

September 1st, since you need not conduct assessment work unless you are going to file for a small miner waiver from the \$100 maintenance fee;

- In paragraph (b)(1), clarify the meaning of “nature of the land” (which must be described by applicants for a right-of-way to a claim). We have added words to clarify what you must describe in your petition;

- In paragraph (c), add references to declarations and notices of taking. We have added a provision at section 3836.21(b) in the final rule adding these to the circumstances qualifying you for a deferment of assessment work.

Part 3837—Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

This part consolidates the procedures in current subpart 3851 and 30 U.S.C. 28 for acquiring the interests of a delinquent co-claimant in a mining claim or site when the co-claimant has failed to contribute a proportionate share of the assessment work, expenditures, or maintenance fees. Sections 3837.10 and 3837.11 state the conditions for acquisition and sections 3837.20 through 3837.24 lay out the steps for acquisition. Section 3837.30 provides guidance in the event of a dispute between co-claimants.

Subpart A—Conditions for Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

Section 3737.11 When May I Acquire a Delinquent Co-Claimant's Interests In a Mining Claim Or Site?

One comment found the opening sentence of paragraph (a)(4) somewhat unclear and suggested that we lay out the timing of the notice and the co-claimants' acquisition of the delinquent's rights more clearly. We have adopted language suggested in the comment. The delinquent co-claimant has 90 days from the date the claimant received actual notice or 90 days from the date the publication period ended in which to carry out a proportionate share of the assessment work or to pay a proportionate share of expenditures or maintenance fees or forfeit all interest in the claim to the other co-claimants.

In this final rule, we amended the title of this section by changing the first word from “how” to “when.”

Subpart B—Acquisition Procedures

Section 3737.21 How Do I Notify the Delinquent Co-Claimant That I Want To Acquire His or Her Interests?

and

Section 3737.23 How Do I Notify BLM That I Have Acquired a Delinquent Co-Claimant's Interests In a Mining Claim or Site?

Several comments objected to the requirement that a co-claimant conduct a diligent search to locate a missing co-locator before we allow publication of a notice and potential loss of ownership interest. The comments questioned our authority to require this procedure, saying that 30 U.S.C. 28 “simply give the option of personal notice in writing or notice by publication.” The Secretary has such authority under 43 U.S.C. 1201 to establish, by regulation, such rules and procedures as she deems necessary for the orderly conduct of business on the public lands. Over the last 10 years, BLM has seen instances in which this provision is used inequitably. For example, some claimants who know how to contact a co-claimant have instead published notice in a newspaper, hoping that the co-claimant would not see the notice. In order to protect the rights of all claimants, we have amended the regulations to establish a simple sequence of steps that the other co-claimants must follow before being allowed to deprive a delinquent co-claimant of an interest in the claim or site.

Part 3838—Special Procedures for Locating and Recording Mining Claims and Tunnel Sites on Stockraising Homestead Act Lands

This part contains special procedures for exploring for minerals and locating, recording, and maintaining mining claims or tunnel sites located on or under Stockraising Homestead Act (SRHA) lands. If you want to locate mining claims on SRHA lands, you must take these special steps before locating, recording, and maintaining mining claims or tunnel sites under this part. These procedures are required by the Act of April 16, 1993; Public Law 103–23; 43 U.S.C. 299(b). The Act took effect on October 13, 1993.

Sections 3838.1 and 3838.2 describe what SRHA lands are, and why claims or sites on them require special procedures. Sections 3838.10 through 3838.14 and section 3838.16 discuss the procedures for exploring for minerals and locating mining claims on SRHA lands. Specifically, you must record a notice of intent to locate mining claims (NOITL) with BLM, and serve a copy of the NOITL on the surface owners. You must then wait 30 days before entering the lands to explore for minerals or locate any mining claims. Section 3838.15 describes the benefits you receive when you file a NOITL, while

sections 3838.90 and 3838.91 state the consequences of failing to file a NOITL.

Subpart B—Locating and Recording Mining Claims and Tunnel Sites on SRHA Lands

Section 3838.12 What Must I Include In a NOITL on SRHA Lands?

We revised this section to improve clarity, based on our own review of the proposed rule. We have made it clear that a duly-authorized agent may file the NOITL on behalf of claimants. We have also expanded the list of evidence that you may submit to show surface ownership to include tax assessments and receipts, and title insurance documentation.

Section 3838.13 What Restrictions Are There On Recording a NOITL on SRHA Lands?

One comment, supported by two others, stated that BLM lacked statutory authority, in paragraph (d), to impose a 30 day waiting period after the expiration of a NOITL before the same claimant may file a new NOITL. As noted above, under 43 U.S.C. 1201, BLM has such authority. We drafted this provision to correct abuses of the system whereby certain individuals were filing a new NOITL every 90 days over the same land and never locating mining claims. Their purpose was to keep other potential claimants out.

Section 3838.15 How Do I Benefit From Properly Filing a NOITL on SRHA Lands?

One comment, supported by two others, stated that the period during which a claimant may enter lands covered by a NOITL does not begin when BLM accepts the NOITL, but 30 days after notice is provided under 43 U.S.C. 299(b)(3). It went on to state that the exploration period “ends 90 days after the NOITL was filed with BLM.” The comment correctly states the law and we have revised the introductory text of paragraph (a) accordingly. In order to maximize the 90-day time period after you file a NOITL with BLM, you may give the surface owner notice 30 days before you plan to file the NOITL with BLM. If you give the surface owner notice at the same time you file a NOITL with BLM, the 90-day exploration and location period will be effectively diminished by the 30 days you must wait after you give the surface owner notice.

Part 3839—Special Laws, in Addition to FLPMA, That Require Recording or Notice

We are reserving this part for future consolidation of regulations about