



## Air Carrier Contract Maintenance Requirements Comparison

On February 2, 2009, Transportation & Infrastructure Committee Chairman James Oberstar introduced the FAA Reauthorization Act (H.R. 915). The proposal’s Sec. 310 was the first congressional attempt to mandate FAA regulations governing “non-certificated maintenance providers.” ARSA lobbied throughout the process and suggested [alternative language](#) to limit unintended consequences of congressional action. Meanwhile, the association also worked with its airline colleagues and the FAA on parallel changes to [OpSpec D091](#).

On Feb.14, 2012, following 23 short-term extensions of the prior FAA authorization law (VISION-100), President Obama signed a four-year FAA authorization law. The association scored a major victory with the legislation, as Congress adopted many ARSA-suggested and supported provisions, including clarifications to the “Maintenance Providers” section (Sec. 319). Sec. 319 mandated the FAA to issue regulations requiring that covered work on aircraft used to provide air transportation under part 121 be performed in accordance with the statute.

On November 13, 2012, the FAA released an [NPRM](#) on air carrier contract maintenance requirements. Based on the association’s regulatory expertise and legislative involvement, ARSA submitted comprehensive [comments](#) to the agency’s proposal. The FAA issued [final regulations](#) on March 4, 2015, a direct result of the reauthorization legislation. While ARSA alone was unable to prevent micromanagement in this area, the association’s suggested improvements helped to limit the final regulation’s impact.

### Side-by-Side Comparison of Sec. 310, FAA Reauthorization Act (H.R. 915) and Sec. 319, FAA Modernization & Reform Act (as enacted)

Sec. 310, FAA Reauthorization Act (H.R. 915)	Sec. 319, FAA Modernization & Reform Act ( <a href="#">P.L. 112-95</a> )
(a) Issuance of 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 all covered maintenance work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, be performed by individuals in accordance with subsection (b).	(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).
(b) Persons Authorized To Perform Certain Work- Covered maintenance work for a part 121 air carrier shall only be performed by—	(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>(1) an individual employed by the air carrier;  (2) an individual employed by another part 121 air carrier;  (3) an individual employed by a part 145 repair station; or  (4) an individual employed by a company that provides contract maintenance workers to a part 145 repair station or part 121 air carrier, if the individual--  (A) meets the requirements of the part 145 repair station or the part 121 air carrier;  (B) works under the direct supervision and control of the part 145 repair station or part 121 air carrier; and  (C) carries out the work in accordance with the part 121 air carrier's maintenance manual and, if applicable, the part 145 certificate holder's repair station and quality control manuals.</p> <p>(c) Plan--  (1) DEVELOPMENT- The Administrator shall develop a plan to--  (A) require air carriers to identify and provide to the Administrator a complete listing of all noncertificated maintenance providers that perform, before the effective date of the regulations to be issued under subsection (a), covered maintenance work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations;  (B) validate the lists that air carriers provide under subparagraph (A) by sampling air carrier records, such as maintenance activity reports and general vendor listings; and  (D) include surveillance and oversight by field inspectors of the Federal Aviation Administration for all noncertificated maintenance providers that perform covered maintenance work on aircraft used to provide air transportation in accordance with such part 121.  (2) REPORT TO CONGRESS- Not later than 6 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report containing the plan developed under paragraph (1).</p> <p>(d) Definitions- In this section, the following definitions apply:  (1) COVERED MAINTENANCE WORK- The term 'covered maintenance work' means maintenance work that is substantial,</p>	<p>(1) a part 121 air carrier;  (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  (3) subject to subsection (c), a person that--  (A) provides contract maintenance workers, services, or maintenance functions to a part 121 air carrier or part 145 repair station; and  (B) meets the requirements of the part 121 air carrier or the part 145 repair station, as appropriate.</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:  (1) The applicable part 121 air carrier shall be directly in charge of the covered work being performed.  (2) The covered work shall be carried out in accordance with the part 121 air carrier's maintenance manual.  (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.</p> <p>(d) Definitions.--In this section, the following definitions apply:  (1) Covered work.--The term 'covered work' means any of the following:  (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.  (B) Regularly scheduled maintenance.  (C) A required inspection item (as defined by the Administrator).  (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.  (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.  (4) Person.--The term 'person' means an individual, firm, partnership, corporation, company, or association that performs maintenance, preventative maintenance, or alterations.</p>
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regularly scheduled, or a required inspection item, as determined by the Administrator.

(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.

(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.

(4) NONCERTIFICATED MAINTENANCE PROVIDER- The term `noncertificated maintenance provider' means a maintenance provider that does not hold a certificate issued under part 121 or part 145 of title 14 Code of Federal Regulations.

(e) Authorization of Appropriations- There is authorized to be appropriated such sums as may be necessary for the Administrator to hire additional field safety inspectors to ensure adequate and timely inspection of maintenance providers that perform covered maintenance work.

**Side-by-Side Comparison of “Essential Maintenance” as Defined in OpSpec D091’s and the Air Carrier Contract Maintenance Requirements Final Rule**

<b>“Essential Maintenance” in OpSpec D091</b>	<b>§ 121.368 Contract Maintenance</b>
<p><i>Essential Maintenance</i> encompasses any on-wing accomplishment of any maintenance or alteration that the certificate holder has designated as a Required Inspection Item. <i>Essential Maintenance</i> is maintenance that would result in a failure effect that would endanger the continued safe flight and landing of the airplane if it was performed improperly or if improper parts or materials were used. <i>Essential Maintenance</i> includes the accomplishment of the Required Inspection itself. <i>Essential Maintenance</i> does not encompass any off wing maintenance.</p>	<p>(a) A certificate holder may arrange with another person for the performance of maintenance, preventive maintenance, and alterations as authorized in § 121.379(a) only if the certificate holder has met all the requirements in this section. For purposes of this section—</p> <ol style="list-style-type: none"> <li>(1) A maintenance provider is any person who performs maintenance, preventive maintenance, or an alteration for a certificate holder other than a person who is trained by and employed directly by that certificate holder.</li> <li>(2) Covered work means any of the following:               <ol style="list-style-type: none"> <li>(i) 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;</li> <li>(ii) Regularly scheduled maintenance; or</li> <li>(iii) A required inspection item on an aircraft.</li> </ol> </li> <li>(3) Directly in charge means having responsibility for covered work performed by a maintenance provider. A representative of the certificate holder directly in charge of covered work does not need to physically observe and direct each maintenance provider constantly, but must be available for consultation on matters requiring instruction or decision.</li> </ol> <p>(b) Each certificate holder must be directly in charge of all covered work done for it by a maintenance provider.</p> <p>(c) Each maintenance provider must perform all covered work in accordance with the certificate holder's maintenance manual.</p> <p>(d) No maintenance provider may perform covered work unless that work is carried out under the supervision and control of the certificate holder.</p> <p>(e) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must develop and implement policies, procedures, methods, and instructions for the accomplishment of all contracted maintenance, preventive maintenance, and alterations. These</p>

policies, procedures, methods, and instructions must provide for the maintenance, preventive maintenance, and alterations to be performed in accordance with the certificate holder's maintenance program and maintenance manual.

- (f) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must ensure that its system for the continuing analysis and surveillance of the maintenance, preventive maintenance, and alterations carried out by the maintenance provider, as required by § 121.373(a), contains procedures for oversight of all contracted covered work.
- (g) The policies, procedures, methods, and instructions required by paragraphs (e) and (f) of this section must be acceptable to the FAA and included in the certificate holder's maintenance manual as required by § 121.369(b)(10).
- (h) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must provide to its FAA Certificate Holding District Office, in a format acceptable to the FAA, a list that includes the name and physical (street) address, or addresses, where the work is carried out for each maintenance provider that performs work for the certificate holder, and a description of the type of maintenance, preventive maintenance, or alteration that is to be performed at each location. The list must be updated with any changes, including additions or deletions, and the updated list provided to the FAA in a format acceptable to the FAA by the last day of each calendar month.

3. Amend § 121.369 by adding paragraph (b)(10) as follows:  
§ 121.369 Manual requirements.

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(b) \* \* \*

(10) Policies, procedures, methods, and instructions for the accomplishment of all maintenance, preventive maintenance, and alterations carried out by a maintenance provider. These policies, procedures, methods, and instructions must be acceptable to the FAA and provide for the maintenance, preventive maintenance, and alterations to be performed in accordance with the certificate holder's maintenance program and maintenance manual.