(1928). The new FSM 2650 is consistent with this approach.

2. Loss of Administrative Appeal Opportunity

Comment: While recognizing that APHIS is subject to the National Environmental Policy Act (NEPA), many reviewers opposed designating APHIS as the lead agency for NEPA compliance. Respondents emphasized that APHIS, unlike the Forest Service, has no administrative appeal process for NEPA decision documents. Several reviewers stated that the loss of this administrative process is very significant to them, leaving only the option of challenging animal damage management decisions in court.

Response: While those interested in ADM activities carried out by APHIS on NFS lands have enjoyed an appeal opportunity until now, this is not a "right." The only reason APHIS-ADC proposals affecting NFS lands have been subject to appeal under Forest Service procedures until now is that, prior to the 1993 MOU, the Forest Service has assumed lead agency responsibility for NEPA analysis and disclosure. Since APHIS will not assume these NEPA compliance duties, those interested and affected by an APHIS-initiated ADM proposal will no longer be able to use Forest Service appeals procedures, since the Forest Service will not be the proponent or deciding agency. It is true that APHIS has no formal

It is true that APHIS has no formal appeal process, but APHIS must consider all issues and concerns presented to them by the public during the NEPA process and comment period. A final decision must address those concerns raised during public comment periods. Given the protections of NEPA procedures and the availability of judicial review, the Forest Service does not believe the loss of ADM appeal opportunity is sufficient grounds for revising the final policy.

3. APHIS NEPA Experience and Procedures

Comment: Many of the reviewers who objected to transferring NEPA compliance from the Forest Service to APHIS asserted that APHIS has no formalized NEPA procedures.

Response: This comment is not accurate and provides no compelling reason for the Forest Service and APHIS to revise the terms of the MOU. APHIS follows Council on Environmental Quality (CEQ) NEPA Regulations (40 CFR parts 1500–1508, et. seq.), the USDA NEPA procedures (7 CFR part 1b), and the APHIS NEPA Implementing Procedures (60 FR 6000–6005, Feb. 1, 1995) effective March 3, 1995, in meeting its NEPA compliance obligations.

Comment: Twenty-six respondents, including a government agency, expressed concerns about differences between APHIS and Forest Service NEPA procedures, and differences in quality of analyses. They thought that APHIS lacked sufficient experience in writing environmental documents.

Response: While APHIS and Forest Service NEPA procedures, and ultimately, NEPA documents, may be identical, they must be prepared in accordance with the Council on Environmental Quality (CEQ) regulations. Where APHIS requests NEPA analysis assistance or help with developing NEPA compliance procedures, the Forest Service will cooperate with APHIS personnel. The MOU and final policy provide the basis for such a partnership. Similarly, as the Forest Service or another agency reviews NEPA documents prepared by APHIS, each agency can note any issues related to quality of analyses and suggest improvement. Additionally, in its leadership and training roles, the Council on Environmental Quality has had opportunity to work with APHIS as it devised formal NEPA implementing procedures. CEQ will have additional opportunities as APHIS implements these procedures and prepares NEPA documents on animal damage management activities.

4. Abdication of Forest Service Responsibility

Comment: Eleven of the response letters claimed that the Forest Service is "abdicating its responsibility" or "turning over all decisionmaking procedures" to APHIS and that as a result the Forest Service will not be able to "adequately critique and challenge Animal Damage Control proposals and data." These respondents all expressed concern that the Forest Service would no longer take an active role in managing these activities. Additionally, another agency asked "if APHIS would have the lead in ensuring compliance with forest land and resource management plans on NFS lands? To what extent might APHIS predator control policies conflict with such plans, and which governs in the event of a conflict, and who decides?

Response: There are two assertions underlying these comments: (1) that the Forest Service has all [ultimate] authority for ADM activities and (2) that the Forest Service is abdicating its responsibilities for ADM on National Forest System lands (NFS). Neither of these assertions is accurate. The legal authorities of each agency are recognized in the Memorandum of Understanding (MOU) between APHIS and the Forest Service, signed in June 1993.

Under the final policy and the MOU, tools and procedures for animal damage management activities on NFS lands are to be used "according to a plan developed in compliance with National Environmental Policy Act (NEPA), National Forest Management Act (NFMA); and Animal Damage Control Act." This plan is the Wildlife Damage Management (WDM) Plan, developed by APHIS/ADC in cooperation with the land management agencies, including the Forest Service. The plan is assessed through NEPA documents that cover an entire forest or larger area and is developed under APHIS/ADC leadership. An annual work plan implements the WDM plans, which APHIS-ADC prepares to analyze impacts in logical geographic areas to assess damage caused by wildlife and alternative strategies to manage the damage, regardless of land ownership status. These assessments include NEPA analysis and consider the concerns of all affected interests. The WDM plans are completed as necessary, or when new or changed conditions occur, prior to specific ADM actions. The Forest Service also cooperates with APHIS-ADC in development and review of these WDM plans. The 1993 Memorandum of Understanding states that:

APHIS-ADC is the agency with the authority and expertise under the Animal Damage Control Act of March 2, 1931, as amended; and pursuant to The Rural Development, Agriculture, and Related Agencies Appropriation Act of 1988 for providing ADM services. This includes maintaining technical expertise in the science of animal damage management, control tools and techniques, conducting ADM research, conducting management programs, and NEPA compliance on activities related to predator control [that APHIS-ADC conducts].

This approach in the MOU is based on the Secretary of Agriculture's longstanding assignment of ADM activities to APHIS. Additionally, the Memorandum of Understanding states that both the Forest Service and APHIS agree to:

Ensure interagency coordination and concurrence on the effects of predator control activities on National Forest resources before NEPA decisions on predator control are signed.

The Secretary has delegated National Forest System forest planning authorities in the Chief of the Forest Service, including the responsibility to ensure that Forest Service authorized