

111TH CONGRESS
1ST SESSION

H. R. 1018

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2009

Mr. RAHALL (for himself and Mr. GRIJALVA) introduced the following bill;
which was referred to the Committee on Natural Resources

A BILL

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REFERENCE.**

4 Except as otherwise expressly provided, whenever in
5 this Act an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the Act of December 15, 1971

1 (commonly known as the Wild Free-Roaming Horses and
2 Burros Act; 16 U.S.C. 1331 et seq.).

3 **SEC. 2. POLICY.**

4 The first section is amended by striking “in the area
5 where presently found, as”.

6 **SEC. 3. DEFINITIONS.**

7 Section 2 (16 U.S.C. 1332) is amended—

8 (1) in paragraph (e), by striking “which does
9 not exceed their known territorial limits,”

10 (2) in paragraph (d), by striking “and” after
11 the semicolon;

12 (3) in paragraph (e), by striking the period and
13 inserting a semicolon;

14 (4) by amending paragraph (f) to read as fol-
15 lows:

16 “(f) “excess animals” means wild free-roaming
17 horses or burros which must be removed from an
18 area, in accordance with section 3(d), in order to
19 preserve and maintain a thriving natural ecological
20 balance and multiple use relationship in that area.”.

21 **SEC. 4. INVENTORY AND DETERMINATIONS.**

22 Section 3 (16 U.S.C. 1333) is amended to read as
23 follows:

24 “SEC. 3. (a) All wild free-roaming horses and burros
25 are hereby declared to be under the jurisdiction of the Sec-

1 retary for the purpose of management and protection in
2 accordance with the provisions of this Act. The Secretary
3 shall—

4 “(1) protect and manage wild free-roaming
5 horses and burros as components of the public lands;

6 “(2) designate and maintain specific ranges on
7 public lands as sanctuaries for the protection and
8 preservation of wild free-roaming horses and burros,
9 where the Secretary, after consultation with the
10 wildlife agency of the State where any such range is
11 proposed and with the Advisory Board established in
12 section 7, considers such action desirable.

13 “(3) manage wild free-roaming horses and bur-
14 ros in a manner that is designed to achieve and
15 maintain a thriving natural ecological balance on the
16 public lands;

17 “(4) consider the recommendations of qualified
18 scientists in the field of biology and ecology, some of
19 whom shall be independent of both Federal and
20 State agencies and may include members of the Ad-
21 visory Board established in section 7;

22 “(5) ensure that management activities related
23 to wild free-roaming horses and burros are at the
24 minimal feasible level and carried out in consultation
25 with the relevant State wildlife agency in order to

1 protect the natural ecological balance of all wildlife
2 species, particularly endangered wildlife species; and

3 “(6) ensure that any adjustments in forage allo-
4 cations are made after taking into consideration the
5 needs of other wildlife species.

6 “(b) In order to determine if an overpopulation of
7 wild free-roaming horses and burros exists, the Secretary
8 shall—

9 “(1) maintain an inventory of wild free-roaming
10 horses and burros on the public lands;

11 “(2) update the inventory annually; and

12 “(3) make the inventory by herd management
13 area available to the public on the Website of the
14 Bureau of Land Management at no cost.

15 “(c) In order to better manage wild free-roaming
16 horses and burros, the Secretary, not later than one year
17 after the date of the enactment of this section, shall take
18 the following actions:

19 “(1) Adopt and employ the best scientific, peer-
20 reviewed methods to accurately estimate wild free-
21 roaming horse and burro populations on public
22 lands.

23 “(2) Employ scientifically sound methods to de-
24 velop a policy for setting consistent, appropriate
25 management levels.

1 “(3) Provide a public process, including a pe-
2 riod for notice and comment, for finalizing appro-
3 priate management level standards.

4 “(4) Publish and distribute these standards to
5 each field office so that the methodology for esti-
6 mating population and determining appropriate
7 management levels is consistent across public lands.

8 “(5) Train Bureau of Land Management per-
9 sonnel on the use of these standard techniques to es-
10 timate population and determine appropriate man-
11 agement levels.

12 “(6) Consult with—

13 “(A) the United States Fish and Wildlife
14 Service;

15 “(B) wildlife agencies of the State or
16 States where wild free-roaming horses and bur-
17 ros are located;

18 “(C) individuals independent of Federal
19 and State governments who have been rec-
20 ommended by the National Academy of
21 Sciences; and

22 “(D) individuals who the Secretary deter-
23 mines to have scientific expertise and special
24 knowledge of wild horse and burro protection,

1 wildlife management, and animal husbandry re-
2 lated to rangeland management.

3 “(7) Identify new, appropriate rangelands for
4 wild free-roaming horses and burros, including use
5 of land acquisitions, exchanges, conservation ease-
6 ments, and voluntary grazing buyouts, and negotiate
7 with private landowners to allow for the federally su-
8 pervised protection of wild horses and burros on pri-
9 vate lands.

10 “(8) Establish sanctuaries or exclusive use
11 areas; and

12 “(9) Research, develop, and implement en-
13 hanced surgical or immunocontraception sterilization
14 or other safe methods of fertility control.

15 “(d) If the Secretary has exhausted all practicable op-
16 tions of maintaining populations of wild free-roaming
17 horses and burros on the range, the Secretary may provide
18 that excess wild free-roaming horses and burros are hu-
19 manely captured and removed for private maintenance and
20 care, so long as the Secretary has determined an adoption
21 demand exists by qualified individuals and the Secretary
22 can ensure humane treatment and care by requiring
23 that—

24 “(1) no more than four wild free-roaming
25 horses and burros may be adopted per year by any

1 individual, unless the Secretary determines, in writ-
2 ing, that the individual is capable of humanely car-
3 ing for more than four wild free-roaming horses and
4 burros, including the transportation of such animals
5 by the adopting party;

6 “(2) each individual adopter shall execute an
7 appropriate attestation, pursuant to section 1001 of
8 title 18, United States Code, affirming that adopted
9 animals shall not be used for purposes of slaughter
10 for human consumption;

11 “(3) methods for removing wild horses and bur-
12 ros shall not include the use of helicopters or any
13 other airborne devices; and

14 “(4) wild horses and burros shall not be con-
15 tained in corrals or other holding facilities for more
16 than 6 months, while awaiting disposition.

17 “(e) When an excess wild free-roaming horse or burro
18 has been transferred to a qualified individual for adoption
19 and private maintenance pursuant to this Act and the Sec-
20 retary determines that such individual has provided hu-
21 mane conditions, treatment, and care for such animal for
22 one year, the Secretary may, upon application by the
23 transferee, grant the transferee title to that animal.

24 “(f) Not later than one year after the date of the
25 enactment of this subsection, for the purposes of carrying

1 out a successful wild free-roaming horse and burro adop-
2 tion program the Secretary shall—

3 “(1) implement creative and more aggressive
4 marketing strategies for the adoption program, in-
5 cluding the use of the Internet or other media to
6 showcase horses and burros and the adoption pro-
7 gram;

8 “(2) explore public outreach opportunities, in-
9 cluding agreements with local and State organiza-
10 tions that are using horses and burros for rehabilita-
11 tion, therapy, or prisoner programs;

12 “(3) provide resources to properly screen and
13 train potential adopters;

14 “(4) conduct tours of Bureau of Land Manage-
15 ment facilities for interested parties; and

16 “(5) develop volunteer mentor and compliance
17 check programs for assisting the agency in facili-
18 tating successful adoptions.

19 “(g) The Secretary may not destroy or authorize the
20 destruction of wild free-roaming horses or burros unless
21 the Secretary—

22 “(1) determines that the wild free-roaming
23 horse or burro is terminally ill; and

1 “(2) ensures that the terminally ill wild free-
2 roaming horse or burro will be destroyed in the most
3 humane manner.

4 “(h) If the immediate health or safety of wild free-
5 roaming horses or burros is threatened, such as in severe
6 drought conditions, the Secretary shall temporarily remove
7 animals from the range.

8 “(i) Except in cases of removal under subsection (g)
9 or subsection (h), if the Secretary removes wild free-roam-
10 ing horses or burros from the range or decreases the range
11 of the wild horses and burros, the Secretary shall provide
12 a public notice on the Website of the Bureau of Land
13 Management 30 days prior to the planned removal.

14 “(j) The Secretary shall—

15 “(1) track the number of wild free-roaming
16 horses and burros injured during gathering or hold-
17 ing in a centralized database system;

18 “(2) determine what information on the treat-
19 ment of gathered wild free-roaming horses and bur-
20 ros in holding and adopted wild free-roaming horse
21 and burros could be provided to the public to help
22 inform the public about the treatment of wild free-
23 roaming horse and burros; and

1 “(3) ensure that such information is easily ac-
2 cessible on the Website of the Bureau of Land Man-
3 agement.”.

4 **SEC. 5. PRIVATE MAINTENANCE.**

5 Section 4 (16 U.S.C. 1334) is amended—

6 (1) by striking “animals removed” and insert-
7 ing “animals returned to public lands”; and

8 (2) by striking “In no event shall such wild
9 free-roaming horses and burros be destroyed except
10 by the agents of the Secretary.”.

11 **SEC. 6. COOPERATIVE AGREEMENTS.**

12 Section 6 (16 U.S.C. 1336) is amended by inserting
13 “and other private entities” after “landowners”.

14 **SEC. 7. JOINT ADVISORY BOARD.**

15 Section 7 (16 U.S.C. 1337) is amended—

16 (1) by striking “nine members” and inserting
17 “12 members”;

18 (2) by striking “Governments” and all that fol-
19 lows “management.” and inserting “Governments
20 and shall include at a minimum three representa-
21 tives of the livestock industry; three representatives
22 of the environmental community; three representa-
23 tives of the humane community; and three scientists
24 with doctorate degrees who have expertise in wildlife
25 management.”; and

1 (3) by adding at the end the following new sen-
2 tence: “Selection of members of the board shall be
3 conducted by notice and comment rulemaking in ac-
4 cordance with the Administrative Procedure Act (5
5 U.S.C. et seq.) shall be for a term of four years. No
6 individual shall serve more than two consecutive
7 terms.”.

8 **SEC. 8. CRIMINAL PROVISIONS.**

9 Section 8(a)(4) (16 U.S.C. 1338(a)(4)) is amended—

- 10 (1) by striking “3(e)” and inserting “3(d)”;
- 11 (2) by inserting “, transports for processing,”
12 after “processes”; and
- 13 (3) by striking “the remains of” and inserting
14 “a live or deceased”.

15 **SEC. 9. TRANSPORTATION OF CAPTURED ANIMALS.**

16 Section 9 (16 U.S.C. 1338a) is amended—

- 17 (1) by striking “helicopters or, for the purpose
18 of transporting captured animals, motor vehicles.”
19 and inserting “motor vehicles for the purpose of
20 transporting captured animals.”; and
- 21 (2) by striking “The provisions of section 47(a)
22 of title 18 shall not be applicable to such use.”.

23 **SEC. 10. LIMITATION OF AUTHORITY.**

24 Strike section 10 (16 U.S.C. 1339) and redesignate
25 section 11 as section 10.

1 **SEC. 11. REPORTS.**

2 Amend section 10 (as so redesignated by section 10
3 of this Act) as follows:

4 (1) Insert “(a)(1)” before “After the expira-
5 tion”.

6 (2) Insert “(2)” before “The Secretary of the
7 Interior”.

8 (3) Add at the end the following:

9 “(b)(1) Not later than one year after the date of the
10 enactment of this subsection and annually thereafter, the
11 Secretary shall submit to the Committee on Natural Re-
12 sources of the House of Representatives and the Com-
13 mittee on Energy and Natural Resources of the Senate
14 a report that contains the following:

15 “(A) The number of acres managed by the Bu-
16 reau of Land Management for wild free-roaming
17 horses and burros.

18 “(B) The appropriate management levels on
19 public rangelands.

20 “(C) A description of the methods used to de-
21 termine the appropriate management levels and
22 whether it was applied consistently across the agen-
23 cy;

24 “(D) the number of wild free-roaming horses
25 and burros on public lands;

1 “(E) a description of the methods used to de-
2 termine the wild free-roaming horse and burro popu-
3 lation;

4 “(F) any land acquisitions, exchanges, con-
5 servation easements, and voluntary grazing buyouts
6 that the Bureau of Land Management has acquired
7 or pursued for wild free-roaming horses and burros;

8 “(G) any sanctuaries or exclusive use areas es-
9 tablished for wild free-roaming horses and burros;

10 “(H) programs established for enhanced sur-
11 gical or immunocontraception sterilization research
12 and development;

13 “(I) the extent to which fertility control is being
14 used by the Bureau of Land Management to control
15 the population of wild free-roaming horses and bur-
16 ros;

17 “(J) the percentage of the Bureau of Land
18 Management budget devoted to contraception annu-
19 ally;

20 “(K) the ratio of horses the agency has
21 contracepted and put back on the range; and

22 “(L) which herds contraception has been ad-
23 ministered and with what results.

1 “(2) Each report submitted under paragraph (1)
2 shall be made available to the public on the Website of
3 the Bureau of Land Management.”.

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