

Implementation regulations for the administration of the special marking system for terrestrial wildlife under special state protection and the products thereof (consultation draft)

Chapter One – General Provisions

Article 1 – These implementation regulations are formulated for the purposes of regulating the commercial utilization of terrestrial wildlife under special state protection and the products thereof and strengthening management of the special marking system for terrestrial wildlife under special state protection and the products thereof, in accordance with the provisions of the Wildlife Protection Law of the People’s Republic of China.

Article 2 – The special marking as mentioned in these implementation regulations refers to the unified marking that is attached to terrestrial wildlife and the products thereof as permitted by the law, and serves as the proof of the legal origin of terrestrial wildlife under special state protection and the products thereof.

The text “special marking for the administration of commercial utilization of wildlife in China” shall appear on the special marking. The specific style and type of the special marking is centrally stipulated by the State Forestry Administration.

Article 3 – The State Forestry Administration is responsible for drawing up, amending and publishing the “List of terrestrial wildlife under special state protection and the products thereof covered by the special marking system”, hereafter referred to as the “marking list”.

Article 4 – The special marking shall be attached in instances of sale, purchase, use, transport, carrying or posting of any wildlife or products thereof included on the “marking list”.

The sale, purchase, use, transport, carrying or posting of terrestrial wildlife under special state protection and the products thereof for which a special marking has been obtained shall be carried out on the basis of the special marking, and such activities shall not need further approval from wildlife conservation and management administrations.

For the export of terrestrial wildlife under special state protection and the products thereof that carries a special marking, the special marking may be used as a basis for the application for an import/export certificate in accordance with the requirements of the CITES Management Authority. [Note the Chinese in this article is ambiguous. It could be interpreted thus: For the export of terrestrial wildlife under special state protection and the products thereof that carries a special marking, the special marking may in accordance with the requirements of the CITES Management Authority be used as a

certificate of approval for export.]

Where the State has promulgated pertinent special rules, activities such as the sale, purchase, use, transport, carrying, posting or export of wildlife and the products thereof shall be carried out in accordance with such rules.

Chapter Two – Acquisition, use and administration of the special marking

Article 5 – When approval is given for the sale, purchase or utilization of wildlife under special state protection or the products thereof that are included on the ‘marking list’, the forestry department that makes the administrative licensing decision shall issue a special marking at the same time.

Article 6 – For wildlife and the products thereof included both on the ‘marking list’ and on lists of wildlife under special state protection being bred in captivity, the breeding facility or individual may, on the basis of the captive breeding permit already obtained, apply to the forestry department under the people’s government of the province, autonomous region or municipality for a special marking.

The forestry department under the people’s government of the province, autonomous region or municipality shall approve and issue a corresponding number of special markings based on verified annual production figures.

Article 7 – The special marking should be attached to terrestrial wildlife under special state protection and the products thereof which have been approved for commercial use and have the relevant administrative permit documents, and should comply with the specifications of the special marking.

Article 8 – Information recorded on the special markings should correspond with the terrestrial wildlife under special state protection and the products thereof which they accompany.

Article 9 – Special markings that have already been issued will no longer be valid in any of the following circumstances:

- 1) The terrestrial wildlife under special state protection to which the special marking applies dies;
- 2) The terrestrial wildlife under special state protection or products thereof to which the special marking applies undergoes change to key features such as basic shape;
- 3) The terrestrial wildlife under special state protection or products thereof to which the special marking applies is broken into pieces.

If the terrestrial wildlife under special state protection and products thereof mentioned in paragraphs above need to be sold, purchased or used, administrative permits shall be applied for in accordance with the law.

Article 10 – The forgery, modification, sale/purchase, transfer, leasing/lending or any use of the special marking that does not comply with the conditions under which it was obtained is prohibited.

Chapter 3 – Management of information and records

Article 11 – Forestry departments shall conduct digitalized administration of the special markings; establish an information system relating to markings for terrestrial wildlife under special state protection and the products thereof; record in detail information on wildlife and the products thereof for which special markings have been issued, any change in circumstances, and information relating to the processes involved in acquisition, production, issuing and use of the special markings, to ensure traceability.

Article 12 – Captive breeding facilities and individuals who have obtained a special marking shall keep records of the use of special markings, and shall record matters relating to their acquisition, issuance, use and administration; and shall, in accordance with relevant technical specifications, record information relating to wildlife and the products thereof that require special markings in an information system for such markings, and keep said system updated in a timely manner.

Article 13 – Forestry departments shall keep and maintain information on wildlife and the products thereof, and information relating to special markings, and shall provide for convenient, efficient inquiries in accordance with the law. Every year, forestry departments under the people's government of the province, autonomous region or municipality shall report to the State Forestry Administration by March 1 on the production and issuing of special markings in the past year.

Article 14 – Forestry departments under the people's government at the provincial level and above may commission relevant agencies to produce special markings and conduct work relating the maintenance of information on special markings.

Commissioned agencies may not provide any unit or individual with production methods, moulds or secret anti-forgery techniques for special markings, without written consent of the forestry department.

Chapter 4 – Monitoring and Administration

Article 15 – Forestry departments under the people's government at county level and above shall conduct monitoring and inspections on the use of special markings within their area of jurisdiction.

Article 16 – If anyone uses a special marking without approval, without having properly obtained it or in violation of regulations, the wildlife and the products thereof and unlawfully gained income shall be confiscated by the forestry department or the administrative authority for industry and commerce under the people’s government at county level or above, in line with their divisions of duty, and shall be fined between two and ten times the value of the wildlife and products thereof; for serious offences, the captive breeding permit shall be revoked and the special marking recalled. If the circumstances constitute a crime, they shall be pursued for criminal responsibility in accordance with the law.

Article 17 – If anyone forges, modifies, buys/sells, transfers or leases/lends a special marking, the special marking and any unlawfully gained income shall be confiscated by the forestry department under the people’s government at county level and above, and they shall be fined between 50,000 and 250,000 yuan RMB. If the circumstances constitute a violation of public security, the Public Security Bureau shall prescribe public security administrative penalties in accordance with the law; where the circumstances constitute a crime, they shall be pursued for criminal responsibility in accordance with the law.

Article 18 – If the wildlife and products thereof and the attached special marking do not match, they shall be regarded as having no special marking.

Chapter Five: Supplementary Provisions

Article 19 – These implementation regulations shall come into force on XX 2017.