

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Docket No. FAA-2023-0451; Airspace  
Docket No. 20-ASO-27]

RIN 2120-AA66

#### Establishment of Restricted Areas R-5306G and R-5306H and Amendment of Restricted Areas R-5306C and R-5306D; Cherry Point, NC

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

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

**SUMMARY:** This action proposes to establish restricted areas R-5306G and R-5306H at Marine Corps Air Station (MCAS) Cherry Point, NC. The proposed restricted areas would overlie the amended restricted areas R-5306C and R-5306D and the existing R-5306E. This action also proposes minor amendments of 2 latitude/longitude coordinates in R-5306C and R-5306D to align with a refined 3 nautical mile boundary line off the coast, and controlling agency change for R-5306A, R-5306C, R-5306D, and R-5306E to MCAS Cherry Point CERAP. Due to altitude constraints, the existing restricted airspace structure around MCAS Cherry Point cannot fully support the training requirements for current 4th or 5th generation aircraft such as the F-18 and F-35. The proposed restricted areas would provide realistic training to enable pilots and aircrews to deliver real or simulated laser-guided precision guided munitions (PGM) from realistic altitudes.

**DATES:** Comments must be received on or before May 15, 2023.

**ADDRESSES:** Send comments identified by FAA Docket No. 2023-0451 and Airspace Docket No. 20-ASO-27 using any of the following methods:

\* *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) and follow the

online instructions for sending your comments electronically.

\* *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

\* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

\* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Docket:* Background documents or comments received may be read at [www.regulations.gov](http://www.regulations.gov) at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Brian Vidis, 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

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

#### Availability of NPRM

An electronic copy of this document may be downloaded through the internet at [www.regulations.gov](http://www.regulations.gov). Recently published rulemaking documents can also be accessed through the FAA's web page at [www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://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 in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 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 Avenue, College Park, GA 30337.

### Background

The U.S. Marine Corps submitted a proposal to the FAA to expand the existing restricted area 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 for current 4th or 5th generation aircraft, such as the F-18 and F-35. Specifically, the existing restricted areas R-5306C extends from 1,200 mean sea level (MSL) to but not including flight level (FL) 180, and R-5306D and R-5306E extend from the surface to but not including FL180. These altitude constraints limit the U.S. Marine Corps' ability to conduct realistic training by accurately representing laser-guided PGM employment during combat operations. Laser-guided PGMs require high-angle fires delivery techniques that necessitate flying at higher altitudes. The U.S. Marine Corps needs additional, high-altitude restricted airspace up to 27,000 feet MSL to provide a realistic training environment for pilots and aircrews to be better prepared for combat operations.

In conjunction with restricted areas R-5306C, R-5306D, and R-5306E; the proposed R-5306G and R-5306H would provide the airspace needed to contain actual and simulated deliveries of ordnance for training in conducting complex, simultaneous, live-fire missions, and provide realistic training to pilots and aircrews to counter evolving threat nation anti-aircraft capabilities.

### The Proposal

The FAA is proposing an amendment to 14 CFR part 73 to establish restricted areas R-5306G and R-5306H, Cherry Point, NC. If established, R-5306G and R-5306H would overlie the amended restricted areas R-5306C and R-5306D and the existing R-5306E. Restricted area R-5306G would extend from 18,000 feet MSL to 23,000 feet MSL. The time of designation would be Intermittent, 0600–0000 local time Monday–Friday, other times by NOTAM. R-5306H would extend from 23,001 MSL to 27,000 feet MSL. The time of designation would be Intermittent, by NOTAM 4 hours in advance, 0001–1230 local time, May 1–October 31. This action also proposes minor amendments of 2 latitude/longitude coordinates in R-5306C and R-5306D to align with a refined 3 nautical mile boundary line off the coast, and controlling agency change for

R-5306A, R-5306C, R-5306D, and R-5306E to MCAS Cherry Point Combined Center Radar Approach Control (CERAP).

Two Air Traffic Service routes, J-174 and Q-101, would be impacted by the proposed restricted areas. However, R-5306G and R-5306H would be joint-use; meaning that the restricted areas would be returned to the controlling agency (FAA, Washington Air Route Traffic Control Center (ARTCC) or Cherry Point CERAP) on a real time basis when not in use by the using agency. Additionally, the FAA proposes to make provisions that would allow the controlling agency to recall the airspace when necessary to accommodate traffic flows. Based on these considerations, the FAA expects minimum impact on commercial aircraft.

### 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 subject 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. Section 73.53 is amended as follows:

\* \* \* \* \*

#### R-5306A Cherry Point, NC [Amended]

By removing the current Controlling Agency and inserting the following in its place:

*Controlling agency.* Marine Corps Air Station Cherry Point Combined Center Radar Approach Control (CERAP).

\* \* \* \* \*

#### R-5306C Cherry Point, NC [Amended]

*Boundaries.* Beginning at lat. 34°51'01" N, long. 77°05'29" W; to lat. 34°42'01" N, long. 76°54'44" W; to lat. 34°41'51" N, long. 76°56'19" W; to lat. 34°37'36" N, long. 76°56'19" W; thence southwest along a line 3 nautical miles from and parallel to the shoreline to lat. 34°34'16" N, long. 77°08'51" W; to lat. 34°34'31" N, long. 77°08'59" W; to lat. 34°44'51" N, long. 77°14'39" W; to lat. 34°49'31" N, long. 77°09'59" W; thence to the point of beginning.

*Designated altitudes.* From 1,200 feet MSL to, but not including FL 180.

*Time of designation.* Continuous.

*Controlling agency.* Marine Corps Air Station Cherry Point CERAP.

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

#### R-5306D Cherry Point, NC [Amended]

*Boundaries.* Beginning at lat. 34°44'51" N, long. 77°14'39" W; to lat. 34°34'31" N, long. 77°08'59" W; to lat. 34°34'16" N, long. 77°08'51" W; thence southwest along a line 3 nautical miles from and parallel to the shoreline to lat. 34°30'26" N, long. 77°15'55" W; to lat. 34°33'01" N, long. 77°18'59" W; to lat. 34°36'06" N, long. 77°26'07" W; to lat. 34°40'01" N, long. 77°21'59" W; to lat. 34°39'11" N, long. 77°20'49" W; thence to the point of beginning.

*Designated altitudes.* Surface to, but not including FL 180.

*Time of designation.* Continuous.

*Controlling agency.* Marine Corps Air Station Cherry Point CERAP.

*Using agency.* USMC, Commanding General, Marine Corps Installations East-Marine Corps Base Camp Lejeune, NC.

\* \* \* \* \*

#### R-5306E Cherry Point, NC [Amended]

By removing the current Controlling Agency and inserting the following in its place:

*Controlling agency.* Marine Corps Air Station Cherry Point CERAP.

\* \* \* \* \*

#### R-5306G Cherry Point, NC [New]

*Boundaries.* Beginning at lat. 34°51'01" N, long. 77°05'29" W; to lat. 34°42'01" N, long. 76°54'44" W; to lat. 34°41'51" N, long. 76°56'19" W; to lat. 34°37'36" N, long. 76°56'19" W; thence southwest 3 NM from

and parallel to the shoreline to lat. 34°30'26" N, long. 77°15'55" W; to lat. 34°33'01" N, long. 77°18'59" W; to lat. 34°36'06" N, long. 77°26'07" W; to lat. 34°38'13" N, long. 77°25'59" W; to lat. 34°40'21" N, long. 77°22'11" W; to lat. 34°40'01" N, long. 77°21'59" W; to lat. 34°39'11" N, long. 77°20'49" W; to lat. 34°44'51" N, long. 77°14'39" W; to lat. 34°49'31" N, long. 77°09'59" W; to the point of beginning.

*Designated altitudes.* 18,000 feet MSL to 23,000 feet MSL.

*Time of designation.* Intermittent, 0600–0000 local time Monday–Friday, other times by NOTAM.

*Controlling agency.* Marine Corps Air Station Cherry Point CERAP.

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

#### R-5306H Cherry Point, NC [New]

*Boundaries.* Beginning at lat. 34°51'01" N, long. 77°05'29" W; to lat. 34°42'01" N, long. 76°54'44" W; to lat. 34°41'51" N, long. 76°56'19" W; to lat. 34°37'36" N, long. 76°56'19" W; thence southwest 3 NM from and parallel to the shoreline to lat. 34°30'26" N, long. 77°15'55" W; to lat. 34°33'01" N, long. 77°18'59" W; to lat. 34°36'06" N, long. 77°26'07" W; to lat. 34°38'13" N, long. 77°25'59" W; to lat. 34°40'21" N, long. 77°22'11" W; to lat. 34°40'01" N, long. 77°21'59" W; to lat. 34°39'11" N, long. 77°20'49" W; to lat. 34°44'51" N, long. 77°14'39" W; to lat. 34°49'31" N, long. 77°09'59" W; to the point of beginning.

*Designated altitudes.* 23,001 feet MSL to 27,000 feet MSL.

*Time of designation.* Intermittent, by NOTAM 4 hours in advance, 0001–1230 local time May 1–October 31.

*Controlling agency.* FAA, Washington ARTCC.

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

\* \* \* \* \*

Issued in Washington, DC, on March 23, 2023.

**Brian Konie,**

*Acting Manager, Airspace Rules and Regulations Group.*

[FR Doc. 2023–06415 Filed 3–28–23; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 52

[REG–105954–22]

RIN 1545–BQ40

#### Superfund Chemical Taxes

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the

excise taxes imposed on certain chemicals and certain imported substances, effective July 1, 2022. Such taxes are known as the Superfund chemical taxes. The excise tax on taxable chemicals is imposed on the sale or use of taxable chemicals by manufacturers, producers, and importers of such chemicals. The excise tax on taxable substances is imposed on the sale or use of taxable substances by importers of such taxable substances. The proposed regulations affect manufacturers, producers, and importers that sell or use taxable chemicals and importers that sell or use taxable substances.

**DATES:** Written or electronic comments and requests for a public hearing must be received by May 30, 2023. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section.

**ADDRESSES:** Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG–105954–22) by following the online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically or on paper to its public docket.

*Send paper submissions to:* CC:PA:LPD:PR (REG–105954–22), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

#### FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Stephanie Bland or Amanda Dunlap at (202) 317–6855 (not a toll-free number); concerning the submission of comments and/or requests for a public hearing, Vivian Hayes by phone at (202) 317–5177 (not a toll-free number) or by email at [publichearings@irs.gov](mailto:publichearings@irs.gov) (preferred).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### I. Overview

This document contains proposed regulations under sections 4661, 4662, 4671, and 4672 of the Internal Revenue Code (Code) to amend the Environmental Tax Regulations (26 CFR part 52). Section 4661(a) imposes an excise tax on the sale or use of “taxable chemicals” by manufacturers, producers, or importers (section 4661 tax), and section 4662 provides

definitions and special rules for applying the section 4661 tax. Section 4671(a) imposes an excise tax on the sale or use of “taxable substances” by importers (section 4671 tax), and section 4672 provides definitions and special rules for applying the section 4671 tax. The section 4661 tax and the section 4671 tax are collectively referred to as the “Superfund chemical taxes” because these excise taxes fund the Hazardous Substance Response Trust Fund established by section 221 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), Public Law 96–510, 94 Stat. 2767 (1980), informally referred to as “Superfund.”

The Superfund chemical taxes previously expired on December 31, 1995, but were reinstated with certain modifications, effective July 1, 2022, through December 31, 2031, by section 80201 of the Infrastructure Investment and Jobs Act (IIJA), Public Law 117–58, 135 Stat. 429 (November 15, 2021). The proposed regulations provide guidance on the application of the reinstated Superfund chemical taxes. As explained later in this Background section, the Treasury Department and the IRS have issued additional guidance on topics related to the reinstated Superfund chemical taxes that are not covered by the proposed regulations.

#### II. Section 4661 Tax on Taxable Chemicals

##### A. In General

The section 4661 tax was enacted as part of CERCLA to impose an excise tax on the sale or use of any taxable chemical by the manufacturer, producer, or importer of the taxable chemical. While section 4661(a) imposes tax on the sale of any taxable chemical, section 4662(c)(1) treats the use of a taxable chemical as a sale of the taxable chemical.

Section 4661(b) provides a table of 42 chemicals and the per-ton tax rate for each chemical. As reinstated by the IIJA, the per-ton tax rate for each of the 42 taxable chemicals in the table under section 4661(b) is double the per-ton tax rate previously imposed by section 4661 as in effect at the end of 1995.

The IIJA also amends section 4661(c), effective July 1, 2022, to provide that no section 4661 tax will be imposed after December 31, 2031.

##### B. Definition of Taxable Chemical and Other Terms

Under section 4662(a)(1), any chemical listed in the table under section 4661(b) is a “taxable chemical” if it is manufactured or produced in the