

(c) “range” means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;

(d) “herd” means one or more stallions and his mares; and

(e) “public lands” means any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service.

(f) “excess animals” means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

(Pub. L. 92-195, § 2, Dec. 15, 1971, 85 Stat. 649; Pub. L. 95-514, § 14(b), Oct. 25, 1978, 92 Stat. 1810.)

AMENDMENTS

1978—Subsec. (f). Pub. L. 95-514 added subsec. (f).

§ 1333. Powers and duties of Secretary

(a) Jurisdiction; management; ranges; ecological balance objectives; scientific recommendations; forage allocation adjustments

All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this chapter. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such range is proposed and with the Advisory Board established in section 1337 of this title deems such action desirable. The Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 1337 of this title. All management activities shall be at the minimal feasible level and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.

(b) Inventory and determinations; consultation; overpopulation; research study; submittal to Congress

(1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros

on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management.

(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction; (ii) information contained in any land use planning completed pursuant to section 1712 of title 43; (iii) information contained in court ordered environmental impact statements as defined in section 1902 of title 43; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i-iv) above on the basis of all information currently available to him, that an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation:

(A) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible;

(B) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and removed for private maintenance and care for which he determines an adoption demand exists by qualified individuals, and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling): *Provided*, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and

(C) The Secretary shall cause additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a research design panel to be appointed by the President of the National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

(c) Title of transferee to limited number of excess animals adopted for requisite period

Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this chapter and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one-year period.

(d) Loss of status as wild free-roaming horses and burros; exclusion from coverage

Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this chapter—

- (1) upon passage of title pursuant to subsection (c) of this section except for the limitation of subsection (c)(1)¹ of this section; or
- (2) if they have been transferred for private maintenance or adoption pursuant to this chapter and die of natural causes before passage of title; or
- (3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or
- (4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 1334 of this title and disposal is authorized by the Secretary or his designee; or
- (5) upon destruction or death for purposes of or incident to the program authorized in this section.

(e) Sale of excess animals

(1) In general

Any excess animal or the remains of an excess animal shall be sold if—

- (A) the excess animal is more than 10 years of age; or
- (B) the excess animal has been offered unsuccessfully for adoption at least 3 times.

(2) Method of sale

An excess animal that meets either of the criteria in paragraph (1) shall be made avail-

able for sale without limitation, including through auction to the highest bidder, at local sale yards or other convenient livestock selling facilities, until such time as—

- (A) all excess animals offered for sale are sold; or
- (B) the appropriate management level, as determined by the Secretary, is attained in all areas occupied by wild free-roaming horses and burros.

(3) Disposition of funds

Funds generated from the sale of excess animals under this subsection shall be—

- (A) credited as an offsetting collection to the Management of Lands and Resources appropriation for the Bureau of Land Management; and
- (B) used for the costs relating to the adoption of wild free-roaming horses and burros, including the costs of marketing such adoption.

(4) Effect of sale

Any excess animal sold under this provision shall no longer be considered to be a wild free-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 au-

¹ So in original. Probably should be subsection "(c)".

thorized 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 Governments 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