

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-

roaming horses or burros to areas of the public lands where they do not presently exist.

(Pub. L. 92-195, §10, formerly §9, Dec. 15, 1971, 85 Stat. 651, renumbered Pub. L. 94-579, title IV, §404, Oct. 21, 1976, 90 Stat. 2775.)

**§ 1340. Joint report to Congress; consultation and coordination of implementation, enforcement, and departmental activities; studies**

After the expiration of thirty calendar months following December 15, 1971, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this chapter, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as he might deem appropriate.

The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this chapter and to the maximum feasible extent coordinate the activities of their respective departments and in the implementation and enforcement of this chapter. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses and burros that they may deem necessary in order to carry out the provisions of this chapter.

(Pub. L. 92-195, §11, formerly §10, Dec. 15, 1971, 85 Stat. 651, renumbered Pub. L. 94-579, title IV, §404, Oct. 21, 1976, 90 Stat. 2775.)

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective May 15, 2000, of provisions of this section relating to the Secretaries of the Interior and Agriculture submitting a joint report to Congress every twenty-four months on the administration of this chapter, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 147 of House Document No. 103-7.

**CHAPTER 31—MARINE MAMMAL PROTECTION**

**SUBCHAPTER I—GENERALLY**

- Sec. 1361. Congressional findings and declaration of policy.
  - 1362. Definitions.
- SUBCHAPTER II—CONSERVATION AND PROTECTION OF MARINE MAMMALS**
- 1371. Moratorium on taking and importing marine mammals and marine mammal products.
  - 1372. Prohibitions.
  - 1373. Regulations on taking of marine mammals.
  - 1374. Permits.
  - 1375. Penalties.
  - 1375a. Use of fines for protection and recovery of manatees, polar bears, sea otters, and walrus.
  - 1376. Seizure and forfeiture of cargo.
  - 1377. Enforcement.
  - 1378. International program.
  - 1379. Transfer of management authority.
  - 1380. Marine mammal research grants.
  - 1381. Commercial fisheries gear development.
  - 1382. Regulations and administration.
  - 1383. Application to other treaties and conventions.
  - 1383a. Interim exemption for commercial fisheries.
  - 1383b. Status review; conservation plans.

- Sec. 1384. Authorization of appropriations.
- 1385. Dolphin protection.
- 1386. Stock assessments.
- 1387. Taking of marine mammals incidental to commercial fishing operations.
- 1388. Marine mammal cooperative agreements in Alaska.
- 1389. Pacific Coast Task Force; Gulf of Maine.

**SUBCHAPTER III—MARINE MAMMAL COMMISSION**

- 1401. Establishment.
- 1402. Duties of Commission.
- 1403. Committee of Scientific Advisors on Marine Mammals.
- 1404. Omitted.
- 1405. Coordination with other Federal agencies.
- 1406. Administration.
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**SUBCHAPTER IV—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM**

- 1411. Findings and policy.
- 1412. International Dolphin Conservation Program.
- 1413. Regulatory authority of Secretary.
- 1414. Repealed.
- 1414a. Research.
- 1415. Reports by Secretary.
- 1416. Permits.
- 1417. Prohibitions.
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**SUBCHAPTER V—MARINE MAMMAL HEALTH AND STRANDING RESPONSE**

- 1421. Establishment of Program.
- 1421a. Determination; data collection and dissemination.
- 1421b. Stranding response agreements.
- 1421c. Unusual mortality event response.
- 1421d. Unusual mortality event activity funding.
- 1421e. Liability.
- 1421f. National Marine Mammal Tissue Bank and tissue analysis.
- 1421f-1. John H. Prescott Marine Mammal Rescue Assistance Grant Program.
- 1421g. Authorization of appropriations.
- 1421h. Definitions.

**SUBCHAPTER VI—POLAR BEARS**

- 1423. Definitions.
- 1423a. Prohibitions.
- 1423b. Administration.
- 1423c. Cooperative management agreement; authority to delegate enforcement authority.
- 1423d. Commission appointments; compensation, travel expenses, and claims.
- 1423e. Votes taken by the United States section on matters before the Commission.
- 1423f. Implementation of actions taken by the Commission.
- 1423g. Application with other subchapters of chapter.
- 1423h. Authorization of appropriations.

**SUBCHAPTER I—GENERALLY**

**§ 1361. Congressional findings and declaration of policy**

The Congress finds that—

(1) certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities;

(2) such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this