

include any applicable state monumenting requirements. We also added paragraph (b)(3)(iv), which requires the posting to include the name or number of the claim or site, or both, if the claim or site has both.

Another comment stated that the word "public" in section 3832.11(a)(3) did not properly describe "notice of location on the claim or site." We agree and have removed this word in the final rule.

*Section 3832.12 When I File a Mining Claim or Site, How Do I Describe the Lands I Have Claimed?*

Several comments focused on the need to use the legal subdivision (aliquot part) and lots in claim descriptions, and noted that they do not apply *per se* to lode claims. Another comment asked about protracted (unsurveyed) sections and their proper use for descriptive purposes.

We have amended section 3832.12 to clarify these issues and help you describe your claim or site properly. Also, you may correct erroneous descriptions. You may do this by filing an amended location notice or certificate, regardless of who finds the error. Paragraph (a) gives the general rule that you must follow in order for BLM to enter the essential data into our computerized mining claim recording system. Paragraph (b) expands on the specific descriptive requirements for lode claims, and paragraph (c) does the same for placer mining claims.

Several comments objected to the requirement for a metes and bounds description of a lode claim, saying that it would be unnecessary, not required by law, and burdensome, especially if it made a survey necessary. We have not changed the regulations in the final rule in response to these comments. This is not a new requirement. Lode claims cannot be described by aliquot part because of their parallelogram shape. We have retained in paragraph (a)(2)(iv) the provision that professional surveys are not necessary. We do not believe that it is burdensome to provide a metes and bounds description. The previous regulations at section 3841.4–5 required descriptions by courses and distances from the discovery monument. Courses and distances are part of a metes and bounds description, so we are merely correcting our terminology. Since the monuments on the ground govern, the courses and distances in the metes and bounds description need not be derived from a professional survey, but must be sufficient to allow a surveyor to identify the tract unambiguously on the ground if at some time in the future you seek

a patent. Of course, a mineral survey is a prerequisite for a patent.

Several comments criticized section 3832.12(a) for requiring claim descriptions to follow the public land survey system "as much as possible." They pointed out that lode claims are required by law to follow the mineral vein, which usually does not follow surveyed section lines. We have not made a substantive change in the final rule in response to these comments. As paragraph (b), which specifically covers lode claims, provides, you must describe your lode claims by metes and bounds. Paragraph (a) is of general applicability, and you must follow it unless paragraph (b) on lode claims or paragraph (c) on placer claims provides differently. Paragraph (a) allows for this by saying "as much as possible." We never intended that lode claims must follow the rectangular survey system. However, since this provision caused so much confusion on the part of knowledgeable readers, we added an introductory phrase to paragraph (a) in the final rule clarifying this intent.

A couple of comments pointed out a typographical error in the first sentence of paragraph (a)(1). As the comment suggested, we added the word "and" to show that aliquot parts are used to describe land within quarter sections.

*Section 3832.21 How do I Locate a Lode or Placer Mining Claim?*

Several comments addressed this section, especially the descriptions of what minerals are generally locatable as lode deposits and which are locatable as placer deposits. Some comments asked for more extensive lists of minerals that are locatable. In both cases, lode and placer, the lists are not comprehensive. We have taken them from the general case law and the statute itself. BLM recognizes that there are always exceptions to the general rule, but we will decide these on a case-by-case basis through a mineral examination and/or contest action as necessary.

One comment asked for a definition of "mineral-bearing brine" as used in paragraph (b)(3)(v), stating that we need to differentiate brine or saline water from "fresh water and the minerals therein." We have added explanation of what is a mineral-bearing brine in this section. The principal distinction is that a mineral-bearing brine is locatable if it contains an extractable locatable mineral that is the principal object of the mining operation. However, if you are mining the brine primarily for the leasable salt(s) content, and are also extracting locatable minerals, BLM considers those minerals co-products under the Mineral Leasing Act, and you

must obtain a lease and pay royalties under 43 CFR part 3500.

Some comments raised the issue of discovery, that is, whether the miner needs to discover a valuable mineral deposit before locating a claim. We moved the discovery reference to a separate paragraph that states that your lode claim is not valid until you discover a valuable mineral deposit. In this way, the discovery requirement is not among the location requirements but the regulation nevertheless makes clear that the location is not a valid mining claim until you make a discovery.

One comment objected to the word "similar" in the phrase "gold, silver, cinnabar, lead, tin, copper, zinc, fluorite, barite, or other similar valuable mineral" in paragraph (a)(2)(ii). It stated that there is no justification for limiting the types of minerals that are subject to location under the Mining Law to those minerals that are similar to the minerals listed in this paragraph. We have amended this paragraph by removing the word "similar" and conforming the provision more closely with the Mining Law and case law.

Some comments stated that paragraph (a)(3) misstates the requirements for establishing extralateral rights to a lode. We have revised the paragraph to correct a drafting error and clarify the requirements. This paragraph describes how your claim must be situated for you to follow a vein, lode, or ledge underground beyond the long-side boundaries of your rectangular lode claim:

- The top of the deposit must be within your claim, whether on the surface or below it;
- The long-side boundaries of your claim must be substantially parallel to the direction of the lode, vein, or ledge deposit.

You do not have extralateral rights to follow a deposit beyond the end lines of your lode claim.

Several comments addressed paragraph (a)(4), questioning the requirement in this paragraph of the proposed rule that you expose the vein, lode, or ledge by tracing the vein or lode on the surface or by drilling or tunneling to a sufficient depth. The comments stated that this should not be a requirement for locating a lode, but only a requirement for claiming the full extent of extralateral rights. The comments are correct. We have amended this provision in the final rule to clarify what you have to do to establish extralateral rights.

Another group of comments stated that the language in this section was ambiguous and could lead to multiple interpretations. We have amended the