commit violations that result in the cancellation of their State permits will be affected.

The requirement of applicants for renewal to be found to be in compliance with terms and conditions and the pertinent rules and regulations on the permit or lease for which renewal is sought is not new; it stems directly from FLPMA (43 U.S.C. 1752(c)). While disqualification from obtaining a new permit or lease or a renewal of a permit or lease under this provision may in some instances affect financing or other aspects of ranch economics, the principal objective of these provisions—encouraging and recognizing stewardship—is consistent with the long-term stability and economic viability of a ranch operation.

The Department does not agree that suspensions, in addition to cancellations, should serve as a basis for disqualifications. Suspensions may be imposed for a wide range of problems. While some may be serious enough to warrant denial of additional permits, others may not be. If a person continues to perform so poorly that BLM suspends one or more permits, the authorized officer has the discretion to take the next step, cancellation. In that case, the person would become ineligible for a new permit for the next 36 months.

In regards to difficulties in determining affiliation, the Department does not intend that such a determination will require an in-depth investigation. Rather, the authorized officer will rely on readily available information and material provided by the permittee or lessee through the normal permit or lease application process.

Once an individual has sold his ranch and a permit has been transferred, the original owner will not be considered responsible for it. The concept of affiliate is intended to take into account those persons who actually have the ability to control the manner by which a grazing operation is conducted. The Department does not believe this extends to buyer-seller relationships unless as a result of the transaction the seller retains some interest in the operation, such that it meets the definition of ''affiliate.''

The concern of the tribal government is well founded. If the tribe receives permits and in turn leases them to individual tribal members, the Department assumes that the tribe's relationship to the tribal members meets the definition of control. Through the terms of the leases, if by no other means, the tribe can exercise control over its members.

In accordance with the above discussion, the Department has decided to adopt the rule as proposed, with the text subdivided and redesignated and headings added for clarity. Additionally, the word ''relevant'' is added to paragraph (d) to modify ''information'' to clarify that the authorized officer is authorized to request information from the applicant that is relevant to the application process, not just any type of information.

Section 4110.1–1 Acquired Lands

The proposed rule would have revised this section to clarify that BLM will apply the terms and conditions of existing grazing permits on leases on newly acquired lands in effect at the time of acquisition of the lands. This change was proposed to make clear that terms and conditions of permits and leases in effect at the time land is acquired will be honored subject to the provisions of the transfer of ownership (statute, title, etc.). Mandatory qualifications will not apply to such permits or leases until the expiration of their current term.

The Department received very few comments on this section. Some expressed concern that this provision would mean that lands grazed at the time of acquisition might later be turned to conservation use.

It is true that, under this provision, lands which were grazed at the time of acquisition could, with the expiration of the permit, be turned to conservation use. However, the commenters should keep in mind that conservation use will be issued only at the request of the permittee, and will be required to be consistent with applicable land use plans. Additional information on conservation use can be found in this preamble in the discussion of § 4130.2.

The Department has decided to adopt this provision as proposed.

Section 4110.2–1 Base Property

Under the proposed rule, this section would have been amended by clarifying that base property is required to be capable of serving as a base for livestock operations but it need not be used for livestock production at the time the authorized officer finds it to be base property.

A provision would have been added to clarify that the permittee's or lessee's interest in a base water previously recognized as base property would still qualify as base property following authorized reconstruction or replacement required to continue to service the same area.

The Department received comments on this section ranging from those who questioned the justification for implementing the concept that base property be capable of supporting livestock use to those who questioned how the Department would determine what was capable of supporting livestock and what was not. Others questioned whether base property must be contiguous.

The Department has introduced the concept of ''capability'' of base property to support livestock in order to a) recognize that not all private land holdings are of sufficient size and character to support a livestock operation, and b) provide for situations where persons or organizations other than traditional livestock operators, such as insurers, financial organizations, or conservation organizations, acquire a ranch but may not at the moment be in the livestock business at that location. The Department believes this is in the public interest. As long as the base property is capable of supporting a livestock operation, the property should be eligible to be considered a base of livestock operations. The provision is not intended to remove the requirement for permit applicants to have base property, nor is the provision intended to circumvent BLM's authority to decide whether public lands should or should not be grazed.

The Department does not believe it is necessary for the base property to be supporting a livestock operation at present to be eligible to be considered base property. The proposal would allow for the acquisition or retention of a grazing permit or lease during periods when cattle are not actually being grazed, as long as it were possible to conduct grazing operations. For example, an operation could be in a start-up phase, planned to last for several years, prior to actually placing cattle on the land. While some permittees may not intend to initiate a grazing operation, under the proposal any extended conservation use would be allowed by BLM only if in conformance with approved land use plans or other activity plans and standards and guidelines.

The Department disagrees that contiguous property should automatically be considered capable, or that only contiguous properties should be considered capable of serving as a base. In some cases, there is more than one contiguous property, and a decision must be made as to which would serve best as base property. Also, some contiguous properties may not actually be capable of supporting grazing