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INSIGHT

Drone Encounters Prompt Calls for Restrictions and Other Protections

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In October 2024, it was reported that suspected formations of drones had flown in airspace near Langley Air Force Base and naval facilities in Norfolk, VA, over multiple days. According to other reports, suspicious drones were seen in that area starting in December 2023.

In December 2024, a barrage of reported drone sightings in the Northeast, mostly over New Jersey, were logged with state and local police and federal authorities, prompting congressional inquiries regarding the adequacy of available capabilities and existing authorities to detect drones and mitigate threats.

The Federal Aviation Administration (FAA), in a joint statement with the Department of Homeland Security (DHS), the Department of Defense (DOD), and the Federal Bureau of Investigation (FBI), indicated that detection systems and trained observers were deployed to the Northeast to follow leads generated from more than 5,000 claimed drone sightings. They assessed that these sightings primarily could be attributed to lawful commercial, hobby, and law enforcement drones; airplanes and helicopters; and stars in the night sky.

Remote Identification Requirements

FAA regulations generally require most nonmilitary drones to broadcast position information and a unique identifier, referred to as Remote ID. This can be accomplished through built-in capabilities generally required for drones manufactured since September 2022, via Remote ID modules affixed to drones without bult-in capabilities, or by operating within the confines of an FAA-recognized identification area (like a model aircraft park). FAA requires drone operators to register every three years. Recreational operators must complete online training and pass a safety test, and commercial drones must be operated by FAA-certificated remote pilots.

Airspace Restrictions

Small drones are generally restricted to altitudes below 400 feet and must remain within visual line of sight of the operator, although some commercial and governmental operators have obtained waivers to operate beyond visual line of sight. Drones may fly at night if equipped with approved anticollision lights visible for three statute miles.

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FAA and industry partners have developed the B4UFLY service to help drone operators comply with flight regulations and airspace restrictions, and some drones are equipped with geofencing capabilities that can prevent unauthorized airspace incursions. FAA also developed a data exchange operated by third-party service suppliers, known as the Low Altitude Authorization and Notification Capability (LAANC), to inform drone pilots of airspace restrictions and other conflicts and provide authorizations to fly in certain controlled airspace. Future plans are to use this information in combination with Remote ID and other capabilities to provide real-time low-altitude airspace management for drones.

Language in the FAA Extension, Safety, and Security Act of 2016 (H.R. 636) directed FAA to establish a process for owners and operators of critical infrastructure sites and amusement parks to apply to FAA for designation of surrounding airspace as off limits to drones. The FAA Reauthorization Act of 2024 (H.R. 3935) added state prisons to the list of sites eligible to apply for these drone restrictions. FAA has not yet established the process for designating such sites as drone-restricted areas.

Counter-Drone Authorities

In December 2016, DOD was granted limited authority to protect assets related to nuclear deterrence against drone threats. This authority allows DOD to identify, monitor, and track drones; warn operators; disrupt or take control of drones; or use reasonable force to disable, damage, and seize or destroy drones deemed to pose a threat. The authority has since been broadened to include protections of other assets located in the United States, including those related to missile defense, national security space, protection of the President and Vice President, air defense missions, combat support, special operations activities, and major range and test facilities. Similar authority was also given to the Department of Energy to protect certain facilities that store or use special nuclear material.

In 2018, DHS and the Department of Justice (DOJ) were given similar authorities to protect certain covered facilities and assets from threats posed by drones. Covered facilities and assets include those related to Customs and Border Protection functions; Secret Service protection operations; FBI activities; and operations of the U.S. Marshals Service, including protection of jurists, court officers, witnesses, and other threatened persons, as well as facilities operated by the Federal Bureau of Prisons and federal courts and DOJ buildings.

While other law enforcement entities lack explicit authority to interdict drones, FAA developed a drone response playbook to guide in responding to suspected prohibited drone activity and teamed with other federal agencies to publish an advisory on the use of technology to detect and mitigate drone threats.

Options to Expand Capabilities and Authorities

Despite existing capabilities and authorities, questions remain whether actions taken have satisfactorily addressed public and congressional concerns. In the 118th Congress, several bills were considered to expand options for detecting and interdicting drones. For example, H.R. 8610 would have required DHS to establish a list of approved drone detection and mitigation systems and develop training programs to certify system operators. It would have also expanded authorities to mitigate drone threats at airports and would have established a pilot program allowing certain state and local law enforcement agencies to operate approved counter-drone technologies. Similarly, S. 896 would have authorized state and local law enforcement agencies to use certain drone interdiction capabilities and would have authorized drone countermeasures to protect commercial service airports. H.R. 8590 would have required DOJ, in coordination with DHS, to establish counter-drone systems training and qualification. H.R. 4333 sought to grant specific authority for detection, identification, monitoring, and tracking drones to state, local, tribal, and territorial law enforcement agencies, and establish an exploratory program permitting certain nonfederal law enforcement agencies to take necessary actions to mitigate credible drone threats. H.R. 7586 would have granted the Department of State authority to interdict drones that pose a threat to

diplomatic security missions and facilities, and H.R. 6898 would have directed DOD to conduct an assessment of capabilities to use directed energy countermeasures to interdict drones that threaten military installations.

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