For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

GROB–WERKE GMBH & CO KG: Docket No. FAA–2007–28435; Directorate Identifier 2007–CE–054–AD.

Comments Due Date

(a) We must receive comments by August 29, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the gliders Model G102 ASTIR CS, serial numbers (SNs) 1001 through 1536; Model G102 CLUB ASTIR III, SNs 5501 (suffix C) through 5652 (suffix C); Model G102 CLUB ASTIR IIIb, SNs 5501 (suffix Cb) through 5652 (suffix Cb); and Model G102 STANDARD ASTIR III, SNs 5501 (suffix S) through 5652 (suffix S), that are:

(1) Equipped with any wing spar spigot assembly that has not been replaced following Grob Luft- und Raumfahrt Service Bulletin TM 306–29; TM 320–5, issue date: October 11, 1990; and

(2) Are certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

As a result of the replacement action of the G 103 TWIN ASTIR spar spigot assemblies, the Gliding Federation of Australia issued a directive to inspect the similar main spigots of single-seater sailplanes.

The MCAI requires you to inspect the wing main spigot assembly before the next flight and replace it.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within the next 10 hours time-in-service (TIS) after the effective date of this AD, inspect both wing spar spigot assemblies for cracks using a dye penetrant or magnetic particle method following Grob Luft- und Raumfahrt Service Bulletin TM 306–29; TM 320–5, issue date: October 11, 1990. The use of the magnification method is prohibited.

Note 1: If dye penetrant method is used, great care should be exercised when cleaning and/or etching the surfaces and interpreting surface faults.

(2) Replace the wing main spigot assembly following Grob Luft- und Raumfahrt Service Bulletin TM 306–29; TM 320–5, issue date: October 11, 1990, using whichever of the following compliance times that apply:

(i) If cracks are found during the inspection required in paragraph (f)(1) of this AD, before further flight; or

(ii) If no cracks are found during the inspection required in paragraph (f)(1) of this AD, within the next 12 months after the effective date of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows:

(1) The MCAI compliance time required the wing main spigot assembly to be inspected before the next flight and replacement of the wing spar spigot assembly no later than December 31, 1992. This proposed AD requires inspection within the next 10 hours TIS after the effective date of this AD and replacement prior to further flight after the inspection where cracks are found or 12 months after the effective date of this AD if no cracks are found.

(2) In lieu of authorizing a 10x magnifier for inspection as specified in the MCAI, this proposed AD requires you use either a dye penetrant or magnetic particle inspection method.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Staff, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Federal Republic of Germany Luftfahrt-Bundesamt AD 91–5/2 Grob, dated February 1, 1991; and Grob Luft- und Raumfahrt Service Bulletin TM 306–29; TM 320–5, issue date: October 11, 1990; for related information.

Issued in Kansas City, Missouri, on July 24, 2007.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–14641 Filed 7–27–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–101001–05]

RIN 1545-BE80

Abandonment of Stock and Other Securities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations provide guidance concerning the availability and character of a loss deduction under section 165 of the Internal Revenue Code for losses sustained from abandoned securities. These proposed regulations are necessary to clarify the tax treatment of losses from abandoned securities and will affect any taxpayer claiming a deduction for a loss from abandoned securities after the date these regulations are published as final regulations in the **Federal Register**.

DATES: Written or electronic comments and requests for a public hearing must be received by October 29, 2007.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–101001–05), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through

Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–101001–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, 20224, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS REG–101001–05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Lisa S. Dobson at (202) 622–7790, or Sean M. Dwyer at (202) 622–5020; concerning submissions of comments and requests for a hearing, Kelly Banks at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document proposes to amend § 1.165–5 of the Income Tax Regulations (26 CFR part 1) to provide guidance concerning the Federal income tax treatment of abandoned securities.

Abandonment of Securities

Section 165(a) of the Code allows a deduction for any loss sustained during the taxable year and not compensated for by insurance or otherwise. Section 1.165–1(d)(1) of the Income Tax Regulations provides that a loss is treated as sustained during the taxable year in which the loss occurs, as evidenced by a closed and completed transaction, and as fixed by an identifiable event occurring in such taxable year.

Section 165(g)(1) provides that, if any security that is a capital asset becomes worthless during the taxable year, the resulting loss is treated as a loss from the sale or exchange of a capital asset (that is, as a capital loss) on the last day of the taxable year. Section 165(g)(2) defines *security* as a share of stock in a corporation; a right to subscribe for or to receive a share of stock in a corporation; or a bond, debenture, note or certificate or other evidence of indebtedness issued by a corporation or government with interest coupons or in registered form. Section 165(g)(3) provides an exception from capital loss treatment for certain worthless securities in a domestic corporation affiliated with the taxpayer.

The legislative history of the predecessor of section 165(g) indicates that the provision was enacted to remove the ''peculiar and anomalous results'' that followed from treating losses from the worthlessness of securities as ordinary losses or deductions, and losses from the sale or exchange of securities as capital losses, because both losses represent a loss of capital in a transaction entered into for profit. See H. Rep. No. 1860, 75th Cong., 3d Sess., at 18–19 (1938).

The Treasury Department and the IRS understand that some taxpayers have taken the position that a loss under section 165(a) resulting from the abandonment of a security is not subject to the loss characterization rules provided in section 165(g).

Property that has become worthless to the taxpayer may give rise to a loss deduction under section 165(a). In general, worthlessness is determined by a combination of subjective and objective indicia including a subjective determination of worthlessness to the taxpayer and objective evidence of a closed and completed transaction. See *Echols* v. *Commissioner*, 950 F.2d 209 (5th Cir. 1991); *Boehm* v. *Commissioner*, 326 U.S. 287 (1945). For purposes of section 165(a), the act of abandonment is an event that establishes both of these elements. Rev. Rul. 2004–58, 2004–1 CB 1043, see § 601.601(d)(2)(ii)(*b*). Although an act of abandonment may be ''one of several factors in the analysis of whether the taxpayer's subjective determination of an asset's worthlessness is sustainable, abandonment is not an indispensable requirement for a worthlessness deduction under Code section 165.'' *Echols*, 950 F.2d at 212. Identifiable events may include ''other acts or events which reflect the fact that the property is worthless.'' *Proesel* v. *Commissioner*, 77 T.C. 992, 1005 (1981).

The proposed regulations provide that, for purposes of applying the loss characterization rules of section 165(g), the abandonment of a security establishes the worthlessness of the security to the taxpayer. Under the proposed regulations a loss established by the abandonment of a security that is a capital asset is treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset, unless the exception in section 165(g)(3) applies. In characterizing losses established by the abandonment of a security in a manner consistent with other worthless security losses, the proposed regulations further the legislative intent to eliminate ''peculiar and anomalous results.'' See H. Rep. No. 1860, 75th Cong., 3d Sess., at 18–19 (1938). See also § 1.332–2(b) and Rev. Rul. 2003–125, 2003–2 CB 1243, see § 601.601(d)(2)(ii)(*b*), (wherein the character of a loss established in a transaction in which a shareholder disposes of stock and receives no consideration (specifically, a liquidation that fails to qualify under section 332) is prescribed by section 165(g)).

Although a taxpayer need not relinquish legal title to property in all cases to establish abandonment, in view of the nature of a taxpayer's rights in stock and other securities these proposed regulations require that 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.

Abandonment or Cancellation of Other Debt Instruments

Section 166(a)(1) allows as a deduction any debt which becomes worthless within the taxable year. Under section 166(b), the basis for determining the amount of the deduction is the adjusted basis of the debt. Section 166(a)(2) permits a deduction for partially worthless debts. It provides that the Secretary, when satisfied that a debt is recoverable only in part, may allow a deduction for the debt in an amount not in excess of the part charged off within the taxable year. The courts have noted that the tests for worthlessness under section 165 and under section 166 are fundamentally the same. See *United States* v. *S.S. White Dental Mfg. Co.,* 274 U.S. 398, 401 (1927).

A creditor may not voluntarily cancel a debt that has value and claim a deduction under section 166 because the debt is now valueless. See *Jostens, Inc.* v. *Commissioner,* 956 F.2d 175, 176–77 (8th Cir. 1992).

Two categories of worthless debts are excepted from section 166: nonbusiness debts under section 166(d) and debt securities under section 166(e). Under section 166(e), section 166 does not apply to a debt that is evidenced by a security as defined in section 165(g)(2)(C). Accordingly, the tax treatment of debt securities is discussed in the *Abandonment of Securities* section of this preamble.

Section 166(d)(1)(A) provides that in the case of a taxpayer other than a corporation, section 166(a) does not apply to a nonbusiness debt. Instead, under section 166(d)(1)(B), a nonbusiness debt that becomes worthless is considered a loss from the sale or exchange of a capital asset held for not more than one year. A *nonbusiness debt* is defined in section 166(d)(2) as a debt that is not created or acquired in connection with, or the worthlessness of which is not incurred in, the taxpayer's trade or business. The legislative intent behind section 166(d) is in part to provide for parity of tax treatment with worthless securities

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.

[FR Doc. E7–14616 Filed 7–27–07; 8:45 am]

BILLING CODE 4830–01–P

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. 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.