

# THE OTHER ASSAULT ON THE FOURTH AMENDMENT IN THE NDAA? DRONES AT YOUR AIRPORT?



Figure 2: Planned DoD 2015 UAS Locations

Steven Aftergood notes that the Army just issued new directives

for the use of drones in civilian airspace. The new directives include nothing earth shattering (my favorite part is the enclosure from 2009 explaining what to do when you lose contact with one of your drones, on PDF 18—but really, what could go wrong?). But it does, as Aftergood notes, reflect a real enthusiasm for using more drones in civilian airspace.

Which brings me to a part of the NDAA debate that has remained largely undiscussed.

Days after the NDAA past, Chuck Schumer started boasting about how the NDAA would bring jobs to Syracuse, NY because the city's airport might be one of 6 sites approved as test sites for drones flying in civilian airspace.

The National Defense Authorization Act signed into law last week by President Barack Obama allows for the establishment of six national test sites where drones could fly through civil air space.

Schumer, D-N.Y., said Tuesday he pushed

for the establishment of six spots, instead of the planned four, to improve the chances that Hancock Field would be included.

[snip]

Schumer said Hancock already meets FAA requirements for unmanned aerial vehicles because about 7,000 square miles surrounding the airport is designated as "special use" airspace.

He said that "making Hancock a test site for this technology would be a boon for Central New York, creating jobs and bringing new investments to our defense contractors that provide thousands of good paying jobs."

Curiously, the language addressing drones in civilian airspace in the NDAA, as passed, doesn't actually say this.

SEC. 1074. REPORT ON INTEGRATION OF UNMANNED AERIAL SYSTEMS INTO THE NATIONAL AIRSPACE SYSTEM.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Administrator of the Federal Aviation Administration and on behalf of the UAS Executive Committee, submit to the appropriate committees of Congress a report setting forth the following:

(1) A description and assessment of the rate of progress in integrating unmanned aircraft systems into the national airspace system.

(2) An assessment of the potential for one or more pilot program or programs on such integration at certain test ranges to increase that rate of progress.

Rather, it seems to require Secretary Panetta to tell Congress whether “one or more” test ranges would “help” us get drones into civilian airspace more quickly. Perhaps the new Army guidelines are part of DOD’s preparation for the report to Congress.

That said, there is evidence that the legislative intent behind the NDAA is to push those 6 sites forward. Here’s what the managers’ statement said about this section (note, the numbering changed as sections got squished together into a bill).

#### **Unmanned aerial systems and national airspace (sec. 1097)**

The House bill contained a provision (sec. 1098) that would require the Administrator of the Federal Aviation Administration to establish a program to integrate unmanned aircraft systems into the national airspace system at six test ranges.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require that, for any project established by the Administrator under this authority, the Administrator ensures that the project is operational not later than 180 days after the date on which the project is established.

That would seem to say that the Congressional intent, if not the letter of the law, adopted the language from the House bill, which says this:

#### **SEC. 1098. UNMANNED AERIAL SYSTEMS AND NATIONAL AIRSPACE.**

(a) Establishment- Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a program to integrate

unmanned aircraft systems into the national airspace system at six test ranges.

(b) Program Requirements- In establishing the program under subsection (a), the Administrator shall—

(1) safely designate nonexclusionary airspace for integrated manned and unmanned flight operations in the national airspace system;

(2) develop certification standards and air traffic requirements for unmanned flight operations at test ranges;

(3) coordinate with and leverage the resources of the Department of Defense and the National Aeronautics and Space Administration;

(4) address both civil and public unmanned aircraft systems;

(5) ensure that the program is coordinated with the Next Generation Air Transportation System; and

(6) provide for verification of the safety of unmanned aircraft systems and related navigation procedures before integration into the national airspace system.

(c) Locations- In determining the location of a test range for the program under subsection (a), the Administrator shall—

(1) take into consideration geographic and climatic diversity;

(2) take into consideration the location of ground infrastructure and research needs; and

(3) consult with the Department of Defense and the National Aeronautics and Space Administration.

Similar language appeared in the FAA authorization that got hung up in Congress last fall.

SEC. 326. UNMANNED AIRCRAFT SYSTEMS TEST RANGES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a program to integrate unmanned aircraft systems into the national airspace system at not fewer than 4 test ranges.

(b) PROGRAM REQUIREMENTS.—In establishing the program under subsection (a), the Administrator shall—

(1) safely designate nonexclusionary airspace for integrated manned and unmanned flight operations in the national airspace system;

(2) develop certification standards and air traffic requirements for unmanned flight operations at test ranges;

(3) coordinate with and leverage the resources of the National Aeronautics and Space Administration and the Department of Defense;

(4) address both civil and public unmanned aircraft systems;

(5) ensure that the program is coordinated with the Next Generation Air Transportation System; and

(6) provide for verification of the safety of unmanned aircraft systems and related navigation procedures before integration into the national airspace system.

So in addition to the Army releasing new guidelines for drones (remember, btw, that Army Secretary John McHugh, who signed the new

guidelines, used to represent Fort Drum in northern NY, which has ties to the efforts to bring drones to Syracuse and already conducts drone surveillance of the black bears in the Adirondacks) it's clear that Congress is pushing to have drones regularly operating in civilian airspace in 4-6 locations around the country. And as the map above makes clear—taken from this 2010 report—DOD plans to have drones all over the country by 2015.

I'm not entirely certain what the status of those 6 test sites are. But it's fairly clear that Congress has decided, without any discernible debate, that we're going to have drones there and elsewhere in the near future.