

method of identifying individuals with an interest in the management of the public lands. All nominations must be accompanied by letters of reference from interests or organizations to be represented. The Secretary will not be able to appoint to the councils all individuals who are nominated, either by themselves or by other groups. During the selection and appointment process, the Department will strive to establish council membership that represents the three groups in a balanced fashion, and that includes only members who meet the requirements to be informed, objective, knowledgeable about the local area, and committed to collaborative decisionmaking.

Issues concerning payment of per diem to council members have been discussed at § 1784.3, Member service.

The Department believes that the requirements for consensus decisionmaking and balanced membership will prevent one group from dominating the councils. Issues such as rules of operation can be handled by the individual councils after they are constituted, as long as they fulfill the requirements of FACA and this rule. The councils cannot legally be given jurisdiction over the actions of the Federal land manager. While the Department expects that the recommendations of the councils will be carefully considered by local Federal managers, ultimately the Federal agency remains responsible for all decisions made.

BLM is constrained legally in many matters regarding personnel or funding. The BLM could not be bound by advice from the RACs on such matters. However, some funding matters clearly can be considered by the councils. For example, expenditure of range improvement funds will be considered. By advising the agency on priorities, the RACs may impact the expenditure of other funds as well.

The councils cannot appeal to the Secretary, but they can request Secretarial response, under the provisions of § 1784.6-1(i) of the final rule. The Secretary's response will not constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal and will not preclude an affected party's ability to appeal a decision of the authorized officer.

While any interested person can provide input to the charters, the Department will be responsible for establishing a charter for the advisory councils. These charters must be consistent with the requirements of FACA, and must be reviewed by the General Services Administration and

approved by the Office of Management and Budget. Definition of the groups to be represented on each council in the charters must be consistent with the requirements of § 1784.6-1(c). Specific operating procedures for each council can be developed by that council and incorporated into a set of bylaws or other operational instrument. Development of the charter and issues of the councils giving advice or recommendations are also discussed above in § 1784.2-1, Composition. The Department rejects the suggestion that permittees not be bound by the recommendations of the councils unless they agree in writing. The councils will provide recommendations to BLM, not directly to the permittees. Furthermore, the councils provide only advice. They do not make decisions. It is the statutory responsibility of BLM, through the authorized officer, to make final decisions regarding the management of the public rangelands. Permittees and lessees will be bound to follow those decisions, subject to the administrative remedies provisions in subpart 4160.

The Department understands that it may in some cases be difficult to achieve consensus, and that the development of consensus may be a time-consuming process. However, consensus decisionmaking is at the heart of improving the grazing management program. The Department is committed to the concept that all groups should work together to develop recommendations regarding the management of the public rangelands. Decisions reached in this way will be owned by all parties involved, and there will be significantly less likelihood of appeals and disputes, and greater likelihood that effective actions will be identified and implemented. In the long run, the Department believes that consensus-based decisionmaking will actually shorten the time required to reach a decision and implement it on the ground.

In response to the comments on jurisdiction, the Department has decided to allow considerable flexibility in the area covered by any one RAC. To that end, and to provide flexibility in other aspects of the RACs so they can be constituted to suit local needs, the Department has incorporated into this final rule provisions allowing adoption of any one of three models. Those models allow RACs to be formed on the basis of State boundaries, BLM districts, or ecoregions. The boundary of the RACs will be determined by the State Director, in consultation with the Governor and other interested parties.

Size and composition of the councils are discussed at § 1784.2-1,

Composition. Additionally, the Department notes that one of the purposes of the RACs is to fulfill the requirements of section 309(a) of FLPMA, which requires the Department to form councils of 10 to 15 members. Furthermore, FACA requires that councils advising the Federal government have a balanced membership made up of all groups having an interest in the issue on which the council provides advice. The provisions for membership included in the rule adopted today at this section will ensure implementation of those statutory requirements.

The Department agrees that input from the Governor is critical to the success of the councils. However, under the provisions of FACA, the Secretary must appoint the members of the councils. The Secretary will carefully consider nominees sent forward by the Governors. Furthermore, discussions between the State Director and the Governor will be important in determining whether councils will be set up on a State, District, or ecoregion basis. The Department will develop a course of study to ensure that council members are fully qualified to make recommendations to BLM concerning grazing management issues.

The RAC provisions as proposed differed in some ways from the Colorado model. While they were based to a considerable extent on that model, certain statutory requirements, including the provision in FACA that council members be appointed by the agency head, in this case the Secretary, dictated that some provisions of the Colorado model be revised. This final rule adopts three RAC models, one of which, Model A, is based largely on the Colorado model. Again, however, certain changes had to be made to accommodate legal requirements and the goals of this public rangelands management program.

Many of the terms for which commenters requested definitions have been discussed in the FEIS. Direct interest is discussed at § 1784.2-2, Avoidance of conflict of interest. "Dispersed recreational activities" is a term used by BLM to refer to recreation that takes place outside of developed recreational areas. Birding, hiking and hunting are dispersed recreational activities. Definition of the term is outside the scope of these grazing regulations.

The Department has corrected any confusion resulting from the proposed rule's use of the terms council, board, and committee. This is discussed at § 1784.2-1.