regulations requirements that already exist under NEPA. The provision would also have ensured that the same document would have been used to satisfy NEPA requirements and to provide a final—and appealable—decision to a permittee or lessee. This would have prevented duplication of effort on the part of the agency or the permittee or lessee.

In effect, the provision that the NEPA decision document would have served as the proposed decision of the authorized officer for purposes of subpart 4160 would have directed appeals of those decisions through the administrative remedies process provided in that subpart. Under the proposal, that subpart would have provided an opportunity for a field hearing on the facts of the case by an administrative law judge, rather than requiring the appeal to go directly to the Interior Board of Land Appeals. This would have streamlined the appeals process.

The Department received few comments on this section. Most expressed concern that following the NEPA process would result in unnecessary delay in approving environmentally sound range improvement projects, or would discourage such improvements from being made.

The Department has decided to adopt this provision as proposed, with one minor change. The term ''range improvement'' is added between the words ''cooperative'' and ''agreement'' in paragraphs (b) and (e). This term was added for consistency with other provisions in the final rule. This change clarifies that the cooperative agreements being referred to are range improvement agreements, not cooperative agreements between BLM and the States, or any other type of cooperative agreement.

The Department does not expect that the NEPA review process will unduly delay implementation of range improvement projects. The rule retains the NEPA requirement. Following the NEPA process is a requirement of law and is current practice; it is not just a requirement of this regulation.

Section 4120.3–2 Cooperative Range Improvement Agreements

In the proposed rule, the heading of this existing section would have been revised to clarify that this section deals with cooperative range improvement agreements as opposed to ''cooperative agreements'' with other Federal or State agencies. The proposed rule would have amended this section to specify that the United States would have title to all new permanent grazing-related improvements constructed on public lands. The proposed section would have provided that title to temporary grazing-related improvements used primarily for livestock handling or water hauling could be retained by the permittee or lessee. This change would have conformed with the common law practice of keeping title of permanent improvements in the name of the party holding title to the land, and with existing Forest Service policies. The amendment would not have changed any agreements currently in effect.

The Department received many comments on this section. Some commenters expressed concern that the provisions would lead to fewer range improvements and declining ranch values, range conditions and wildlife populations. Others questioned if reconstructions were considered new improvements and whether existing improvements would be affected by the requirement that the United States retain title to improvements. Many stated that the provision could afford environmental groups the opportunity to take control of range improvements and felt livestock operators should be consulted if improvements are planned. Others raised takings questions.

The Department has adopted a modified version of the proposal. The title of the final rule is changed to clarify that the section affects cooperative range improvement agreements. Paragraph (b) is revised by adding examples of types of permanent range improvements that will be authorized by cooperative range improvement agreements. The existing language of §§ 4120.3–2 and 4120.3–3 of the current rule has long stated that the title of nonremovable improvements shall be in the name of the United States and the title of removable range improvements shall be in the name of the permittee or lessee, or shared in proportion to the amount of contribution, in the case of situations covered by § 4120.3–2. This final rule clarifies further these provisions regarding temporary and permanent improvements. The United States will have title to new permanent range improvements. The rule conforms BLM policy with the common law practice of keeping title of permanent improvements in the name of the party holding title to the land, and with current Forest Service administrative provisions.

Additionally, the adopted language clarifies that the provision applies to cooperative range improvements agreements after the effective date of the rule. The final rule does not adopt proposed paragraph (c), regarding temporary structural range improvements, as that paragraph duplicates requirements in final § 4120.3–3, Range improvement permits.

Finally, a statement is added to clarify that any contribution made by a permittee or lessee to such a permanent improvement will be documented by BLM to ensure proper credit for the purposes of § 4120.3–5, Assignment of range improvements, and § 4120.3–6(c), Removal and compensation for loss of range improvement.

The Department disagrees that this provision will result in fewer range improvements and declining range values, range conditions, and wildlife populations. The Forest Service's experience does not support this contention. Improvements add to the management effectiveness and the value of the ranch operation. Any contributions the permittee makes to range improvements are recognized and documented. The incentive for a permittee to invest in range improvements is that it is in his or her financial interest to improve use of the grazing allotment.

Reconstruction within the bounds of the original range improvement permit will not require a new agreement. However, work that is outside of the original range improvement permit or authorization will be considered a new improvement. Determinations as to whether a particular instance is a reconstruction or a new construction will be made on a case-by-case basis.

The Department disagrees that this provision will allow other parties to take control of range improvements. New permanent range improvements will be issued by cooperative range improvement agreement with the permit holder, and will be in the name of the United States, regardless of who the permittee is. Responsibilities of each cooperator, the grazing permit holder and the United States will be documented in the cooperative range improvement agreement.

The provision does not limit the Secretary's authority to cooperate with other agencies and organizations to plan, develop, and maintain improvements on the public lands to the benefit of other public land resources. Where such developments may affect livestock operations, permit holders will be consulted. Decisions to determine the need for range improvements will not be affected by this provision. The rule continues the policy that range improvement needs may be identified by the operator, BLM, or interested members of the public. The responsibility for cost to be borne by the