

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:

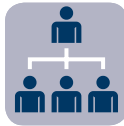
- Directly support an ongoing Department security operation.
- Investigate or prosecute a violation of law.



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



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