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July 23, 2021

Original Delivered by Email  
Delivery and Read Receipts Requested: [samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)

Mr. Samuel Kovitch  
Aerospace Safety Engineer  
Atlanta ACO Branch  
Federal Aviation Administration  
1701 Columbia Avenue  
College Park, GA 30337-2714

RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA–2021–0336  
FAA Email Response to ARSA, July 6, 2021

Dear Mr. Kovitch,

Your response to the attached July 2 inquiry focused on the inclusion of “parachute” as an example in the statutory definition<sup>1</sup> of “appliance.” You failed to consider the applicable prerequisites in both that definition and also [14 CFR § 1.1](#), which require the item—

- (1) Be used, capable of being used, or intended to be used in operating or controlling aircraft in flight.
- (2) Be installed in or attached to aircraft during flight.
- (3) Not be a part of an aircraft, aircraft engine, or propeller.

Parachutes utilized by the [Cirrus Airframe Parachute System \(CAPS\)](#) may meet those requirements. However, supplementary information in the [Federal Register](#) for the subject AD noted “the affected parachutes are [UPT Vector 3 SE](#) containers.” According to the [UPT website](#), the Vector 3 is a line of “skydiving harness/container systems.”

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<sup>1</sup>Under [49 U.S.C. § 40102\(11\)](#) “appliance” means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

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Since the UPT Vector 3 SE parachute is not installed in or attached to an aircraft nor is it used, capable of being used or intended to be used in operating or controlling an aircraft in flight, please explain how it meets either the statutory or regulatory definition of "appliance."

Sincerely,



Brett Levanto  
Vice President of Operations  
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Attachments: FAA Email Response to ARSA, July 6, 2021  
ARSA Letter to FAA, July 2, 2021

cc: Marshall S. Filler, Managing Director & General  
Counsel, ARSA  
Mark Bury, Acting Chief Counsel, FAA  
Sara Mikolop, Acting Assistant Chief Counsel,  
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## Brett Levanto

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**From:** Kovitch, Samuel (FAA) <samuel.kovitch@faa.gov>  
**Sent:** Tuesday, July 6, 2021 6:26 AM  
**To:** ARSA  
**Cc:** Marshall Filler  
**Subject:** RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336

Hi Brett,

In your letter you asked whether or not the FAA has the authority to issue an airworthiness directive (AD) for a parachute. You also correctly identified that 14 CFR Part 39 section 39.3 states that AD's can be issued for appliances. Parachutes are defined as appliances in Title 49 United States Code (U.S.C.) section 40102, thus granting the FAA the authority to issue an AD for a parachute.

49 U.S.C. § 40102 - U.S. Code - Unannotated Title 49. Transportation § 40102. Definitions

(11) "appliance" means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, **including a parachute**, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

Please confirm that this addresses your inquiry.

Thank you,  
Sam

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**From:** ARSA <arsa@arsa.org>  
**Sent:** Friday, July 2, 2021 1:20 PM  
**To:** Kovitch, Samuel (FAA) <samuel.kovitch@faa.gov>  
**Cc:** Marshall Filler <marshall.filler@arsa.org>  
**Subject:** Re: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336  
**Importance:** High

Mr. Kovitch,

As discussed earlier this week, please find attached a letter requesting clarification of the FAA's authority to issue the subject airworthiness directive.

Please contact me directly with questions. I look forward to working through the matter.

Cheers,  
Brett

Brett Levanto  
Vice President of Operations

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Aerospace Safety Engineer  
Atlanta ACO Branch  
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RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA–2021–0336

Dear Mr. Kovitch,

On April 22, the FAA [issued](#) an Airworthiness Directive (AD) for certain Uninsured United Parachute Technologies, LLC Parachutes, which became effective on May 7. This letter seeks more information regarding the agency’s authority to mandate the action required.

According to [14 CFR § 39.3](#), “FAA's airworthiness directives are legally enforceable rules that apply to the following products: aircraft, aircraft engines, propellers, and appliances.”

It seems that determining applicability of [14 CFR](#) part [39](#) depends upon the general definitions set forth in [§ 1.1](#) for those named items. Section [1.1](#) states—

*Aircraft* means a device that is used or intended to be used for flight in the air.

*Aircraft engine* means an engine that is used or intended to be used for propelling aircraft. It includes turbosuperchargers, appurtenances, and accessories necessary for its functioning, but does not include propellers.

*Appliance* means any instrument, mechanism, equipment, part, apparatus, appurtenance, or accessory, including communications equipment, that is used or intended to be used in operating or controlling an aircraft in flight, is installed in or attached to the aircraft, and is not part of an airframe, engine, or propeller.

*Propeller* means a device for propelling an aircraft that has blades on an engine-driven shaft and that, when rotated, produces by its action on the air, a thrust approximately perpendicular to its plane of rotation. It includes control components normally supplied by its manufacturer, but does not include main and auxiliary rotors or rotating airfoils of engines.

*Parachute* means a device used or intended to be used to retard the fall of a body or object through the air.

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In addition to the definitions in § [1.1](#), neither § [91.307](#) or part [105](#) classify a parachute as a product to which part [39](#) is applicable. Though § [105.3](#) explains “[a]pproved parachute means a parachute manufactured under a type certificate or a Technical Standard Order,” the applicability of part [39](#) does not include all articles for which a TC or TSO exists, only those that fit the definition of appliance from § [1.1](#).

Considering the fact part [39](#) does not include parachutes in its applicability, please explain the FAA’s authority to issue the subject AD.

Sincerely,



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Counsel, ARSA  
Mark Bury, Acting Chief Counsel, FAA  
Sara Mikolop, Acting Assistant Chief Counsel,  
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