



U.S. Department  
of Transportation  
Federal Aviation  
Administration

# Advisory Circular

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**Subject:** Scope and Recommended Content  
for a Contractual Agreement  
Between an Air Carrier and a  
Maintenance Provider

**Date:** 1/4/16

**Initiated by:** AFS-300

**AC No:** 120-106A

**Change:**

**1. PURPOSE.** This revision of the advisory circular (AC) introduces new rulemaking regarding air carrier contract maintenance programs and air carrier manual content pertaining to contract maintenance requirements and contract maintenance provider (MP) responsibilities required by Title 14 of the Code of Federal Regulations (14 CFR) part 121, §§ 121.368 and 121.369(b)(10), and part 135, §§ 135.426 and 135.427(b)(10). Additionally, this AC outlines the scope and recommended content requirements for contractual agreements between an air carrier and its contract MPs. It explains the background and the necessity to interject specific requirements into a contractual agreement to ensure the air carrier fully supports the requirements imposed by 14 CFR. Because the air carrier has the primary responsibility for the airworthiness of its aircraft, it must ensure the proper controls are in place to assess, qualify, and authorize work performed for it by other persons, regardless of whether a certificated or noncertificated MP performs the work.

## **2. APPLICABILITY.**

**a. Audience.** This AC provides guidance to air carriers that, as authorized by §§ 121.379(a) and 135.437(a), make arrangements with another person for the performance of maintenance, preventive maintenance, and alterations as provided in its maintenance manual. The audience for this AC also includes both certificated and noncertificated repair stations.

**b. Not Mandatory or Regulatory.** This guidance is neither mandatory nor regulatory in nature and does not constitute a regulation. It describes an acceptable means, but not the only means, for content of a contractual agreement between an air carrier and an MP. Terms such as “should,” “may,” and “must” are used only in the sense of ensuring applicability of this particular method of compliance. While these guidelines are not mandatory, they are derived from extensive Federal Aviation Administration (FAA) and industry experience in determining successful compliance with the applicable regulations.

**c. No Changes to Regulations.** This document does not change, create any additional, authorize changes in, or permit deviations from, existing regulatory requirements.

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### 3. NEW TERMS.

**a. Maintenance Provider (MP).** Sections 121.368(a)(1) and 135.426(a)(1) define a maintenance provider as 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. For example, a maintenance, repair, and overhaul (MRO) facility is considered to be an MP. In the past, many nonregulatory words and terms have been used in the aviation industry to describe a person who performs maintenance, preventive maintenance, and alterations for a certificate holder under the provisions of §§ 121.379(a) and 135.437, such as outsource, contract, emergency, vendor, and oncall.

**NOTE: The term contract maintenance means any maintenance, preventive maintenance, or alterations accomplished by a certificate holder's MP. However, the certificate holder always retains primary responsibility for any contract maintenance accomplished by an MP.**

**b. Covered Work.** Sections 121.368(a)(2) and 135.426(a)(2) define covered work as any of the following:

(1) 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;

(2) Regularly scheduled maintenance; or

(3) A required inspection item on an aircraft.

**NOTE: Essential maintenance is for the RII of on-wing maintenance. "On-wing maintenance" is to mean the entire aircraft. Refer to the current version of AC 120-16 for more information on essential maintenance. In addition, covered work includes both essential maintenance and RIIs, both of which include nonscheduled maintenance. Additionally, other requirements that address both covered work and all other contract maintenance, such as the requirements for air carriers to develop policies, procedures, methods, and instructions for accomplishing all contracted maintenance, necessarily include both scheduled and nonscheduled work.**

**c. Directly in Charge.** Sections 121.368(a)(3) and 135.426(a)(3) define directly in charge as 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.

**NOTE: The term available for consultation may be broadly interpreted. This allows the air carrier flexibility to use numerous information technology methods—such as high resolution photographs, text messaging, and the internet—to acquire the information necessary to make decisions and provide instructions.**

#### 4. NEW REQUIREMENTS.

##### a. Sections 121.368, 121.369(b)(10), 135.426, and 135.427(b)(10).

(1) Each certificate holder must be directly in charge of all covered work done for it by a maintenance provider. (See §§ 121.368(b) and 135.426(b).)

(2) Each maintenance provider must perform all covered work in accordance with the certificate holder's maintenance manual. (See §§ 121.368(c) and 135.426(c).)

(3) No maintenance provider may perform covered work unless that work is carried out under the supervision and control of the certificate holder. (See §§ 121.368(d) and 135.426(d).)

(4) 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 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. (See 121.368(e) and 135.426(e).)

(5) 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) and 135.431(a), contains procedures for oversight of all contracted covered work. (See 121.368(f) and 135.426(f).)

(6) As required by §§ 121.368(g) and 135.426(g), the policies, procedures, methods, and instructions required by paragraphs (4) and (5) must be acceptable to the FAA and included in the certificate holder's maintenance manual as required by §§ 121.369(b)(10) and 135.427(b)(10).

(7) As required by §§ 121.368(h) and 135.426(h), each certificate holder who contracts a maintenance provider to carry out maintenance, preventive maintenance, or alterations must provide to its FAA certificate-holding district office (CHDO) a list of maintenance providers in a format acceptable to the FAA. This list must include the name and physical (street) address, or addresses, where each maintenance provider performs work for the certificate holder, and a description of the type of maintenance, preventive maintenance, or alteration the maintenance provider will perform 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.

(a) When submitting the maintenance provider list (MPL) required by §§ 121.368(h) and 135.426(h) to the FAA, there are two MPL templates available to air carriers which are acceptable to the FAA: MPL Template-Excel and MPL Template-XML. Both templates can be downloaded from the Flight Standards Service Aircraft Maintenance Division (AFS-300) Web site under the AFS-300 Job Aids section. Two additional MPL informational files are available on the Web site:

1. **MPL Import** – This document defines field names, descriptions, field length, and other information required to understand the required structure of both of the supported formats.

2. **MPL Information** – This document provides information and instructions about contractors used by 14 CFR parts 121, 135, 121/135, and 145 in two formats; these formats are Excel and XML.

(b) Once completed, the MPL must be submitted to the air carrier's FAA CHDO by the last day of each calendar month. The AFS-300 Web site can be found at [http://www.faa.gov/about/office\\_org/headquarters\\_offices/avs/offices/afs/afs300/](http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afs/afs300/).

(c) The MPL does not include subcontractors used by air carrier's MP(s). The air carrier should accept the MP's subcontractor(s) at the forefront of the contractual agreement and ensure that procedures exist to notify the air carrier of any future changes.

## **5. DEVELOPING A CONTRACTUAL AGREEMENT BETWEEN AN AIR CARRIER AND A MAINTENANCE PROVIDER.**

**a. Specific Manual Requirements for the Air Carrier.** Part 121 and part 135 air carriers must establish, in accordance with §§ 121.369(b)(10) and 135.427(b)(10), policies, procedures, methods, and instructions for the accomplishment of all maintenance, preventive maintenance, and alterations carried out by an MP. 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. There should also be controls to verify the proper performance of the work accomplished by the MP. The policies and procedures should be dynamic in nature to enable an MP to operate, largely, as an extension of the air carrier's maintenance organization. Regulations require an air carrier to keep an MP listing within its manual or manual system. The new regulations also require the air carrier to provide a list of MPs to its CHDO, and report any changes to that listing to its CHDO by the last calendar day of each month.

**b. Contractual Clauses.** To ensure compliance with specific sections of 14 CFR, the contract(s) between the air carrier and the MPs must state contractual clauses focused on those areas. These specific areas should include, but are not limited to the following:

**(1) Adequate Organization.** Sections 121.365 and 135.423 state the air carrier must ensure the person or persons, as described in 14 CFR part 1, § 1.1, with whom it arranges to perform maintenance, has an organization capable of handling the work to be performed. Furthermore, if RII will be performed by the MP, the inspection functions must be separated within the contracted organization. If the air carrier's Continued Airworthiness Maintenance Program (CAMP) or procedures require specific compliance aspects, the air carrier must be able to verify the MP is equally capable of following the manual and procedures. The air carrier should verify this through auditing programs or contractual obligations.

**(2) Maintenance Program.** Refer to §§ 121.367 and 135.425, which state, in part, the air carrier must ensure the MP will perform the contracted work in accordance with the air carrier's CAMP. That is to mean, the information necessary to ensure compliance with the CAMP, such

as the maintenance manual, should be made available to the MP before work is to begin. The manual must have procedures for the air carrier to follow that ensures the MP complies with the air carrier's CAMP procedures. Furthermore, the air carrier must be able to verify the contractor has competent personnel, adequate equipment, and facilities as required by regulations. Through onsite auditing and oversight, the air carrier can be assured aircraft are returned to service in accordance with the provisions of its CAMP (Refer to §§ 121.363, 121.367, 121.709, 135.413, 135.423, 135.425, and 135.443.).

**(3) Manual Requirements.** Sections 121.369, and 135.427 states the certificate holder must provide a manual covering the administration of its CAMP. The manual(s) often include specific methods for complying with the enumerated paragraphs of this regulatory section. If these requirements must be known to the contractor, the air carrier must ensure the information is provided and stipulated in the contractual agreement. The air carrier and the MP are obligated to verify compliance with the information provided. Safety nets in the form of contract requirements, such as the areas outlined in this AC, should be included in the contract language for this purpose.

**(a)** Sections 121.369(b)(10) and 135.427(b)(10) require policies, procedures, methods, and instructions for the accomplishment of all maintenance, preventive maintenance, and alterations carried out by an MP.

**(b)** These policies, procedures, methods, and instructions must be acceptable to the FAA and ensure that, when followed by the MP, the maintenance, preventive maintenance, and alterations are performed in accordance with the certificate holder's maintenance program and maintenance manual.

**(4) Proprietary Data.** Many times, air carrier general maintenance manuals are designed for in-house maintenance. These manuals may contain proprietary or other confidential information that an air carrier may not want to share with an MP. In many cases, the MP also works on competitors' aircraft. This has a tendency to make air carriers reluctant to share this information, and therefore they do not. The proper handling of proprietary data issues should be addressed in the contractual agreement between the air carrier and the MP.

**NOTE: The proprietary or other confidential information referred to in this paragraph refers only to that information developed by an air carrier for purposes of its in-house maintenance. Proprietary or confidential information does not refer to other data to which the MP is entitled, such as instructions for continued airworthiness (ICA) under 14 CFR part 21, § 21.50(b), and in accordance with FAA Policy Statement PS-AIR-21.50-01, Type Design Approval Holder Inappropriate Restrictions on the Use and Availability of Instructions for Continued Airworthiness. Such data that is required to be made available under the regulations may not be restricted by design approval holders (DAH) with respect to an air carrier's approved maintenance manuals, through restrictive language in the ICA, or through restrictive access or use agreements.**

(5) **RII.** Sections 121.371 and 135.429 will require the air carrier to train selected MP inspection department personnel and to properly certificate, train, qualify, and authorize personnel to do RII on behalf of the air carrier. MP inspection personnel fall into two categories: (1) they may be full time inspectors assigned to the quality department or (2) they may be MP employees assigned to a production section. The air carrier must specifically train MP personnel, whether they are full-time inspectors or production personnel acting as inspectors, to perform RII inspections. In either case, personnel that perform RII must be separate from the production section within the organization. If the air carrier's maintenance program or procedures require specific compliance aspects, the air carrier must be able to verify the MP is equally capable of following its manual and procedures. This may be verified through auditing programs or contractual obligations. A listing of MP personnel trained by the air carrier on the RII program and specific areas may be retained by the MP for ready reference. This may only be allowed if stated in the air carrier's manual.

(6) **Continuing Analysis and Surveillance System.** Sections 121.373 and 135.431 state, in part, the air carrier must establish and maintain a system for the Continuing Analysis and Surveillance System (CASS) of the performance and effectiveness of its inspection program and programs covering other maintenance, regardless of whether those programs are carried out by the operator or by another person. Sections 121.368(f) and 135.426(f) require that an air carrier's CASS contain procedures for oversight of all contracted work.

(a) The air carrier must ensure corrective action is taken on any deficiencies or inadequacies found in its CAMP or in any other contractually required items at an MP. This generally requires the air carrier to perform audits of all programs at its MP.

(b) In addition, the air carrier should have a process for its onsite representative to document findings and corrective action taken that may not be associated with any scheduled audit or review process. These findings should also be included in the air carrier's Continuing Analysis and Surveillance System (CASS). This reciprocity is essential in order to identify deficiencies or inadequacies in the air carrier's CAMP.

(c) Voluntary program data should be included in the air carrier's CASS and used to monitor the effectiveness of safety risk controls and as a measurement of the organization's safety performance. Refer to the current editions of AC 00-58, Voluntary Disclosure Reporting Program and AC 120-66, Aviation Safety Action Program (ASAP) for more information.

**NOTE: The MP operates as an extension of the air carrier's maintenance organization, and the resultant relationship in regard to maintenance, preventive maintenance, and alterations must be transparent in all respects. The air carrier should ensure contractual agreements include reciprocal sharing of information from voluntary programs such as the ASAP and VDRP.**

(7) **Regulatory Authority.** Title 14 CFR part 119, § 119.59 provides the regulatory authority to the FAA to gain access to all MPs, including those that are providing maintenance services under contract to other MPs. The contract should contain provisions to ensure the FAA has that level of access provided in § 119.59 to any person providing maintenance services to an

air carrier, whether that service is provided directly, indirectly, or by a certificated or noncertificated entity.

**(8) Training Programs.** The air carrier's training programs must contain policy and procedures to verify the proper training of all maintenance personnel, including the appropriate maintenance/inspection personnel employed by its MP (certificated or noncertificated). Refer to §§ 121.375 and 135.433 for additional information. Contract personnel shall be:

**(a)** Properly trained and qualified to maintain the air carrier's aircraft in accordance with the air carrier's requirements. It is important to note, that the training provided to the contracted maintenance personnel will be the same training afforded the employees of the air carrier.

**(b)** Properly certificated, trained, and authorized for RII in accordance with the air carrier's manual (refer to §§ 121.371 and 135.429). The RII program requirements must be managed and the functions must be carried out in a seamless process; there cannot be any disparity between the way air carrier personnel are trained and carry out the RII inspection process and the way a contracted person accomplishes the same task. The training for air carrier personnel and the training for contracted persons must be based on the same training syllabus. The training syllabus must also address the proper procedures for preparing, signing, and handling maintenance records in accordance with the air carrier procedures.

**(9) Duty Time.** Section 121.377 states, in part, within the United States, each certificate holder or person with whom the certificate holder has arranged to accomplish contract maintenance must ensure their duty time requirements are followed by the MPs. The air carrier's maintenance manual should contain procedures to insure duty time compliance is met and provided to the air carrier by the MP and/or subcontractors.

**(10) Certificate Requirements.** Sections 121.378 and 135.435 state, in part, the air carrier must ensure only certificated persons are directly in charge of maintenance and/or perform required inspections. The contractual agreement should cover this requirement in a brief statement to ensure there are no misunderstandings.

**(11) Authority to Perform.** Sections 121.379 and 135.437 state, in part, the air carrier is authorized to perform or arrange for the performance of maintenance on its own aircraft as set forth in the CAMP and its manual(s). The center of the relationship between the air carrier and its MPs are its practices, procedures, and assurances set forth in the air carrier's manual. The air carrier shall continually verify that its MP is able to demonstrate compliance with its CAMP procedures, either through direct supervision, surveillance, and/or auditing, or through appropriate controls such as contractual relationships. If regulatory requirements are ensured by contractual relationships, the contract should clearly establish the scope and nature of each party's duties and obligations under the regulations. The contract sections associated with regulatory compliance should enable the air carrier to verify the work is performed and recorded as set forth in the air carrier's manual.

**(12) Records.** Title 14 CFR part 43, § 43.9, and §§ 121.380 and 135.439 state, in part, specific records must be maintained by aircraft owners and operators. In order to ensure required regulatory records are made available to the regulatory authorities, the contractual agreement should cover any specifics. Requirements for documentation and retention of the contracted work must be in accordance with the air carrier's manual procedures. If the air carrier's maintenance manual and/or procedure indicate, the responsibility of making regulatory records available is delegated to the MP, the contract should clearly delineate the records required to be maintained, the length of time the records should be maintained, and the form and manner of maintaining such records.

**(13) Additional Considerations.** If adherence to the air carrier's maintenance manual(s) and procedure(s) make clear that regulatory requirements are assured through the business relationships with the MP, the contract should reflect that obligation. Therefore, the contract may be used to verify compliance with general as well as specific areas.

**NOTE: The scope of work—the description of work to be performed—will dictate the depth of supervision, information exchange, and auditing needed to ensure compliance with the air carrier's CAMP. The more extensive the work, the more training, information, and oversight will be needed by the air carrier.**

**(14) Information Exchange.** The need for information exchange will be dictated by the technical requirements of the work to be performed. The air carrier should ensure information from the MP is obtained when needed for the air carrier's reliability program. This should be stipulated in the contact agreement. Whether the information needed must be covered by contract will depend upon the air carrier's manual(s) and procedure(s). If the manual(s) or procedure(s) require such information be specified in the contract, the air carrier should incorporate them. Since the MP is required to provide competent personnel and adequate facilities, consideration may be given to including a clause to notify the air carrier of changes in MP staffing, facilities, and ownership.

**(15) Traceability of Components and Parts.** This could include everything from new parts to the scrapping and/or returning parts to the air carrier. Consideration should include parts exchanged being in the same configuration, including Service Bulletin (SB) and Airworthiness Directive (AD) compliance.

**(16) Continuing Maintenance Provider Oversight.** Verifying that each one of the air carrier's MPs are in continuous compliance is a major function of the air carrier's CASS. Air carrier management should use a risk-based process for establishing a schedule for auditing and inspecting each MP's performance under contractual agreements. Inherent with a risk-based process, it may be determined that some of the MPs do not require an onsite audit. Consistent with the performance wording of §§ 121.373 and 135.431, the audits that the air carrier accomplishes should be primarily work-in-progress audits that determine if the maintenance personnel are following the air carrier's manual and the provisions of the contractual agreement. The audits should be accomplished by trained auditors, and the results analyzed by trained analysts. The results of the analysis should permit air carrier management to determine each

MP's continuing compliance with part 121 subpart L or part 135 subpart J, and the air carrier's CAMP/maintenance programs as appropriate and warranting continued use.

**NOTE: If the air carrier's maintenance manual addresses specific policy and procedures, the air carrier should list them in the contractual agreement. Conversely, the contractor is obligated to comply with the requirements. The air carrier is further required to verify the requirements are or have been accomplished.**

**(17) Airworthiness Release or Aircraft Log Entry.** Sections 121.709 and 135.443 state, in part, no certificate holder may operate an aircraft after maintenance, preventive maintenance or alterations are performed on the aircraft unless the air carrier, or the person with whom the certificate holder arranges for the performance of the maintenance, preventive maintenance, or alterations, prepares or causes to be prepared an Airworthiness Release Form or an appropriate entry in the aircraft's logbook. The Airworthiness Release Form or Log Entry must be prepared in accordance with the procedures in the certificate holder's manual.

**NOTE: If the MP is a certificated repair station located outside the United States, the air carrier may authorize a person to sign the log and return the aircraft to service on behalf of the air carrier.**

## **6. SPECIAL CONSIDERATION DEVELOPING A CONTRACTUAL AGREEMENT BETWEEN THE AIR CARRIER AND THE MAINTENANCE PROVIDER.**

**a. Develop Contractual Policies and Procedures.** The basic agreements (points) must be developed by the air carrier and agreed upon by both parties, and become an integral part of the operating contractual agreement. The contract should clearly state: "All policies and procedures are mutually agreed upon." This should include a process for approving the use of subcontractors to get the proper approvals from the air carrier before use.

**b. Ensure Compliance with Specific Sections of 14 CFR.** Contractual clauses should be tailored to the specific work agreed upon. The air carrier's airworthiness responsibility does not stop at the original MP; it continues with the subcontractors of the original MP. The air carrier must address these second, third, and further level MP issues, and how the air carrier's CAMP oversight requirements are accomplished at all levels of the contract process.

**c. Maintenance Provider Subcontracting.** During the course of normal contracting of maintenance, it may be necessary for the MP to utilize the services of a subcontractor. When additional services are required by an MP for a part 121 or 135 air carrier:

**(1)** If this was planned for prior to the contractor receiving the item, it should be addressed in the contract. If it is not planned for in the onset, the air carrier must have procedures in its manual to address these requirements.

**(2)** The original MP will assure the work accomplished is in accordance with the air carrier's and original MP's work scope, manufacturer's specifications and, if applicable, FAA-approved data. One way this is accomplished is for the air carrier to have documented policies and procedures in its manual and ensure these policies are carried forth into any contract

negotiations between it and the MP. The air carrier must review and accept all applicable MP procedures that are allowed as an exception to the air carrier's procedures. The method or procedures used for this evaluation process and the distribution methods of this process (including all other information dissemination required for the proper performance of the air carrier's maintenance by the MP) should be in the contract maintenance section or a chapter within the air carrier's manual.

(3) Drug and alcohol testing policies are required by law. It is generally a good idea to include an overview of the program in the contract. The following is an example of who is responsible for complying with parts 121 and 135 drug and alcohol requirements:

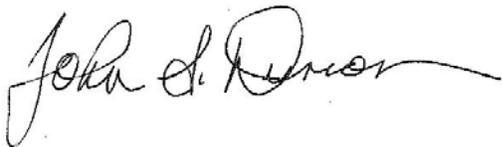
(a) All air carriers and operators certificated under part 119 authorized to conduct operations under part 121 or 135; all air traffic control facilities not operated by the FAA or by or under contract to the U.S. military; and all operators as defined in § 91.147.

(b) All individuals who perform, either directly or by contract, a safety-sensitive function listed in 14 CFR part 120 subpart E or subpart F.

(c) All part 145 certificate holders who perform safety-sensitive functions and elect to implement a drug and alcohol testing program under part 120.

(d) All contractors who elect to implement a drug and alcohol testing program under part 120.

**d. Hazardous Material (Hazmat) Training.** Air carriers may consider the contractual agreement as an area to provide the written notification required by §§ 121.1005(e) and 135.505(e), ensuring that each repair station performing work for the certificate holder, or on the certificate holder's behalf, is notified of the certificate holder's policies and operations specification (OpSpec) authorization permitting, or prohibition against, the acceptance, rejection, handling, storage incidental to transport, and transportation of hazmat, including company material.



John S. Duncan  
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### Advisory Circular Feedback Form

If you find an error in this AC, have recommendations for improving it, or have suggestions for new items/subjects to be added, you may let us know by emailing the Aircraft Maintenance Division (AFS-300) at 9-AWA-AFS-300-Division-Directives@faa.gov or contacting the Flight Standards Directives Management Officer.

Subject: AC 120-16A, Scope and Recommended Content for a Contractual Agreement Between an air Carrier and a Maintenance Provider

Date: \_\_\_\_\_

*Please check all appropriate line items:*

An error (procedural or typographical) has been noted in paragraph \_\_\_\_\_ on page \_\_\_\_\_.

Recommend paragraph \_\_\_\_\_ on page \_\_\_\_\_ be changed as follows:

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In a future change to this AC, please cover the following subject:  
*(Briefly describe what you want added.)*

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Other comments:

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I would like to discuss the above. Please contact me.

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_