

under section 165(g) and other investments. See *Putnam v. Commissioner*, 352 U.S. 82, 91–92 (1956).

The Treasury Department and the IRS request comments concerning the Federal tax treatment of “abandoned debt” other than debt securities, including nonbusiness debts which, under section 166(d), are deductible when worthless as short-term capital losses, and other debt instruments, the worthlessness of which gives rise to a bad debt deduction under section 166(a).

**Proposed Effective Date**

These proposed regulations are proposed to apply to an abandonment of securities occurring after the date these regulations are published as final regulations in the **Federal Register**. No inference is intended regarding the treatment for Federal income tax purposes of an abandonment of securities occurring before these regulations are effective.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The Treasury Department and the IRS specifically request comments on the clarity of the proposed rule and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing

will be published in the **Federal Register**.

Although the proposed regulations provide that for purposes of section 165(g) the term *worthless* includes abandoned securities for which no consideration is received, there may be other contexts under the Code or regulations in which the tax treatment of abandoned securities is unclear or in which abandonment and worthlessness should be treated differently. In addition to comments concerning the tax treatment of non-security debt instruments, comments are requested concerning the existence and appropriate tax treatment of abandoned securities in other contexts.

**Drafting Information**

The principal authors of these regulations are Lisa S. Dobson of the Office of Associate Chief Counsel (Corporate) and Sean M. Dwyer of the Office of Associate Chief Counsel (Income Tax and Accounting). Other personnel from Treasury Department and the IRS participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.165–5 is amended as follows:

1. Paragraph (i) is redesignated as paragraph (j).

2. A new paragraph (i) is added. The addition reads as follows:

**§ 1.165–5 Worthless securities.**

\* \* \* \* \*

(i) *Abandonment of securities.* For purposes of section 165 and this section, a security that becomes wholly worthless includes a security described in paragraph (a) of this section that is abandoned and otherwise satisfies the requirements for a deductible loss under section 165. If the abandoned security is a capital asset and is not described in section 165(g)(3) and paragraph (d) of this section (concerning worthless securities of certain affiliated corporations), the resulting loss is treated as a loss from the sale or exchange, on the last day of the taxable

year, of a capital asset. See section 165(g)(1) and paragraph (c) of this section. To abandon a security, a taxpayer must permanently surrender and relinquish all rights in the security and receive no consideration in exchange for the security. For purposes of this section, all the facts and circumstances determine whether the transaction is properly characterized as an abandonment or other type of transaction, such as an actual sale or exchange, contribution to capital, dividend, or gift.

\* \* \* \* \*

Linda E. Stiff,

*Acting Deputy Commissioner for Services and Enforcement.*

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**DEPARTMENT OF DEFENSE**

**Department of the Army; Corps of Engineers**

**33 CFR Part 334**

**United States Army restricted area, Kuluk Bay, Adak, Alaska**

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The Corps of Engineers is proposing to establish a restricted area within Kuluk Bay, Adak, Alaska. The purpose of this restricted area is to ensure the security and safety of the Sea Based Radar, its crew, and other vessels transiting the area. The proposed restricted area is within an established moorage restriction area for the U.S. Navy. The restricted area will be marked on navigation charts as a restricted area to insure security and safety for the public.

**DATES:** Written comments must be submitted on or before August 29, 2007.

**ADDRESSES:** You may submit comments, identified by docket number COE–2007–0023, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [david.b.olson@usace.army.mil](mailto:david.b.olson@usace.army.mil). Include the docket number COE–2007–0023 in the subject line of the message.

*Mail:* U.S. Army Corps of Engineers, Attn: CECW–CO (David B. Olson), 441 G Street, NW., Washington, DC 20314–1000.

*Hand Delivery/Courier:* Due to security requirements, we cannot receive comments by hand delivery or courier.

*Instructions:* Direct your comments to docket number COE-2007-0023. All comments received will be included in the public docket without change and may be made available on-line at <http://regulations.gov>, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through [regulations.gov](http://regulations.gov) or e-mail. The [regulations.gov](http://regulations.gov) Web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Consideration will be given to all comments received within 30 days of the date of publication of this notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at (202) 761-4922, or Mr. Leroy Phillips, Corps of Engineers, Alaska District, Regulatory Branch, at (907) 753-2828.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C.1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C.3), the Corps proposes to amend the restricted area regulations in 33 CFR Part 334 by adding § 334.1325 as a restricted area within Kuluk Bay, Adak, Alaska as described below. The proposed restricted area is completely within a moorage restriction area for the United States Navy in Kuluk Bay, Adak, Alaska, which was established at 33 CFR 334.1320 and is designated on NOAA chart 16475.

#### Procedural Requirements

a. *Review under Executive Order 12866.* This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. *Review under the Regulatory Flexibility Act.* This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the identification of this restrictive area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic, and accordingly, certifies that this proposed regulation, if adopted, will have no significant economic impact on small entities.

c. *Review under the National Environmental Policy Act.* Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact to the quality of the human environment and therefore preparation of an environmental impact statement is not required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered. It may be reviewed at the district office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. *Unfunded Mandates Act.* This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that

small governments will not be significantly and uniquely affected by this rulemaking.

#### List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR Part 334 as follows:

#### PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR Part 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.1325 to read as follows:

#### § 334.1325 United States Army restricted area, Kuluk Bay, Adak, Alaska.

(a) *The area.* The area within a radius 1,000 yards around the Sea Base Radar mooring site in all directions from latitude 51°53'05.4" N, longitude 176°33'47.4" W (NAD 83).

(b) *The regulation.* (1) No vessel, person, or other craft shall enter or remain in the restricted area except as may be authorized by the enforcing agency.

(2) A ring of eight lighted and marked navigation buoys marking the perimeter of the mooring anchor system will provide a visible distance reference at a radius of approximately 800 yards from latitude 51°53'05.4" N, longitude 176°33'47.4" W (NAD 83). Each buoy has a white light, flashing at 3 second intervals with a 2 nautical mile range. Vessels, persons or other craft must stay at least 200 yards outside the buoys.

(3) The regulation in this section shall be enforced by personnel attached to the Missile Defense Agency and/or by such other agencies as the Director, MDA—AK, Fort Richardson, Alaska, may designate.

Dated: July 25, 2007.

**Mark Sudol,**

*Acting Chief, Operations, Directorate of Civil Works.*

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