehabilitating the airman, if at all possible, rather than with a presumption of punitive action.
- 2) In the interest of continued aviation safety and or the success of the remedial training approach, the Inspector’s investigation must reveal all the evidence, including any

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mitigating circumstances. The deliberate omission of mitigating circumstances, especially if they would justify the rehabilitative approach, is unprofessional and unacceptable. If the Inspector can find sufficient facts that indicate that remedial training is appropriate and likely to be successful in returning the airman to compliance, the Inspector's choice is quite clear—opt to rehabilitate, not to punish.

3) When seeking to rehabilitate an airman, Inspectors should accept information from any source. Through later analysis the Inspector can develop information which will support the Inspector's recommendation.

4) In developing information from witnesses and from the airman, the Inspector must exercise his best interpersonal and communication skills. Information is freely provided when both communicators establish a barrier free exchange. Verbal communication skills as well as listening skills are very important to assure that no essential item of information is overlooked.

C. Active Listening. Communication is a two way process: speaking and listening. Much emphasis is placed on acquiring good speaking skills, especially for Inspectors who have a great deal of public contact. Often, an emphasis on listening is left out, and listening is so crucial in assuring that the receiver of the communication gets the message accurately. Effective or active listening is not a pop psychologist's trick or a gimmick. It is a skill that comes from practice and from a genuine desire to know what the other person means.

1) An Inspector must gather information from many sources, but the predominant source is people. The Inspector conducts personal interviews as part of an investigation, and this is often a source of a great deal of valuable information. For the information obtained in the interview to be valuable and accurate, the Inspector must exercise effective listening skills. The first step toward effective listening is to stop talking.

2) Witnesses, and especially the airman, may be nervous and apprehensive when faced with an interview with a GACA Inspector. The Inspector involved in this sort of personal contact represents the GACA in a "frontline position," and the Inspector must accept and understand an interviewee's natural apprehension. The Inspector should assume an attitude of quiet, active listening and helpfulness. The Inspector's demeanor should be calm, restrained, and respectful. The witnesses and the airman should respond to this behavior by being calm and respectful themselves and willing to provide all necessary

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information.

3) Most of all, the Inspector must truly listen for what is actually said, not for what he wants to hear.

D. Timeliness and Duration. The review of evidence and the preparation of the documentation supporting an investigation of an alleged violation of the GACARs should be accomplished in an expeditious and timely manner. This process is begun on the date that the violation is first known by the GACA. The duration of this investigative process is especially critical when submitting supporting documentation that recommends remedial certificate actions and orders or punitive actions. Investigations of safety-related violations should also receive expeditious processing.

13.2.2.9. ACQUISITION OF EVIDENCE. During the course of an investigation, an Inspector accumulates evidence from a variety of sources. As with fact gathering during investigation, the evidence accumulated must be able to support either rehabilitation or enforcement action. For example, a pilot's declaring an emergency in an appropriate situation is evidence of the pilot's good judgment and attitude. Such evidence is to be considered as appropriate justification for the Inspector to opt for rehabilitation rather than an assumption that the pilot is guilty of deliberate noncompliance.

A. Types of Evidence. Some of the most essential information comes from various databases. This is objective, untainted evidence that can be easily substantiated. Other very important evidence comes from witnesses and the airman; however, this evidence, even that from witnesses is subjective and can only be substantiated when compared with other evidence that corroborates it.

1) Witnesses and the airman should be informed that the provision of evidence is not done under oath as in a court proceeding but that detailing the precise facts serves everybody's best interests.

2) Written statements, signed by the provider, generally are more desirable than an Inspector's notes of a witness interview. Recordings, which can later be turned into certified transcripts, are also highly desirable but must be made with the interviewee's permission.

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3) The Inspector should also remember that witnesses may be acquaintances or friends of the airman in noncompliance and that the evidence they provide will show the airman in the best possible light. The approach to take is one of complete acceptance without any indication to the witness of skepticism.

13.2.2.11. DETERMINING THE REGULATION VIOLATED. The first step in analyzing the regulations is to determine which GACA Regulation was violated. Refer to Section 3 of this chapter “Determining the Regulation Believed Violated” for guidance in making this decision.

13.2.2.13. SUPPORTING DOCUMENTATION. In addition to following guidance contained in GACAR Part 13, Inspectors must use their own experience and judgment in developing and compiling supporting documentation for an investigation of noncompliance. Normally, the supporting documentation includes a summary of the facts that are supported by the items of proof that consist of the gathered evidence. The summary brings together the gathered facts and the Inspector’s analysis to prove that the violation or noncompliance exists. A description of the pertinent facts and a statement of the Inspector’s analysis are normally included to expand on the summary by permitting the Inspector the opportunity to make his factual statement and to evaluate and technically analyze the facts as presented in the items of proof. The Inspector should conclude by carefully reviewing and analyzing all evidence that has been included and illustrating how it supports the act of noncompliance. He should also close by recommending that a specific course of action be taken as a result of the investigation. When compiling the supporting documentation, the Inspector should keep in mind that his narrative is to be the rationale for the compliance enforcement action and sanction that he recommends.

A. Considerations In Summarizing. The following should be considered when summarizing an investigation of a violation of the GACARs:

- 1) A related investigation should be identified when there is another violation by another person that was a part of the same occurrence. For example, a violation of GACAR § 121.687, Required Inspection Personnel, applies to both the certificate holder and the person performing the inspection. Therefore, both would be in noncompliance of the same rule at the same time.
- 2) A concise statement should be made of what the alleged violator did or did not do in violation of the GACARs.

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- 3) Paraphrasing a regulation can be useful by addressing only the appropriate section of the GACAR, thus shortening and simplifying the narrative.
- 4) Concise statements of established facts that are essential to proving the violation of each regulation believed to be in noncompliance should be made.
- 5) Substantiating the alleged violation by using important pieces of evidence as an item of proof for the violation will be useful during a legal review.

B. Considerations in Compiling Evidence. Any data or information that may be pertinent to the case should be gathered when investigating the alleged violation. The following guidance may be useful to better coordinate the compilation of facts and to help readers during the review process:

- 1) *Initial Notification.* The record of telephone notification, surveillance report, incident report, complaint, or whatever brought the occurrence to the attention of the GACA, should be listed first.
- 2) *Notice of Investigation and Response.* The initial notification to the alleged violator and either the violators response or lack of response should be included. All communication and correspondence with the alleged violator should be documented.
- 3) *Related Noncompliance.* When an occurrence involves more than one person or a certificate holder and employee, a primary investigation and one or more companion investigations should be conducted. Evidence common to all related investigations needs to be included only in the original copy of the supporting documentation for the primary investigation. The evidence index of the supporting documentation for the companion investigations need only:
 - a) Include the items unique to that investigation; e.g., noncompliance history, flight crew member history, etc.,
 - b) Include a statement that the other documents are in the original copy of the supporting documentation for the primary investigation, and
 - c) All related violation investigation packages should be under the same cover so that

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they can be reviewed and evaluated simultaneously.

4) *Chronological Order*. Items of proof should be listed in chronological order.

5) *Admissible Evidence*. As items of proof, evidence must be admissible or acceptable. In general, evidence is only admissible if it is:

- Relevant (i.e., logically related to an issue in the case)
- Material (i.e., significantly related to an issue in the case)
- Competent (i.e., of a generally reliable type)

6) *Hearsay Evidence*. Hearsay evidence is not generally considered to be competent evidence and normally is not admissible to prove a fact. However, all attainable evidence should be gathered whether hearsay or not.

7) *Proving and Circumstantial Evidence*. While most gathered evidence is normally included to support that a violation did occur, some evidence may also be included for background and for documenting circumstances surrounding the event (both mitigating and aggravating). Normally, only salient or proving evidence should be referenced as items of proof in summarizing the investigation.

8) *Sufficient Versus Insufficient Evidence*. When evidence is insufficient for a remedial certificate or punitive action, it is insufficient for any compliance enforcement action. If there is insufficient evidence, the case must be closed out with “no action.”

9) *Effectiveness of Documentary Evidence*. Copies of pertinent information should be made as soon as possible to prevent documentation from being altered, corrected, or “conveniently lost” after being returned to the alleged violator.

10) *Physical Evidence*. Physical evidence should not be lost, destroyed, damaged, or altered. A chain of custody should be established, if necessary, or it should be locked up in a secure place. Photographs of all physical evidence should be taken and included as supporting documentation, along with an explanation of where the evidence is located.

11) *Items of Proof*. Key evidence that clearly shows that violation of a GACAR becomes

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an item of proof. Copies of all evidence that will be used as items of proof, except physical evidence, should be listed in a logical sequence and included in the report.

12) *Violator's Noncompliance History*. The noncompliance history of the alleged violator should be documented when it relates to the subject violation.

13) *Background Evidence*. Any photographs, sketches, drawings, portions of the manufacturer's manual, etc., that will materially contribute to a clear technical explanation of legal evidence should be included.

14) *Witness Statements*. All knowledgeable witnesses, or at least a representative number if more than one person witnessed the alleged noncompliance, should be interviewed and should submit written statements.

a) If an Inspector witnesses a violation or becomes knowledgeable of anything pertinent to the subject violation that is not contained in other witness statements (such as verbal statements made by witnesses, an engine teardown, etc.), the Inspector should prepare and sign a personal statement.

b) Statements should be complete and concise. They should convey what the person said, did, or perceived. Include the witness's complete name, address, telephone number, occupation, and aeronautical experience. Any witness opinions should be shown as such.

c) If a witness refuses to sign a statement after it is written, the Inspector should ask if they agree to the substance of the statement. If the witness agrees but still refuses to sign, the Inspector should make a notation to that effect, date and sign the statement with signatures of any witnesses to the discussion.

15) *Photographic Evidence*. When photographs are used as essential evidence, the following should be included for each:

- Name(s) and address(es) of photographer(s)
- The date and time the pictures were taken
- The type of camera and focal length of camera lens

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- The camera settings and type of film (if applicable) used
- The name of the person with custody of the file or negatives (as appropriate)

16) *Charts, Maps, and Diagrams.* When pertinent, charts, maps, and diagrams can be very helpful to show airports, terrain, congestion, obstructions, etc. They may also be useful when interviewing witnesses, evaluating their statements, and establishing the degree of hazard involved.

17) *Air Traffic Service (ATS) Records.* GACA AVSES has agreements with ATS facilities regarding notification procedures and the procurement of ATS records and tapes as evidence.

a) The GACA should request that all pertinent records and tapes be held if there is an indication of noncompliance within a specified time period following the occurrence. ATS should be advised as soon as possible after the request whether or not they need to send the records and tapes to the GACA AVSES.

b) When requesting tapes, only the portion pertinent to the violation should be requested. ATS can cut and preserve that portion of the original tape for transcript when needed. A transcript should not normally be needed.

17) *Presidency of Meteorology and Environment (PME) Records.* If weather is a factor in the noncompliance, certified copies of pertinent weather data from the PME should be obtained and included as evidence in the supporting documents.

18) *Aircraft Flight Recorders.* Current GACA/AIB policy may or may not support the use of aircraft flight recorder information during an investigation of a noncompliance. If this data is pertinent to the investigation, available, and its use is supported by current GACA/AIB policy, then such information should be included as evidence in the supporting documentation.

19) *Other Government Records.* Records from other government agencies or law enforcement agencies that are involved should be obtained and included as evidence, where pertinent. When court proceedings have already occurred, pertinent transcripts and certified copies of any court orders (convictions, etc.) should be obtained. Copies of

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applicable foreign laws should be included when appropriate.

20) *Medical Records*. Medical records usually cannot be obtained without the consent of the individuals. One exception to this is when psychoactive substances are involved. Under these circumstances the airman must consent to provide the pertinent records in accordance with GACAR § 91.21(c) and (d).

22) *Submission of Additional Evidence/Material*. Any additional evidence discovered during the submittal of the investigation package by the Inspector should be immediately sent to the persons responsible for the compliance enforcement proceedings. This should include the Inspector's evaluation and recommendations concerning the new material.

C. Considerations in Analyzing the Facts. A narrative of analysis of all information gathered during the investigation gives the Inspector the opportunity to express personal opinions and conjecture based upon his technical knowledge, skill, and expertise. Additionally, his description of a thorough evaluation and technical analysis of the facts presented in the items of proof, establish the foundation for proving the existence of the subject noncompliance. Both the items of proof and the Inspector's analysis will be relied upon during any subsequent compliance enforcement action. The following topics should be considered when developing a narrative of analysis for a violation investigation package:

1) *Reliability of Evidence*. Some evidence may vary in strength. In a narrative analysis, the inspector should explain the strengths and merits of all pertinent facts and evidence.

2) *Conflicting Evidence*. The entire narrative analysis should be carefully reviewed to determine if there is any conflicting evidence.

3) *Safety involvement and impact*. The safety aspects of an alleged noncompliance should be highlighted in the analysis to show their importance in proving a violation. The "careless" or "reckless" aspects of the noncompliance can be discussed to show the wilfulness, intention, or deliberateness of the violation.

4) *Mitigating and aggravating circumstances*. Discussing any mitigating or aggravating circumstances involved in the violation or in the investigation can be important to an analysis.

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5) *Opinions, feelings, and conjecture.* The Inspector may include any narrative in the report that he feels will support the allegation. Opinions and conjectures should be supported by facts when possible.

6) *History of the alleged violator.* The violator's previous violation history may or may not be relevant to the investigation.

13.2.2.15. REFERENCES, FORMS, AND JOB AIDS.

A. References:

- KSA Civil Aviation Law
- GACAR Part 13

B. Forms.

- 1) Inspection Surveillance Record (ISR)
- 2) Noncompliance Record (NCR)

C. Job Aids. None.

13.2.2.17. PROCEDURES.

A. Open a GAR record.

B. Initiate the Investigation of the Alleged Violation.

- 1) Receive notification of the violation.
- 2) Prepare a letter of notification and issue to the alleged violator.

C. Gather Supporting Facts. Gather all related information and conduct interviews.

D. Determine the Regulation(s) Violated.

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E. Gather Supporting Evidence.

- 1) Review the data collected to ensure that it is relevant, material, and competent.
- 2) If the evidence is insufficient or inadequate to proceed with any compliance enforcement actions, close the case with “no action” and indicate such in a GAR record and inform the alleged violator of his status.

F. Compile the Investigation Documentation. Each method of compliance enforcement action warrants a different method and amount of supportive documentation.

- 1) *Summarizing.* Make a brief and concise statement of established facts that are essential to proving the alleged GACAR violation.
- 2) *Evidence.* Arrange all evidence in chronological order, including records of telephone conversations, incident reports, complaints, or whatever brought the occurrence to the attention of the GACA. Include technical supporting evidence together with the primary evidence to which they relate. The primary evidence will become the items of proof.
- 3) *Analysis.* Ensure that all supporting facts, circumstances, and conditions surrounding the alleged violation and the resulting investigation are included.

G. Submit for Review. Submit the investigation package to the relevant GACA AVSES General Manager for further review and processing.

13.2.2.19. TASK OUTCOMES.

A. Complete the GAR Record.

B. Complete the Task. Completion of this task can result in the following:

- Closing out the investigation with a “no action”; and
- Submitting the investigation package to the relevant GACA AVSES General Manager for further processing under the GACA Compliance and Enforcement Program as described in Chapter 3.

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C. Document the Task. File a copy of the investigation package along with any additional paperwork or records in the applicable office file.

13.2.2.21. FUTURE ACTIVITIES. None.

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CHAPTER 2. INVESTIGATIONS

Section 3. Determining the Regulation Believed Violated

13.2.3.1. OBJECTIVE. This section assists General Authority of Civil Aviation (GACA) aviation safety inspectors (Inspectors) during their investigation of a violation in determining which GACA Regulation (GACAR) may have been violated. This section supplements the guidance in Sections 1 and 2 of this chapter, which both give guidance to Inspectors for investigating complaints and alleged violations respectively.

13.2.3.3. GENERAL.

A. Knowledge and Ability Required. To be certain the correct regulation is cited in an investigation and to assist in preparing concise and accurate supporting documentation, the investigating Inspector should be knowledgeable of pertinent sections of the GACARs and should know how to read and analyze those regulations properly.

B. Analysis. The first step in analyzing which regulations may have been violated is to determine which sections of the GACARs apply.

- 1) The Inspector should refer to a topical listing or table of contents of the GACARs to determine which chapters and parts of the GACARs apply.
- 2) The Inspector needs to determine first the general applicability of the selected subpart of the GACARs. To cite a particular section of a GACAR without checking the applicability of the subpart under which it is located may result in wasted time and effort.
 - a) For example, GACAR § 91.441(b) states that certain other sections of this subpart do not apply to an aircraft maintained in accordance with a continuous airworthiness maintenance program approved under GACAR Part 121 or 135. In this case, it is not appropriate to cite a violation of GACAR § 91.445 on GACAR Part 121 or 135 air operators because GACAR § 91.445 is not applicable to them.

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b) Some sections of the GACARs may appear to be appropriate in the statement of subpart applicability, when in fact, there may be other parts which apply more directly and should be cited. The regulation governing the particular type of operation should be cited. For example, GACAR §§ 91.7, 121.133(a)(2), and 135.109(a)(2) all pertain to operation of aircraft in an un-airworthy condition. GACAR § 91.7 should be cited for non-commercial operations, and GACAR § 121.133 or § 135.109 on commercial operations. GACAR § 91.7 could be cited on a GACAR Part 121 or 135 operation, but there is no reason to do so since GACAR Parts 121 and 135 both have sections which address the situation.

C. Determining Enforceability. Sections and subsections of the GACARs must be carefully analyzed to determine their enforceability. Some GACARs may not be enforceable because they either confer authority or responsibility or are definitive or explanatory in nature. To be enforceable, the GACAR must contain mandatory or prohibitory language that specifically addresses the issue of noncompliance.

1) Restrictive regulations are GACARs that categorically state that something “must” be done or adhered to. These GACARs can and must be enforced. Restrictive regulations must contain the following types of language:

- “Each certificate holder must” or other phrases with “must” because they are mandatory
- “No person may” or “A person may not,” because they are prohibitory

2) Permissive regulations are regulations that do not state what must be done or adhered to. The Inspector can encourage the use of these regulations but cannot enforce them. Note that when used alone, “may” is not enforceable because it is permissive and is used to establish authority or state permission.

3) There are six general types of regulations. Prohibitive and mandatory, as mentioned above, are easily discernible. However, the others require a little more in depth analysis, such as the following types and their associated phrases:

- a) Regulations containing conditionally prohibitive language, such as “no person may, except” or “no person may, unless,” are enforceable only in instances that are not

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covered by the exceptions addressed within that regulation.

b) Regulations containing conditionally mandatory phraseology, such as “each person must, except”, “however,” or “unless”, are enforceable only in instances that are not covered by the exceptions addressed within that regulation.

c) Regulations that confer authority or responsibility, such as “the aircraft owner is responsible,” are used to determine assignment of responsibility and cannot be violated.

d) Regulations that define or explain, such as “this part prescribes” or “each of the following requires,” are used to determine regulatory applicability and although appearing to be compulsory, are not mandatory or prohibitive.

D. Reading and Analyzing a Regulation. Inspectors should develop an ability to take a regulation apart and analyze it in relation to the alleged violation to determine for certain that it has been violated. It is important to answer the following questions before citing a particular regulatory section or subsection:

- To whom does the regulation apply?
- What does it say in its entirety? (In other words, sentences or phrases must not be read out of context.)
- Where must it be complied with?
- When must it be accomplished?
- How does it apply in this occurrence?
- Are there any special conditions?
- Are there exceptions or exclusions?
- Does this regulation clearly apply?
- Are there any other regulations needed for support?

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E. Elements of Regulations Which Must Be Proven.

- 1) All GACARs have specific elements or component words that convey important information or elements that must be proven in order to show noncompliance.
- 2) Inspectors should identify the elements of a GACAR and be able to answer the what, where, when, why, how, and who questions before saying with certainty that there is a violation. As an example, GACAR § 91.17(a) states that “No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.” The following topical questions break down GACAR § 91.17(a) into its important elements:

- Person Who was pilot in command or the person responsible?
- Operate-What, where, when, and how did the person operate?
- Aircraft What make, model, and registration marks was the aircraft?
- Careless or reckless manner–Which was it? What was it? How was it careless or reckless?
- Endanger What was the endangerment? How did it endanger? Why is it considered endangerment? Who was endangered? Was it actual, potential, or inherent?
- Life or property Whose and What?
- Another Who besides the pilot?

F. Enforcement of Other Referenced Documents. Occasionally, due to the scope and detail involved in certain investigations, documents other than regulations are incorporated by reference. The legal effect is to require compliance with those documents; however, ultimately the GACAR is the regulation violated, not the reference. For example:

- 1) GACAR § 43.23(c) requires the use of a checklist while performing inspections. It states that the checklist must include the scope and detail of the items contained in GACAR Part 43, Appendix D, and GACAR § 43.23(b). Although Appendix D must be complied with, GACAR § 43.23(c) is the regulation cited if it has not been complied with. If the aircraft

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being inspected is a rotorcraft, the checklist must also contain the items in GACAR § 43.23(b), which is a supporting regulation and not the one violated.

2) Some GACARs reference or require the use of manuals, Service Bulletins (SB), specifications, Airworthiness Directives (AD), etc. Although a person may be required to use these documents, it is the GACAR which requires their use that is being violated, not the referenced document.

3) The referenced documents in this type of situation become primary items of proof that should be referenced in the supporting documentation for the investigation.

G. Scope of the Regulation. Compliance enforcement action can only be taken on what the rule actually says and not on any interpretation or practice that might afford some latitude to the regulation's wording.

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CHAPTER 3. GACA COMPLIANCE ENFORCEMENT PROGRAM

Section 1. General

13.3.1.1. OBJECTIVE. The General Authority of Civil Aviation's (GACA's) compliance enforcement program is designed to promote compliance with regulatory requirements. When violations occur, whether they involve performing aircraft maintenance; operating aircraft; operating an aerodrome; providing air navigation services, transporting dangerous goods by air; or any other aviation activity, GACA aviation safety Inspectors (Inspectors) must take that action most appropriate to promote safety and compliance with the regulations. The initial priority of Inspectors is to correct any ongoing noncompliance that has been identified. The guidance in this chapter complements the compliance enforcement regulations prescribed in General Authority of Civil Aviation Regulation (GACAR) Part 13.

NOTE: Crimes (offences) committed by offenders as described in Article 154 of the Civil Aviation Law are outside the scope of this chapter and will be addressed in accordance with the applicable procedures prescribed in the Civil Aviation Law.

13.3.1.3. PROGRAM OPTIONS. The program provides a wide range of options for addressing noncompliance by evaluating, among other things, the seriousness and safety risk imposed by the noncompliance. These options include:

- Informal counseling
- Remedial administrative action in the form of warning notices or other remedial administrative processes that document both the observed discrepancies and violations and the associated corrective actions that were taken to resolve the observed discrepancies and violations
- Remedial training efforts
- Remedial certificate action in the form of indefinite certificate suspensions pending compliance or demonstration of qualifications or finally, certificate revocations

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- Punitive actions in order to deter future violations

13.3.1.5. SELF-DISCLOSURE. Elements of the GACA's compliance enforcement program also seek to promote safety and greater compliance by encouraging regulated persons to disclose their own violations and the circumstances surrounding those violations. Based on information provided through such disclosures, the GACA's compliance enforcement program fosters the implementation of permanent corrective measures to improve overall safety.

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CHAPTER 3. GACA COMPLIANCE ENFORCEMENT PROGRAM

Section 2. Enforcement Decision Tool

13.3.2.1. INTRODUCTION.

A. Purpose. The Enforcement Decision Tool (EDT) is an aid for General Authority of Civil Aviation (GACA) aviation safety Inspectors (Inspectors) to assist them in carrying out compliance enforcement activities including the exercise of enforcement discretion. The EDT process uses safety risk management principles to allocate the limited GACA resources to the most important cases, for a more timely and effective compliance and enforcement system. The EDT accounts for the safety risk posed by an act with the type of conduct involved. There are separate EDTs for individuals and organization, so that systemic problems can be considered when evaluating the conduct of organizations.

B. Benefits. Additional benefits of the EDT process include:

- 1) Improving consistency and standardization in determining the most appropriate type of enforcement action to take considering the case facts and circumstances.
- 2) Improving airman skills through the offer of the remedial training process for general aviation pilot and mechanic cases involving careless conduct with a high safety risk.
- 3) Improving regulatory compliance through the use of administrative processes for mandating corrective actions for certain cases involving unintentional conduct with a high safety risk.
- 4) Endorsement of informal compliance enforcement methods (i.e. oral counseling) as appropriate enforcement tools.

13.3.2.3. APPLICABILITY. The GACA uses the EDT along with associated guidance to determine the type of enforcement action to take (informal, remedial administrative, or remedial certificate action) in all enforcement cases, except those categorically excluded in paragraph 3.3.2.7.A, below.

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NOTE: Crimes committed by offenders as described in Article 154 of the Civil Aviation Law are outside the scope of this EDT and will be addressed in accordance with the applicable procedures prescribed in the Civil Aviation Law.

13.3.2.5. DEFINITIONS. The following definitions apply to the EDT process:

A. Act. This includes failure to act.

B. Intentional Conduct. A deliberate act where the individual or organization knowingly acts contrary to a regulation.

C. Reckless Conduct. A gross disregard for safety standards or norms for reasonably prudent conduct, considering the certification level of the individual and the type of operation involved.

D. Careless Conduct. A slip, lapse, or mistake that was not intentional or reckless.

E. Systemic Conduct. Pervasive, repeated, or repeatable acts indicating a system deficiency.

F. Not systemic Conduct. An act that is not systemic.

G. Hazard. A condition that could lead to injury or property damage.

H. Safety Risk. The level (high, moderate, or low) of potential injury or property damage from a hazard created by an act, considering the hazard severity and the likelihood that the severity will be realized.

I. Severity. The worst credible outcome (catastrophic, critical, marginal, or negligible) in terms of the extent of injury or property damage potentially caused by a hazard.

J. Likelihood. The probability (frequent, occasional, or remote) that the worst credible outcome (severity) will result from a hazard.

K. Informal Action. Oral counseling of individuals or organizations.

L. Remedial Administrative Action. A letter of warning or other administrative processes that document both the observed discrepancies or violations and the associated corrective actions

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that were taken to resolve the observed discrepancies or violations.

M. Remedial Training Action. Additional training or education for a person that are prescribed by the President in order to resolve the observed discrepancies or violation.

N. Remedial Certificate Action. Enforcement action taken by GACA to amend, modify, suspend or revoke any part of a certificate or authorization issued by the President.

O. Punitive Action. Enforcement action taken by the Committee established under Article 174 of the Civil Aviation Law to penalize or punish the violator with the aim of deterring future violations.

13.3.2.7. APPLYING THE EDT. GACA investigative personnel apply the EDT when sufficient investigative information becomes available to categorize the safety risk and the conduct that are associated with the violation. They take the following steps based upon the facts and circumstances indicated by the enforcement investigation results:

STEP 1 - DETERMINE EDT APPLICABILITY.

A. Exclusions. Ensure the type of case is not categorically excluded from the EDT process. Excluded cases are those involving offences as described in Article 154 of the Civil Aviation Law and violations reported under the provisions of GACAR§ 13.43 in accordance with a Safety Management System (SMS) and for which the aviation organization is adequately addressing the safety issues resulting from the situation.

STEP 2 - CATEGORIZE SAFETY RISK LEVEL.

A. Prepare Risk Statement. Prepare a statement that describes the hazard created by the act, and the potential consequences of that hazard. This risk statement is generally a single phrase that expresses the condition created and how that could endanger persons or property. For example:

- 1) An aircraft that operates in Class B airspace without a clearance providing separation from other aircraft could cause a mid-air collision.
- 2) A packing group 1 pesticide is a highly toxic material, and if not properly packaged, declared, and marked for air cargo it poses an undue health hazard to persons that unexpectedly come into contact with it.

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B. Determine Severity. Review the risk statement to determine the severity of the hazard.

Severity is the worst credible outcome potentially caused by the hazard. In other words, what's the worst type of injury/damage that could realistically occur? Severity must be determined without considering the likelihood of that severity being realized. For example, if a plausible argument can be made that a hazard could under some circumstances result in death or severe damage, the severity is catastrophic, notwithstanding the fact that such an outcome from the hazard might be extremely rare. The most common error in determining severity is prematurely considering likelihood. Likelihood must be considered and determined after the severity is determined. Severity can be one of the following:

- 1) *Catastrophic* (death or severe damage).
- 2) *Critical* (severe injury or substantial damage).
- 3) *Marginal* (minor injury or damage).
- 4) *Negligible* (incident/occurrence with no injury or damage).

In assessing the severity of an act as one part of determining safety risk, the GACA considers only the potential outcome, not the actual outcome that resulted from the act. The potential severity can be catastrophic, critical, marginal, or negligible regardless of whether actual injury or property damage occurred or nearly occurred. For example, a 1,000-foot altitude deviation from an air traffic control (ATC) clearance may have the same potential outcome regardless of whether there was actually another aircraft that came into conflict or not. Similarly, a fuel exhaustion occurrence may have the same potential outcome irrespective of whether an actual accident resulted. In these examples, the lack of another aircraft that came into conflict or the existence of suitable forced landing sites are fortuitous (by chance) circumstances not considered in the risk determination, since other aircraft could have been in conflict (by chance) or there could have been a lack of suitable forced landing sites (by chance). In determining the level of safety risk, the existence of fortuitous circumstances is not considered, and therefore plays no role in aggravating or mitigating the type of enforcement action selected.

C. Determine Likelihood. Determine the likelihood of the worst credible outcome occurring. In other words, how likely is it that the severity level would actually be realized given the facts and circumstances involved? Likelihood can be one of the following:

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- 1) *Frequent* (likely to occur often).
- 2) *Occasional* (likely to occur sometimes).
- 3) *Remote* (unlikely to occur, or would seldom occur).

D. Determine Safety Risk Level. Determine the safety risk level (high, moderate, or low) from the following risk assessment matrix:

SAFETY RISK LEVEL ASSESSMENT MATRIX

LIKELIHOOD	SEVERITY			
	Catastrophic	Critical	Marginal	Negligible
Frequent	High	High	Moderate	Moderate
Occasional	High	Moderate	Moderate	Low
Remote	Moderate	Moderate	Low	Low

STEP 3 - TAKE EMERGENCY CERTIFICATE ACTION FOR HIGH SAFETY RISK LEVEL SITUATIONS.

NOTE: See guidance on Emergency Certificate Action in Para. 13.3.2.15.

STEP 4 - CATEGORIZE CONDUCT.

The GACA uses the following attributes and examples in conjunction with the definitions in paragraph 3.3.2.5. as an aid in categorizing conduct. Not all of the attributes need be met for the category to apply, as long as the definition is met.

A. Intentional Conduct.

Attributes: Taking or failing to take an action with knowledge that the behavior was prohibited. May be, but does not have to be, associated with risk taking.

Examples of intentional conduct include:

- Flying under a bridge

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- Conducting aerobatics in a traffic pattern
- Knowingly eliminating required steps from the execution of a maintenance procedure
- Failing to declare a shipment with knowledge that the contents are dangerous goods

B. Reckless Conduct.

Attributes: Wanton abandonment of concern for the potential consequences of an act. Conscious disregard of a known, visible, significant, or unjustifiable risk. Substantial disregard of accepted safety standards so as to potentially or actually endanger the life or property of another.

Examples of reckless conduct include:

- Fuel exhaustion while operating without current winds aloft forecasts (strong headwinds) and without visually checking tanks to ensure they were topped off before departure
- Failing to consult the maintenance manual and then conducting an improper/insufficient inspection of a critical required inspection item (RII)
- A commercial pilot taking off at a busy controlled aerodrome without having received takeoff clearance
- A passenger failing to declare a container of pesticide in his checked luggage

NOTE: Standards/norms vary based upon the certification level of the individual (for example, private pilot versus airline transport pilot) or the type of operations conducted (for example, personal flying versus air transportation, general aviation maintenance versus air operator maintenance). For example, a private pilot who forgets to lower the landing gear may be involved in a careless act, whereas a commercial pilot flying in commercial air transportation with a two-person flight crew and a regulatory requirement to use a checklist may be involved in a reckless act in not lowering the landing gear.

C. Careless Conduct.

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Attributes: Failure to exercise ordinary, proper, or reasonable care. Failure to recognize a risk. No awareness that a risk was being taken. Should have been, but was not, aware they were taking a risk. Actions were based upon an expectation of correct conduct. No awareness that an error was going to be made. No intent to engage in the misconduct.

Examples of careless conduct include:

- Private pilot missing an item on a checklist (for example, lower the landing gear) due to a distraction
- Missing an item on a maintenance job task card
- Selecting the wrong fix while programming a flight management system
- Mistakenly using an incorrect label to identify a dangerous good

D. Systemic Conduct.

Attributes: Similar, interconnected problems seen throughout a system or organization. Similar problems that occur frequently. Problem(s) that has occurred and could continue to occur due to an identified lack of policies, procedures, or controls.

Examples of systemic conduct include:

- Repeatedly dispatching aircraft contrary to the Minimum Equipment List (MEL)
- Chronic record-keeping problems in various departments (pilot, aircraft, and dispatch records) throughout an air operator
- A single Airworthiness Directive (AD) overrun as a result of a gap in an operator's policies, procedures or controls rather than an isolated human failure/mistake
- Repeatedly completing dangerous goods declaration forms improperly

E. Not Systemic Conduct.

Attributes: Isolated acts or occurrences not indicative of a system deficiency. Unrelated

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problems in a system or organization that occur infrequently. Failure of an employee to follow established and adequate policies, procedures, and controls.

Examples of conduct that is not systemic include:

- Misinterpretation and resulting misapplication of the Minimum Equipment List (MEL) on a single occasion
- A pilot record missing an item of required information
- A 100-hour inspection overrun on a single aircraft due to a computation error
- Shipment of a single undeclared dangerous good by an untrained employee of a company that regularly transports dangerous goods by air

STEP 5 -DETERMINE THE APPROPRIATE ENFORCEMENT ACTION.

A. Accounting for Safety Risk and Conduct Category. Determine the type of enforcement action to take by consulting the applicable EDT (individual or organization) matrix noted below using the Safety Risk Level and Conduct Category established in the previous paragraphs:

EDT – INDIVIDUAL

CONDUCT CATEGORY	SAFETY RISK LEVEL		
	High	Moderate	Low
Intentional	Certificate/Punitive	Certificate/Punitive	Certificate or Administrative
Reckless	Certificate/Punitive	Certificate/Punitive	Administrative
Careless	Remedial Training and/or Certificate	Administrative	Administrative or Informal

EDT – ORGANIZATION

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CONDUCT CATEGORY	SAFETY RISK LEVEL		
	High	Moderate	Low
Intentional Systemic	Certificate/Punitive	Certificate/Punitive	Certificate/Punitive
Intentional Not Systemic	Certificate/Punitive	Certificate/Punitive	Certificate or Administrative
Unintentional Systemic	Certificate/Punitive	Administrative	Administrative or Informal
Unintentional Not Systemic	Administrative and/or Certificate/Punitive	Administrative	Administrative or Informal

NOTE: For GACA regulation violations committed by a foreign person or organization, see Para. 13.3.2.19, Special Cases.

B. Selecting the Appropriate Enforcement Action. Select the specific type of action indicated by the EDT process:

- 1) Informal action (oral counseling).
- 2) Warning notice.
- 3) Issuance of Inspection and Surveillance Record (ISR) outlining observed discrepancies and requiring corrective actions within a specified timeframe.
- 4) Issuance of Noncompliance Record (NCR) outlining observed noncompliances and requiring corrective actions within a specified timeframe to address both the observed noncompliance and the associated root causes.
- 5) Remedial training.
- 6) Remedial certificate action for the purposes of ensuring continued compliance with the regulations.
- 7) Punitive action for the purposes of applying punitive measures with the aim of deterring future violations.

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NOTE: GACA Inspectors can only recommend punitive action. The final decision rests with the Committee established under Article 174 of the Civil Aviation Law.

NOTE: If GACA investigative personnel select a type of action other than that indicated by applying this EDT, GACA senior management approval is required.

NOTE: Further guidance on each type of enforcement action noted above is contained in Para. 13.3.2.1.

STEP 6 -FOR ALL CASES WHERE REMEDIAL CERTIFICATE ACTION IS WARRANTED, DETERMINE WHAT REMEDIAL CERTIFICATE ACTION IS REQUIRED.

A. Remedial Certificate Action. Because the GACA's responsibility to promote aviation safety is constant, the GACA must also take appropriate action when the GACA finds, or has reason to believe, the certificate holder no longer possesses the qualifications required to hold a certificate. Thus, the law provides that the GACA may re-inspect at any time a civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air GACA or reexamine an airman holding a certificate issued and that the GACA may issue an order amending, modifying, suspending or revoking any part of a certificate or authorization issued if the GACA decides after conducting a re-inspection, reexamination, or other investigation that aviation safety requires that action.

Revocation is the appropriate remedy for conduct that demonstrates that a certificate holder lacks either the technical proficiency or the degree of care, judgment, and responsibility, required for the certificate and ratings held. The proper standard for revocation is not whether specific violations demonstrate a failure to exercise the necessary qualifications of a certificate holder, but rather whether the violations demonstrate that the holder has never possessed or no longer possesses such qualifications. Similarly, suspension until demonstration of qualification is appropriate when the GACA has reason to believe the certificate holder may lack the required competence to hold a certificate and generally when the certificate holder fails or refuses to be reexamined.

1) *Misconduct Generally Warranting Revocation.* The GACA has concluded that by their nature, some acts of misconduct are so severe as to demonstrate the certificate holder never possessed or no longer possesses the qualifications required to hold any airman certificate

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and other certificates. Therefore, such acts of misconduct warrant revocation of all airman certificates and other certificates held by the certificate holder. Such acts include: making a fraudulent or intentionally false statement; operating an aircraft while under the influence of psychoactive substances.

2) *Intentionally False or Fraudulent Statements*. In general, the GACA considers the making of intentionally false or fraudulent statements so serious an offense that it results in revocation of all certificates held by the certificate holder. Falsification has a serious effect on the integrity of the records on which the GACA's safety oversight depends. If the reliability of these records is undermined, the GACA's ability to promote aviation safety is compromised.

NOTE: Detailed guidance on remedial certificate action is contained in Para. 13.3.2.15.

STEP 7 - FOR CASES WHERE PUNITIVE ACTIONS MAY BE WARRANTED, DETERMINE THE RECOMMENDED PENALTIES AND PUNISHMENTS.

A. Recommending Sanctions. If a certificate holder improperly exercises the privileges of a certificate, a natural consequence of that act is to be penalized. Penalties include fines or to lose privileges for a period of time commensurate with the violation. Balanced against this principle, however, the GACA considers the adverse impact that a punitive certificate suspension could have on the public. Thus, when punitive actions are warranted, the GACA generally only suspends the certificates of individual certificate holders and usually only applies fines against air operators because such actions do not disrupt service, which may adversely affect the public. Nevertheless, when the GACA determines that considerations warrant it, the GACA will suspend the certificate of any type of certificate holder. In no case will the GACA take punitive action alone when remedial administrative or remedial certificate action is necessary or appropriate.

Penalties and punishments are generally established in accordance with the penalties and punishments prescribed in the Civil Aviation Law and the sanction tables listed in Section 3 of this chapter. The GACA ordinarily does not initiate punitive fines and punitive certificate actions (that is, fixed-period certificate suspensions) against a certificate holder for the same offense.

The initial enforcement action reflects the GACA's best assessment of the appropriate sanction

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for the violations alleged. After initiating the action, GACA ordinarily does not change the type of enforcement action unless additional facts or circumstances are presented to the GACA that warrant a change.

13.3.2.9. DOCUMENTATION. GACA Inspectors must complete the Enforcement Decision Tool (EDT) Worksheet to support the type of enforcement action selected. If remedial training is offered but declined or not completed, it is not necessary to complete a new worksheet. GACA Inspectors must simply change the specific action taken to reflect remedial certificate action after a remedial training offer is refused or not completed.

13.3.2.11. REVIEW OF EDT APPLICATION. Supervisory staff will periodically review the application of the EDT, including the appropriateness of the action taken.

13.3.2.13. ENFORCEMENT ACTION TYPES.

A. Enforcement Action - Informal. Informal action is oral counseling. Using the guidance for the EDT, a GACA aviation safety inspector (Inspector) may address an apparent violation by an individual or an organization with informal action, provided the apparent violation is considered unintentional and a low safety risk. The GACA takes informal action only in cases where there is evidence to prove a violation; however, an informal action does not charge the person involved with a violation.

B. Enforcement Action - Remedial Administrative. GACA Inspectors determine whether remedial administrative action is appropriate by applying the guidance for the Enforcement Decision Tool, which includes evaluating the facts of a violation against the criteria in this section

1) *General.* The purpose for remedial administrative enforcement action is to provide GACA investigative personnel with an administrative means for addressing violations when, in the, judgment of GACA Inspector remedial certificate action or punitive action is not necessary. While the GACA takes remedial administrative enforcement action only in cases where there is evidence to prove a violation, the action does not necessarily charge the person involved with a violation. Remedial administrative action brings the incident to the attention of the person involved, documents corrective action, promotes future compliance with the regulations, and provides a source of information for agency use. Three types of remedial administrative actions are used by GACA:

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- Warning Notice
- Inspection and Surveillance Records (ISR) requiring corrective actions
- Noncompliance Records (NCR) requiring corrective actions

2) *Warning Notice*. A warning notice is a letter or form addressed to the apparent violator that brings to that person's attention the facts and circumstances of the incident. The warning notice advises that, based on available information, the apparent violator's action or inaction appears to be contrary to the regulations, but does not warrant further enforcement action. It also requests future compliance with statutory and regulatory requirements.

3) *Inspection and Surveillance Record (ISR)*. An ISR is a form addressed to the certificate holder that brings to that person's attention the facts and circumstances of an observed discrepancy. The ISR serves to inform the certificate holder of the observed discrepancy and seeks corrective action from the company, organization, or airman to resolve observed discrepancy. The ISR includes a corrective action due date that is established in accordance with the GACA policy for the resolution of identified noncompliances and safety deficiencies. An ISR usually confirms a discussion with the certificate holder in which the individual agrees to take appropriate corrective action to remedy the observed discrepancy.

4) *Noncompliance Record (NCR)*. An NCR serves the same purposes as an ISR but is much more formal and is used by GACA Inspectors when there is clear violation of a regulation. The NCR serves to inform the violator of the observed noncompliance and seeks corrective action from the company, organization, or airman so that corrective action will address not only the observed noncompliance but also the root causes. The NCR includes a corrective action due date that is established in accordance with the GACA policy for the resolution of identified noncompliances and safety deficiencies. An NCR usually confirms a discussion with the violator in which the violator agrees to take appropriate corrective action to remedy the noncompliance.

5) The primary purpose of all remedial administrative corrective action is to bring a discrepancy or noncompliance to the attention of the certificate holder and document action that has been taken to correct conditions that are in violation of regulatory requirements.

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6) *Completion of Corrective Action.* When corrective action has not been completed at the time the remedial administration action is issued, GACA investigative personnel perform a timely follow-up inspection. When the corrective action is completed, GACA Inspectors send a letter acknowledging that fact and closing the case. GACA enforcement personnel take more severe enforcement action for any continued noncompliance following the passing of corrective action deadlines.

C. Enforcement Action - Remedial Training.

1) *General.* Using the EDT process, a GACA Inspector determines whether remedial training is the appropriate action to take for a violation by an airman. If so, the Inspector offers the airman an opportunity for training. The Inspector documents the corrective action.

2) *Applicability.* This program only applies to individual airman certificate holders not using their certificate for hire or reward at the time of the apparent violation.

3) *Procedures.* When an apparent statutory or regulatory violation becomes known to the GACA, appropriate GACA management assigns an investigating Inspector who initiates a full investigation in order to establish the facts and determine the best course of action. If, during the investigation, the investigating Inspector believes that based on the outcome of the EDT and the factors noted below that remedial training is appropriate, the Inspector follows the procedures in this section.

4) *Factors for Participation in Remedial Training.* The Inspector considers the following factors in determining whether remedial training is appropriate.

a) Whether future compliance can reasonably be ensured through remedial training alone.

b) Whether the airman displays a constructive attitude that would lead the Inspector to believe the airman has a willingness to comply, so noncompliance is less likely in the future.

c) Whether the conduct discloses a lack of, or reasonable basis to question, the airman's qualifications. Remedial training is not an appropriate response in these circumstances. If these circumstances are present, the Inspector applies remedial

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certificate actions.

d) Whether the airman has a record of enforcement actions. Remedial training will generally be appropriate for airmen with no record of violations, but a record of violation does not automatically make remedial training inappropriate.

e) Whether the conduct is deliberate, grossly negligent, or constitutes a criminal offense.

5) *Letter of Investigation*. The Inspector sends the airman a letter of investigation (LOI) that advises the airman that he or she may be allowed to participate in the corrective action through remedial training program. The LOI also advises that failure to respond to the LOI in the time specified in the LOI will preclude participation in the program, and that the airman in the response must express an interest in pursuing a prescribed course of remedial education and must cooperate with the investigation.

6) *Communication with Airman*. The Inspector schedules a meeting with the airman in person (or by teleconference if the Inspector determines a meeting is impractical and not necessary). During the meeting or teleconference, the Inspector confirms whether remedial training is appropriate, proposes a course of study, and then develops a remedial training program.

7) *Development of Training Program*. Before the meeting or teleconference, the Inspector develops a suitable course of remedial study that clearly states a training objective. The Inspector coordinates development of each training program with other Inspectors if more expertise is needed.

a) In determining whether the airman has a constructive attitude toward compliance, the Inspector considers the timeliness and nature of the response to the LOI, including the airman's participation in a meeting with the Inspector and the manner in which the airman has met all regulatory responsibilities.

b) The Inspector describes a proposed course of study, including training objectives and expected completion date, to the airman. In developing the training regimen, the Inspector considers the nature of the apparent violation and, if relevant, the airman's enforcement record, if any. The Inspector considers the specific needs of the candidate,

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and the availability of qualified instructors, simulators, or other training equipment or materials in the airman's geographic area of operation. The Inspector requests and considers the airman's views on the proposed course before developing a final remedial training program. See sample remedial training agreement.

8) *Explanation to Airman.* The meeting or teleconference between the Inspector and the airman is limited to a discussion of an appropriate remedial training program to help the airman to comply with safety regulations in the future and the time it should take to accomplish it. The merits of the underlying incident or investigation are not otherwise discussed. The Inspector advises that because participation in a remedial training program is a substitute for other more severe enforcement action, the airman may not both challenge the apparent violation and participate in the program. If at any time the airman elects to contest the violation, the Inspector advises that the remedial training agreement becomes null and void, the remedial training process terminates, and appropriate enforcement action is taken. Under these circumstances, no further efforts to undertake remedial training are pursued.

9) *Letter of Agreement.* When an agreement on training has been reached, the Inspector and the airman sign and date a letter of agreement specifying the terms and conditions of the remedial training program. One condition of participating in the program is the airman's express agreement to waive voluntarily the applicability of the time limitations period to any legal enforcement action arising from the conduct for which the remedial training is imposed. The waiver is documented in the letter of agreement. The remedial training agreement clearly states the objective of the prescribed remedial training course, includes a completion date and the method by which the airman documents satisfactory completion of the training.

10) *Verification of Completion of Training.* The Inspector verifies that the training objectives have been met. Within the time specified in the training agreement, the airman provides the required evidence that training has been completed, including an original record of training, signed by each instructor or authorized official of the training establishment, certifying the areas of training and that the training program has been satisfactorily completed. For internet online courses, a computer-generated completion certificate is acceptable.

11) *Issuance of Letter of Correction.* When the Inspector is satisfied that the terms and

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conditions of the remedial training course and objective have been met, he or she closes the enforcement action with a letter of correction. Issuance of the letter of correction, which contains a statement that the required remedial training has been satisfactorily accomplished, closes the case.

12) *Failure to Complete Training.* If the airman fails to meet any term or condition of the program or the agreement, the Inspector notifies the airman by letter that participation in the training program has been terminated, and that appropriate additional enforcement action will be taken.

D. Enforcement Action – Remedial Certificate Action.

1) *General.* This section describes enforcement actions that GACA investigative personnel may determine are necessary or appropriate for violations once they determine that remedial certificate action is appropriate based on the guidance in the Enforcement Decision Tool, and the guidance in this chapter.

2) Remedial Certificate Actions - General.

a) The Civil Aviation Law authorizes the GACA to amend, modify, suspend or revoke any part of a certificate issued if the GACA decides that aviation safety and the public interest require that action. Holders of certificates issued may appeal actions taken against their certificates to the President. When the certificate holder files such an appeal, the certificate holder may not continue to exercise the privileges of that certificate pending the outcome of the appeal, unless the President agrees otherwise.

b) A suspension of a certificate means the certificate temporarily ceases to be effective. The time the certificate is not effective is specified in the order of suspension, and once the required time period has passed, the certificate is automatically reinstated. The time period is defined by either a specific amount of time, usually a number of days, or until certain conditions are met, for example until a reexamination is successfully completed.

c) A revocation of a certificate means the certificate is no longer valid, and the holder may not exercise any of its privileges. Unlike a suspension, a certificate that has been revoked cannot be reinstated. A certificate holder whose certificate has been revoked may reapply for a new certificate, but an individual applying for an airman certificate

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must meet all the qualifications for the new certificate, including retaking all tests, whether written, oral, or practical. Any experience requirements for the new certificate may be met with experience obtained before the revocation of the original certificate. If an airman certificate has been revoked for less than one year, the GACA generally denies any application by that airman for a new certificate, and the airman has no appeal from that denial.

3) *Emergency Certificate Action.* The Civil Aviation Law authorizes GACA to make certificate actions immediately effective if the GACA finds that an emergency exists and aviation safety requires the order to be effective immediately. An emergency certificate action immediately deprives the certificate holder of the right to exercise the privileges of that certificate. The certificate holder may appeal the action to the President and challenge the GACA's use of its emergency authority. The certificate holder may not continue to exercise the privileges of that certificate while the appeal is pending unless the President reverses the emergency nature of the order. Remedial certificate actions are taken as emergency actions when necessary to protect the safety of the public. Emergency certificate actions are generally taken when the GACA believes the certificate holder lacks the qualifications to hold the certificate and the certificate holder is capable of exercising the privileges of the certificate. When GACA investigative personnel believe an emergency certificate action is appropriate, they immediately notify their supervisor, who notifies the Vice President and then the President. The investigation and report of an emergency certificate action is generally given priority over all other work.

4) *Non-Emergency Remedial Certificate Action.*

a) *Deferred Suspension of Certificates.* A deferred suspension of a certificate is issued when the violation does not qualify for remedial administrative action, but GACA investigative personnel wish to encourage the certificate holder to take appropriate corrective action, for example, receiving additional training. The suspension of the certificate is proposed, but the certificate holder is advised that the imposition of the suspension may be avoided if the certificate holder takes acceptable corrective action within a specified period of time. If the certificate holder completes the corrective action within the time period, the certificate holder does not lose the privileges of the certificate, although an order of suspension is issued and entered into the GACA records. The certificate holder may appeal a deferred suspension to the President.

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b) Suspension of Certificates. A suspension of a certificate is issued when the violation does not qualify for remedial administrative action or remedial training and GACA investigative personnel wish to ensure that the certificate holder takes appropriate corrective action before they exercise the privileges of the certificate again. The certificate holder may appeal a suspension to the President.

c) Revocation of Certificates. The revocation of a certificate is indefinite certificate suspension pending compliance or demonstration of qualification. The GACA revokes a certificate when a certificate holder lacks the qualifications to hold the certificate. The certificate holder's continued exercise of the privileges of the certificate in such circumstances would be contrary to aviation safety and the public interest. Revocation is appropriate whenever a certificate holder's conduct demonstrates a lack of the technical proficiency or a lack of the degree of care, judgment, or responsibility, required of the holder of such a certificate. Orders of revocation are issued on an emergency basis when the certificate holder lacks qualification and is reasonably able as a practical matter to exercise the privileges of the certificate.

d) Certificate revocation - individuals. The GACA generally revokes an individual's certificate or rating whenever he or she demonstrates a lack of willingness or ability to comply consistently with regulatory requirements. A lack of willingness or ability to comply may be demonstrated by such things as repeated or deliberate violations or by violations that involve grossly careless or reckless conduct. Even a single violation may be sufficient to warrant a conclusion an individual lacks qualifications. The GACA ordinarily revokes all certificates of a person who commits a violation involving intentional falsification.

e) Certificate revocation - organizations. Revocation is normally appropriate when a certificate-holding entity deliberately or flagrantly violates the statute or regulations or falsifies records. Revocation also is generally appropriate when the certificate holder has committed the same or similar violations in the recent past demonstrating a lack of qualification, or when the certificate holder no longer has, and does not obtain in a reasonable time, the personnel or equipment to conduct its operation in full compliance with statutory and regulatory requirements.

5) *Suspension or Revocation of Airman Medical Certificates.* A GACA medical officer may recommend that an airman medical certificate be suspended or revoked. Such action is

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recommended when an airman does not meet the medical certification standards or there is a reasonable basis to question his or her qualifications, or when an airman fails to provide requested medical information or provides intentionally false or incorrect information in support of medical certification.

13.3.2.15. REMEDIAL CERTIFICATE ACTION - DETAILED GUIDANCE.

A. Emergency Certificate Action - Suspension or Revocation of Certificates.

1) *Authority.* Whenever the General Authority of Civil Aviation (GACA) determines that the public interest and aviation safety require the immediate effectiveness of a suspension or revocation, an emergency order is issued.

2) *Limitation.* The emergency authority is not used for punitive enforcement actions; that is, to order fixed periods of suspension. If punitive action is appropriate in addition to an emergency suspension, the punitive action is issued in a separate notice from the emergency order.

3) *Form and Content of Emergency Order.* An emergency order contains all the allegations and findings necessary to any other order and, in addition, contains a statement that "the President finds that an emergency exists and aviation safety requires the immediate effectiveness of this order." An emergency order is immediately effective, and informs the certificate holder that an appeal to the President does not stay the effectiveness of the order.

4) *Criteria for Emergency Action.*

a) Emergency action is taken only:

- When the certificate holder lacks qualification, or there is a reasonable basis to question whether the holder is qualified to hold the certificate; and
- When the certificate holder is reasonably able as a practical matter to exercise the privileges of the certificate

b) If it is known that a certificate holder is unable to exercise the privileges of the certificate, a notice proposing remedial certificate action is issued. For example, a notice proposing remedial certificate action is used if the certificate holder is confined

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to prison or is known to be physically unable to exercise the privileges of the certificate. Similarly, a notice proposing remedial certificate action is issued when a certificate holder, who is required to hold an airman medical certificate, does not hold a currently valid airman medical certificate. If a medical certificate has been issued to the airman, an emergency order is generally issued. Sometimes when the certificate holder does not hold a currently valid airman medical certificate, it nevertheless is appropriate to take emergency certificate action if it is known the certificate holder has operated an aircraft despite the lack of a currently valid airman medical certificate.

5) *Timeliness of Emergency Action.* Emergency action is taken as soon as possible when the need for such action is recognized. Failure to take prompt action does not preclude the issuance of an emergency order when it is appropriate; public safety should not be jeopardized because of GACA delay. If a significant delay has occurred, however, circumstances justifying the emergency action may have changed, and consideration is given to reevaluating the case, including, as appropriate, re-inspection or reexamination of the certificate holder. For example, when the GACA is ready to initiate action, the unqualified or culpable management personnel may have changed and the GACA may determine that revocation is no longer required. In such a case, the GACA may use another enforcement action to address the previously discovered violations.

6) *Emergency Suspension Pending Reexamination.* If there is a reasonable basis to question whether the certificate holder is qualified and the holder might reasonably be able to exercise the privileges of the certificate, emergency suspension action pending successful reexamination is considered.

7) *Prohibition against Combination of Emergency and Nonemergency Actions.* In those circumstances in which the GACA determines that an emergency suspension or revocation is appropriate and that a punitive action is also warranted, the emergency and punitive actions are pursued through two separate enforcement actions. Emergency and punitive actions are not combined in a single order. A separate notice proposing the punitive suspension is issued. For example, the holder of a commercial pilot certificate and flight instructor certificate violates several regulatory requirements. The GACA determines the incident raises questions about the person's qualifications to hold the flight instructor certificate, and the certificate holder should be reexamined on his qualifications to hold the flight instructor certificate, but he refuses to be reexamined. It is also determined that a 90-day punitive suspension of both certificates is warranted for the violations of the

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statutory or regulatory requirements. The emergency order suspends only the flight instructor certificate until reexamination is accomplished and qualifications are established. A separate notice proposing the 90-day punitive suspension is also issued.

B. Nonemergency Remedial Certificate Actions - Suspension or Revocation of Certificates. When it is determined that nonemergency certificate suspension or revocation is the appropriate enforcement action, GACA personnel follow the guidance in this paragraph.

1) *Notice of Proposed Remedial Certificate Action.* The GACA, before ordering the suspension or revocation of a certificate, must give the certificate holder notice proposing such action and provide such person with an opportunity to answer and be heard, except when an emergency order is issued. When it is determined that remedial certificate action on a nonemergency basis is appropriate, GACA prepares a notice of proposed remedial certificate action. The notice sets forth the facts alleged, the regulation(s) violated, and the action proposed. GACA pleads the facts in sufficient detail that the certificate holder has notice of the charges. When GACA proposes that only a rating be suspended, the notice informs the airman that during the suspension period a temporary certificate will be issued to permit the exercise of those privileges not under suspension.

2) *Attachments to the Notice.* An information sheet and a certificate holder reply form are sent with the notice. In the information sheet, which may be a printed form, the alleged violator is advised of the alternatives available in response to the notice. The alleged violator is given the opportunity to elect from the alternatives listed on the certificate holder reply form.

3) *Alternatives for Responding to Notice.* An alleged violator is provided with the following options to respond to the notice:

- a) Admit the charges and surrender the certificate as proposed.
- b) Answer the charges in writing.
- c) Request an informal conference with GACA officials.
- d) Request an appeal to the President.

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4) *Notice of Proposed Remedial Certificate Action in Deferred Suspension Cases.* When the appropriate GACA management decides that a deferred suspension is the appropriate type of enforcement action in a particular case, GACA issues a notice of proposed remedial certificate action that:

- a) Specifies the factual circumstances and regulations allegedly violated.
- b) States the proposed start of suspension.
- c) Advises the certificate holder of the corrective action that may be taken within a specified period, to avoid the proposed remedial certificate action.
- d) Requires that the certificate holder inform the GACA, within 10 days after receipt of the notice, if the holder elects to take the suggested corrective action to avoid the proposed suspension.
- e) Advises the certificate holder of the right to proceed in accordance with the enclosed information sheet. If the certificate holder does not timely elect to take the deferred suspension option, GACA processes the case for a certificate suspension under regular procedures. If the certificate holder timely elects to proceed with the deferred suspension option, GACA, on receiving satisfactory evidence the certificate holder has completed the corrective action described in the notice within the specified period, issues an order of suspension that makes findings of the appropriate violation but waives the imposition of any certificate suspension. If satisfactory evidence of completion of the corrective action is not timely received, GACA immediately issues an order of suspension that suspends the certificate stated in the notice.

5) *Reevaluating the Case.* When the certificate holder submits evidence or other considerations in writing, or in person at an informal conference, new matters submitted are considered and evidence on which the notice was based is reevaluated. Allegations that are disproved are withdrawn. If the action proposed is determined to be excessive, it is reduced.

6) *Orders of Suspension or Revocation.* The order is issued by authorized GACA personnel.

- a) When the certificate holder surrenders the certificate pursuant to the notice of

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proposed remedial certificate action, GACA issues the order immediately. The effective date of the surrender is the date on which the certificate is surrendered to the GACA, such as the postmark date of mailing or the date of personal delivery. Surrendering the certificate in response to the notice constitutes a waiver of the airman's appeal rights, when the certificate holder has been informed of his rights in the information sheet.

b) Orders allege the violations that constitute the basis for the action, state accurately the action taken, state the reasons that “aviation and the public interest require remedial certificate action”, state the effective date, and inform the certificate holder of appeal rights and procedures.

7) *Service of the Notice or Order.* GACA sends the alleged violator the notice or order by regular mail or registered mail. For certificate holders, GACA sends the notice or order to the current address of record. If the regular mail is returned or the certified letter or registered letter is returned as undeliverable (because it is addressed incorrectly or the party has moved and left no forwarding address), then GACA corrects the address or obtains a new address and resends the notice or order to the correct address by regular mail or registered mail. If the certified letter or registered letter is refused or returned unclaimed but the regular mail is not returned, then there is a presumption of service and GACA does not resend the notice or order.

C. Suspension or Revocation of Airman Medical Certificates.

1) *Responsibility.* The GACA is responsible for taking remedial certificate action when a medical examiner request to suspend or revoke an airman's medical certificate.

2) *Refusal to Submit to Reexamination.* An airman may be requested to submit to medical reexamination if there is a reasonable basis to believe the airman may not be qualified under the airman medical certification standards. An appropriate GACA medical officer requests a reexamination by letter. If the airman refuses or fails, within a reasonable time, to submit to the reexamination, emergency action is generally taken to suspend the airman medical certificate pending reexamination and a determination the airman is medically qualified.

3) *Failure to Provide Medical Information.* Any person who applies for or holds an airman medical certificate may be asked to provide additional medical information or history or to authorize clinics, hospitals, doctors, or other persons to release any available

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information or records concerning a medical history. Refusal or failure to provide the requested information or to authorize its release may be a basis for denying, suspending, or revoking an airman medical certificate. Suspension or revocation is generally taken on an emergency basis.

4) *Medical Disqualification*. If the GACA has evidence that shows that an airman has become medically disqualified, GACA issues an order revoking the medical certificate.

5) *Intentional Falsification of Application or Certificate*. GACA may suspension or revocation of any airman certificate, ground instructor certificate, or medical certificate held by any person who:

- Makes a fraudulent or intentionally false statement on an application for an airman medical certificate
- Reproduces a medical certificate for fraudulent purposes
- Alters a medical certificate
- Makes a fraudulent or intentionally false entry in any document required to be kept in connection with a medical certificate

NOTE: In reviewing cases involving medical certification, GACA should be alert to the possibility of falsification and, if falsification is discovered, initiate additional enforcement action, as appropriate.

6) *Incorrect Statement on Application*. GACA may deny, suspend, or revoke an airman medical certificate when an applicant makes an incorrect statement on which the GACA relied on an application for medical certification.

D. Procedures for Recovering Certificates and Related Enforcement Action.

1) *Issuance of a Demand Letter*. If a person does not surrender a suspended or revoked certificate, authorization, or other approval within 15 days of the date an emergency order is issued or within 30 days of the date a nonemergency order is issued, GACA issues a letter to the certificate holder demanding the immediate surrender of the suspended or revoked certificate, authorization, or other approval. In the demand letter, GACA advises the holder

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that failure to do so will result in punitive action for failure to surrender.

2) *Punitive Action for Failure to Surrender.* If the holder of a certificate, authorization, or other approval fails to surrender a suspended or revoked certificate, authorization, or other approval within 15 days of the date of a demand letter is issued, GACA ordinarily initiates a punitive action against the holder for failing to surrender.

3) *Continued Failure to Surrender.* If the holder fails to surrender a certificate, authorization, or other approval after the Board of Grievances has demanded, the Board of Governors may seek other punitive measures.

13.3.2.17. GACA PUNITIVE POLICY.

A. Purpose. The purpose of this guidance is to outline the General Authority of Civil Aviation's (GACA) policies for determining an appropriate penalty and punishment once the Committee established under Article 174 of the Civil Aviation Law decide that penalties and punishments are appropriate. This guidance is advisory only as the final decision on all penalties and punishments is not the responsibility of the Inspector but instead rests with higher authorities. This guidance contains the general policy the GACA intends to apply in selecting the types of penalties and punishments for typical violations of the GACA laws and regulations. This guidance covers the parameters both for selecting penalties and punishments and for modifying them during the informal procedures. Further guidance on the use of sanctions tables can be found in Section 3 of this chapter.

B. Mitigating or Aggravating Factors and Elements. The factors below have been developed over years and they have proven useful and appropriate for determining the seriousness of a violation and for selecting an appropriate sanction. Elements for evaluating and weighing each factor are also described. These factors and elements provide a framework for determining sanctions for violations specifically listed in the table as well as those not specifically listed. All the factors and elements, however, may not apply to each violation. Only those factors and elements that are relevant to a violation are considered in determining a sanction for the violation. This list of factors and elements is not intended to be exhaustive; other factors may be relevant as well.

1) *Nature of the Violation.* Three elements define the nature of a violation: first, whether the violation was operational or non-operational; second, whether the violation involved

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careless or reckless conduct; and third, whether the violation involved any special aggravating or mitigating factors.

a) Individuals. When an individual who holds a certificate improperly exercises the privileges of that certificate, the natural consequence of that act should be loss of privileges for a period of time commensurate with the violation. The GACA, therefore, primarily uses remedial certificate actions to enforce operational regulations against individuals who hold certificates. The potential adverse impact that remedial certificate action may have on an individual's livelihood does not alter this principle.

Non-operational violations may warrant a different type of sanction.

b) Organizations. The GACA ordinarily applies fines against a certificate-holding entity (for example, an air operator) when it determines there would be a substantial adverse impact on the public interest from disrupted service by that certificate holder and the impact is not outweighed by safety considerations. Even when a substantial adverse impact would occur, when there is a need to prevent continuing violations or other egregious conduct by any certificate holder, when any certificate holder lacks qualification, or there is a reasonable basis to question the qualifications of any certificate holder, the GACA takes remedial action, for example, revocation or indefinite suspension, as necessary.

c) Careless or reckless conduct. Violations that involve careless or reckless conduct may warrant more severe sanctions. Carelessness connotes conduct that falls below the standard of care or prudence expected of a reasonable person, or holder of the relevant certificate, acting under the same or similar circumstances. Recklessness connotes conduct that demonstrates a gross, or even callous or flagrant, disregard for safety. Aircraft operations that do not otherwise result in a violation of a specific regulation should be evaluated in light of these standards to determine whether they constitute careless or reckless operations in violation of GACAR § 91.17. When a person operates an aircraft in violation of a specific regulation other than GACAR § 91.17, however, that violation constitutes a careless or reckless operation in and of itself. In these cases, the misconduct may also result in a violation of GACAR § 91.17 if it actually or potentially endangers the lives or property of others. When calculating the penalty or punishment based on this factor, a distinction generally is drawn between instances where GACAR § 91.17 is an independent violation and those where it is residual to another violation. When a GACAR § 91.17 violation is residual only, a

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more severe penalty generally is not warranted unless the conduct is also reckless.

2) *Whether the Violation was Inadvertent and Not Deliberate.* If a violation is deliberate or not inadvertent, a sanction at the upper end of the range or exceeding the range for that type of violation generally is appropriate. A deliberate violation generally warrants a penalty or punishment that is more severe than one that is just not inadvertent.

a) Not deliberate. This element means a lack of the degree of deliberation found in intentional misconduct. Deliberate or intentional misconduct is an aggravating circumstance and includes deliberate conduct that leads to a violation as well as circumstances indicating intent to commit a violation.

b) Inadvertence. An act is inadvertent when it is the result of both inattention and lack of purposeful choice. For example, an inadvertent act occurs when a pilot flies at an incorrect altitude because he or she misread the aircraft's instruments; however, it is not an inadvertent act when a pilot flies at an incorrect altitude as a result of choosing not to consult the aircraft's instruments or choosing not to use other available means to verify altitude. The test to be applied is whether the conduct, not the factual or legal consequences, is inadvertent and unintended.

3) *Certificate Holder's Level of Experience.*

a) Level of experience refers primarily to the type of certificate and ratings held (for example, student, private, commercial, airline transport pilot, or certified flight instructor), and the number of hours flown, by the certificate holder. Certificate holders with greater levels of experience may be held to a higher standard. Thus, for example, commercial pilots may be held to a higher standard than private pilots and airline transport pilots may be held to an even higher standard than commercial pilots.

b) In determining an appropriate penalty or punishment, the GACA may consider the extent to which the certificate holder's action deviated from the degree of care and diligence normally expected of a person with the certificate holder's level of experience. A significant deviation from the degree of care and diligence expected of the holder of that certificate may warrant a more aggravated penalty or punishment.

4) *Attitude of the Violator.*

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a) A good compliance attitude is the norm and does not warrant a reduction in the penalty or punishment. A prior violation history may suggest that a person has a poor compliance disposition, which is an aggravating factor. Furthermore, a person who commits an act or omission contrary to regulatory requirements after receiving notice through a prior remedial administrative action or counseling that such conduct is in violation of those requirements might well be regarded as having a poor compliance disposition. In evaluating compliance disposition, the GACA does not view an alleged violator as having a poor attitude because the alleged violator fails to respond to a letter of investigation, chooses to be represented by counsel, or contests the violation.

b) In assessing the attitude of an alleged violator, the GACA may consider the declaration of an emergency to air traffic control. When an emergency is genuine and not of the person's own making, the emergency is exculpatory under GACAR § 91.3(b). However, this situation is distinct from the situation where a declaration of emergency is not exculpatory but is a factor that might be appropriate to consider in determining sanction. In emergency situations, the GACA views declaring an emergency to air traffic control as a sign of good judgment and a constructive attitude. When an emergency is of a person's own making, that person's declaration of an emergency may be considered mitigating in determining the sanction to be imposed for any violations committed, in much the same way it is considered mitigating if a person voluntarily reports a violation.

5) *Degree of Hazard.*

a) The degree of hazard may be increased as a result of the interplay of the operational environment (for example, weather conditions, congested vs. sparsely populated areas) and the nature of the threat to safety (to the life or property of another, including those in the aircraft being operated, to other aircraft, or to persons or property on the surface) that the misconduct presents. The safety threat is based on the reasonably foreseeable consequences of the misconduct. For example, operating 500 feet below the minimum altitude poses a greater hazard than operating 100 feet below. Similarly, if an aircraft operator fails to comply with an airworthiness directive by operating 10 hours past a required inspection, the degree of hazard is probably not as great as when the aircraft is operated 100 hours beyond the required. And it is not mitigating when a violation does not result in actual harm; that is simply fortuitous.

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6) *Action Taken by Employer or Other Authority.* This factor ordinarily involves the following elements: whether the alleged violator's employer has taken disciplinary action and whether criminal prosecution is involved.

a) Employment discipline. Where the violation would normally call for a certain type of enforcement action, the GACA takes that action regardless of any action taken by the violator's employer. Generally, the GACA does not credit an employer's disciplinary action toward a period of suspension the GACA imposes against the violator's certificate because of the different purposes of government-ordered, as contrasted with employer-ordered, actions.

7) *Use of a Certificate.* This factor relates to the nature or kind of activity or operation involved at the time the violation was committed. Whether the certificate holder was engaged in student, private, commercial, or airline activity bears on the severity of the sanction. Air operators are held to the highest standard of care. Likewise, personnel engaged in commercial air transportation are held to the highest safety standard.

8) *Violation History.*

a) A violation-free history is the expected norm, not the exception and, therefore, is not a mitigating factor. Given the expected norm, a prior violation record can be evidence of a poor compliance disposition or of a pattern of disregard for the GACA's regulations, which are aggravating factors. As a result, a violation history can justify imposing a harsher penalty. It might also justify revocation rather than suspension if the pattern of violation reflects a lack of qualification. In addition, a violation history might justify a certificate suspension if previously issued civil penalties have not produced the desired deterrent effect. In deciding whether a violation history justifies aggravating the sanction or changing the usual type of sanction, the GACA considers the length of time that has elapsed between violations, whether the violations involved the same or similar regulations, and whether the violations are factually similar.

b) The following actions constitute violation history when they involve regulatory violations and become final: orders of amendment, modification, suspension, or revocation of a GACA certificate; orders assessing a civil penalty. In addition, a party

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may agree as part of a settlement that the GACA may consider alleged violations as findings of violation for future sanction determinations.

9) *Ability to Absorb Sanction.* Punitive actions should be deterrent. While punitive actions should not be unduly harsh, they should be substantial enough to prevent violators from profiting from their violations, that is, the penalty should be high enough to remove any profit incentive for violations. Penalties should never be permitted to be a cost of doing business. Air operators, in particular, are required by law to have the financial wherewithal to operate according to established safety standards. While the GACA does not allow financial circumstances to excuse any violation, it does consider an air operator's size and financial strength in choosing the appropriate penalty. Therefore, the GACA uses air operator size as one means of ensuring a relatively equivalent deterrent effect on each air operator that violates the same GACA regulation. For all entities and individuals, the GACA considers ability to pay a civil penalty and the effect a civil penalty will have on a person's ability to continue in business to the extent it knows such information.

10) *Consistency of Sanction.* One of the goals of GACA is to achieve relative consistency in imposing similar penalties and punishments for similar violations. The GACA pursues this objective to assure fairness and so the penalty's impact has an equivalent degree of deterrent or disciplinary value to others similarly situated. This goal may not always be achieved, however, because of the inherently subjective nature of the exercise of judgment in setting penalties and punishments.

11) *Whether the Violation was Reported Voluntarily.*

a) The GACA has programs that allow persons to report voluntarily apparent violations and receive lesser enforcement action provided certain criteria are met. Besides these programs, the GACA may grant special enforcement consideration under certain circumstances to a person who, incident to his or her report of another's violations, voluntarily discloses his or her own participation in the same or related violations. This special enforcement consideration may range from mitigating the punitive action to determining that no enforcement action is required.

b) If a person is not covered under one of these programs but nonetheless voluntarily reports an apparent violation to the GACA before the GACA discovers it, takes immediate action to correct the noncompliance, and works with the GACA on steps to

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preclude recurrence of the apparent violation, the GACA may consider such actions in mitigating the penalty for the violation.

12) *Corrective Action*. The GACA considers corrective action a mitigating factor in determining punitive actions provided the corrective action exceeds the minimum regulatory or statutory requirements. The amount of credit given in setting a penalty depends on the extent and timing of the corrective action, that is, how extensive was the corrective action and how quickly was it taken. Implementing new procedures that are above those required under the GACA's regulations to prevent future violations ordinarily is considered a mitigating factor in determining an appropriate penalty. Corrective action taken after the alleged violator first becomes aware of a deficiency but before GACA discovery of the violation ordinarily warrants greater mitigation than corrective action that is taken only after the alleged violator receives notice of the GACA's enforcement action. Corrective action taken by an alleged violator that simply brings that person into compliance with the statutory or regulatory requirements is not considered in mitigation of punitive actions. To mitigate a sanction based on such corrective action would put competitors at an economic disadvantage that have expended the resources necessary to maintain compliance.

C. Penalty and Punishment Determinations. Determining the appropriate punitive action is not accomplished through a strict mathematical formula; rather, determinations result from a judgment of where a case lies along a spectrum of gravity. Ultimately, the circumstances of each case are evaluated in terms of the needs of safety and the public interest.

D. General Guidance on Multiple Acts or Multiple Violations.

1) *Description of Multiple Violations*. Enforcement actions often involve multiple violations: multiple violations of a single regulation; a single violation of multiple regulations; or multiple violations of multiple regulations. In addition, if a violation is a continuing one, each day the violation continues, or each flight for which the violation was committed, constitutes a separate offense.

2) *General Sanction Guidance*. Multiple violations ordinarily result in more severe punitive actions. Such actions ordinarily are not determined by simply adding up the individual penalties for multiple violations, however. Simply adding up the individual penalties for each violation could result in compounding a penalty in a disproportionately

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harsh manner for the conduct involved. Conversely, multiple violations may be so serious in their consequences for safety and the public interest as to require a penalty greater than the sum of the recommended amount of penalty provided for in the Law for each violation.

3) *Single Act of Noncompliance Resulting in Multiple Violations*. When a single instance of noncompliance results in multiple violations of general and specific regulations involving the same or similar conduct, the GACA ordinarily does not compound the penalty or punishment. In calculating the amount of penalty for multiple violations, GACA considers the totality of circumstances relating to the multiple violations, including the alleged violator's degree of culpability, and whether the alleged violator had taken steps, although unsuccessful, to prevent the violations.

E. Special Considerations for Numerous Multiple Violations Resulting From an Initial Act or Omission. To determine penalties for numerous multiple violations that result from an initial act or omission, the GACA applies the special considerations noted earlier. These cases involve such a high number of multiple violations that if GACA were simply to add the recommended amounts of penalty for each flight or day that constitutes a separate violation, the resulting sanction amount could be disproportionately harsh for the misconduct involved, in an average case.

1) *Determining Proposed Penalty*. To determine an appropriate penalty in a case involving numerous multiple violations resulting from an initial act or omission (for example, an aircraft operated on a dozen or more flights after being improperly returned to service), GACA will:

- a) Identify each initial act or omission that caused or resulted in the multiple violations (for example, improper maintenance plus improper return to service; failure to maintain a quality control system).
- b) Determine the amount of penalty appropriate for each initial act or omission that caused or resulted in the multiple violations (for example, in airworthiness cases, a penalty for the act of improper maintenance or inspection; in manufacturing cases, a penalty for the act of failing to maintain a quality control system).
- c) Determine the amount of penalty for the numerous multiple violations by assessing the degree of the alleged violator's culpability for the multiple violations. A lower

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degree of culpability is present when the alleged violator neither knew nor was likely to discover the continuing violations. For example, once improper maintenance was done there were no signs of it from such things as discrepancies reported by the crew, and no inspections that would have led to its discovery were scheduled. A more significant degree of culpability is present when factors such as the following are present:

- the initial act or omission was entered in records that should have led to immediate detection and correction
- the initial act or omission remained undetected and continued through required inspections or checks designed to reveal such discrepancies
- the alleged violator was not following maintenance or inspection procedures the GACA had approved or accepted
- the level of the alleged violator's organization that was aware of, or involved in the noncompliance included management (for example, management implemented policies that contributed to the violations), although an alleged violator's culpability does not require management involvement
- the alleged violator has a history of similar violations or a history of systemic deficiencies

d) Add the penalties arrived at for the initial violation to the penalty for the multiple violations.

13.3.2.19. SPECIAL CASES.

A. Violations of GACA Regulations by Foreign Persons.

1) *General.* General Authority of Civil Aviation's (GACA's) approach to the enforcement of violations to GACA regulations committed by a foreign person or organization is as follows:

- a) GACA takes punitive action against foreign individuals who commit a passenger

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violation (e.g. failure to refrain from smoking, or smoking in the lavatory or elsewhere);

b) GACA takes remedial administrative and remedial certificate action and punitive action (as appropriate) against foreign individuals or organizations who hold a GACA certificate (e.g. foreign repair station operating under GACAR Part 145, or a foreign air carrier operating under GACAR Part 129);

c) All other violations committed by foreign persons, are referred to the appropriate foreign aviation authority for resolution.

2) *Preparation of Referral to Foreign Authority.* To refer a case to another foreign aviation authority, GACA prepares a letter that includes a brief factual summary of the violation, a statement of the regulations violated, and a request that the foreign aviation authority advise the GACA of any action that it takes regarding the matter.

3) *Notification of Enforcement Action Taken.* GACA advises the foreign aviation authority of the final action taken in an enforcement case against a foreign person for violating the GACA regulations.

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CHAPTER 3. GACA COMPLIANCE ENFORCEMENT PROGRAM

Section 3. Sanction Tables

NOTE: This guidance to be developed at a later date.

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CHAPTER 4. IMMUNITY AND PROTECTION

Section 1. Safety Information Received by the President

13.4.1.1. GACA ACTIVITY REPORT (GAR).

A. 1739 (OP)

B. 3739 (AW)

13.4.1.3. OVERVIEW. This section provides information to assist General Authority of Civil Aviation (GACA) aviation safety inspectors (Inspectors) in their understanding of the immunity from punitive action and the protection from disclosure provisions that may be afforded by the GACA.

13.4.1.5. AUTHORITY. The legal basis for compliance enforcement by the GACA is established in the Civil Aviation Law and the implementing regulations set forth in GACAR Part 13. Immunity from punitive action that could result from voluntary disclosure of violations or the submission of safety-related information is granted by Subpart C of GACAR Part 13 to certain aviation organizations and/or individuals under specific conditions. Protection of sensitive safety-related information from disclosure by the GACA is afforded by GACAR Part 193 to certain aviation organizations and/or individuals under additional specific conditions.

13.4.1.7. APPLICABILITY. Safety information may be received by the President from any source. However, to be eligible for the immunity from punitive action or the protection from disclosure provisions that are discussed in this section, safety information must be received from specific sources.

A. Immunity from Punitive Actions. As prescribed under Subpart C to GACAR Part 13, immunity from punitive actions is only specifically afforded to aviation organizations with a Safety Management System (SMS) that has been accepted by the President under GACAR Part 5.

B. Protection from Disclosure. As prescribed under GACAR § 193.3(a), protection from

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disclosure is afforded to any person or organization who submits information to the President, either voluntarily or under the prescriptive requirements of the GACARs, provided the any of the following apply:

- The disclosure of the information may inhibit the voluntary provision of information from other persons;
- The person submitting information has a Safety Management System under GACAR Part 5 developed and implemented in a manner acceptable to the President;
- The person submitting information is a natural person, submitting the information to the President in order to promote aviation safety; or
- Withholding the information from disclosure is consistent with the President's safety responsibilities.

13.4.1.9. ENFORCEMENT PHILOSOPHY. Punitive enforcement actions under the GACA's compliance enforcement program are considered a means to promote compliance with the GACA's regulations and the Civil Aviation Law. In addition to the deterrence achieved by the appropriate use of punitive enforcement actions, the public interest is also served by positive incentives to promote and achieve compliance. The GACA believes that aviation safety is well served by incentives for regulated entities to identify and correct their own instances of noncompliance and to invest more resources in efforts to preclude their recurrence. The GACA's policy of flexibility in forgoing punitive enforcement actions when one of these entities detects violations, promptly discloses the violations to the GACA, and takes prompt corrective action to ensure that the same or similar violations do not recur, is designed to encourage compliance with GACA regulations, foster safe operating practices, and promote the development of internal processes which sustain safe operations.

13.4.1.11. IMMUNITY FROM PUNITIVE ACTION. The Civil Aviation Law tasks the President to take all necessary steps to ensure that the GACARs are complied with and that aviation safety is maintained at an acceptable level. The concept of deterrence from committing a violation of the GACARs can foster compliance through the creation of an atmosphere of fear of punitive action. Punitive action may be taken when a violation of the GACARs is committed by an individual or a regulated entity. However, immunity from punitive action may be afforded a violator, in order to promote voluntary compliance, safe operating practices and the sharing of safety information. This

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immunity from punitive action is provided under GACAR Part 13 in only two specific instances as described in paragraphs A and B below.

A. Safety Management System (SMS) Organizations. Under GACAR § 13.43, the President permits aviation organizations operating with an SMS accepted under GACAR Part 5 to confront and resolve certain events involving safety deviations internally, within the context of their SMS with immunity from punitive actions. This includes employees of the aviation organization as well as the organization itself. GACAR Part 5 and Part 13 link together to establish a corrective process for identified safety deficiencies within an aviation organization. For each deficiency, an internal corrective resolution is proposed by the organization and coordinated with the GACA, who accepts and monitors the implementation of the corrective measures to ensure that safe operations are restored and maintained.

B. Safety Data Collection and Processing Systems. Under GACAR § 13.45, information gathered from systems which collect and process safety data, as established under GACAR Part 5, are not used as the basis for any punitive action. The same immunity is also afforded to persons who self-report deviations from the regulations that would not otherwise have been detected by the GACA. As before, the purpose of this form of immunity is to:

- 1) Foster the free flow of sensitive safety-related data and information from operators with approved safety programs, such as a Flight Data Analysis Program (FDAP), to the GACA; or
- 1) Reveal information to the GACA necessary for introducing preventive actions which otherwise was not possible.

Such data can show operational trends occurring within the aviation industry and can be a vital and critical source of safety information for the GACA to use in its efforts to promote aviation safety and achieve an acceptable level of safety within the civil aviation system.

C. Exceptions From Immunity. GACAR § 13.47 provides some limitations on the provisions in 13.4.1.11 A and B. Immunity from punitive action may be denied if:

- 1) The regulated person is a recurrent violator, which is described as a violator who, in the past 5 years, has had the same or a closely related violation.

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2) There is evidence of a deliberate effort to conceal noncompliance or of an intentional violation of the GACARs.

Additionally, it must be noted that a crime, as committed by an offenders as described in Article 154 of the Civil Aviation Law, is outside the scope of the GACARs and any immunity provisions afforded by GACAR § 13.47 and these should be addressed in accordance with the applicable procedures prescribed in the Civil Aviation Law.

NOTE: In addition to aviation organizations that are afforded immunity under provisions of GACAR Part 13, under GACA's compliance enforcement policies, other violators would also normally not be subjected to punitive action provided their violation was error-based, an isolated event (i.e. they were not recurrent violators) and they showed a sincere willingness to fully understand and comply with all applicable regulations. Chapter 3 of this volume has further details on the GACA Compliance Enforcement Program.

13.4.1.13. PROTECTION FROM DISCLOSURE. The President will not disclose safety information that GACA receives under the provisions of GACAR Part 193. Safety information obtained by the GACA through other means is not protected under GACAR Part 193. As used herein, disclosure of safety information means to release the information to a person other than another government agency. It does not, however, establish whether the GACA may or may not use the information to take enforcement action. GACAR Part 13 describes and places limits on the enforcement action applicable to a disclosure protection program. Additionally, the President may provide information submitted under this part to other agencies which have safety or security responsibilities when specific requirements and conditions exist, as delineated in GACAR Part 193.

A. Protection Eligibility. Safety information will be protected from disclosure if the person or program submits it to the President under the procedures in GACAR Part 193. Safety information received by the GACA may be protected from disclosure if the person making the disclosure:

- 1) Is a private person submitting the information voluntarily to the President in order to promote aviation safety; *or*
- 2) Is employed as part of a SMS established under GACAR Part 5 that has been developed in a manner acceptable to the President and through which the information has been submitted to the President.

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B. Protection. The GACA reviews and determines the eligibility for protection of the safety information submitted by the person or the acceptable program. When the requirements of GACAR Part 193 are met, the safety information is protected from disclosure under the provisions of GACAR Part 193.

C. Release to Other Agencies. Other government agencies desiring to acquire safety information that has been received by the GACA must justify its release to them through an assurance in writing that the agency has a specific safety need for the information, that the agency will limit access to only those with a need to know, and will provide the same protection from disclosure as stipulated in the original designation order.

D. Disclosure of Protected Information. The President may disclose information under GACAR Part 193 when withholding it would not be consistent with the President's safety responsibilities. In certain situations, the President will contact the submitter before releasing safety information, unless an emergency exists.

- 1) The disclosure of protected information may be granted if both the President and the person who submitted the information determine release of the information is appropriate.
- 2) De-identified, summarized protected information may be released to explain the need for changes in policies and regulations.
- 3) Protected information may be disclosed when it is used to correct a condition which compromises safety if the condition continues uncorrected.
- 4) Protected information may be released to carry out a criminal investigation or prosecution.
- 5) Protected information may be released when it affects or contains threats to civil aviation.

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CHAPTER 5. SPECIAL CONSIDERATIONS

Section 1. Reckless Operation of Aircraft

13.5.1.1. GACA ACTIVITY REPORT (GAR).

A. (TBD) (OP)

13.5.1.3. RECKLESS OPERATION OF AIRCRAFT. General Authority of Civil Aviation Regulation (GACAR) § 91.17 provides that, “No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.” Neither the GACARs nor the International Civil Aviation Organization (ICAO) annexes define what constitutes “reckless” or “reckless manner.” However, past case studies generated during investigations conducted by various aviation safety boards have dealt with the allegation that a particular operation was “reckless” within the meaning of GACAR § 91.17 and have thus contributed towards a definition of the phrase “reckless manner.”

A. Case History. Safety board case studies have consistently indicated that recklessness involves deliberate and willful conduct, i.e., conduct that reflects a wanton disregard for the safety of others.

1) General Authority of Civil Aviation (GACA) aviation safety inspectors (Inspectors) should determine if a deliberate and willful disregard of the regulations or safety standards occurred during their investigation of the circumstances surrounding a violation.

a) Inspectors should note that they may not need to establish that a pilot intended to be reckless; but only that he intended to engage in deliberate or willful action which resulted in a deviation from the GACARs or from safety standards, and which created actual or potential danger to the life or property of another.

b) For example, an investigating safety board said of a pilot whom it found to have been reckless when the pilot deliberately operated an aircraft within 15 to 60 meters of another aircraft for a period of 5 to 10 minutes by stating, “... so long as the pilot

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intends to do the particular acts complained of, and the resulting action widely departs from the norm of reasonably prudent conduct, a finding of reckless operation does not require proof of the state of the pilot's mind but can be inferred from the nature of the pilot's acts or omissions and the surrounding circumstances.”

2) In one violation the airmen flew visual flight rules (VFR) in formation and proceeded into a mountainous area in instrument flight rules (IFR) conditions at dusk without ascertaining the weather conditions. Neither pilot held an instrument rating and one aircraft had an inoperative radio. The investigating safety board declared that the conduct of such a flight was reckless. That Board found that the conduct was “... so devoid of basic safe operating practices and adherence to critical safety regulations that it constituted a reckless operation.”

B. Conduct Deemed Reckless. The fact patterns of some individual cases provide guidance about the kind of conduct that is deemed reckless. For example:

1) The pilot of an aircraft, in an attempt to land on a highway in a non emergency situation, approached from the rear and struck a moving truck. The truck was substantially damaged, and the person who was sitting in the middle of the front seat of the truck was seriously injured. The investigating safety board, after considering the circumstances surrounding the incident, found that the pilot operated the aircraft in a reckless manner.

2) In another case, a pilot willfully and deliberately made several extremely close passes near a van for the purpose of causing apprehension or bodily harm to the occupants of the van. The investigating safety board wrote, “Such piloting can only be characterized as reckless operation which created a serious hazard to the van.”

3) The allegation of recklessness was affirmed by a safety board in a case where a pilot operating an aircraft in scheduled air transportation took off from an aerodrome after being advised that the reported visibility was less than the required takeoff visibility. The investigating safety board determined that the “... knowing violation of one of the standards applicable to air operator pilots forms the basis of the finding of reckless operation.”

4) In another case where an investigating safety board found recklessness, the pilot violated several aviation regulations. The pilot carried passengers on several flights when

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not rated in the aircraft, had no instruction or experience in the aircraft, the aircraft had not been issued an airworthiness certificate nor had been inspected for the issuance of the certificate, the aircraft had not undergone an annual inspection, and the aircraft carried no identification markings. The investigating safety board considered the entire range of circumstances and the broad areas of noncompliance with the regulations under which numerous flights were conducted, many on which passengers were carried, to be a reckless operation.

5) In another case, the pilot was acting as pilot in command of an aircraft on a VFR, passenger carrying flight carrying parachutists for compensation. During this flight, the pilot deliberately performed an aileron roll. The seriousness of this violation was accentuated by the fact that the aircraft was not certificated for aerobatics, two parachutists were in the air when the roll was performed, the roll took place at an altitude of 500 to 800 feet over a group of persons on the ground, and the flight was made for compensation. The investigating safety board found the pilot's violations to be deliberate and knowing and, therefore, reckless.

6) In another case, the pilot in command flew the pilot's personal aircraft on a VFR, passenger carrying flight. During the course of the flight, the aircraft entered clouds and subsequently crashed into a mountainside. The investigating safety board determined that the "... pilot's continued VFR flight into clouds in the vicinity of mountainous terrain demonstrated inherently reckless conduct."

7) A pilot was found to be reckless when that pilot ignored specific air traffic control (ATC) instructions. Contrary to ATC instructions, the pilot failed to report downwind, landed the aircraft instead of going around, made a 180° turn on the runway, and departed via a taxiway. The investigating safety board noted that the go around instruction was given four separate times by the controller, yet the pilot persisted with the approach and landing. The safety board also stated that, "... it appears that the pilot made up his mind to land the aircraft and no amount of instruction from the control tower could keep him from that goal." The pilot's operation of the aircraft was characterized as reckless.

C. Conclusion. While there is no regulatory definition of the term, "reckless," it has been defined in cases investigated and decided by aviation safety boards. A reckless operation results from the operation of an aircraft conducted with a deliberate or willful disregard of the regulations or accepted standards of safety so as to endanger the life or property of another,

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either potentially or actually. Accordingly, any such reckless behavior violates GACAR § 91.17.

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Section 2. Airworthy Or Un-Airworthy Aircraft

13.5.2.1. AIRWORTHY OR UN-AIRWORTHY. General Authority of Civil Aviation Regulation (GACAR) Part 1 defines “Airworthy” to mean that the aircraft conforms to its type design and is in a condition for safe operation. A clear understanding of this meaning is an essential tool for General Authority of Civil Aviation (GACA) aviation safety inspectors (Inspectors) when administering the GACA compliance program.

A. Regulatory Background. Airworthiness is a concept that represents the substance of two of the most fundamental safety regulations, GACAR §§ 43.23(a) and 91.7(a).

- 1) GACAR § 43.23(a) states that each person performing an inspection required by GACAR Part 91, 125, 133 or 135, must perform the inspection so as to determine whether the aircraft, or portion(s) thereof under inspection, meets all applicable airworthiness requirements.
- 2) GACAR § 91.7(a) states that no person may operate a civil aircraft unless it is in an airworthy condition.

B. Safety Board Decisions. The example below clearly expresses the view that an aircraft is airworthy only if it is capable of a safe operation and it conforms to its type certificate.

- 1) A pilot damaged the propeller of an aircraft when he inadvertently taxied the aircraft on an uneven surface, thus causing the propeller to strike the ground. After viewing the damage, the pilot chose to restart the engine, and when it appeared to run smoothly without noticeable vibration or other indications of malfunction, continued to fly the aircraft to multiple destinations.
- 2) After a subsequent investigation revealed the damage and the violation, a safety board hearing examiner held that the damage to the propeller caused it to be un-airworthy and sustained the allegation that the respondent had violated GACAR § 91.7(a). The

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examiner's findings were based on the theory that an aircraft is airworthy if it conforms to its type certification; but that it is not airworthy if its original design and specifications are altered without GACA approval.

3) The concept of airworthiness expressed in this case should be considered to be the correct one because it is the one which best lends itself to effective enforcement of non-compliance. It is supported clearly by some safety board precedents and is reinforced by the framework of the GACARs and the practical operation of the GACA itself. With safety being a subjective value, the concept that an aircraft need only be capable of safe operation to be airworthy cannot be applied effectively because it places too much discretion in the hands of the individual pilot or mechanic.

C. Additional Interpretations. A careful study of the GACARs indicates that the term airworthiness should be interpreted in the manner that it has been in the example above.

1) GACAR Part 21 states that the registered owner of any aircraft may file an application for an airworthiness certificate. If the GACA finds that the aircraft conforms to the type certificate for that aircraft and determines, after inspection, that the aircraft is in condition for safe flight, the GACA issues the airworthiness certificate.

2) The regulations clearly establish that two tests be applied in determining whether the owner of an aircraft should be granted an airworthiness certificate. First, the aircraft must conform to the type certificate for that aircraft. Then, if that condition is met, the aircraft must be inspected to determine that it is in a condition which will permit its safe operation.

3) The very term "airworthiness certificate" implies that an aircraft granted such a certificate is "airworthy." Therefore, an aircraft denied such a certificate is implied to not be airworthy. The intended meaning is that an aircraft should not be considered for the issuance of an airworthiness certificate unless it conforms to the type certificate applicable to it. Therefore, it follows that GACAR Part 21 established the concept of airworthiness to mean, "... to be in conformance with the applicable type certificate as well as to be in a condition for safe operation ..."

4) The practical operation of the GACA should also be considered in determining which concept of airworthiness is most appropriate. If the term airworthy were interpreted to mean only to be in a condition for safe flight, at times it would be unreasonably difficult if not

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impossible to enforce the regulations which are based upon the meaning of that term. In order to prove that a pilot operated an un-airworthy aircraft or that a mechanic certified an un-airworthy aircraft as airworthy, the GACA might sometimes be required to undertake an extensive test flight program of an aircraft that did not conform to the applicable type certificate.

5) Moreover, if airworthy meant only to be in a condition for safe flight, it could render the entire airworthiness certification procedure meaningless. GACAR Part 21 provides for the issuance of a type certificate—a certificate that includes the type design as dictated by the type certification data in the aircraft’s operating limitations and any other conditions or limitations prescribed in the applicable regulations. GACAR Part 21 specifies that the type certificate is to be referred to in determining whether an aircraft should be granted an airworthiness certificate. However, if an aircraft need only be capable of safe flight to be considered airworthy, then after the original airworthiness certificate is issued, any mechanic could modify a particular aircraft in any manner that pleased the mechanic and the aircraft would be presumed to be airworthy unless the GACA could prove that the modification was in some way detrimental to the aircraft’s flight characteristics or structural strength.

D. Conclusion. To be airworthy, an aircraft must conform to its type certificate as well as be in a condition for safe operation. However, if this concept of airworthiness is to be applied effectively in enforcement cases, the evidence should clearly demonstrate that the aircraft was not in a condition for safe operation.

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Section 3. Deviations Resulting From Emergencies

13.5.3.1. DEVIATIONS RESULTING FROM EMERGENCIES. General Authority of Civil Aviation Regulation (GACAR) §§ 135.587 and 121.1129 require that a notification be sent to the President concerning any deviation an air operator has made from the GACARs as a result of an emergency. Each report of an emergency deviation from the GACARs that involves an air operator will be investigated to determine if corrective action is necessary. A shared responsibility exists between the GACA and air operators. Air operators and their crew members will not be permitted to use the emergency provisions of the GACARs as an excuse for failing to comply with a regulation. On the other hand, aviation safety inspectors (Inspectors) must be cautious and ensure that an atmosphere does not develop in which a crew member would hesitate to declare an emergency for fear of being unfairly criticized after the aircraft is safely on the ground. The investigation should include a determination as to whether the air operator and the flight crew were in compliance with such items as operations specifications, company procedures, and checklists. If a determination is made that the air operator and the flight crew performed properly, an enforcement action should not be initiated as a result of the deviation. If the emergency was caused by the air operator's or the airman's incompetence or disregard for a specific GACAR, the Inspector should follow the guidance provided in GACAR Part 13.

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Section 4. Violation of Multiple Crew Members

13.5.4.1. NON-COMPLIANCES THAT INVOLVE MULTIPLE CREW MEMBERS. If several crew members are investigated as a result of non-compliances involving operations of aircraft requiring multiple crew members, General Authority of Civil Aviation (GACA) aviation safety inspectors (Inspectors) should ensure that enforcement actions are taken against the proper crew member. The air operator's manuals should be reviewed to determine the specific duties and responsibilities of individual crew members. If the air operator's manuals are ambiguous, the Inspector should ensure that the operator's manuals are changed. By referring to the wording of a General Authority of Civil Aviation Regulation (GACAR), the investigating Inspector may be able to identify a particular crew member as being culpable. The Inspector will open separate investigation files for each crew member suspected of being in violation of the GACARs.

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Section 5. System Wide Violations

13.5.5.1. SYSTEM WIDE VIOLATIONS. A system wide non-compliance involves multiple occurrences of non-compliance of the same General Authority of Civil Aviation Regulation (GACAR) by one or more air operators. General Authority of Civil Aviation (GACA) aviation safety inspectors (Inspectors) should be aware that if multiple occurrences of non-compliance of the same regulation are occurring either by the same air operator or by more than one air operator, a misunderstanding of the regulation may be the cause rather than a deficiency in the air operator's system. If an Inspector's investigation reveals that non-compliance involves more than one air operator and that it is due to a misunderstanding of the GACARs, the Inspector should provide the air operators with the correct interpretation of the subject GACAR. After providing the correct interpretation of the GACAR, the Inspector should advise the air operators in writing that any continued non-compliance may result in enforcement action. Inspectors may identify non-compliance as being system wide if the non-compliance is characterized as having either of the following:

- Repetitive acts of non-compliance by the air operator
- A single act, error, or omission which, in the Inspector's opinion, may indicate widespread non-compliance with the GACARs or with the air operator's procedures (Such occurrences may be brought to the Inspector's attention during the initial investigation.)

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Section 6. Grounding of an Operator's Aircraft

13.5.6.1. GACA ACTIVITY REPORT (GAR).

A. 3350 (AW)

13.5.6.3. OBJECTIVE. This section provides guidance for grounding an aircraft under the provisions of the General Authority of Civil Aviation Regulations (GACARs).

13.5.6.5. GENERAL.

A. An aviation safety inspector (Inspector) will seldom have to impose the emergency aircraft grounding provision described in GACAR § 13.105(b). The knowledge that the Inspector has this authority and is not reluctant to use it is usually sufficient to cause an operator to take the necessary corrective actions.

B. An Inspector must be able to substantiate a grounding action with factual justification of an unsafe condition. The grounding notice must not be issued unless it is clear to the inspector that, if operated in this condition, the aircraft would be subject to the probable danger of accident and likely to cause injury/damage to persons or property.

13.5.6.7. INSPECTOR RESPONSIBILITY. An Inspector who becomes aware of an unsafe condition in an aircraft that is being operated or about to be operated and fails to act under the provisions of GACAR § 13.105 is in dereliction of duty. This duty is placed specifically by the President upon the Inspector. If the Inspector, after due consideration, still has any doubts regarding whether or not to ground the aircraft, the grounding notice should be issued.

13.5.6.9. PREREQUISITES AND COORDINATION REQUIREMENTS.

A. Prerequisites.

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- Qualification as an Airworthiness Inspector
- Knowledge of GACAR Part 13, Subpart F

B. Coordination. This task will require coordination between the Inspector and management in Flight Operations and Airworthiness divisions.

13.5.6.11. REFERENCES, FORMS, AND JOB AIDS.

A. References.

- All applicable GACAR parts

B. Forms. None.

C. Job Aids.

- Figure 13.5.6.1, Aircraft Grounding Form.

13.5.6.13. PROCEDURES.

A. Determine Extent of Problem. In order to issue the grounding notice, the Inspector must reach the following conclusions:

- The aircraft is not in a condition for safe operation
- The operator intends to put the aircraft into service in that unsafe condition
- This unsafe condition constitutes a hazard to persons and/or property

B. Consult With the GACA Director, Flight Operations Division and/or Director, Airworthiness Division (if time permits). This coordination must not interfere with any immediate action necessary to ground an unsafe aircraft that is expected to operate.

- 1) Before notifying an operator that an aircraft is being grounded temporarily, the Inspector may, if circumstances permit, consult by phone with their supervisor.

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2) If the Inspector performing the task is not the principal inspector (PI) assigned to the operator, the Inspector should consult with that individual, time permitting.

C. Notify Appropriate Personnel That the Aircraft is Grounded.

1) Immediately after discovering the unsafe condition, verbally notify the pilot in command or other operator personnel who have the authority to keep the aircraft on the ground, of the following:

- a) The aircraft cannot be operated until the unsafe condition is corrected.
- b) The reasons for the grounding action.
- c) That necessary precautions must be taken to ensure that the aircraft is not operated.
- d) The Inspectors emergency authority in GACAR § 13.105(b).

2) In the event that the operator's representative insists upon written notification of the grounding as a prerequisite to taking the aircraft out of service, provide a letter containing as much information as possible.

D. Debrief the Directors. Provide details of the grounding to the Manager, Flight Operations Division and Manager, Airworthiness Division.

E. Ensure That Written Notification is Received by the Appropriate Operator Personnel. Obtain a receipt for the written notification. The word "received," date, and signature of an operator representative on a copy of the notification is sufficient.

F. Determine if Violation Action is Necessary. If the unsafe condition was a result of failure to comply with the GACAR, initiate compliance enforcement action in accordance with established procedures.

13.5.6.15. TASK OUTCOMES.

A. Complete the GAR.

B. Confirm Verbal Grounding in Writing. As soon as possible, confirm the verbal grounding

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in writing. Include the following information:

- 1) Time and date when verbal grounding notification was given.
- 2) Person(s) to whom verbal grounding notification was given.
- 3) A statement of unsafe condition(s) that caused the grounding action.
- 4) A statement that GACAR § 13.105(b) was used as authority for the grounding action.
- 5) A statement that the grounding period began when the inspector first verbally notified the operator.

C. File Copies.

- 1) Forward copies of the written grounding confirmation to the Manager, Flight Operations Division and Manager, Airworthiness Division.
- 2) Provide the details of the grounding and a copy of the grounding confirmation to the operator's assigned PIs, when applicable.

D. Document Task. File all supporting paperwork in the operator's office file.

13.5.6.17. FUTURE ACTIVITIES.

A. Inspector.

- 1) Closely follow the action taken by the operator to correct the unsafe condition. If the condition is corrected and the aircraft is made safe for operation, notify the operator in writing that the aircraft may now be operated.
- 2) If the unsafe condition is not corrected, and there is good reason to expect the operator will operate the aircraft, inform the Director of this situation. Request that a formal order be issued by the President suspending or revoking the Airworthiness Certificate. This action should be initiated in time to allow such an order to be issued prior to any further operation of the aircraft.

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3) If there is a belief that the operator will contest the grounding action, GACA senior management should be informed promptly of the conditions and circumstances involved.

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Figure 13.5.6.1. Aircraft Grounding Form

NOTICE OF AIRCRAFT AIRCRAFT GROUNDING

THIS TO INFORM YOU THAT AIRCRAFT MAKE _____, MODEL _____, SERIAL # _____,

AIRCRAFT REGISTRATION HZ- _____ IS FOUND TO BE UNSAFE FOR OPERATION DUE TO THE FOLLOWING CONDITION:

AS A RESULT OF THIS UNSAFE CONDITION AND DUE TO THE FACT THAT _____ INTENDS TO OPERATE HZ- _____ IN SERVICE, THE GACA EXERCISES THE EMERGENCY GROUNDING AUTHORITY OF GACAR § 13.105(b).

VERBAL NOTIFICATION OF THE EMERGENCY GROUNDING OF HZ- _____ HAS BEEN GIVEN TO (NAME) _____, ON (DATE) _____ AT (TIME) _____ UNDER THE EMERGENCY PROVISIONS OF GACAR § 13.105(b).

AIRCRAFT HZ- _____ IS GROUNDED AND CANNOT NOT BE USED UNLESS FOUND BY THE PRESIDENT TO BE IN A CONDITION FOR SAFE OPERATION. THE EMERGENCY GROUNDING STARTED AT THE TIME OF THE VERBAL NOTIFICATION BEING GIVEN.

GENERAL AUTHORITY OF CIVI AVIATION, SAFETY, SECURITY AND AIR TRANSPORT SECTOR

AVIATION SAFETY INSPECTOR: _____

RECEIVED BY (NAME): _____

OPERATOR NAME: _____

DATE: _____

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Section 7. Part 129 Compliance

13.5.7.1. COMPLIANCE AND ENFORCEMENT. The General Authority of Civil Aviation (GACA) compliance enforcement program is designed to promote compliance with GACA statutory and regulatory requirements (the General Authority of Civil Aviation Regulations (GACARs)). The ultimate goal of GACA's compliance enforcement policy is to prevent incidents, accidents, and the occurrence of regulatory violations. This goal is primarily achieved with respect to foreign air carriers through surveillance of the foreign air carrier during their operations within the Kingdom of Saudi Arabia (KSA) and through technical assistance and consultations with the foreign air carrier's Civil Aviation Authority (CAA). As with all KSA air operators operating under GACAR Parts 121 or 135, the GACA encourages voluntary compliance of the GACARs by foreign air carriers.

A. Enforcement Options. The compliance and enforcement program provides several options for addressing non-compliance. In addition to referring apparent violations to foreign governments for appropriate handling, options include administrative action in the form of a warning notice, remedial certificate actions in the form of the suspension or revocation of authorizations penalties, injunctions, and in extreme cases, referrals for criminal prosecution.

B. Actions. When violations occur, GACA aviation safety inspectors (Inspectors) must take the action that best promotes safety and compliance with the regulations. GACA Inspectors should determine what action to take by evaluating the seriousness and safety risk imposed by the non-compliance. The GACA Compliance Enforcement Program provides a description of the authority, responsibilities, policies, guidelines, procedures, objectives, and legal aspects available to Inspectors when considering actions against a foreign air carrier.

1) Actions taken against a foreign air carrier may be affected by the procedural requirements of a bilateral air transport agreement. Before taking such actions, the standard language in most bilateral air transport agreements may require the GACA to consult with the State of Operator of the foreign air carrier.

2) During such consultations, the GACA advises the foreign government of how the

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foreign air carrier is not complying with the applicable GACA safety standards and requirements and provides an opportunity for corrective actions to be taken within a reasonable time.

3) The GACA should also provide this information to the foreign air carrier involved. However, the standard agreement language may also provide for exceptions to the general consultation requirement.

4) Consultations are not required when the action to be taken is essential to prevent further non-compliance with KSA law, the GACARs, or with the minimum international standards applicable to the operations of the foreign air carrier.

NOTE: Earlier versions of bilateral air transport agreements between the KSA and foreign governments may not contain these same provisions and in some cases, the process to revoke, suspend, or limit the operating authorizations or technical permissions of an airline is not discussed. However, it is GACA policy that the same process be used for all foreign air carriers.

C. Field Responsibilities. Because consultations may be required when a significant action is taken against a foreign air carrier, Inspectors must thoroughly coordinate these cases with their supervisor and other GACA senior management before taking such action. For emergency cases requiring immediate action, Inspectors should provide information on the proposed action to their supervisor at the same time the action is being taken. This coordination process will also allow for a more effective response to the broad public attention that such actions may draw.

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CHAPTER 6. ACCIDENTS AND INCIDENTS

Section 1. Coordination of Aviation Occurrence Investigations with the AIB

13.6.1.1. GACA ACTIVITY REPORT (GAR).

- A. 1702 (OP) (Accidents)
- B. 1711 (OP) (Incidents)
- C. 3702 (AW) (Accidents)
- D. 3711 (AW) (Incidents)

13.6.1.3. INVESTIGATION RESPONSIBILITIES. Aviation occurrences may involve any accident or incident associated with the operation of an aircraft or any situation or condition that could, if left unattended, induce an accident or incident. The Aviation Investigation Bureau (AIB) has been given the powers and a duty to conduct investigation of aviation occurrences, to determine causes/contributing factors of aviation occurrences, to make aviation safety recommendations and to prepare the final report. The AIB is an independent organization which reports to the Chairman of the Board of Directors of the General Authority of Civil Aviation (GACA).

Occasionally, personnel from the Aviation Standards and Environmental Sustainability (AVSES) Sector may be requested to assist in the investigation of an aviation occurrence conducted by the AIB; however, GACA's participation, other than providing technical assistance to the AIB, is limited to fact finding and information reporting under the direction of the AIB Investigator-in-Charge (IIC).

13.6.1.5. COORDINATION REQUIREMENTS. The AIB may request the assistance of GACA AVSES aviation safety inspectors (Inspectors) during its investigation of an aviation occurrence. This task will require coordination with the GACA AVSES management and the AIB Investigator In Charge (IIC), as applicable. See paragraph 13.6.9.B for coordination guidance when participating in an AIB investigation.

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13.6.1.7. REFERENCES, FORMS AND JOB AIDS.

A. References:

- Aviation Investigation Bureau Regulation (Third Edition – 27th Jan 2022).

NOTE: All Inspectors must be familiar with investigation procedures and processes used by the AIB during the investigation of aviation occurrences.

B. Job Aids. None.

13.6.1.9. GENERAL.

A. Definitions.

NOTE: See GACAR Part 1 and the Aviation Investigation Bureau Regulation for a completed list of definitions relevant to accidents, incidents and aviation investigations.

For the purposes of this chapter, the following definitions apply:

- 1) *Accredited Representative* means a person designated by a State, on the basis of his 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.
- 2) *Advisor* means a person appointed by a State, on the basis of his qualifications, for the purpose of assisting its Accredited Representative in an investigation.
- 3) *Investigator-in-charge (IIC)* means a person designated by the Director of Investigations of the AIB, on the basis of the person's qualifications, with the responsibility for the organization, conduct, control and overall management of an aviation occurrence investigation. The IIC has the responsibility and the authority to supervise and coordinate all resources and activities of all personnel involved in the on-site investigation and throughout all the phases of the investigation, up to and including consideration and adoption of the Final Report.
- 4) *Participant* means a person invited by the AIB to attend an investigation because, in the

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opinion of the AIB, the person has a direct interest in the subject-matter of the investigation and will contribute to achieving the AIB's objective. Participants also include the Accredited Representatives and Advisors.

5) *Representative (of the President)* means a person assigned by the GACA AVSES Safety and Risk Management Department to an aviation occurrence investigated by the AIB for the purpose of gathering information aimed at the prevention of future aviation occurrences. The Representative will not be a Participant to the investigation.

13.6.1.11. AUTHORITIES AND RESPONSIBILITIES.

A. Aviation Investigation Bureau (AIB). The AIB is the sole entity within the Kingdom of Saudi Arabia (KSA) authorized to investigate aviation occurrences. The AIB is responsible for conducting investigations into each aircraft accident within the KSA and is the organization assigned to execute the KSA's responsibilities under the International Civil Aviation Organization (ICAO) Convention, Annex 13, Aircraft Accident and Incident Investigation. The products of an AIB investigation are the conclusions, which include both the cause related findings/contributory factors and other findings, and, as appropriate, safety recommendations. Safety deficiencies that become known during an AIB investigation, for which prompt preventative action is required, will be disclosed immediately to all concerned parties and authorities as stand-alone recommendations. The AIB has the overall responsibility to develop policy and procedural instructions for accident investigation and reporting. As part of its accident and incident investigation duties, the AIB does the following:

- Serves as focal point for the KSA in coordination with the public, aviation industry, military, foreign governments, and representatives of accident investigation interests on those matters under the direct purview of the AIB;
- Apprises GACA on safety issues and programs related to accident and incident investigation findings;
- Develops, coordinates, manages, evaluates, and executes the Kingdom of Saudi Arabia's aviation accident investigation program policies, procedures, and practices; and
- Identifies and provides the IIC for accident and incident investigations

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1) *The AIB Final Report.* Upon completion of all phases of the investigation and receipt of all group reports, the IIC will be responsible for preparing the Final Report in the format defined by ICAO Annex 13 and in accordance with the report standards found in the ICAO Publication – Reporting Part IV (Doc 9756). AIB safety recommendations issued as a result of an aviation occurrence investigation normally include rulemaking actions, recommended Airworthiness Directives (AD), and revisions of policies, standards, and procedures.

2) *Distribution of the AIB Final Report.* The assigned Representative of the Safety Department to an aviation occurrence is responsible for ensuring that copies of the Final Report approved by the Chairman of the GACA Board of Directors are disseminated to GACA management and to the responsible areas of GACA AVSES for resolution of safety and compliance deficiencies.

B. GACA AVSES Responsibilities. The GACA AVSES has oversight responsibilities for all activities regulated under the GACAR, including airmen, aircraft, aerodromes, air operators, air agencies and air navigation services. The AIB may require that the GACA AVSES provide a Participant in an aviation occurrence investigations conducted by the AIB. When an Inspector from the GACA AVSES is formally requested by the AIB to participate in, assist in, or otherwise engage in an aviation occurrence investigation as a Participant that Inspector will use processes, procedures, and guidance published by the AIB. The Inspector will assist the AIB as directed by the IIC and also serves to determine whether any of the GACA AVSES's areas of responsibility may have had any bearing on the occurrence. Inspectors will use their participation in the investigation to determine whether actions must be taken to develop resolutions to any identified safety deficiencies.

1) *Responsibility for Accident Investigation within GACA AVSES.* The GACA AVSES has no authority to investigate aviation occurrences. However; the GACA AVSES has established the Safety Department with responsibilities, in part, for evaluating the AIB recommendations addressed to the GACA AVSES in order to develop effective preventive actions to avoid future occurrences. When assisting the AIB during an investigation, the assisting Inspector's function, other than performing his assigned AIB tasks, is to gather for the GACA AVSES all pertinent information from the investigation that can help them prevent future aviation occurrences.

2) *Response Team.* Once notified by the AIB of the need for assistance with the investigation of an aviation occurrence of national or international attention, GACA

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AVSES involvement with the AIB will normally be handled by a GACA Inspector who is able to travel with a response team formed by the AIB IIC. The assigned GACA Inspector shall coordinate immediately with the IIC for his assignments and tasks.

3) *Special Circumstances*. Inspectors may encounter special circumstances while participating in an accident or incident investigation. Assigned Inspectors should consult with the IIC and with their supervisor should they encounter any circumstance in which there is a question concerning the GACA AVSES's responsibility or authority while participating in the investigation.

C. Other Parties. In addition to the possible inclusion of the GACA AVSES Inspector, the AIB may allow other parties to participate in the investigation of an aviation occurrence. It should be noted that the AIB has complete discretion over which organizations it designates as Participants to the investigation. Only those organizations or corporations that can provide expertise to the investigation are granted participant status and only those persons who can provide the AIB with needed technical or specialized expertise are permitted to serve on the investigation. Examples of Participants that may be permitted are: Accredited Representative and Advisors from involved States, operator safety personnel, manufacturing representatives, and as well as others. Persons in legal or litigation positions are not allowed to be assigned to the investigation. All Participants report to the IIC. All personnel involved with the investigation of the aviation occurrence should be aware of the purposes of the other Participants and their teams in order to establish communication channels for obtaining and exchanging information and to insure that all instructions, procedures, and actions established by the IIC are fully met.

D. Notification Procedures. All reportable aviation occurrences require immediate notification to the AIB. See the Aviation Investigation Bureau Regulation for definitions, reporting procedures, and contact information.

E. Release of Information. Participants to an aviation occurrence investigation should be reminded that only the AIB may publicly release information during and after the investigation, to include the final determinations. This does not prevent Participants from providing factual information that is pertinent to their organization after it has been approved by the IIC.

13.6.1.13. GACA VSES REPRESENTATIVE.

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A. Background. Article 3.3 (d) of the Aviation Investigation Bureau Regulation stipulates that for investigations conducted by the AIB, a representative from the GACA may be assigned to participate in the investigation under the authority of the IIC.

B. Purpose. The purpose of the assignment of a Representative is to gather information aimed at the prevention of future aviation occurrences.

NOTE: As provided in Article 5.2 of the Aviation Investigation Bureau Regulation, any report issued under the Aviation Investigation Bureau Regulation or any evidence collected by the AIB during an investigation is expressly inadmissible as evidence and may not be used or referred to in any related judicial proceedings.

1) It is important to note that when participating in AIB investigations there may be times when the GACA AVSES needs additional information not required by the AIB. For example, if, as the result of an investigation it is determined that remedial compliance enforcement action may need to be taken, the Inspector must gather sufficient evidence to be able to prove the allegation, even though the evidence might not be required by the AIB to determine the contributing factors to the aviation occurrence. In gathering that evidence, the Inspector will coordinate with the IIC in a manner that the actions taken do not interfere with the AIB investigation.

2) When Inspectors, not participating in an AIB investigation, collect evidence for use to investigate a certificate holder there must be no question in the mind of the witness or person from whom the evidence is being requested that the Inspector is not a Participant in the AIB investigation and is not working under the direction of the AIB.

NOTE: ALL WITNESS INTERVIEWS/STATEMENTS, WHEN GATHERED BY THE AIB, WILL BE WRITTEN ON AIB FORMS. THIS INFORMATION, WHEN GATHERED BY THE AIB, IS PRIVILEGED INFORMATION AND CANNOT BE RELEASED, OR USED IN ANY JUDICIAL PROCEEDINGS TO APPORTION BLAME OR LIABILITY.

C. Areas of Responsibility. The GACA AVSES Representative review must determine whether or not the following were a factor in the accident:

- The performance of GACA owned or operated facilities or functions (this could include aerodromes, air navigation services or security);

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- The performance of non GACA owned and operated facilities or Navigational Aids (NAVAID);
- The airworthiness of aircraft certificated under GACAR Part 21;
- The competency of airmen, aircraft operators or air agencies certificated under the GACARs;
- The GACARs were adequate;
- The airman medical qualifications were involved; or
- There was a violation (or possible violation) of the GACARs

13.6.1.15. PRINCIPAL INSPECTOR (PI) NOTIFICATION AND INVOLVEMENT. Principal inspectors (PIs) assigned to a certificate holder involved in an accident should be available to the Inspector participating in the AIB investigation as soon as possible after notification of the accident.

NOTE: If possible, a PI should not be assigned as a Participant on a AIB investigation involving that PI's assigned certificate holder.

13.6.1.17. COMPLIANCE ENFORCEMENT. The GACA's compliance and enforcement program is designed to promote compliance with regulatory requirements. Depending on the severity of the noncompliances identified during an investigation, GACA AVSES must take the action most appropriate to promote future safety and compliance with the regulations. The initial priority of GACA AVSES is to correct any ongoing noncompliance that has been identified, either through surveillance, a report, or as a result of an investigation or review. Many options are available to the Inspector for addressing noncompliances to address the many factors that must be evaluated in taking such action. See the Chapter 3 of this volume for additional information concerning the GACA Compliance Enforcement Program and for guidance for taking any remedial compliance enforcement action.

13.6.1.19. SAFETY PRECAUTIONS AT AN AIRCRAFT ACCIDENT SITE. Aircraft wreckage sites may expose investigators to certain risks, including biohazards, airborne hazards, adverse terrain and adverse climatic conditions. Personnel involved in the recovery, examination, and documentation of wreckage may be exposed to physical hazards from such things as hazardous cargo,

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flammable or toxic materials and vapors, sharp or heavy objects, pressurized equipment, and disease. The IIC has full authority over the accident site and only authorized personnel will be allowed to enter the accident site. The IIC will also ensure through coordination with the Fire & Rescue Services (FRS), that the accident site is secured and safe prior to authorizing any investigation team member to enter the accident site. All team members should be advised to be on the alert for any undeclared hazardous material and, if such material is found, should immediately notify a group chairman or the IIC so that appropriate measures can be taken. Those who work in or around the wreckage must use extreme caution to minimize direct contact with blood borne viruses. As a minimum, heavy leather work gloves over non-permeable rubber gloves should be used and in some case will be required when touching the wreckage. Under certain conditions, such as within the wreckage where investigators may come into contact with blood or human remains, full face masks, protective goggles, and disposable overalls and booties shall be worn. Protective biohazard suits will be mandatory in these conditions. When blood-borne pathogens/viruses are suspected to be present at an accident site, all GACA AVSES personnel acting as Participants into the investigation will be required to demonstrate to the IIC that they have received the proper inoculations prior to being authorized to enter the accident site.

13.6.1.21. FUTURE ACTIVITIES. Conduct a violation investigation, if required.

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CHAPTER 7. PETITIONS FOR RECONSIDERATION AND APPEALS

Section 1. TBD

NOTE: This guidance to be developed at a later date.