



121 North Henry Street  
Alexandria, VA 22314-2903  
T: 703 739 9543  
E: [arsa@arsa.org](mailto:arsa@arsa.org)  
[www.arsa.org](http://www.arsa.org)

May 17, 2022

Original Delivered by Email  
Delivery and Read Receipts Requested: [john.putnam@dot.gov](mailto:john.putnam@dot.gov)

Mr. John Putnam  
Deputy General Counsel  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590-0001

RE: Substantive Question of FAA Rulemaking Authority

Dear Mr. Putnam,

In its Dec. 3, 2021 letter (attached), the Aeronautical Repair Station Association sought your assistance regarding the FAA's authority to issue an airworthiness directive against a parachute. For your reference, this follow-up includes comments submitted to a subsequent rulemaking.

The comments repeat analysis provided last year to the FAA's Office of Chief Counsel. The agency can only issue airworthiness directives against aircraft, aircraft engines, propellers, and appliances (see, 14 CFR § [39.3](#)), none of which could be interpreted to include a "personal parachute assembly." The use of "parachute" as an example in the statute (see, 49 U.S.C. § 40102(a)([11](#))) has confused the FAA, causing it to ignore that personal parachute assemblies do not meet the three-part definition of "appliance" contained in that section of the law.

The courts and the National Transportation Safety Board have reminded the FAA that repeating an unsupportable argument does not make it comport with the plain language of the law and its resultant regulation. Your office's attention could produce the substantive review needed to answer the question presented: From where does the FAA derive its authority to issue an airworthiness directive against a parachute that does not meet the three conditions contained in the definitions of "appliance" in 49 U.S.C. § 40102(a)([11](#)) and 14 CFR § [1.1](#)?

Sincerely,

Brett Levanto  
Vice President of Operations  
M: 703.507.9798  
E: [brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)

Attachments: (1) ARSA letter to Mr. John Putnam, Dec. 3, 2021  
(2) FAA/ARSA correspondence between July 2 and Oct. 13, 2021  
(3) ARSA comments on Airworthiness Directives; MARS A.S. Parachutes (Docket Nos. FAA-2022-0149 & FAA-2022-0289)

cc: Marshall S. Filler, Managing Director & General Counsel, ARSA [marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)  
Daniel Cohen, Assistant General Counsel for Regulation, U.S. Department of Transportation [daniel.cohen@dot.gov](mailto:daniel.cohen@dot.gov)  
Marc Nichols, Chief Counsel, Federal Aviation Administration [marc.nichols@faa.gov](mailto:marc.nichols@faa.gov)



121 North Henry Street  
Alexandria, VA 22314-2903  
T: 703 739 9543  
E: [arsa@arsa.org](mailto:arsa@arsa.org)  
[www.arsa.org](http://www.arsa.org)

December 3, 2021

Original Delivered by Email  
Delivery and Read Receipts Requested: [john.putnam@dot.gov](mailto:john.putnam@dot.gov)

Mr. John Putnam  
Deputy General Counsel  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590-0001

RE: FAA Refusal to Consider Substantive Legal Question

Dear Mr. Putnam,

If I understand the hierarchy relating to requests for legal clarification from the public to the operating divisions of the Department of Transportation (DOT), it is your office that could resolve an issue with the Federal Aviation Administration's (FAA) Office of Chief Counsel.

I work for the Aeronautical Repair Station Association (ARSA); one of its main purposes is to educate the public on the plain language and meaning of aviation safety regulations so compliance can be demonstrated. Noticing an anomalous issuance of an airworthiness directive by the FAA, I sent a letter seeking clarification on its authority to issue the rule against a parachute. The inquiry focused on the applicability of Title 14 of the Code of Federal Regulations, part 39, which required review of the statutory and regulatory definitions of an "appliance."

Unfortunately, what began as an exploration of practical regulatory application became a frustrating demonstration of government hardheadedness. The FAA's acting chief counsel – after three month's "deliberation" – repeated the previous incomplete assessment, failing to address the substantive inquiry. "While I regret that my explanation does not meet your particular needs regarding this issue," the acting chief counsel said in rebuffing an attempted follow up. "I will not be devoting additional time or resources into a further review of this matter."

With all due respect to the government's resources, failing to address substantive legal questions from the public merely expends more assets. The question is simple: How can a parachute be an appliance when it fails to meet *all* conditions required by the statutory/regulatory definition(s)?

After you've reviewed the attached correspondence, I am hoping you can provide the answer or an avenue through which it can be obtained besides "the courts."

December 3, 2021

Mr. John Putnam

Page 2

RE: FAA Refusal to Consider Substantive Legal Question

Sincerely,



Brett Levanto

Vice President of Operations

M: 703.507.9798

E: [brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)

Attachments: FAA/ARSA correspondence between July 2 and Oct. 13, 2021

cc: Marshall S. Filler, Managing Director & General  
Counsel, ARSA

[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)

Daniel Cohen, Assistant General Counsel for  
Regulation, U.S. Department of Transportation

[daniel.cohen@dot.gov](mailto:daniel.cohen@dot.gov)

Mark Bury, Acting Chief Counsel, Federal Aviation  
Administration

[mark.bury@faa.gov](mailto:mark.bury@faa.gov)

## Brett Levanto

---

**From:** Bury, Mark (FAA) <mark.bury@faa.gov>  
**Sent:** Wednesday, October 13, 2021 5:57 PM  
**To:** Brett Levanto  
**Cc:** Marshall Filler; Mikolop, Sara (FAA); Kovitch, Samuel (FAA); Peter, Lorelei (FAA)  
**Subject:** RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336

Mr. Levanto,

I think my email adequately explains the FAA's authority to issue ADs on parachutes. While I regret that my explanation does not meet your particular needs regarding this issue, I will not be devoting additional time or resources into a further review of this matter.

Mark W. Bury  
Acting Chief Counsel

---

**From:** Brett Levanto <brett.levanto@arsa.org>  
**Sent:** Wednesday, October 13, 2021 4:42 PM  
**To:** Bury, Mark (FAA) <mark.bury@faa.gov>  
**Cc:** Marshall Filler <marshall.filler@arsa.org>; Mikolop, Sara (FAA) <Sara.Mikolop@faa.gov>; Kovitch, Samuel (FAA) <samuel.kovitch@faa.gov>; ARSA <arsa@arsa.org>  
**Subject:** RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336

Mr. Bury,

Your response is almost identical to Mr. Kovitch's July 6 message; please address the points made in the attached reply. The definition you cite in 49 U.S.C. does include "parachute" as an example, but the specific device at issue in the AD fails the three-part test critical to determining whether an article is an appliance.

I welcome the opportunity to discuss the issue.

Brett Levanto  
Vice President of Operations  
Aeronautical Repair Station Association  
121 North Henry Street  
Alexandria, VA 22314-2903  
T: 703.739.9543 Ext. 103  
M: 703.507.9798  
E: [brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)  
W: [www.arsa.org](http://www.arsa.org)

***This material is provided for educational and informational purposes only. It does not constitute legal or professional advice and is not privileged or confidential.***

---

**From:** Bury, Mark (FAA) <[mark.bury@faa.gov](mailto:mark.bury@faa.gov)>  
**Sent:** Wednesday, October 13, 2021 2:17 PM  
**To:** Brett Levanto <[brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)>; Kovitch, Samuel (FAA) <[samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)>  
**Cc:** Marshall Filler <[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)>; Mikolop, Sara (FAA) <[Sara.Mikolop@faa.gov](mailto:Sara.Mikolop@faa.gov)>  
**Subject:** RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336

Mr. Levanto,

I write in response to your letter concerning AD 2021-09-09, and specifically the FAA's legal authority for issuing an airworthiness directive for a parachute. Our review of our authorities shows that the 49 USC 40102(a)(11) definition of "appliance," which has its origins in the Civil Aeronautics Act of 1938, specifically includes a reference to parachutes. Section 44701(a)(2) directs the FAA to prescribe regulations and minimum standards "for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and *appliances*." More broadly, section 44702(a)(5) directs the FAA to prescribe "regulations and minimum standards for other practices, methods, and procedure the Administrator finds necessary for safety in air commerce and national security." The FAA relies on those authorities when it issues regulations and airworthiness directives for parachutes, which it—and its predecessor agencies—have been doing since 1940.

Mark W. Bury  
Acting Chief Counsel

---

**From:** Brett Levanto <[brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)>  
**Sent:** Tuesday, September 14, 2021 4:55 PM  
**To:** Kovitch, Samuel (FAA) <[samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)>  
**Cc:** Marshall Filler <[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)>; Bury, Mark (FAA) <[mark.bury@faa.gov](mailto:mark.bury@faa.gov)>; Mikolop, Sara (FAA) <[Sara.Mikolop@faa.gov](mailto:Sara.Mikolop@faa.gov)>  
**Subject:** RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336

Thank you, Sam. I'll be sure to connect with you if I do hear anything and will keep asking.

Brett

---

**From:** Kovitch, Samuel (FAA) <[samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)>  
**Sent:** Tuesday, September 14, 2021 2:42 PM  
**To:** Brett Levanto <[brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)>  
**Cc:** Marshall Filler <[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)>; Bury, Mark (FAA) <[mark.bury@faa.gov](mailto:mark.bury@faa.gov)>; Mikolop, Sara (FAA) <[Sara.Mikolop@faa.gov](mailto:Sara.Mikolop@faa.gov)>  
**Subject:** RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336

Hi Brett,

I was wondering the same thing recently, so I asked our legal team last week if they were working on it. They said they will check and see, and I haven't heard anything since. If I do hear anything, I'll be sure to let you know, however you might end up hearing back before I do at this point.

Thank you,  
Sam

Samuel Kovitch  
Aerospace Engineer, Program Manager  
FAA|AVS|AIR-7A4|Atlanta ACOB  
404-474-5570|[samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)  
Mail: AIR-7A4|1701 Columbia Ave|College Park GA 30337

---

**From:** Brett Levanto <[brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)>  
**Sent:** Monday, September 13, 2021 3:44 PM  
**To:** Kovitch, Samuel (FAA) <[samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)>  
**Cc:** Marshall Filler <[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)>; Bury, Mark (FAA) <[mark.bury@faa.gov](mailto:mark.bury@faa.gov)>; Mikolop, Sara (FAA) <[Sara.Mikolop@faa.gov](mailto:Sara.Mikolop@faa.gov)>  
**Subject:** RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336

Good Afternoon Mr. Kovitch,

Checking in to see if there is an update on our exchange regarding the parachute AD.

Cheers,  
Brett

---

**From:** ARSA  
**Sent:** Friday, July 23, 2021 2:14 PM  
**To:** Kovitch, Samuel (FAA) <[samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)>  
**Cc:** Marshall Filler <[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)>; [mark.bury@faa.gov](mailto:mark.bury@faa.gov); [sara.mikolop@faa.gov](mailto:sara.mikolop@faa.gov)  
**Subject:** RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA-2021-0336  
**Importance:** High

Mr. Kovitch,

Your response merited the attached follow up.

Cheers,  
Brett

Brett Levanto  
Vice President of Operations  
Aeronautical Repair Station Association  
121 North Henry Street  
Alexandria, VA 22314-2903  
T: 703.739.9543 Ext. 103  
M: 703.507.9798  
E: [brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)  
W: [www.arsa.org](http://www.arsa.org)

***This material is provided for educational and informational purposes only. It does not constitute legal or professional advice and is not privileged or confidential.***

---

**From:** Kovitch, Samuel (FAA) <[samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)>  
**Sent:** Tuesday, July 6, 2021 6:26 AM  
**To:** ARSA <[arsa@arsa.org](mailto:arsa@arsa.org)>  
**Cc:** Marshall Filler <[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)>  
**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

Samuel Kovitch  
Aerospace Engineer  
FAA | AVS | AIR-7A3 | Atlanta ACOB  
404-474-5570 | [samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)  
Mail: AIR-7A3 | 1701 Columbia Ave | College Park GA 30337

---

**From:** ARSA <[arsa@arsa.org](mailto:arsa@arsa.org)>  
**Sent:** Friday, July 2, 2021 1:20 PM  
**To:** Kovitch, Samuel (FAA) <[samuel.kovitch@faa.gov](mailto:samuel.kovitch@faa.gov)>  
**Cc:** Marshall Filler <[marshall.filler@arsa.org](mailto: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  
Aeronautical Repair Station Association  
121 North Henry Street  
Alexandria, VA 22314-2903  
T: 703.739.9543 Ext. 103  
M: 703.507.9798  
E: [brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)  
W: [www.arsa.org](http://www.arsa.org)

***This material is provided for educational and informational purposes only. It does not constitute legal or professional advice and is not privileged or confidential.***



121 North Henry Street  
Alexandria, VA 22314-2903  
T: 703 739 9543  
E: [arsa@arsa.org](mailto:arsa@arsa.org)  
[www.arsa.org](http://www.arsa.org)

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.”

---

<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.



July 23, 2021  
Mr. Samuel Kovitch  
Page 2

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

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  
T: 703.739.9543 Ext. 103  
M: 703.507.9798  
E: [brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)

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,  
Regulations, FAA

[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)

[mark.bury@faa.gov](mailto:mark.bury@faa.gov)

[sara.mikolop@faa.gov](mailto:sara.mikolop@faa.gov)



121 North Henry Street  
Alexandria, VA 22314-2903  
T: 703 739 9543  
E: [arsa@arsa.org](mailto:arsa@arsa.org)  
[www.arsa.org](http://www.arsa.org)

July 2, 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

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.

July 2, 2021

Mr. Samuel Kovitch  
Page 2

RE: Authority for Issuance of Airworthiness Directive; Docket No. FAA–2021–0336

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,



Brett Levanto  
Vice President of Operations  
T: 703.739.9543 Ext. 103  
M: 703.507.9798  
E: [brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)

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

[marshall.filler@arsa.org](mailto:marshall.filler@arsa.org)

[mark.bury@faa.gov](mailto:mark.bury@faa.gov)  
[sara.mikolop@faa.gov](mailto:sara.mikolop@faa.gov)



121 North Henry Street  
Alexandria, VA 22314-2903  
T: 703 739 9543  
E: arsa@arsa.org  
www.arsa.org

April 14, 2022

Original Submitted Via: [www.regulations.gov](http://www.regulations.gov)

U.S. Department of Transportation  
Docket Operations  
M-30, West Building Ground Floor  
Room W12-140  
1200 New Jersey Avenue SE  
Washington, DC 20590-0001

RE: Comments on Airworthiness Directives; MARS A.S. Parachutes  
Docket Nos. FAA-2022-0149 & FAA-2022-0289

On Feb. 25, the FAA [issued](#) an Airworthiness Directive (AD) for certain MARS A.S. emergency parachutes, which became effective on March 14. On March 21, the agency [superseded](#) the original AD, effective April 5, based on updated mandatory continuing airworthiness information (MCAI) from the European Aviation Safety Agency (EASA).

The FAA lacks authority to issue an AD against the subject parachute.

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.”

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.

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](#).

RE: Comments on Airworthiness Directives; MARS A.S. Parachutes  
Docket Nos. FAA-2022-0149 & FAA-2022-0289

In 2021, the Aeronautical Repair Station Association [sought clarification](#) from the FAA on its presumed authority to issue an AD against a parachute. In the exchange based on Docket No. [FAA-2021-0336](#), the agency cited the statutory definition of “appliance” in [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. (Emphasis added.)

The agency’s reliance on the clumsy inclusion of “parachute” as an example in this language fails to consider the prerequisites in both that definition and also [§ 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 ADs noted they applied “to MARS A.S. ATL-88/90-1B (commercially known as ATL-15 SL) emergency parachutes.” According to public 3<sup>rd</sup> party [sales information](#) and a 2016 [Operation and Maintenance Manual](#), the model “is designed as personal parachute assemblies for flight crew equipment and for passengers in emergency situation (sic).”

Since such “personal parachute assemblies” are not installed in or attached to an aircraft nor are they used, capable of being used or intended to be used in operating or controlling an aircraft in flight, the device at issue fails to meet either the statutory or regulatory definition of “appliance.” Based on this analysis, the FAA does not have authority under [§ 39.3](#) to issue the subject ADs and must withdraw them.

Sincerely,



Brett Levanto  
Vice President of Operations  
T: 703.739.9543 Ext. 103  
M: 703.507.9798  
E: [brett.levanto@arsa.org](mailto:brett.levanto@arsa.org)