



Homeland Security

# Counter Unmanned Aircraft Systems Legal Authorities

The Preventing Emerging Threats Act of 2018 grants the Department of Homeland Security statutory authority to counter credible threats from unmanned aircraft systems (UAS) to the safety or security of a covered facility or asset. This authority is paramount to the Department’s mission to protect and secure the Homeland from evolving threats. The Department is in the process of coordinating with Components and stakeholders regarding the need for additional counter-UAS (CUAS) authorities.

## Authorities

**Authorized Department of Homeland Security Components may protect Covered Facilities and Assets from unlawful UAS activity with the following actions:**



**Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft.**



**Warn the operator of the unmanned aircraft system or unmanned aircraft.**



**Disrupt control of the unmanned aircraft system or unmanned aircraft.**



**Seize or exercise control of the unmanned aircraft system or unmanned aircraft.**



**Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.**



**Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.**

## Covered Facility or Asset

**Directly relate to the following missions:**



**Identified impacted airspace**

**An authorized Department of Homeland Security mission, including certain protection and security missions of:**

- U.S. Coast Guard
- U.S. Customs and Border Protection
- U.S. Secret Service
- Federal Protective Service

**An authorized joint Department of Homeland Security or the Department of Justice mission**

- National Special Security Events
- Special Event Assessment Rating events
- Supporting state, local, tribal, or territorial law enforcement at certain mass gatherings upon the request of a State’s governor or equivalent
- Active Federal law enforcement investigations, emergency responses, or security operations in specified locations and for limited duration (e.g., airport disruption, disaster response, etc.)



## Privacy Protection

The Act requires the Department of Homeland Security and Department of Justice to:



Ensure intercept, acquisition, or access of communications to or from UAS is consistent with First and Fourth amendment protections and applicable Federal laws.



Only intercept, acquire, or access communications to or from UAS only in support of an authorized CUAS action.



Delete records of communications to or from UAS after 180 days, unless it is necessary to:

- Directly support an ongoing Department security operation.
- Investigate or prosecute a violation of law.



Not disclose any communications to or from UAS outside the Department unless the communication:

- Supports a protection or security operation between the Department of Homeland Security and the Department of Justice.
- Supports an investigation or prosecution of a security threat.
- Supports a CUAS criminal investigation, civil investigation, or an enforcement action from the Department of Defense, a civilian law enforcement agency, or a Federal regulatory agency.
- Is otherwise required by law.

## Next Steps



**Required Coordination:** The Secretary of Homeland Security will develop the actions under these authorities in coordination with the Secretary of Transportation.



**Research, Testing, Training, and Evaluation:** The Department of Homeland Security will conduct research, testing, training, and evaluation of equipment that could be used to support the actions under these authorities.



**Airspace Coordination:** The Secretary of Homeland Security will coordinate with the Federal Aviation Administration Administrator when actions under these authorities might affect aviation safety, civilian aviation, airspace use, aerospace operations, or aircraft airworthiness.



**Guidance:** The Secretary of Homeland Security will issue guidance, and:

- Coordinate guidance development with the Department of Transportation.
- Coordinate with the Department of Transportation and the Federal Aviation Administration if respective guidance might affect aviation safety, civilian aviation, airspace use, aerospace operations, or aircraft airworthiness.



**Report:** The Secretary of Homeland Security in coordination with the Secretary of Transportation, will conduct an assessment and submit a report to Congress including:

- An evaluation of UAS threats to critical infrastructure and domestic large hub airports.
- An evaluation of existing counter UAS authorities for Federal, State, local, or tribal law enforcement.
- An evaluation of current procedures and resources available to owners of critical infrastructure and domestic large hub airports for a UAS threat.
- An assessment of additional DHS authorities needed to counter UAS threats.
- An assessment of additional DHS research and development needed to counter UAS threats.

## Additional Resources

Preventing Emerging Threats Act, <https://www.congress.gov/115/bills/s2836/BILLS-115s2836rs.pdf>

If you have any questions, please contact DHS at: [CUASinfo@hq.dhs.gov](mailto:CUASinfo@hq.dhs.gov)



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## General Information

- **Are there any updates on the investigation into the drone sightings in New Jersey?**
  - There is an active federal investigation into these drone sightings.
  - The FBI is the leading agency investigating the sightings.
  - Currently, all investigative information is classified as law enforcement sensitive, and we would defer questions regarding the investigation to the FBI.
- **Is there any threat to public safety from the drone activity reported in New Jersey?**
  - At this time, according to the FBI, there are no known specific or credible threats related to these sightings.
- **Have there been other sightings of drone activity outside of New Jersey?**
  - According to open source, yes, there have been other drone sightings of this type both nationally and internationally.
  - However, any questions about confirmed sightings of drones that are similar to what we are seeing in New Jersey will have to be referred to the FBI.

## Drone Activity and Restrictions

- **Why has the Federal Aviation Administration (FAA) temporarily prohibited drones in Bedminster and Picatinny Arsenal if there is no threat?**
  - The FAA often imposes temporary flight restrictions to ensure the safety and security of sensitive areas, regardless of immediate threats.
  - Airspace restrictions can also apply to all drones to prevent interference with ongoing investigations and ensure airspace safety.
  - More information and active temporary flight restrictions:  
<https://tfr.faa.gov/tfr2/list.html>
- **Are the drones believed to be operated by local hobbyists, commercial businesses, the military, or another group?**
  - At this time, it is unclear who is operating the drones. This would be an aspect of the ongoing federal investigation.
  - The State of New Jersey and its agencies are not involved in the operation of these reported drones.
- **Do you have any information specific to the drones, such as their manufacturer or model?**
  - Specific details about the drones are not available at this time as the federal investigation is still ongoing.
- **Shouldn't drones have tracking devices that indicate registration numbers?**
  - Yes, drones are generally required to have tracking capabilities. However, not all drones comply, and investigations are ongoing to identify the operators.

- **Could drone activity be mistaken for general aviation aircraft, such as planes or smaller helicopters?**
  - Yes. Drone activity can sometimes be mistaken for general aviation aircraft, such as planes or smaller helicopters, due to several overlapping characteristics:
    - From a distance, drones can appear similar in size to smaller aircraft, leading to potential confusion. This is especially true when viewed from the ground at certain angles.
    - Although drones typically operate at lower altitudes, some can reach heights where they might be mistaken for general aviation aircraft, especially if visibility is poor or if the observer lacks reference points.
    - At night, the lighting on drones might resemble the navigation or anti-collision lights found on airplanes and helicopters, making it difficult to distinguish between them.
    - While drones generally produce a distinct sound, environmental factors or the observer's location might mask these differences, causing them to be mistaken for the more familiar sounds of manned aircraft.
    - Some drones have advanced capabilities that allow them to mimic the flight patterns of helicopters or small planes, such as hovering or making rapid directional changes.
  
- **Why can't authorities or the military shoot down or capture a drone midflight?**
  - State and local authorities do not have the legal ability to mitigate threatening drone activity at this time.
  - Federal agencies and the U.S. military have different legal abilities and technical capabilities.
  - The U.S. Department of Homeland Security [publication](#) on these rules of engagement outlines the different authorities.
  - Additional challenges for consideration:
    - Determining whether a drone is a threat can be difficult. Many drones are used for legitimate purposes and distinguishing between a benign and a malicious drone requires accurate identification and assessment.
    - Drones can vary widely in size, speed, and technology. Small drones are hard to detect and target, while larger drones might be more resilient to certain countermeasures.
    - Shooting down a drone can pose safety risks to people and property on the ground. Debris from a downed drone can cause injury or damage, especially in populated areas.
    - Engaging a drone involves legal considerations. Unauthorized actions could have legal repercussions.
    - While non-kinetic methods such as jamming or hacking can be used, they require sophisticated technology and expertise.

- **What if a member of the public attempts to shoot down a drone?**
  - Shooting down a drone in New Jersey is illegal and violates federal law, as drones are regulated by the Federal Aviation Administration (FAA). If you shoot down a drone, you could face significant fines or even imprisonment (up to \$250,000 fine and up to 20 years imprisonment).

## Reporting

- **How should the public report suspicious drone activity?**
  - Suspicious activity is any observed behavior that could be potential threats, terrorism, or other criminal activity. Anyone who observes suspicious activity should immediately report it to local law enforcement or NJOHSP's Counter-Threat Watch Unit at 866-4-SAFE-NJ (1-866-472-3365) or [tips@njohsp.gov](mailto:tips@njohsp.gov).
  - Specific to the drones, any drone impacting critical infrastructure or other sensitive locations; or aviation activity or operation of an aircraft manned or unmanned, such as an unmanned aerial vehicle or drone in a manner that poses a threat to people or property.
    - **Indicators of Suspicious Drone Activity**
      - Repeated unauthorized flights
      - Suspected reconnaissance (i.e., repeated flyovers or prolonged hovering at low altitudes)
      - Flights in sensitive areas meant to observe security response
    - **Indicators of Suspicious Devices**
      - Unusual modifications
      - Visible loose wires
      - Lights taped over or removed
      - Excessive tape used to conceal or attach additional items
      - Additional visible batteries attached
      - Lack of a registration number
      - Unattended grounded Unmanned Aircraft Systems
- **Is there a particular time when drone sighting reports increase?**
  - At this time, sightings reportedly appear to occur in the late afternoon and evening hours.
- **Have any drones been traced back to their operators, and have there been any arrests?**
  - As of now, there have been no confirmed traces or arrests, but the federal investigation is ongoing.

## **Involvement of Authorities**

- **What is the New Jersey Office of Homeland Security and Preparedness' role in the investigation?**
  - NJOHSP is involved in the investigation and is working alongside other state and federal agencies to address the situation. The Federal Bureau of Investigation is the lead investigative agency.
- **Can you provide any details on the meeting between Governor Phil Murphy, U.S. Department of Homeland Security Secretary Alejandro Mayorkas, federal legislators, NJOHSP, and the New Jersey State Police?**
  - The meeting was convened by Governor Murphy in an effort to enhance information sharing regarding the ongoing drone activity between state officials, federal agencies, and Congressional members from NJ and ensure a coordinated response to the drone sightings.