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**Forest Service Manual 2200 – Rangeland Management  
Chapter 2260 - Wild Free-Roaming Horses and Burros**

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**2260.1 - Authority**

The Wild Horses and Burros Protection Act of 1971, as amended by the Federal Land Policy and Management Act of 1976 and the Public Rangelands Improvement Act of 1978, establishes wild free-roaming horses and burros as a part of the natural system where they occur on National Forest System lands. The acts require management, protection, and control of these horses and burros. Four acts important in protection and control of wild free-roaming horses, and burros are the Multiple Use-Sustained Yield Act of 1960, the National Environmental Policy Act of 1969, and the Resource Planning Act as amended by the National Forest Management Act. Legal citations for these acts are in FSM 2201.

**2260.2 - Objective**

To maintain wild free-roaming horse and burro populations in a thriving ecological balance in the areas they inhabit on National Forests.

**2260.3 - Policy**

1. Confine wild free-roaming horses and burros to managed Horse and Burro Territories as established in 1971, to the extent possible.
2. Determine population levels by considering the animals' forage and habitat requirements, wildlife, permitted livestock, and other uses recognized under the Multiple Use-Sustained Yield Act.
3. Remove excess animals from the range at the earliest opportunity.
4. Recognize wild free-roaming horses and burros as part of the natural system of National Forests.
5. Recognize wild horse-burro territory boundaries in Forest land management plans.
6. Relocate wild free-roaming horses and burros only to territories identified in 1971, and only where a receiving territory has sufficient suitable habitat to sustain planned population levels.
7. Manage, protect, and control wild free-roaming horses and burros on National Forest land rather than issue leases or permits to private parties.
8. Control uses of aircraft and motor vehicles in such a way that animals are disturbed as little as possible, and in a manner that ensures humane treatment of the animals at all times.
9. Grant title to individuals who have provided one year of private maintenance and care under humane conditions.

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10. The Forest Service may destroy excess wild horses and burros when there is no demand for adoption and it is not practical to capture or relocate the animals. Excess animals may be destroyed when placement in private custody is not achieved within 45 days after capture.

11. Charge adoption fees for all wild horses and burros placed through the Forest Service Adopt-A-Horse Program.

12. Do not apply adoption fees or transportation charges to unweaned offspring, which are under the age of 6 months and accompany their mare or jenny.

#### **2260.4 - Responsibility**

Responsibilities for administering this program are included in FSM 2204 - 2204.3.

#### **2260.41 - Regional Foresters**

Regional Foresters are authorized to abolish territories or adjust territorial boundaries if justified in the Forest Land and Resource Management Plan.

Regional Foresters may enter into State level agreements with the Bureau of Land Management to ensure coordinated approaches to management.

#### **2260.5 - Definitions**

Adoption Fee. A fee that partially recovers Forest Service costs incurred in removal of animals from territories, processing adoption applications, providing medical examinations and vaccinations, and feeding and handling the animals during the adoption procedure.

Excess Animals. Wild free-roaming horses or burros that authorized personnel have removed or must remove, pursuant to law, to preserve and maintain ecological balance in coordination with other resources and activities.

Herd Unit. An area of land within a Wild Horse and Burro Territory that is designated as a territorial habitat of one or more stallions/jacks, and their mares/jennies, and progeny, all ranging as one band of animals. A herd unit identifies land area boundaries used by the herd under varying conditions necessary for survival and reproduction.

Territorial Plan. An operational plan for managing one or more herd units of wild free-roaming horses and burros. The plan describes desired population level, detailed management practices, interagency coordination, scheduling, and monitoring requirements for managing each herd unit, within the direction established in the Forest plan.

Transportation Costs. All costs incurred in moving animals beyond the Forest Service/Bureau of Land Management facility where they are prepared for adoption. See FSM 6531 for collection procedures.

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Wild Free-Roaming Horses and Burros. All unbranded and unclaimed horses and burros and their progeny using National Forest System lands on or after December 15, 1971. This also includes all excess horses and burros removed from National Forest System lands by the Forest Service but which have not lost status (FSM 2264). Unbranded, claimed horses and burros found to be under an erroneous claim are also considered wild and free-roaming, if they meet the criteria above.

Does not include any horse or burro introduced onto National Forest System lands on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership. Such animals are unauthorized livestock. Animals that stray from other lands onto National Forest lands are not considered wild free-roaming horses and burros and are not under Forest Service protection, unless they stray from a Bureau of Land Management wild free-roaming horse or burro herd area.

Wild Horse and Burro Territory. National Forest land identified by the Chief as the territorial habitat of wild free-roaming horses and/or burros when the Wild Horses and Burros Protection Act was passed.

## **2261 - Cooperation**

Consult and cooperate with the organizations that may be affected or interested in providing for protection, management, determination of excess animals, and control of wild free-roaming horses and burros.

### **2261.1 - Bureau of Land Management**

Coordinate all activities related to wild horses and burros with the Bureau of Land Management (BLM) to reflect similar management objectives.

When wild free-roaming horses and burros roam part of the year on National Forest lands and part of the year on lands administered by BLM, the authorized officers of the two agencies should develop and approve a single territory plan. The plan should include agreement on inventory, desired population level, determination of excess animals, planning, management, protection, control, capture methods, and responsibility for initiating action. The plan may designate a lead agency for management actions.

The Forest Service coordinates with BLM the Adopt-A-Horse Program through agreement (FSM 1531.11a).

### **2261.2 - Other Federal Agencies**

Consult with the Fish and Wildlife Service, other affected land management agencies, and interested individuals in developing management levels for the protection, management, and control of wild free-roaming horses and burros, and in developing plans for removal of excess animals.

### **2261.3 - State and Local Governments**

Develop a memorandum of understanding with the State agency responsible for enforcing State branding and estray laws. Preferably, the Bureau of Land Management (BLM) will be a party to the agreement. The memorandum of understanding should state clearly what is acceptable proof of ownership of claimed animals. In each State, the Forest Service and the BLM should develop identical criteria and procedures for establishing ownership of claimed animals. The courts have established that it is the responsibility of the Federal Government to determine whether or not the animals in questions are "wild and free-roaming." Once this determination has been made, the State agency responsible for enforcing brand and estray laws may handle ownership claims for those animals determined not to be wild free-roaming, in accordance with State law.

#### **2261.31 - State Wildlife Agencies**

Consult and cooperate with the State wildlife agency in management, protection, and control of wild free-roaming horses and burros. Such consultation and cooperation should include, but not be limited to:

1. Proposals to modify boundaries of established wild horse and burro territories.
2. Territory plans for wild free-roaming horses and burros, including plans for the achievement of appropriate population levels through removal and/or destruction of excess animals.
3. Determination of the effects of wild free-roaming horses and burros on other resource uses, especially wildlife and wildlife habitat, and coordination measures necessary to mitigate adverse impacts.
4. Proposals for predator control.

#### **2261.4 - Private Individuals and Organizations**

Participation of a well-informed public in management of wild horses and burros is desirable. Participation often can be achieved through public meetings, contacts with organized wild horse and burro protection groups, local livestock associations, or organizations with scientific expertise or special knowledge of wild horses and burros, or by individual contact.

#### **2261.5 - Agreement and Memorandums of Understanding**

When necessary, enter into agreements or memorandums of understanding with other Federal agencies, State agencies, local governments, and private individuals and organizations in carrying out the responsibilities of management, protection, and control of wild free-roaming horses and burros.

## **2262 - Inventory and Studies**

### **2262.1 - Inventory**

Maintain a current inventory of the number of wild free-roaming horses and burros on each territory.

In addition to population numbers, the census of wild free-roaming horses and burros shall include herd composition, reproduction rates, seasonal feeding habits, herd unit area, seasonal distribution or movement, external influences, and the effects of other animal species on behavior of wild horses and burros.

#### **2262.11 - Individual Animal Data**

It is important to identify some individual animals (marker animals) for management purposes and for processing private ownership claims. Obtain information about age, sex, reproduction, and color markings of individual wild horses and burros as needed.

### **2262.2 - Habitat**

Range analyses and wildlife inventories are primary sources of information about habitat of wild free-roaming horses and burros. When information is not available, follow procedures described in FSM 2213 and FSM 2620 for gathering habitat information. In addition, use information available in other resource inventories in evaluating habitat. Baseline data must be established to determine long-term range condition and trend.

### **2262.3 - Wild Horse and Burro Ecology [Reserved]**

## **2263 - Management of Wild Free-Roaming Horses and Burros**

### **2263.1 - Wild Horse and Burro Territory Plans**

Prepare a territory plan for each Wild Horse and Burro Territory. The plan shall ensure implementation of and compliance with the management direction identified in Regional Guides and Forest land and resource management plans (FSM 1921, 1922). Wild Horse and Burro Territory plans shall follow the outline for allotment management plans (FSM 2214). In addition, the plans shall include a section on management of the animals, addressing such items as population level, special consultation and coordination considerations, and plans for the removal or disposal of excess animals.

#### **2263.11 - Elements of Plan**

1. Objectives. Clearly state the objectives of managing animal, vegetation, and soil resources. In establishing objectives, note the importance of retaining wild free-roaming horses and burros in ecological balance. Wild Horse and Burro Territory plans are to conform with the



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Forest land and resource management plans. Consider existing livestock and wildlife needs and activities as well as the forage requirements of all animals.

Selective removal of excess animals or relocation of superior animals from other territories to improve gene pool is prohibited. The intent of the Wild Horses and Burros Protection Act is to manage these animals as part of the natural ecosystem.

2. Actions. Includes such direction as population level, protection requirements, and means for removal and/or disposal of excess animals. Identify action needed to achieve management objectives.

Establish population levels by considering:

- a. Number of animals.
- b. Suitability of range.
- c. Range condition and trend.
- d. Other associated resources and resource use activities.

The plan must include range improvements in order to ensure desired management. Range improvements may be constructed from appropriated funds or deposits.

3. Evaluation. Describe the system to be used to determine progress in meeting management objectives.

4. Annual Operating Plan. List the actions for the current year to implement management direction. Include plans for removal of excess animals.

## **2264 - Protection of Wild Free-Roaming Horses and Burros**

### **2264.1 - Agency Responsibility**

Wild free-roaming horses and burros remain under protection of the Forest Service and/or the Bureau of Land Management even though they stray from National Forest lands to lands under other Federal jurisdiction such as National Parks, monuments, and military reservations. The Forest Service shall maintain surveillance of and provide protection for wild free-roaming horses and burros at all times. Utilize agreements, memorandums of understanding, or other instruments authorized by law to protect these animals. Forest Service personnel are not authorized, in the absence of agreements with landowners or court orders to enter lands of other ownership for the surveillance and protection of wild horses and burros. When there is reason to suspect violation of the protective measures of the Wild Horses and Burros Protection Act and regulations, initiate appropriate administrative and/or criminal and civil judicial procedures.

## **2264.2 - National Forest System**

Do not issue permits to individuals or organizations for management of animals on National Forest System lands. Consider entering into agreements whereby individuals or organizations may provide funds for management purposes, improvement of water supply, fencing, or other habitat needs.

## **2264.3 - Private Lands**

Agency officials may permit owners of private land who wish to maintain wild free-roaming horses and burros to do so when excess animals are available, and when the owners agree to provide management, protection, and control of the animals, and as a condition of such agreement, to provide an annual report of the welfare and condition of the animals. When wild horses and burros stray or migrate seasonally from National Forest lands onto private lands and the owner does not object to their intermittent presence, the authorized officer should formulate agreements that establish a mutual understanding about the animals' management.

## **2265 - Animal Control**

### **2265.1 - Capture**

Capture wild free-roaming horses and burros as necessary for management, protection, and control. Corral captured animals and hold them in a humane manner pending release, relocation, or disposal. All actions affecting the capture of wild free-roaming horses and burros shall be under the direction of a Forest officer with delegated authority (FSM 2204.3).

### **2265.2 - Removal of Animals at Landowner's Request**

Upon request of a landowner, Forest Service personnel shall remove wild free-roaming horses and burros that have strayed from National Forest lands onto private lands. When fences on boundaries between private lands and National Forest do not exist or are not adequate, advise the landowners of their responsibilities, what the Forest Service position is, and come to an agreement about who will construct, improve, or maintain such fences.

Adhere to applicable State laws governing movement of live-stock when moving wild free-roaming horses and burros from private lands. Return all wild free-roaming horses and burros from private lands to their normal herd territories with minimum physical damage or stress to the animals. Use helicopters and motor vehicles within limits established in FSM 2267.

When strayed animals pose an imminent threat to the safety of persons or are likely to cause excessive damage to private property if not removed immediately, they may be destroyed in the most humane and cost-efficient manner possible.

### **2265.3 - Removal of Excess Animals**

Remove excess animals in the following order and priority:

1. Old, sick, or lame animals. They should be destroyed in the most humane manner possible.
2. Those animals determined to be "excess" to the maintenance of a natural ecological balance. The remaining number is that acceptable population range identified in the management plans.

### **2265.4 - Relocation of Wild Horses and Burros**

Relocate wild horses and burros if they are excess or if it is necessary to prevent their repeated return to private land from which their removal has been requested. Relocation must be to one or more of the following:

1. Some other area designated as a Wild Horse and Burro Territory, if suitable habitat and grazing capacity is available.
2. Lands administered by the Bureau of Land Management.
3. Custody of other parties, under agreement.

### **2265.5 - Maintenance and Care Agreement**

Authorized Forest officers may place excess animals with qualified individuals, Government agencies, or other entities. Written agreement must accompany such relocation. Animals may remain in private custody for an indefinite period.

Allow an individual to adopt No more than four animals per year, unless the applicant is found capable of caring for more than four animals. Document evidence of the individual's ability to care for additional animals. Each Region shall establish procedures, including public awareness, for adoption programs. Coordinate programs with local Bureau of Land Management efforts (FSM 2261.1).

The maintenance and care agreement will provide for:

1. Humane treatment and care of animals.
2. Prevention of sale of the animals.
3. Prevention of transfer or assignment of the animal to a third party without approval of the Forest Service.

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4. Domestication, including riding, packing, and other recognized uses of domesticated horses and burros.
5. Possible gelding of stallions.
6. Ownership of foals born during the time animals are in custody of private parties.
7. Submission of periodic reports to the Forest Service.
8. Prohibiting financial remuneration from carcasses of animals.
9. Notification, within at least 7 days, of the death of adopted animal.
10. Transfer of ownership (granting of title) at the end of one year of humane care and maintenance (FSM 2265.56).

**2265.51 - Identification of Animals Placed in Private Custody**

All animals placed in private custody must receive a number for identification purposes. Use the Alpha Angle marking and numbering system where sizable numbers are processed or where animals are processed in cooperation with the Bureau of Land Management. Use freeze brand methods to place markings under the mane on the left side of the neck.

**2265.52 - Assignment of Number**

Numbers are assigned as follows:

<u>State</u>	<u>Numbers to be Assigned</u>	<u>Total Number Available</u>
Arizona	975,001 - 975,500	500
California	975,501 - 985,500	10,000
Colorado	985,501 - 986,000	500
Idaho	986,001 - 986,500	500
Montana	986,501 - 987,000	500

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<u>State</u>	<u>Numbers to be Assigned</u>	<u>Total Number Available</u>
New Mexico	987,001 - 990,000	3,000
Nevada	990,001 - 997,000	7,000
Oregon	997,001 - 998,500	1,500
Utah	998,501 - 999,500	1,000
Wyoming	999,501 - 999,999	<u>499</u>
		24,499

Numbers are assigned through the Bureau of Land Management. It is suggested that Regions make allocations by territories or Forest.

#### **2265.53 - Control of Numbers**

Do not reuse numbers for 20 years following the granting of title or 5 years following the known death of a horse or burro placed in private custody.

Report any horses or burros marked by numbers to the Bureau of Land Management, Denver Service Center. It is not necessary to report assigned numbers not yet marked on animals to BLM.

#### **2265.54 - Adoption Fee Procedures**

Charge adoption fees and transportation costs used in the Adopt-A-Horse Program. Where advance applications for adoptions are required, the adopting individual must make a non-refundable \$25 advance payment with the application. Such advance payment is applicable to the total fee.

Mark Forest Service animals to be moved through BLM adoption centers to the eastern states with BLM Alpha Code numbers and process them as BLM animals. When animals are processed through BLM facilities, come to agreement about charges for transportation costs. See FSM 6531 for collection and billing procedures.

#### **2265.55 - Violations**

Handle violations of maintenance and care agreements, including unlocatable cooperators, as set forth in FSM 5320.3, FSM 5303.12, and FSM 5321.4.

### **2265.56 - Conditions for Granting Title**

Grant title to wild free-roaming horses and burros applicant when:

1. Applicant has provided the animal maintenance and care under humane conditions for at least 1 year.
2. Unless waived in writing, the application for title includes a written statement by a licensed veterinarian attesting to the present condition and treatment of the animal.
3. Applicant is of legal age in the State in which the applicant resides.

Grant title to no more than four animals per year to any individual, organization, or government agency unless they have an agreement, which covers more than four animals. The maintenance and care agreement may include the application for title. The title can then be issued when 1 year of humane maintenance and care has been provided.

### **2265.57 - Status of Animal After Title Has Been Granted**

After title has been granted, the horse or burro loses its wild free-roaming status, the United States has no further jurisdiction, and the owner has full freedom to manage, protect, use, and control the animal.

### **2265.6 - Disposal of Animals on National Forest System Lands**

#### **2265.61 - Act of Mercy**

Immediately destroy severely injured or seriously ill animals on National Forest System lands in the most humane manner possible under the supervision of a Forest officer delegated such authority. Destruction as an act of mercy is acceptable regardless of other population considerations. Destruction of an animal as an act of mercy should be documented fully by the person who destroys the animal. Documentation should describe the health of the animal, reason for its destruction, and cause of injury or circumstances leading to the animal's condition.

#### **2265.62 - Excess Unadoptable Animals**

Animals not placed under care and maintenance agreements to qualified individuals within 45 days following capture may be destroyed in the most humane and cost-efficient manner possible. Make a reasonable attempt to establish demand for these animals before destroying them. Dispose of carcasses in accordance with FSM 2265.7. Adhere to State and local laws in destroying excess animals and consult local veterinarians for advice.

## **2265.7 - Carcasses**

Carcasses of animals that were wild free-roaming lose their status and no longer fall under the jurisdiction of the United States when:

1. Animals have been destroyed as an act of mercy. This includes carcasses of animals under private maintenance and care agreement.
2. Excess animals have been destroyed or their disposal approved of by an authorized Forest officer in carrying out provisions of the territory management plan.
3. Animals have died of natural causes on National Forest lands or on private land where they were being maintained under agreement.

Follow State and local laws in the disposal of these carcasses.

## **2265.71 - Carcasses That Retain Status as Wild Free-Roaming Horses and Burros**

Retain the status of wild free-roaming horses and burros that are deliberately destroyed by others for malicious or capricious reasons. Do not process these carcasses through a rendering plant or into a commercial product. When State sanitary codes do not prescribe techniques for disposal, consider burying or burning the carcasses in accordance with State fire laws.

## **2266 - Claims**

Privately-owned branded or unbranded horses and burros might roam into areas established as Wild Horse and Burro Territories and become intermingled with wild free-roaming horses and burros. Pursuant to 36 CFR 222.22(a), individuals claiming ownership of these animals must make their claim to the District Ranger, who then decides whether or not to recommend a roundup to determine the validity of the claim. The Forest Supervisor makes the decision whether to authorize a roundup in writing (FSM 2266.2).

### **2266.1 - Handling Ownership Claims**

Settle claims as soon as possible after capturing the claimed animals. The District Ranger shall verify or reject the claim and shall obtain a written release from the claimant for animals verified.

## **2666.2 - Authorization to Gather Claimed Animals**

Authorization to gather privately claimed horses and burros located on Wild Horse and Burro Territories, whether or not they have become intermingled with wild free-roaming horses and/or burros, must be in writing by the Forest Supervisor. The written authorization must as a minimum:

1. Be consistent with the provisions of 36 CFR 222.22.
2. Establish a specific, reasonable period of time to allow the gathering of claimed animals.
3. Stipulate that Forest Officers make periodic observations of roundup operations.
4. Stipulate measures for the roundup that ensure humane treatment of wild free-roaming horses and burros.
5. Outline criteria for achieving compliance with agreements with the State agency administering the State estray laws. In the absence of an agreement, the authorization shall outline measures required by the Forest Service to comply with State law.
6. In the event that helicopter use is authorized for the roundup, the authorization shall specify how such helicopters shall be used to ensure humane treatment of all horses and burros involved (FSM 2204.3).
7. Provide for inspection of captured animals by authorized Forest officer to verify ownership. Use State brand inspectors whenever possible.

## **2267 - Use of Helicopters, Fixed-Wing Aircraft, and Motorized Vehicles**

The Wild Horse and Burro Protection Act limits use of helicopters, fixed-wing aircraft, and motor vehicles. There are no limitations when such vehicles are used in carrying out management programs, such as inventory, observation, movement, relocation, and surveillance purpose, except that use must be in a manner that ensures humane treatment of the animals. There are strict limitations concerning use of aircraft and ground motor vehicles in connection with the capture or transport of wild horses and burros.

### **2267.1 - Public Meetings**

Hold public meetings before initiating capture operations that include use of helicopters with subsequent use of motor vehicles to transport captured animals.

Hold public meetings close to the territory where the capture operations are to take place. Plan the meetings far enough in advance of capture operations to allow for changes in plans that result from public input.



The Forest Supervisor or a representative authorized by the Forest Supervisor shall preside over the meeting. Federal Register notice of a meeting is desirable when there is considerable public interest in the operation or it has generated controversy.

Verbatim documentation of these meetings is not necessary. Keep minutes that identify the date and place of meeting, the number in attendance, and the names of those offering comments, as well as a summary of comments made. Minutes of the meeting shall be filed in the Forest Supervisor's office, as well as in the affected Ranger's office.

### **2267.2 - Prohibition Against Use of Fixed-Wing Aircraft to Capture Wild Free-Roaming Horses and Burros**

The Wild Horse Protection Act of September 8, 1959, as amended (18 U.S.C. 21 et seq.), prohibits use of fixed-wing aircraft in capturing wild horses and burros. Use such aircraft as support vehicles to transport personnel and equipment, but not in actual capture operations.

### **2267.3 - Use of Helicopters in Capture Operations**

Helicopter use in the capture of wild free-roaming horses and burros is acceptable, subject to compliance with public meeting requirements (FSM 2267.1) and to the following stipulations:

1. Helicopters must be used in a manner that ensures humane treatment of wild free-roaming horses and burros. They may be used to locate animals, to assist ground crews in moving and turning animals to encourage movement, to immobilize animals with tranquilizers, and for related purposes such as transporting personnel and equipment.
2. Use helicopters in roundups in such a manner that bands or herds will tend to remain together.
3. Do not move horses or burros at a rate that exceeds the limitations set by the authorized officer who shall consider terrain, weather, distance to be traveled, and condition of animals in setting the limitations.
4. Use helicopters to observe the presence of dangerous areas and to move animals away from hazards during capture operations.
5. During capture operations, move animals in such a way as to limit stress or injury.
6. The authorized Forest officer supervising helicopter use shall:
  - a. Have means to communicate with the pilot and direct the helicopter's use.
  - b. Be able to observe the effects of the helicopter on the animals.

#### **2267.4 - Use of Motor Vehicles to Transport Excess Wild Horses and Burros**

Use of motor vehicles to transport excess wild horses or burros is acceptable, subject to compliance with public meeting requirements (FSM 2267.1). Do not use motor vehicles for rounding up, driving, or chasing wild free-roaming horses or burros. Transport excess animals in a humane manner to minimize injury. The following guidelines apply:

1. Such transportation shall comply with appropriate State and Federal laws and regulations on humane transportation of horses and burros.
2. Inspect vehicles before use to ensure they are in good repair and of adequate rated capacity. Do not use "possum belly" cattle trucks to transport wild free-roaming horses and burros.
3. Unless otherwise approved by the authorized officer, limit the transportation of wild free-roaming horses and burros, in sequence, to a maximum of 24 hours in transit followed by a minimum of 5 hours of on-the-ground rest with adequate feed and water.
4. Operate vehicles carefully to ensure that excess animals are transported without undue risk or injury.
5. Where necessary and practical, sort animals by age, temperament, sex, size, and condition to limit injuries from fighting and trampling to the extent possible.
6. Consider the condition of the animals, weather conditions, type of vehicle, and distance to be traveled when planning for transportation of captured animals.