conditions might also be incorporated in the terms or conditions of a permit.

Significant reductions in tax revenues or available range improvement funds are not expected to result from conservation use. While grazing fees will not be collected for conservation use, since no forage is being consumed, the Department considers that the benefits to be derived by the conservation use will offset the relatively minimal decrease in grazing receipts. The FEIS analyzes the economic effects of the various management alternatives considered in arriving at this final rule.

Concerning the perceived problems associated with scattered intermingled public lands, conservation use is at the option of the permittee or lessee subject to approval of BLM. If intermingled lands create a problem for the permittees or lessees, they may decide not to apply for conservation use.

The Department disagrees that conservation use constitutes a ''closing of the range'' that is subject to notice and comment requirements of FLPMA. Presumably the commenter was referring to requirements involved when a major use is eliminated from very large tracts of public land (43 U.S.C. 1712); however, this statutory provision does not pertain to conservation use which does not constitute an exclusion of a major use. Conservation use is a grazing management practice and does not constitute a permanent retirement of a grazing allotments. Decisions to retire grazing allotments are considered through BLM's land use planning process.

The 10-year limitation on conservation use is consistent with the statutory requirements for permit limitations. As adopted today, conservation use could be approved for up to 10 years. FLPMA (43 U.S.C. 1752(a)) requires that grazing permits or leases be issued for a term of 10 years or, in circumstances specified at 43 U.S.C. 1752(b), less. This limit also recognizes that conservation oriented objectives may be met or revised and the forage may then be re-allocated for use by livestock. This also is the rationale for why the grazing privilege is not cancelled or ''retired'' or why the area is not closed to livestock grazing.

To clarify how a permittee can change back to active use, the final rule is modified from the proposal to include conservation use in § 4130.4(b), ''Approval of changes in grazing use within the terms and conditions of permits.''

In regards to the comment that the ability to authorize conservation use will be severely limited because current land use plans don't consider conservation use specifically, it is not a requirement that conservation use be explicitly addressed in plans. Rather, it must be found to conform with the land use plan. The Department believes that conservation use will conform with land use plans in most cases.

For responses to general comments concerning public involvement please see §§ 1784.0–5 and 4100.0–5. Analysis of permit or lease issuance currently requires NEPA compliance which in turn provides for broad public input. In addition, issuance or denial of an application constitutes a decision of the authorized officer and, as such, is protestable and appealable under subpart 4160. Careful consideration of public input early in the process for issuing or renewing permits should minimize the time spent in resolving protests and appeals. In response to comments, consultation, coordination, and cooperation is inserted in the language adopted today.

Concerning the comments that expressed concerns over permit tenure, the proposed rule and the rule being adopted today vary little from the existing rule. The principal change pertaining to permit tenure that was proposed was establishing permit and lease terms to coincide with the terms of any base property leases. The authority for this and other tenure provisions is clearly established by FLPMA (43 U.S.C. 1752(b)) which states permits and leases may be issued for terms less than 10 years when determined to be ''* * * in the best interest of sound land management.'' Decisions to approve or deny a permit or lease application are appealable under subpart 4160. The Department does not agree with the suggestions to end preference for renewal in favor of competitive bidding. Given the intermingled patterns of some public lands, statutory provisions pertaining to renewal of permits, and administrative obstacles, competitive bidding would not serve as a viable option in many instances. Competitive bidding for permits and leases was analyzed in the FEIS.

The rule as proposed and adopted today provides a great deal of flexibility to permit and lease holders in terms of temporary nonuse. Under this rule, applications for temporary nonuse will generally be approved. Where the limitations placed on temporary nonuse (maximum of three years and open to other applicants) prevent the permittee or lessee from meeting their needs, the option of applying for conservation use remains.

The provision that applicants who refuse to accept the terms and conditions of the offered permit or lease will be denied will not result in arbitrary terms and conditions. The general requirements of the previous rule for determining appropriate terms and conditions have been retained in this rule. Also, should the applicant believe terms and conditions are not appropriate, the applicant may appeal the decision of the authorized officer under subpart 4160. If, after communication with the involved parties, the decision to deny or approve an application is appealed, the authorized officer would have the option to issue a temporary nonrenewable permit pending resolution of the appeal.

The Department has chosen not to incorporate suggestions pertaining to suitability determinations prior to permit or lease issuance. FLPMA sets forth specific factors BLM must consider in connection with land use planning and use authorizations. A rigid suitability review is not specifically required by FLPMA. Moreover, the process associated with land use planning and decisions on use authorizations, including NEPA compliance and application of standards and guidelines, adequately address concepts of suitability. The fundamentals of rangeland health, guiding principles for State or regional standards and guidelines, and the fallback standards and guidelines, presented in subpart 4180 of this final rule, will focus on attaining and maintaining healthy rangelands.

The use of suitability determinations was considered in the FEIS under the alternative titled Environmental Enhancement. Readers are encouraged to review the discussion of suitability in that document.

This rule will not change existing NEPA implementation procedures. As stated above, decisions under this section are appealable under subpart 4160. Appealable decisions include the issuance or denial of permits and leases and modification of terms and conditions. As explained at § 4130.4, annual ''authorizations'' are merely validations that the requested use falls within the terms and conditions of the permit or lease. Normally, they do not require further NEPA analysis or public input. However, issuance of a grazing permit or lease, even a one-year or nonrenewable permit or lease, does not all under the provisions of the new § 4130.4, and would therefore be subject of NEPA analysis, consultation requirements, and the right of protest and appeal.