

sections have application to all types of advisory committees, not just RACs. A RAC is a type of advisory committee. Sections 1784.6-1 and 1784.6-2 concern RACs. "Board" is not used in this final rule.

Many commenters on this section supported the concept of broadening membership on the councils. Commenters noted that because useful knowledge and expertise is widely distributed in society, membership of advisory committees should be broadened to take advantage of this.

Some commenters specifically objected to changing this section. There were a number of comments about the specific composition of the councils. Most of these comments were also addressed to subsequent sections, especially § 1784.6-1. Since these comments related to the Department's proposals concerning the makeup of the RACs, they are discussed under that section, below.

Some commenters made an identical suggestion to change the last clause of § 1784.2-1(b) by striking the requirement that council members have "demonstrated a commitment to collaborate in seeking solutions to resource management issues." One comment stated that commitment without necessary concurrent expertise is useless, and that accommodation for regional differences in a broad range of specific information on each area should be a necessity. A number of commenters questioned who or what should determine adequate experience, and others suggested a better definition was needed.

A commitment to collaborative decisionmaking is critical to the success of these committees. The Department has concluded that the final rule will adopt the proposed language requiring both appropriate expertise and a commitment to collaborative decisionmaking, because such a balance is the best way to assure the success of any advisory committee.

FACA requires that the head of an agency appoint members to any committee providing consensus advice to the agency. In the case of RACs, the Secretary must appoint members. In making final selections of RAC members, the Department will make determinations as to what is adequate experience. Since geographic areas covered by individual RACs will be highly variable it would be difficult to define this term too narrowly without unduly limiting the flexibility which will be needed to ensure that each council includes members who will represent a broad range of interests and

make a substantive contribution to the committee's deliberations.

In accordance with the above discussion, the Department has decided to adopt the provision as proposed.

Section 1784.2-2 Avoidance of Conflict of Interest

In the proposal, paragraph (a)(1) of this section would have been amended to allow permittees and lessees to serve on any advisory committees, including RACs and their subgroups. This change would have been made to ensure that permittees and lessees, as important stakeholders in the management of public lands, could provide input to advisory committees so that the committees would have been able to develop recommendations based on direct community and user input. Paragraph (b) would have clarified that no advisory committee member could have participated in any matter in which the member had a direct interest. The proposal included a new paragraph (c), which would have provided that members of RACs have to disclose their direct or indirect interest in Federal grazing permits or leases administered by BLM.

The Department received many comments on this section. Many commenters believed the conflict of interest provisions applied only to ranchers, and stated that such provisions were unfair and should apply to all members of the councils. Many commenters spoke to the membership of environmentalists on the councils. Commenters asserted that environmental groups have a direct conflict of interest. Some asserted that all users of specific areas have an interest in that area, and should be excluded from serving on a council studying the situation in that area. Commenters stated that allowing members of national or regional environmental groups to serve violated the local concept of the RACs.

A number of commenters asserted that permittees or lessees who were involved in an issue should be involved in the process, so they would have ownership of or support the solution developed in a RAC. Others suggested that since permittees and lessees are bound by the terms and conditions of their permits or leases, and by the provisions of AMPs, it would seem only proper to allow permittees or lessees on a council to provide input into the management decisions which will affect that grazing allotment. One comment suggested that individuals with an interest in an issue should be allowed to participate in the discussions of the

issue, but should be excluded from any voting required.

Another commenter provided a suggested definition of indirect interest that includes any situation in which outside interests, of whatever nature, might lead to substantial interference with or disregard for a duty of serving on a grazing council or committee.

Commenters challenged the legal basis for a conflict of interest provision. They asserted that if it is based on the Ethics in Government Act, that the law is limited to Federal employees or paid advisors, and that ethical standards under Federal law are not limited to financial gain but include the use of one's official position to promote a personal viewpoint.

"Conflict of interest" is an accepted legal concept that generally refers to "a clash between public interest and the private pecuniary interest of the individual concerned." (Black's Law Dictionary, 5th Edition, 1979, p. 271). The concept applies to situations where a committee member, who is serving a public interest, has private financial interests that might conflict with his or her public role. This would include holding a permit that might be impacted by the deliberations of a RAC.

The provision does not apply only to permittees or lessees. It applies to all advisory committee members. The provision does not apply to situations in which an individual's interest in the deliberations of a committee is not financial. The provision does not refer to cases where an individual has a membership in an organization that is in litigation with the government, unless the individual has a pecuniary interest in the outcome of the litigation. Furthermore, it does not refer to cases where an individual might develop reports for another organization that in turn might influence agency decisions.

Permittees and lessees were specifically mentioned in this provision to draw attention to the fact that the proposed rule *broadened* the opportunities for participation by such persons. Under the previous regulations at § 1784.2-2, permittees and lessees normally would have been prohibited from serving on any committees advising BLM except for grazing advisory boards. Under the provision adopted today, permittees and lessees can participate on the broader based RACs or on any other advisory committee.

The concepts of "direct" and "indirect" interest refer back to the basic principle of conflict of interest, and refer to financial matters. Both terms are defined in common usage. "Direct" interest refers to an interest