activities are not in conflict with forest plans. The MOU allows the Forest Service to ensure consistency of ADM activities with Forest Plans, agency

regulations, and policy.

It is impossible to speculate whether, or to what degree, if any, APHIS Animal Damage Management activities might conflict with Forest Plans. If there is any conflict, the Forest Service will identify and APHIS will adopt these measures necessary to ensure consistency with the goals and objectives in the Forest Plans. The MOU formalizes the two agency's intent to work closely and cooperate on all activities.

Finally, the Memorandum of Understanding also calls for annual meetings at the State and regional levels to evaluate and coordinate ADM activities. Therefore, on its face, the 1993 MOU recognizes the Forest Service duty to regulate use of NFS lands and ensures that the Forest Service plans a cooperative role in reviewing and commenting on proposed actions and associated NEPA documents prior to APHIS making a decision for predator ADM activities.

If conflicting interpretations arise, the Forest Service will make the final determination of whether the proposed activity conforms to a standard or guideline in a forest plan. A fundamental principle of APHIS' ADM program is its commitment to comply with landowner/manager's restrictions as to where animal damage management activities can and cannot be conducted.

5. Animal Damage Management in Wilderness

Comment: Three respondents expressed concerns about ADM activities in wilderness areas, stating that this "is counter to the meaning and intent of a wilderness area."

Response: All ADM activities on NFS lands must be carried out in a manner consistent with the Wilderness Act and subsequent amendments establishing wilderness areas within the NFS system.

6. Compatibility With Ecosystem Management

Comment: Nine reviewers stated that Animal Damage Management is incompatible with the Forest Service's ecosystem management approach on NFS lands

Response: There is nothing inherent in Animal Damage Management that is incompatible with ecosystem management. Under the final policy and the 1993 MOU, APHIS will consult with the Forest Service concerning any and all effects of APHIS ADM actions on NFS lands. The 1993 MOU states that both agencies agree to:

Conduct ADM on NFS lands in accordance with the APHIS-ADC Policies, USDA policy on fish and wildlife and consistent with Forest Land and Resource Management Plans' and to ''[e]nsure interagency coordination and concurrence on the effects of predator control activities on National Forest resources before NEPA decisions on predator control are signed.''

Comment: In addition, another agency stated that the Forest Service recently signed a MOU with the Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), National Park Service (NPS), and National Marine Fisheries Service (NMFS), "* * * which encourages an ecosystem approach to addressing endangered species. How will FS ensure that it meets this commitment where APHIS is the lead agency?"

Response: The Forest Service's cooperative role will ensure that ADM activities are consistent with broader goals and mandates such as ecosystem management. APHIS will coordinate with the Forest Service concerning any and all effects of their actions on Forest Service lands including the Forest Service's ecosystem management approach.

7. Inadequate Opportunity for Public Comment

Comment: Ten reviewers stated that designating APHIS as the lead agency for NEPA compliance for Animal Damage Management was completed with inadequate opportunity for comment.

Response: Intradepartmental agreements have always been considered a routine business operation of the agency. Such agreements are the mechanisms by which USDA agencies reach agreement on responsibilities and procedures to be followed when programs and activities involve more than one USDA agency. The Forest Service places intradepartmental agreements into Title 1500 of the Forest Service Manual to ensure that agency personnel across the country have access to them in carrying out day-today management activities. The Forest Service interprets such intra-agency agreements to be of the same nature as administrative support activities such as personnel, procurement, service contracting and other routine business practices. As such, the Agency was not legally required to give notice of and opportunity to comment on the agreement, pursuant to 36 CFR part 216. However, the Forest Service did give notice of the new agreement on July 13, 1993, at 58 FR 37704 and notice that copies were available upon request. Subsequently, the agency decided to

give notice of revisions to its Animal Damage Management policy arising from implementation of the 1993 MOU. The notice was published in a **Federal Register** Notice on June 13, 1994, at 59 FR 30334 and provided a 60-day comment period. Thus, the public has been given adequate notice of and adequate opportunity to comment on the proposed policy.

8. Legality of Animal Damage Management Activities on NFS Lands and of Transfer of NEPA Responsibilities

Comment: Thirty-five respondents stated that it is "illegal" for APHIS/ADC to conduct animal damage management on NFS lands or for the Forest Service to "transfer" NEPA planning responsibilities to APHIS. These respondents contend that, in doing so, the Forest Service violates the Endangered Species Act, National Forest Management Act, Multiple-Use Sustained Yield Act, Wilderness Act, and the Animal Damage Control Act. Additionally, another agency asked if the Forest Service role as stated in FSM 2651.1 is consistent with APHIS approach so that ESA obligations are met.

Response: The MOU serves to reemphasize the authority that APHIS and the State agencies already have for ADM activities on National Forest System lands. Under the Animal Damage Control Act of 1931, as amended, the Secretary of Agriculture is authorized to control predators and other wild animals causing damage on NFS lands. The Secretary has delegated this authority to APHIS at 7 CFR 2.51(a)(41). Animal damage management for predators has never been a Forest Service responsibility. APHIS is the authorized action agency and has had, and continues to have, responsibility for its ADM activities. Therefore, it is completely lawful for APHIS to conduct animal damage management on NFS land. It is also appropriate for APHIS to be the lead agency in preparing environmental documentation of APHIS-sponsored ADM activities on NFS lands.

However, the policy, at FSM 2651.1, explicitly recognizes the responsibility of Forest Supervisors in cooperating with APHIS to complete necessary site-specific environmental analysis and documentation of actions proposed by APHIS and in providing mitigation measures to ensure that animal damage management activities performed by APHIS are compatible with direction provided in forest plans.

As the lead agency (40 CFR 1508.16) for completing environmental