

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 establishes restricted area airspace at Cherry Point, NC, to enhance aviation safety and accommodate essential U.S. Marine Corps training activities.

### History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2019-0111 in the **Federal Register** (85 FR 16918; March 25, 2020), proposing to expand the restricted airspace at MCAS Cherry Point, NC, by establishing restricted area R-5306F, because the altitude constraints of the current airspace structure cannot fully support U.S. Marine Corps training and readiness requirements. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

### The Rule

This action amends 14 CFR part 73 by establishing restricted area R-5306F, Cherry Point, NC, to overlie the existing restricted area R-5306A, and the adjacent Core MOA. Restricted area R-5306F extends from FL 180 to FL 290. The time of designation is Monday through Friday, 0800 to 0000 hours, local time; other times by NOTAM.

In conjunction with R-5306A, R-5306F will 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 IFR routes that are impacted by the restricted area. R-5306F is joint-use special use airspace; meaning that the using agency will return the restricted area to the controlling agency (FAA, Washington ARTCC) on a real-time basis when not in use by the using agency. Supersonic flight will not be conducted in R-5306F.

### Regulatory Notices and Analyses

The FAA has determined that this 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 only affects air traffic procedures and air navigation, it is certified that this rule does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

The FAA has determined that this action of establishing restricted area R-5306F at MCAS Cherry Point, NC, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5f, which categorically excludes from further environmental impact review actions that increase the altitude of special use airspace. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study. The FAA’s categorical exclusion declaration and decision for this action is separately documented in a categorical exclusion dated August 25, 2020.

### List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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-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, 0800–0000; other times by NOTAM.

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

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

\* \* \* \* \*

Issued in Washington, DC, on August 9, 2021.

**George Gonzalez,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2021–17251 Filed 8–12–21; 8:45 am]

**BILLING CODE 4910–13–P**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 241

[Release No. 34–92565]

### Procedures for the Commission’s Use of Certain Authorities Under Rule 21F–3(b)(3) and Rule 21F–6 of the Securities Exchange Act of 1934

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Policy statement.

**SUMMARY:** The Securities and Exchange Commission (“Commission” or “SEC”) is issuing this statement to clarify how the SEC will proceed when addressing certain issues under Exchange Act Rule 21F–3(b)(3) and Exchange Act Rule 21F–6 while the staff is preparing and the Commission is considering potential amendments to those rules (“Interim Policy-Review Period”). These procedures will remain in effect until withdrawn by the Commission.

**DATES:** The policy statement is effective: August 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** Emily Pasquinelli, Acting Chief in the Office of the Whistleblower, Division of Enforcement, at (202) 551–5973; William K. Shirey, Counsel to the Solicitor, Office of the General Counsel, at (202) 551–5043; Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

### SUPPLEMENTARY INFORMATION:

#### I. Background

Pursuant to the Dodd-Frank Consumer Protection and Wall Street

Reform Act of 2010 (“Dodd-Frank Act”), Section 21F was added to the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. 78u–1 *et seq.*, to establish a new SEC whistleblower award program. Section 21F provides that, pursuant to regulations adopted by the SEC, a monetary award shall be paid to any eligible whistleblower who provides the SEC with original information about a securities law violation that leads to the SEC’s success in obtaining a monetary order of more than a million dollars in an SEC judicial or administrative enforcement action (“covered action”). If an eligible whistleblower qualifies for an award, the SEC must pay an award that is at least 10%, but no more than 30%, of the amount of the monetary sanctions collected in the SEC enforcement action.

Section 21F further provides that if the SEC makes a whistleblower award in connection with its own enforcement action, the whistleblower becomes potentially eligible for an award in connection with any related enforcement actions (“related actions”) that are successfully litigated using the whistleblower’s same original information. The potential related enforcement actions must be brought either by a self-regulatory organization or certain statutorily identified governmental authorities (such as the U.S. Department of Justice or a state attorney general in connection with a criminal proceeding).<sup>1</sup>

In May 2011, the Commission adopted rules to govern the operation of the whistleblower award program. In September 2020, the Commission adopted various amendments to the Whistleblower Program rules, including two amendments that whistleblower advocates and others have asserted are unfair to whistleblowers and may risk reducing the willingness of individuals to blow the whistle. These amendments were made to: (1) Exchange Act Rule 21F–3, which addresses the criteria for making an award based on a whistleblower’s contributions to the successful resolution of a related action; and (2) Exchange Act Rule 21F–6, which establishes the criteria that the Commission may consider when determining the appropriate award amount.

• *Relevant Amendment to Exchange Act Rule 21F–3.* The 2020 Amendments added new subparagraph (c) to Rule 21F–3 to govern situations where a whistleblower has filed a claim for an award in connection with a potential related action but that action is

potentially also covered by a second, separate award program (such as, for example, the federal whistleblower award program that the Internal Revenue Service administers, *see* 26 U.S.C. 7623). New paragraph (c) authorizes the Commission to determine, based on the facts and circumstances of the claims and misconduct at issue in the potential related action (among other factors), whether the Commission’s whistleblower program or the other whistleblower program has the more “direct or relevant connection to the [related] action.” And responsibility for making an award in connection with the potential related action will then rest with whichever award program is determined to have the more direct or relevant connection to the action.

• *Relevant Amendment to Exchange Act Rule 21F–6.* The 2020 Amendments added language to permit the Commission to consider, in its discretion, the dollar amount of a potential award when making an award determination. Before this amendment, the text of the rule (with one limited exception) did not expressly afford the Commission authority to consider the potential dollar amount of an award when determining awards; rather, the text of the rule generally referred to setting awards as a percentage of the monetary sanctions recovered.

## II. Procedures Available During the Interim Policy-Review Period

On August 2, 2021, Chair Gensler issued a public statement advising that he has directed the staff to prepare for the Commission’s consideration later this year potential changes to Rules 21F–3(b)(3) and Rule 21F–6 to address policy concerns raised by whistleblower advocates and others about possible adverse effects of the 2020 Amendments.<sup>2</sup>

While the staff is preparing and the Commission is considering potential additional rulemaking, the procedures discussed below are available to whistleblowers with claims pending during the Interim Policy-Review Period so that they are not disadvantaged under the components of Rule 21F–3(b)(3) and Rule 21F–6 that may be revised. These interim procedures are consistent with the SEC’s overarching goal of protecting investors and the United States capital

markets by encouraging whistleblowers to come forward to report violations of the federal securities laws and then rewarding them when their information leads to successful enforcement actions.

### A. Exchange Act Rule 21F–3(b)(3)

For any claim that may be subject to Rule 21F–3(b)(3) during the Interim Policy-Review Period, the Commission directs as follows:

1. Before providing a preliminary determination to a claimant, or a proposed recommendation to the Commission, the staff shall consider whether to recommend that the Commission’s exemptive authority under Section 36(a) of the Exchange Act<sup>3</sup> should be utilized to permit an award on a potential related action irrespective of the limitations of Rule 21F–3(b)(3) if:

(a) The alternative whistleblower program has an award cap or award range that could disadvantage the particular claimant;<sup>4</sup> or

(b) the Commission is aware or the claimant demonstrates a likelihood that a condition or exclusion would apply to his or her award claim under the alternative award program and the staff determines that the claimant would likely obtain an award were he or she permitted to proceed under the SEC’s award program.

2. For any other award claim under Rule 21F–3(b)(3) for which the staff determines that an alternative whistleblower program has a “more direct or relevant connection” to the potential related action than the Commission’s award program does, the staff will inform the claimant of its assessment. The claimant may then request that the related-action award claim held in abeyance during the Interim Policy-Review Period.<sup>5</sup> Further, any related-action award claim that is held in abeyance shall not impact the

<sup>3</sup> In pertinent part, Section 36(a) provides that “by rule, regulation, or order, may conditionally or unconditionally exempt any person . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.”

<sup>4</sup> *See, e.g.*, 12 U.S.C. 4205(d)(1) (establishing a whistleblower award program in connection with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, but capping awards at \$1.6 million).

<sup>5</sup> The Commission contemplates that there should be no impact on the timely processing of any related-action award claim that the staff deems to have a “more direct or relevant connection to the Commission’s whistleblower program.” However, if a majority of the Commission should subsequently disagree with that determination, the claimant shall be notified and may request to have the related-action award claim held in abeyance during the Interim Policy-Review Period.

<sup>1</sup> *See* Exchange Act 21F(a)(5) (defining related action); Exchange Act Rule 21F–3(b)(1) (same).

<sup>2</sup> *See also* SEC’s Spring 2021 Regulatory Agenda (publicly available at: <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202104&RIN=3235-AN03>) (“The Commission is considering additional amendments to the rules governing the Whistleblower Program established by the Dodd-Frank Act.”).

timely processing of any award claim arising from a covered Commission enforcement action that is successfully litigated using the claimant's same original information.

#### *B. Exchange Act Rule 21F-6*

With respect to Rule 21F-6, the Commission at the time it adopted the 2020 rulemaking amendments explained that the amendment in question was a clarification of discretionary authority the Commission already possessed.<sup>6</sup> The Commission anticipates that, going forward, it will continue its practice of considering dollar amounts only in connection with provisions of the rules that explicitly contemplate the use of such discretion to raise awards (*i.e.*, law enforcement interest prong of 21F-6(a)(3) and the application of the presumption embodied in Rule 21F-6(c)). In the unlikely event that the staff or the Commission should consider deviating from this practice, the staff will inform the claimant that such action is being considered. The claimant may then request that the matter be held in abeyance during the Interim Policy-Review Period.

#### **III. Other Matters**

Publication for notice and comment is not required under the Administrative Procedure Act ("APA") pursuant to the exemption for agency rules of organization, procedure, or practice.<sup>7</sup> It follows that the requirements of the Regulatory Flexibility Act do not apply.<sup>8</sup> The effective date is August 13, 2021. In accordance with the APA,<sup>9</sup> we find that there is good cause to establish an effective date less than 30 days after publication. The Commission believes that establishing an effective date less than 30 days after publication of this document is necessary to clarify how the SEC will proceed when addressing certain issues under Exchange Act Rule 21F-3(b)(3) and Exchange Act Rule 21F-6 while the staff is preparing and the Commission is considering potential amendments to those rules.

The Commission has determined that the foregoing relates only to agency procedures and does not substantially affect the rights or obligations of non-agency parties. The foregoing is therefore not a "rule" under the Congressional Review Act, 5 U.S.C. 804(3)(C).

Finally, the Commission has adopted the foregoing under the authority set forth in Sections 3(b), 21F, and 23(a) of the Exchange Act.

By the Commission.

Dated: August 5, 2021.

**Vanessa A. Countryman,**  
*Secretary.*

[FR Doc. 2021-17019 Filed 8-12-21; 8:45 am]

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 100**

[Docket Number USCG-2021-0598]

**RIN 1625-AA08**

#### **Special Local Regulation; Cumberland River, Ashland City, TN**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for navigable waters on the Cumberland River. The special local regulation is needed to protect personnel, vessels, and the marine environment from potential hazards created by the Riverbluff Triathlon marine event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley.

**DATES:** This rule is effective on August 29, 2021 from 6 a.m. to 10 a.m.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0598 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Third Class Benjamin Gardner, Marine Safety Detachment Nashville, U.S. Coast Guard; telephone 615-736-5421, email [Benjamin.t.gardner@uscg.mil](mailto:Benjamin.t.gardner@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
MM Mile Marker  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

## **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this regulation by August 29, 2021 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to ensure the safety of the participants and vessels during the Riverbluff Triathlon. It is impracticable to publish an NPRM because we must establish this special local regulation by August 29, 2021.

## **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with Riverbluff Triathlon on August 29, 2021, will be a safety concern from MM 157.0 to MM 159.0 of the Cumberland River for 4 hours. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the special local regulation while the event is taking place.

## **IV. Discussion of the Rule**

This rule establishes a special local regulation from MM 157.0 to MM 159.0 on the Cumberland River. The safety zone will be in effect on August 29, 2021 from 6 a.m. to 10 a.m.. The duration of the zone is intended to protect participants, and the marine environment in these navigable waters while the Riverbluff Triathlon is taking place. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

<sup>6</sup> The extent to which the amendment was a clarification was a point of disagreement at the time that the Commission adopted the amended rules in 2020.

<sup>7</sup> 5 U.S.C. 553(b)(A).

<sup>8</sup> 5 U.S.C. 601-612.

<sup>9</sup> 5 U.S.C. 553(d)(3).