



### Analysis of the Maintenance Provisions of the Final FAA Modernization & Reform Act

On February 14, 2012, President Obama signed a new, four-year FAA authorization law. This analysis of the key provisions of the FAA Modernization & Reform Act affecting maintenance providers was prepared by the Aeronautical Repair Station Association. For more information about these issues, please contact ARSA’s Vice President of Legislative Affairs Daniel Fisher at [daniel.fisher@arsa.org](mailto:daniel.fisher@arsa.org) or 703.739.9543.

Final FAA Modernization & Reform Act		
Provision	Exact Language	ARSA Analysis
<b>Sec. 308. Inspection of Repair Stations Located Outside the United States</b>	<p>(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish and implement a safety assessment system for all part 145 repair stations based on the type, scope, and complexity of work being performed. The system shall—</p> <ol style="list-style-type: none"> <li>(1) ensure that repair stations located outside the United States are subject to appropriate inspections based on identified risks and consistent with existing United States requirements;</li> <li>(2) consider inspection results and findings submitted by foreign civil aviation authorities operating under a maintenance safety or maintenance implementation agreement with the United States; and</li> <li>(3) require all maintenance safety or maintenance implementation agreements to provide an opportunity for the Administration to conduct independent inspections of covered part 145 repair stations when safety concerns warrant such inspections.</li> </ol>	<p>Within a year, the FAA is required to create a safety assessment system for part 145 repair stations, an initiative the FAA and ARSA have been working on for some time.</p> <p>The FAA has been working to adapt its “ATOS” to repair stations, which should result in a “safety” assessment.</p> <p>ARSA is helping the agency develop a “repair station preparedness” assessment for new repair stations that can be used to enhance the continued oversight of repair stations based upon original readiness, types of ratings, work and size.</p>

**Final FAA Modernization & Reform Act**

Provision	Exact Language	ARSA Analysis
	<p>(b) NOTICE TO CONGRESS OF NEGOTIATIONS.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than 30 days after initiating formal negotiations with foreign aviation authorities or other appropriate foreign government agencies on a new maintenance safety or maintenance implementation agreement.</p>	<p>The law requires the FAA to notify congressional authorizing committees after commencing negotiations on new maintenance safety or implementation agreements.</p>
	<p>(c) ANNUAL REPORT.—The Administrator shall publish an annual report on the Administration's oversight of part 145 repair stations and implementation of the safety assessment system required under subsection (a). The report shall—</p> <ol style="list-style-type: none"> <li>(1) describe in detail any improvements in the Administration's ability to identify and track where part 121 air carrier repair work is performed;</li> <li>(2) include a staffing model to determine the best placement of inspectors and the number of inspectors needed;</li> <li>(3) describe the training provided to inspectors; and</li> <li>(4) include an assessment of the quality of monitoring and surveillance by the Administration of work performed by its inspectors and the inspectors of foreign authorities operating under a maintenance safety or maintenance implementation agreement.</li> </ol>	<p>The FAA is required to submit a report on the progress and certain aspects of the safety assessment system.</p>
	<p>(d) ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM REQUIREMENTS.—</p> <ol style="list-style-type: none"> <li>(1) IN GENERAL.—The Secretary of State and the Secretary of Transportation, acting jointly, shall request the governments of foreign countries that are members of the International Civil Aviation Organization to establish international standards for alcohol and controlled substances testing of persons that perform safety-sensitive maintenance functions on commercial air carrier aircraft.</li> </ol>	<p>The International Civil Aviation Organization (ICAO) currently recommends drug and alcohol testing of safety-sensitive employees, but does not require testing. ARSA supports working through ICAO for any broad changes to the aviation industry.</p>

**Final FAA Modernization & Reform Act**

Provision	Exact Language	ARSA Analysis
	<p>(2) APPLICATION TO PART 121 AIRCRAFT WORK.—Not later than 1 year after the date of enactment of this section, the Administrator shall promulgate a proposed rule requiring that all part 145 repair station employees responsible for safety-sensitive maintenance functions on part 121 air carrier aircraft are subject to an alcohol and controlled substances testing program determined acceptable by the Administrator and consistent with the applicable laws of the country in which the repair station is located.</p>	<p>This section contains ARSA supported and suggested language that respects national sovereignty and BASAs.</p> <p>The FAA is to issue a proposed rule requiring all part 145 repair station employees responsible for safety-sensitive functions on part 121 air carrier aircraft be subject to a drug and alcohol program acceptable to the Administrator and consistent with the laws of the repair station’s country.</p> <p>Importantly, the law does not require that individuals be subject to the DOT drug and alcohol testing program, a requirement from prior FAA reauthorization proposals.</p> <p>In addition, the provision respects the applicable laws of the country in which a repair station is located when determining if the facility’s drug and alcohol testing program is acceptable, a top ARSA priority.</p>

**Final FAA Modernization & Reform Act**

<b>Provision</b>	<b>Exact Language</b>	<b>ARSA Analysis</b>
	<p>(e) ANNUAL INSPECTIONS.—The Administrator shall ensure that part 145 repair stations located outside the United States are inspected annually by Federal Aviation Administration safety inspectors, without regard to where the station is located, in a manner consistent with United States obligations under international agreements. The Administrator may carry out inspections in addition to the annual inspection required under this subsection based on identified risks.</p>	<p>The law codifies current FAA policy requiring that foreign repair stations be inspected annually by FAA safety inspectors in a manner consistent with BASAs. It also ensures the FAA can carry out additional inspections based on identified risk. The FAA need not perform duplicative inspections in areas where there are BASAs in place.</p> <p>This provision is a significant improvement over past reauthorization proposals that would have required biannual inspections of <u>all</u> repair stations, regardless of international agreements.</p>
<p><b>Sec. 319. Maintenance Providers</b></p>	<p>(a) REGULATIONS.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations requiring that covered work on an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, be performed by persons in accordance with subsection (b).</p>	<p>Within three years, the FAA is to issue regulations limiting who can perform certain maintenance on a part 121 aircraft.</p>

**Final FAA Modernization & Reform Act**

Provision	Exact Language	ARSA Analysis
	<p>(b) PERSONS AUTHORIZED TO PERFORM CERTAIN WORK.—A person may perform covered work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, only if the person is employed by—</p> <ul style="list-style-type: none"> <li>(1) a part 121 air carrier;</li> <li>(2) a part 145 repair station or a person authorized under section 43.17 of title 14, Code of Federal Regulations (or any successor regulation); or</li> <li>(3) subject to subsection (c), a person that— <ul style="list-style-type: none"> <li>(A) provides contract maintenance workers, services, or maintenance functions to a part 121 air carrier or part 145 repair station; and</li> <li>(B) meets the requirements of the part 121 air carrier or the part 145 repair station, as appropriate.</li> </ul> </li> </ul>	<p>The law prohibits contracting covered work to a person certificated under part 65 <u>unless</u> that person is employed by an air carrier, repair station or a company contractor. The law takes into account the BASA with Canada.</p>
	<p>(c) TERMS AND CONDITIONS.—Covered work performed by a person who is employed by a person described in subsection (b)(3) shall be subject to the following terms and conditions:</p> <ul style="list-style-type: none"> <li>(1) The applicable part 121 air carrier shall be directly in charge of the covered work being performed.</li> <li>(2) The covered work shall be carried out in accordance with the part 121 air carrier’s maintenance manual.</li> <li>(3) The person shall carry out the covered work under the supervision and control of the part 121 air carrier directly in charge of the covered work being performed on its aircraft.</li> </ul>	<p>When it comes to part 65 certificated workers, Congress mixed up the phrases “<u>directly in charge</u>” and working “<u>under the supervision and control</u>” of the air carrier.</p> <p>Therefore, ARSA believes the FAA will take the position that the current air carrier control and oversight will meet the requirements of this law.</p>

**Final FAA Modernization & Reform Act**

Provision	Exact Language	ARSA Analysis
	<p>DEFINITIONS.—In this section, the following definitions apply:</p> <p>(1) COVERED WORK.—The term “covered work” means any of the following:</p> <p>(A) Essential maintenance that could result in a failure, malfunction, or defect endangering the safe operation of an aircraft if not performed properly or if improper parts or materials are used.</p> <p>(B) Regularly scheduled maintenance.</p> <p>(C) A required inspection item (as defined by the Administrator).</p> <p>(2) PART 121 AIR CARRIER.—The term “part 121 air carrier” means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.</p> <p>(3) PART 145 REPAIR STATION.—The term “part 145 repair station” means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.</p>	<p>The terms “essential maintenance” and “required inspection item” has already been defined by the FAA in anticipation of this legal requirement.</p> <p>ARSA anticipates that the term “regularly scheduled maintenance” will become “heavy maintenance” rather than line checks and other daily or flight required inspections.</p>