



## CertAlert: Updated Guidance for Airport Emergency Plans

**09.28.21**

On September 22, 2021, the Federal Aviation Administration (“FAA”) issued a CertAlert that requires airports certificated under Part 139 to include in their airport emergency plans (“AEP”) instructions for responding to unauthorized unmanned aircraft system (“UAS”) operations at or near the airport. Among other items, the CertAlert requires these instructions include guidance on how an operator will respond while coordinating with federal and state or local law enforcement agencies, deal with disruptions to airport operations, and manage media communications.

Although many airports have developed tactical response plans to such incidents in coordination with the Transportation Security Administration (“TSA”), this CertAlert is the first time that FAA has imposed a requirement to address unauthorized UAS operations in the Airport Certification Manual. The CertAlert requests airport operators which have not already developed unauthorized UAS response plans begin coordinating such plans with their assisted Airport Safety Inspector no later than September 30, 2021. We understand FAA intends to issue further guidance regarding when airport operators must have an approved unauthorized UAS response plan in place.

In addressing this CertAlert, it is important to keep in mind the complex jurisdictional issues that may arise in responding to an unauthorized UAS operation. In general, state and local governments have very limited authority to regulate the operation of UAS in flight, except as it relates laws traditionally related to state and local police powers (e.g., trespass, privacy, land use). The use of counter-UAS technology to disable unauthorized UAS may violate federal law, and federal law enforcement agencies have limited authority to deploy counter-UAS technology. At many airports, cooperation between jurisdictions and their respective law enforcement agencies is necessary to respond to an unauthorized UAS incident. Additional resources and information on these subjects are available from FAA’s Public Safety and Law Enforcement Toolkit and Law Enforcement Guidance for Suspected Unauthorized UAS Operations.

Airport emergency plans, once approved by FAA and incorporated into an Airport Certification Manual are regulatory documents, with may carry consequences if not scrupulously observed. We therefore strongly encourage operators to carefully coordinate their unauthorized UAS response plans with law enforcement and legal counsel.

For additional information, please contact Eric Smith or Steven Osit.