



**4910-13**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 73**

**[Docket No. FAA-2019-0111; Airspace Docket No. 19-ASO-23]**

**RIN 2120-AA66**

**Proposed Establishment of Restricted Area R-5306F; Cherry Point, NC**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish restricted area R-5306F at Marine Corps Air Station (MCAS) Cherry Point, NC. R-5306F would extend from flight level (FL) 180 to FL 290. The proposed restricted area would overlie the existing restricted area R-5306A, and the adjacent Core Military Operations Area (MOA). Due to altitude constraints, the existing restricted airspace structure around MCAS Cherry Point cannot fully support the training requirements for current legacy aircraft as well as 4<sup>th</sup> and 5<sup>th</sup> generation aircraft such as the F-35. In conjunction with R-5306A, the proposed restricted area would provide realistic training to enable pilots and aircrews to counter evolving threat nation warfare anti-aircraft capabilities.

**DATES:** Comments must be received on or before [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M-30, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001; telephone: (202) 366-9826. You must identify FAA

Docket No. FAA-2019-0111; Airspace Docket No. 19-ASO-23, at the beginning of your comments. You may also submit comments through the Internet at <https://www.regulations.gov>.

Comments on environmental and land use aspects to should be directed to: Carmen Lombardo, Natural Resource Manager, MCAS Cherry Point, NC 28533; telephone: (252) 466-5870; email: [carmen.lombardo@usmc.mil](mailto:carmen.lombardo@usmc.mil).

**FOR FURTHER INFORMATION CONTACT:** Sean Hook, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**Authority for this rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish restricted area airspace at Cherry Point, NC, to enhance aviation safety and accommodate essential U.S. Marine Corps training activities.

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing

reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2019-0111; Airspace Docket No. 19-ASO-23) and be submitted in triplicate to the Docket Management System (see "ADDRESSES" section for address and phone number). You may also submit comments through the Internet at <https://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2019-0111; Airspace Docket No. 19-ASO-23." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### **Availability of NPRMs**

An electronic copy of this document may be downloaded through the Internet at <https://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at [https://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](https://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person at the Dockets Office (see "ADDRESSES" section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

## **Background**

The U.S. Marine Corps submitted a proposal to the FAA to expand the existing restricted airspace at MCAS Cherry Point, NC, because the altitude constraints of the current airspace structure cannot fully support U.S. Marine Corps training and readiness requirements. The training shortfall applies to current legacy aircraft but is more pronounced for 4<sup>th</sup> and 5<sup>th</sup> generation aircraft, such as the F-35. Specifically, the existing restricted area R-5306A extends from the surface up to, but not including, FL 180. This altitude constraint limits the ability to conduct realistic training in a variety of tactics at the higher altitudes that would be present in "real world" situations. Additional high-altitude restricted airspace up to FL 290 is needed to provide the realistic training environment that pilots and aircrews need to in order to qualify and remain proficient in tactics for the employment of Precision Guided Munitions (PGM). PGMs are weapon systems that are released from higher altitudes and greater distances from the target than conventional unguided weapons.

In conjunction with existing restricted area R-5306A, the proposed R-5306F would also provide the airspace needed to contain actual and simulated deliveries of ordnance for training in tactics such as Close Air Support, Deep Air Support, Suppression of Enemy Air Defenses, etc.

## **The Proposal**

The FAA is proposing to amend 14 CFR part 73 to establish restricted area R-5306F, Cherry Point, NC, to overlie the existing restricted area R-5306A, and the adjacent Core Military Operations Area (MOA). R-5306F would extend from FL 180 to FL 290. The time of

designation would be Monday through Friday, 0800 to 0000 hours, local time; other times by NOTAM.

In conjunction with R-5306A, R-5306F would provide the low-altitude to high-altitude restricted airspace needed to train in the variety of tactics as discussed above.

There are no current Air Traffic Service routes (i.e., jet routes or Q-routes) or preferential instrument flight rules (IFR) routes that would be impacted by the proposed restricted area. R-5306F would be joint-use special use airspace; meaning that the restricted area would be returned to the controlling agency (FAA, Washington ARTCC) on a real-time basis when not in use by the using agency. Supersonic flight would not be conducted in R-5306F.

### **Regulatory Notices and Analyses**

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## **Environmental Review**

This proposal will be subjected to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," prior to any FAA final regulatory action.

## **List of Subjects in 14 CFR Part 73**

Airspace, Prohibited Areas, Restricted Areas.

## **The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

### **PART 73 - SPECIAL USE AIRSPACE**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### **§ 73.53 North Carolina [Amended]**

2. Amend §73.53 to read as follows:

\* \* \* \* \*

#### **R-5306F Cherry Point, NC [New]**

**Boundaries.** Beginning at lat. 35°23'16"N., long. 76°34'39"W.;  
to lat. 35°18'16"N., long. 76°16'39"W.;  
to lat. 35°04'31"N., long. 76°04'29"W.;  
to lat. 35°00'31"N., long. 76°00'59"W.;  
to lat. 35°00'22"N., long. 76°00'51"W.;  
thence southwest 3 NM from and parallel to the shoreline  
to lat. 34°40'16"N., long. 76°24'45"W.;  
to lat. 34°40'41"N., long. 76°25'08"W.;  
to lat. 34°46'01"N., long. 76°29'59"W.;  
to lat. 35°08'01"N., long. 76°51'19"W.;  
to the point of beginning.

**Designated altitudes.** FL 180 to FL 290.

**Time of designation.** Monday through Friday, 0800 – 0000L; other times by NOTAM.

**Controlling agency.** FAA, Washington ARTCC.

**Using agency.** USMC, Commanding Officer, U.S. Marine Corps Air Station Cherry Point, NC.

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Issued in Washington, DC, on March 16, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

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