

regarding certain changes made to the rules governing S corporations under the American Jobs Creation Act of 2004 and the Gulf Opportunity Zone Act of 2005. The final regulations replace obsolete references in the current regulations and allow taxpayers to make proper use of the provisions that made changes to prior law. The final regulations include guidance on the S corporation family shareholder rules, the definitions of "powers of appointment" and "potential current beneficiaries" (PCBs) with regard to electing small business trusts (ESBTs), the allowance of suspended losses to the spouse or former spouse of an S corporation shareholder, and relief for inadvertently terminated or invalid qualified subchapter S subsidiary (QSub) elections. The final regulations affect S corporations and their shareholders.

DATES: The correction is effective September 24, 2008, and is applicable on August 14, 2008.

FOR FURTHER INFORMATION CONTACT: Charles J. Langley, Jr., (202) 622-3060, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9422) that are the subject of this correction are under sections 1361, 1362, and 1366 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9422) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9422), which was the subject of FR Doc. E8-18782, is corrected as follows:

On page 47527, column 3, in the preamble, under the paragraph heading "Drafting Information", line 2, the language "proposed regulations is Charles J." is corrected to read "regulations is Charles J."

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E8-22381 Filed 9-23-08; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 0

[Docket No. ENRD 100; AG Order No. 3001-2008]

Authority To Compromise Civil Claims Under the Comprehensive Environmental Response, Compensation and Liability Act and To Make an Administrative Change to the Code of Federal Regulations

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends our regulations to reflect the name of the Environment and Natural Resources Division, which was formerly known as the Land and Natural Resources Division. The Department of Justice officially changed the name of the Division in the early 1990s, but all of the pertinent parts of part 0 were not amended accordingly.

This order further amends our regulations to authorize the Assistant Attorney General for the Environment and Natural Resources Division to approve certain settlements under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

DATES: *Effective Date:* September 24, 2008.

FOR FURTHER INFORMATION CONTACT:

Bruce S. Gelber, Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044-7611 (202-514-4624).

SUPPLEMENTARY INFORMATION: In subpart Y of 28 CFR part 0, the Attorney General has delegated to the various Assistant Attorneys General certain of his authority to compromise and close civil claims. Section 0.160(a)(1) authorizes the various Assistant Attorneys General to "[a]cept offers in compromise of claims asserted by the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$2,000,000 or 15 percent of the original claim, whichever is greater."

Administrative Changes

In the early 1990s, the name of the Land and Natural Resources Division was changed to the Environment and Natural Resources Division to better reflect the broader responsibilities of the Division since its inception in 1909. The administrative change in this rule corrects the name of the Division throughout part 0, where the former name remains.

Changes to Section 0.160

CERCLA was enacted in 1980 in response to the discovery of significant human health hazards at a number of sites where hazardous wastes had been dumped or buried. Public Law 96-510 (42 U.S.C. 9601, *et seq.*). The law created a "Superfund" to help pay the costs of investigating and cleaning up these sites, 26 U.S.C. 9507, and also imposed liability for the costs of cleanup on the parties who were responsible for creating these sites, 42 U.S.C. 9607(a). These parties (referred to collectively as "potentially responsible parties") include: The current owners and operators of a facility from which there is a release or threatened release of a hazardous substance into the environment; those who owned or operated the facility at the time hazardous substances were disposed of at that facility; those who generated the hazardous substances and arranged for their treatment or disposal by a third party; and those who transported the hazardous substances for treatment or disposal, if they selected the site. 42 U.S.C. 9607(a).

While the courts have agreed uniformly that liability under CERCLA is joint and several when the harm at the site is indivisible, 42 U.S.C. 9613(f) provides for the equitable allocation of response costs among the jointly and severally liable parties. A single case under CERCLA can involve numerous (sometimes hundreds of) separate responsible parties whose liability can be equitably allocated or determined to be *de minimis* for purposes of reaching a settlement of their liability. Indeed, Congress encourages the Environmental Protection Agency to reach expedited settlements with *de minimis* parties. 42 U.S.C. 9622(g). However, based on the total claim at the site, some of these settlements will result in differences between the original claim and the proposed settlement that are greater than \$2 million (or 15 percent of the original claim). Many settlements are made with parties who do not have the financial ability to pay the equitable allocated amount. Some non-*de minimis* settlements result in compromises of our original claim as a result of the responsible party's ability to pay. These types of settlements with individual parties are common in multi-party CERCLA litigation and seldom raise issues significant enough to warrant Associate Attorney General review. In order to increase efficiency in the approval process, this rule amends Section 0.160 of Subpart Y to authorize the Assistant Attorney General, Environment and Natural Resources

Division, to approve these kinds of partial CERCLA settlements.

Administrative Procedure Act

This rule is a rule of agency organization and procedure, and relates to the internal management of the Department of Justice. It is therefore exempt from the requirements of notice and comments and a delayed effective date. 5 U.S.C. 553(b), (d).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis was not required to be prepared for this final rule since the Department was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866—Regulatory Planning and Review

This action has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, § 1(b), Principles of Regulation. This rule is limited to agency organization, management and personnel as described by Executive Order 12866 § 3(d)(3) and, therefore, is not a “regulation” or “rule” as defined by this Executive Order. Accordingly, this action has not been reviewed by the Office of Management and Budget.

Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132—Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the

private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0

Authority delegations (government agencies), Government employees, Organization and functions (government agencies), Whistleblowing.

■ For the reasons set forth in the preamble, Part 0 of Title 28, Code of Federal Regulations is amended to read as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

■ 2. In 28 CFR part 0, remove the words “Land and Natural Resources Division” and add, in their place, the words “Environment and Natural Resources Division” in the following places:

- a. Section 0.45(a), (b) and (g);
 - b. Subpart L, consisting of §§ 0.65 through 0.69c.
 - c. Section 0.175(b); and
 - d. Subpart Y, consisting of § 0.160 through the Appendix to Subpart Y of Part 0.
- 3. Section 0.160 is amended by revising paragraphs (a) introductory text and (b), redesignating paragraph (c) as paragraph (d), and adding new paragraph (c) to read as follows:

§ 0.160 Offers that may be accepted by Assistant Attorneys General.

(a) Subject to the limitations set forth in paragraph (d) of this section, Assistant Attorneys General are authorized, with respect to matters assigned to their respective divisions, to:

* * * * *

(b) Subject to the limitations set forth in paragraph (d) of this section, the

Assistant Attorney General, Tax Division, is further authorized to accept offers in compromise of, or settle administratively, claims against the United States, regardless of the amount of the proposed settlement, in all cases in which the Joint Committee on Taxation has indicated that it has no adverse criticism of the proposed settlement.

(c) Subject to the limitations set forth in paragraph (d) of this section, the Assistant Attorney General, Environment and Natural Resources Division, is further authorized to approve settlements under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*, regardless of the amount of the proposed settlement, with:

(1) Parties whose contribution to contamination at a hazardous waste site is *de minimis* within the meaning of 42 U.S.C. 9622(g); or

(2) Parties whose responsibility can be equitably allocated and are:

- (A) Paying at least the allocated amount; or
- (B) Unable to pay the allocated amount as confirmed by a qualified financial expert.

* * * * *

Dated: September 16, 2008.

Michael B. Mukasey,
Attorney General.

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BILLING CODE 4410–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2008–0761]

RIN 1625–AA08

Special Local Regulations for Marine Events; St. Leonard Creek, Patuxent River, Calvert County, MD

AGENCY: Coast Guard, DHS.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the “War of 1812 North American Grand Tactical”, a marine event to be held September 21, 2008 on the waters of St. Leonard Creek and Patuxent River, Calvert County, MD. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily