

**FEDERAL CONSISTENCY DETERMINATION FOR THE
ESTABLISHMENT OF RESTRICTED AREA AIRSPACE 6604C/D/E**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
GODDARD SPACE FLIGHT CENTER
WALLOPS FLIGHT FACILITY
WALLOPS ISLAND, VIRGINIA 23337**

INTRODUCTION

This document provides the Commonwealth of Virginia with the National Aeronautics and Space Administration's (NASA) Consistency Determination under Coastal Zone Management Act (CZMA) Section 307(c)(1) and Title 15 Code of Federal Regulations (CFR) Part 930, Subpart C, for expansion of the Restricted Area Airspace (R-) 6604 at NASA Goddard Space Flight Center's Wallops Flight Facility (WFF), Wallops Island, Virginia. The location for the proposed airspace expansion is shown in Figure 1. The information in this Consistency Determination is provided pursuant to 15 CFR Section 930.39.

Furthermore, this Consistency Determination also considers the connected action of the Department of Transportation's Federal Aviation Administration (FAA). The FAA regulates U.S. airspace in accordance with the authorities granted to it under 49 U.S.C. Subtitle VII, Part A, Subpart I, Chapter 401, § 40103. All entities, including agencies of the U.S. government such as NASA, must submit a request to FAA for it to grant changes to the nation's airspace. Chapter 32 of FAA Order JO 7400.2K establishes the requirement for cooperation between FAA and non-Department of Defense Federal agencies requesting changes to Special Use Airspaces (SUA). Per the referenced order, the Federal requesting agency (in this case, NASA) assumes the role of Lead Agency with FAA serving as a Cooperating Agency. NASA has prepared a Draft Environmental Assessment (EA) to evaluate the potential environmental impacts from the proposed expansion of the Restricted Area Airspace in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S. Code 4321-4347), the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 Code of Federal Regulations [CFR] 1500-1508), NASA's regulations for implementing NEPA (14 CFR Subpart 1216.3), the *NASA Procedural Requirements (NPR) for Implementing NEPA and Executive Order (EO) 12114* (NPR 8580.1), and the FAA's regulations for implementing NEPA, *Environmental Impacts: Policies and Procedures* (FAA Order 1050.1F). To this end, because there are multiple Federal agencies involved in the activity considered herein, NASA has prepared this consistency review to not only fulfill its own CZMA obligations, but also those of FAA.

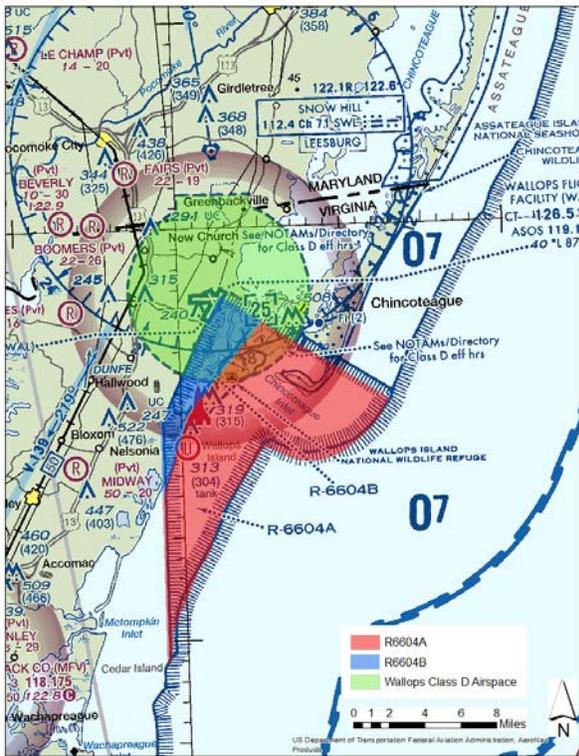


Figure 1: WFF Restricted Area R6604A/B and Class D Airspaces

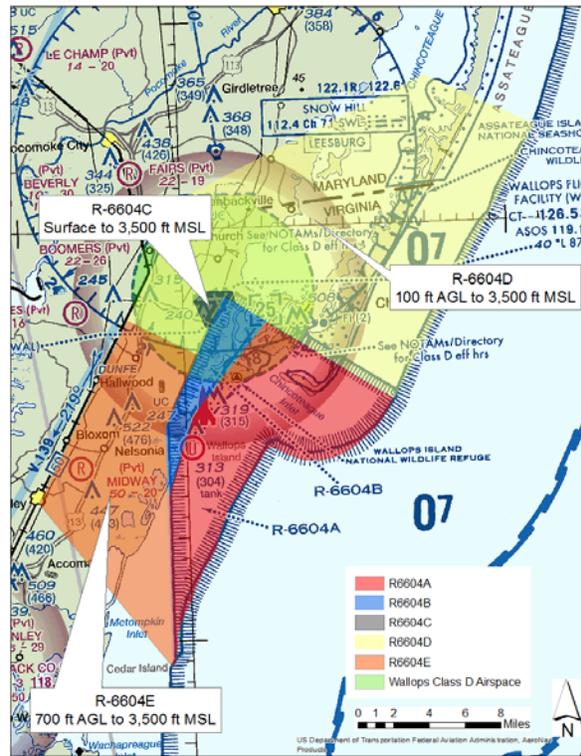


Figure 2: Proposed Restricted Area Airspace R-6604C/D/E

(AGL = above ground level;
MSL = [above] mean sea level)

Based on the data and analysis, NASA finds that the activities associated with the proposed expansion of the Restricted Area Airspace are consistent to the maximum extent practicable with the enforceable polices of the Virginia Coastal Resources Management Program. The summary below supports NASA's determination.

**ENFORCEABLE POLICIES COMPRISING VIRGINIA’S COASTAL ZONE MANAGEMENT PROGRAM
AND PROPOSED ACTION ANALYSIS**

- a. Fisheries Management – The program stresses the conservation and enhancement of finfish and shellfish resources and the promotion of commercial and recreational fisheries to maximize food production and recreational opportunities. This program is administered by the Marine Resources Commission (MRC; Virginia Code §28.2-200 through §28.2 - 713) and the Department of Game and Inland Fisheries (DGIF; Virginia Code §29.1-100 through §29.1-570).

Consistent? Yes

Analysis – No ground-disturbing activities are considered and, therefore, the proposed expansion of the Restricted Area Airspace would not have an impact on fisheries management.

The State Tributyltin (TBT) Regulatory Program has been added to the Fisheries Management program. The General Assembly amended the Virginia Pesticide Use and Application Act as it related to the possession, sale, or use of marine antifoulant paints containing TBT. The use of TBT in boat paint constitutes a serious threat to important marine animal species. The TBT program monitors boating activities and boat painting activities to ensure compliance with TBT regulations promulgated pursuant to the amendment. The MRC, DGIF, and Virginia Department of Agriculture and Consumer Services share enforcement responsibilities (Virginia Code §3.1-249.59 through §3.1-249.62).

Consistent? Yes

Analysis – The proposed expansion would not involve construction or ground disturbance and, therefore, would not have an impact on the State TBT Regulatory Program.

- b. Subaqueous Lands Management – The management program for subaqueous lands establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards established by the Department of Environmental Quality (DEQ) Water Division. The program is administered by the MRC (Virginia Code §28.2-1200 through §28.2-1213).

Consistent? Yes

Analysis – No ground disturbance or construction is planned and, therefore, the proposed expansion of the Restricted Area Airspace would not have an impact on subaqueous lands.

- c. Wetlands Management – The purpose of the wetlands management program is to preserve tidal wetlands, prevent their despoliation, and accommodate economic development in a manner consistent with wetlands preservation.

(i) The tidal wetlands program is administered by the MRC (Virginia Code §28.2-1301 through §28.2-1320).

Consistent? Yes

Analysis – No construction or ground disturbance is involved with this project and, therefore, there would be no impacts on tidal wetlands.

(ii) The Virginia Water Protection Permit program administered by the DEQ includes protection of wetlands - both tidal and non-tidal. This program is authorized by Virginia Code § 62.1-44.15.5 and the Water Quality Certification requirements of §401 of the Clean Water Act of 1972.

Consistent? Yes

Analysis – No construction or ground disturbance is involved with this project and, therefore, there would be no impacts on tidal or non-tidal wetlands.

- d. Dunes Management – Dune protection is carried out pursuant to the Coastal Primary Sand Dune Protection Act and is intended to prevent destruction or alteration of primary dunes. This program is administered by the MRC (Virginia Code §28.2-1400 through §28.2-1420).

Consistent? Yes

Analysis - No ground disturbance would occur and, therefore, the proposed Restricted Area Airspace expansion would not have an impact on dunes.

- e. Non-point Source Pollution Control – Virginia's Erosion and Sediment Control Law requires soil-disturbing projects to be designed to reduce soil erosion and to decrease inputs of chemical nutrients and sediments to the Chesapeake Bay, its tributaries, and other rivers and waters of the Commonwealth. This program is administered by DEQ (Virginia Code §62.1-44.15:51 et seq.).

Consistent? Yes

Analysis – No soil or ground disturbance would occur as part of this project and, therefore, no non-point source pollution would be created.

- f. Point Source Pollution Control – The point source program is administered by the State Water Control Board pursuant to Virginia Code §62.1-44.15. Point source pollution control is accomplished through the implementation of the National Pollutant Discharge Elimination System permit program established pursuant to §402 of the federal Clean Water Act and administered in Virginia as the Virginia Pollutant Discharge Elimination System permit program. The Water Quality Certification requirements of §401 of the Clean Water Act of 1972 is administered under the Virginia Water Protection Permit program.

Consistent? Yes

Analysis – The proposed expansion of the Restricted Area Airspace would not create any new point sources for pollution and, therefore, the action would have no impact on point source pollution control.

- g. Shoreline Sanitation – The purpose of this program is to regulate the installation of septic tanks, set standards concerning soil types suitable for septic tanks, and specify minimum distances that tanks must be placed away from streams, rivers, and other waters of the Commonwealth. This program is administered by the Department of Health (Virginia Code §32.1-164 through §32.1-165).

Consistent? Yes

Analysis - This action does not require the construction of facilities that require a septic tank and, therefore, the proposed airspace expansion would not have an impact on shoreline sanitation.

- h. Air Pollution Control – This program implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. This program is administered by the State Air Pollution Control Board (Virginia Code §10.1-1300 through 10.1-1320).

Consistent? Yes

Analysis – As neither the types of aircraft operated from WFF nor the tempo of aircraft operations would change under this action, minimal impacts to air quality would occur during aircraft operations. The action would not lead to non-attainment of any of the National Ambient Air Quality Standards. The proposed Restricted Area Airspace expansion would have minimal impacts on air pollution control.

- i. Coastal Lands Management – This is a state-local cooperative program administered by DEQ's Water Division and 84 localities in Tidewater, Virginia, established pursuant to the Chesapeake Bay Preservation Act (Virginia Code §§ 62.1-44.15:67 through 62.1-44.15:79) and Chesapeake Bay Preservation Area Designation and Management Regulations (Virginia Administrative Code 9 VAC 25-830-10 et seq.).

Consistent? Yes

Analysis – Although the site is located within the Chesapeake/Atlantic Preservation Area, as designated by the Accomack County Board of Supervisors in Article XVI, Section 106-377 and 106-378 of the Accomack County Code, no ground disturbance is proposed and, therefore, the expansion of the Restricted Area Airspace would not have an impact on resources in the Chesapeake/Atlantic Preservation Area.