

roaming horse or burro for purposes of this chapter.

(Pub. L. 92-195, § 3, Dec. 15, 1971, 85 Stat. 649; Pub. L. 95-514, § 14(a), Oct. 25, 1978, 92 Stat. 1808; Pub. L. 108-447, div. E, title I, § 142(a), Dec. 8, 2004, 118 Stat. 3070.)

#### REFERENCES IN TEXT

Section 1902 of title 43, referred to in subsec. (b)(2), was in the original “section 2 of the Public Range Lands Improvement Act of 1978” (classified to 43 U.S.C. 1901) and was changed to reflect the probable intent of Congress.

#### AMENDMENTS

2004—Subsec. (d)(5). Pub. L. 108-447, § 142(a)(1), substituted “this section” for “this section; *Provided*, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products”.

Subsec. (e). Pub. L. 108-447, § 142(a)(2), added subsec. (e).

1978—Subsec. (b). Pub. L. 95-514 substituted provisions for: maintaining current inventory of wild free-roaming horses and burros; listing the purpose of the inventory and determinations to be made in consultation with persons of scientific expertise and special knowledge; immediate removal of excess animals from the range on the basis of information from various sources so as to achieve appropriate management levels; order and priority of removal; and research study to be reported to Congress for prior authorization of humane destruction of old, sick, or lame animals and capture and removal of additional excess animals for private maintenance under humane conditions and care, now incorporated in subsec. (b)(2)(A) and (B).

Subsec. (c). Pub. L. 95-514 substituted provision for grant of title to limited number of excess animals adopted for requisite period for prior authorization of humane destruction of wild free-roaming horses and burros as an act of mercy or to prevent overpopulation only when necessary to preserve and maintain the habitat in a suitable condition for continued use.

Subsec. (d). Pub. L. 95-514 substituted provisions relating to circumstances and conditions operating to take wild free-roaming horses and burros or their remains from the purview of this chapter for prior declaration that nothing in the chapter shall preclude the customary disposal of the remains of a deceased wild free-roaming horse or burro, including those in the authorized possession of private parties, and prohibition of sale for any consideration, directly or indirectly, of the remains, or any part thereof, now incorporated in cl. (5).

#### TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 1334. Private maintenance; numerical approximation; strays on private lands; removal; destruction by agents

If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshal or agent of the Secretary, who shall arrange to have the animals removed. In

no event shall such wild free-roaming horses and burros be destroyed except by the agents of the Secretary. Nothing in this section shall be construed to prohibit a private landowner from maintaining wild free-roaming horses or burros on his private lands, or lands leased from the Government, if he does so in a manner that protects them from harassment, and if the animals were not willfully removed or enticed from the public lands. Any individuals who maintain such wild free-roaming horses or burros on their private lands or lands leased from the Government shall notify the appropriate agent of the Secretary and supply him with a reasonable approximation of the number of animals so maintained.

(Pub. L. 92-195, § 4, Dec. 15, 1971, 85 Stat. 650.)

#### § 1335. Recovery rights

A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State in which the animal is found.

(Pub. L. 92-195, § 5, Dec. 15, 1971, 85 Stat. 650.)

#### § 1336. Cooperative agreements; regulations

The Secretary is authorized to enter into cooperative agreements with other landowners and with the State and local governmental agencies and may issue such regulations as he deems necessary for the furtherance of the purposes of this chapter.

(Pub. L. 92-195, § 6, Dec. 15, 1971, 85 Stat. 650.)

#### CONTRACTS AND AGREEMENTS FOR WILD HORSE AND BURRO HOLDING FACILITIES

Pub. L. 112-74, div. E, title I, § 114, Dec. 23, 2011, 125 Stat. 1009, provided that:

“(a) Notwithstanding any other provision of this Act [div. E of Pub. L. 112-74, see Tables for classification], the Secretary of the Interior may enter into multiyear cooperative agreements with nonprofit organizations and other appropriate entities, and may enter into multiyear contracts in accordance with the provisions of section 304B of the Federal Property and Administrative Services Act of 1949 ([former] 41 U.S.C. 254c) [see 41 U.S.C. 3903] (except that the 5-year term restriction in subsection (d) [see 41 U.S.C. 3903(a)] shall not apply), for the long-term care and maintenance of excess wild free roaming horses and burros by such organizations or entities on private land. Such cooperative agreements and contracts may not exceed 10 years, subject to renewal at the discretion of the Secretary.

“(b) During fiscal year 2012 and subsequent fiscal years, in carrying out work involving cooperation with any State or political subdivision thereof, the Bureau of Land Management may record obligations against accounts receivable from any such entities.”

#### § 1337. Joint advisory board; appointment; membership; functions; qualifications; reimbursement limitation

The Secretary of the Interior and the Secretary of Agriculture are authorized and directed to appoint a joint advisory board of not more than nine members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection. They shall select as advisers persons who are not employees of the Federal or State Govern-

ments and whom they deem to have special knowledge about protection of horses and burros, management of wildlife, animal husbandry, or natural resources management. Members of the board shall not receive reimbursement except for travel and other expenditures necessary in connection with their services.

(Pub. L. 92-195, § 7, Dec. 15, 1971, 85 Stat. 650.)

#### TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 1338. Criminal provisions

#### (a) Violations; penalties; trial

Any person who—

- (1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or
- (2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or
- (3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or
- (4) except as provided in section 1333(e) of this title, processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or
- (5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 1334 of this title, or the remains thereof, or
- (6) willfully violates a regulation issued pursuant to this chapter,

shall be subject to a fine of not more than \$2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18.

#### (b) Arrest; appearance for examination or trial; warrants; issuance and execution

Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or

any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants, in all such cases.

(Pub. L. 92-195, § 8, Dec. 15, 1971, 85 Stat. 650; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 108-447, div. E, title I, § 142(b), Dec. 8, 2004, 118 Stat. 3071.)

#### AMENDMENTS

2004—Subsec. (a)(4). Pub. L. 108-447 inserted “except as provided in section 1333(e) of this title,” before “processes or permits”.

#### CHANGE OF NAME

“United States magistrate judge” and “magistrate judge” substituted for “United States magistrate” and “magistrate”, respectively, in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

### § 1338a. Transportation of captured animals; procedures and prohibitions applicable

In administering this chapter, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of section 47(a) of title 18 shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary. Nothing in this chapter shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this chapter, or the provisions of section 47(a) of title 18, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18 shall be applicable to such use.

(Pub. L. 92-195, § 9, as added Pub. L. 94-579, title IV, § 404, Oct. 21, 1976, 90 Stat. 2775; amended Pub. L. 104-333, div. I, title VIII, § 803(a), Nov. 12, 1996, 110 Stat. 4186.)

#### REFERENCES IN TEXT

This chapter, referred to in last sentence, was in the original “this title”, and was translated as reading “this Act”, meaning the Wild Free-Roaming Horses and Burros Act which enacted this chapter, to reflect the probable intent of Congress, because that Act does not contain titles.

#### AMENDMENTS

1996—Pub. L. 104-333 inserted at end “Nothing in this chapter shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this chapter, or the provisions of section 47(a) of title 18, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18 shall be applicable to such use.”

### § 1339. Limitation of authority

Nothing in this chapter shall be construed to authorize the Secretary to relocate wild free-