

### 3. 关于《国家重点保护陆生野生动物及其制品专用标识管理办法》和专用标识范围的说明

### 3. Explanation on the "Administrative Measures for the Special Marking System of Terrestrial Wild Animals and Products thereof under National Key Protection" and the Scope of the Special Marking System

Chinese	English
<p>根据《中华人民共和国野生动物保护法》（以下简称《野生动物保护法》）有关规定，为建立陆生野生动物及其制品专用标识管理制度，结合我国陆生野生动物保护管理的实际情况，在总结试点经验、调查研究、咨询评估的基础上，国家林业和草原局研究起草了《国家重点保护陆生野生动物及其制品专用标识管理办法》（征求意见稿，以下简称《标识管理办法》），提出了专用标识范围，现说明如下：</p>	<p>According to the relevant provisions of the "Wildlife Protection Law of the People's Republic of China" (hereinafter referred to as the "Wildlife Protection Law"), in order to establish a special marking management system for terrestrial wild animals and their products, combined with the actual situation of China's terrestrial wildlife protection and management, and on the basis of summarising pilot experiences, investigation and research, consultation and evaluation, the National Forestry and Grassland Administration has researched and drafted the "Administrative Measures for the Special Marking of National Key Protected Terrestrial Wildlife and Their Products" (Draft for Comments, hereinafter referred to as the "Marking Management Measures"), the special identification range is proposed, and the explanation is as follows:</p>
<p>1, 背景情况 1. Background</p>	
<p>（一）目的依据。《野生动物保护法》第二十七、二十八条明确规定，对因特殊情况需要出售、购买、利用国家重点保护野生动物及其制品的，以及列入人工繁育国家重点保护野生动物名录的野生动物及其制品，应当按规定取得和使用专用标识，保证可追溯，并明确“实行国家重点保护野生动物及其制品专用标识的范围和管理办法，由国务院野生动物保护主管部门规定”。</p>	<p>(1) Purpose basis. Articles 27 and 28 of the "Wild Animal Protection Law" clearly stipulate that selling, purchasing, and utilising national key protected terrestrial wild animals or products thereof due to special circumstances, as well as the wildlife animals and products thereof included in the list of captive-bred wildlife under state key protection, should obtain and use special markings to ensure traceability, and to clarify "The scope and management measures for the implementation of special markings for wildlife under national key protection and their products shall be prescribed by the competent department of wildlife protection under the State Council".</p>

<p>国家林业和草原局研究制定本管理办法和标识范围，目的在于落实上述法律规定，建立国家重点保护陆生野生动物及其制品标识管理制度，明确野生动物管理专用标识的法律效力，规范取得、使用专用标识的程序，实现对标识及标识对象等信息的有效管理，保证对标识对象来源的可追溯性。</p>	<p>The State Forestry and Grassland Administration has studied and formulated these management measures and the scope of the marking system with the purpose of implementing the legal provisions mentioned above, establishing a management system for the marking of national key protected terrestrial wild animals or parts thereof, clarifying the legal validity of special markings for wildlife management, standardised acquisition, procedures related to the use of special markings to realise an effective management of information of special markings and their objects and to ensure the traceability of origin of the marked object.</p>
<p>(二) 起草过程。2016年7月2日，第十二届全国人民代表大会常务委员会第21次会议审议通过并公布修订后的《野生动物保护法》后，国家林草局就开始着手研究制定标识管理办法。</p> <p>一是总结以往野生动物标识管理试点成效和经验，分析查找试点过程中暴露的问题与不足；</p> <p>二是收集、汇总国际公约和部分发达国家在野生动物及制品标识管理方面的有效做法，借鉴各方面经验教训，结合我国陆生野生动物保护管理实际情况和试点情况，起草了标识管理办法初稿；</p> <p>三是通过调研、座谈、书面征求意见等方式，反复研究标识管理机制、必要且适当的标识范围、技术可行性，进一步修改标识管理办法草案，提出标识范围；</p> <p>四是召开专门会议咨询法律、野生动</p>	<p>(2) The drafting process. On 2 July 2016, after the 21st meeting of the Standing Committee of the Twelfth National People's Congress deliberated and promulgated the revised Wildlife Protection Law, the National Forestry and Grassland Administration began to study and formulate marking management measures.</p> <p>Firstly, summarise the effectiveness and experience of previous wildlife marking management pilots, and to analyse and identify problems and deficiencies exposed during the pilot process;</p> <p>Secondly, collect and summarise the effective practices of international conventions and in some developed countries as regards the management of markings of wild animals and products thereof, draw all-round lessons and consolidate actual circumstances with pilot experiences of managing and protecting terrestrial wild animals in China in order to draft the first marking management system;</p> <p>Thirdly, continuously study the management mechanism of the marking system, the necessary and appropriate scope of the marking system, technical feasibility and further revise the draft marking system management measures and propose the scope of the marking system;</p> <p>Fourthly, hold a special meeting to consult the</p>

<p>物保护、行业管理等相关领域专家的意见，并根据专家意见进一步修改完善，形成了本标识管理办法和标识范围征求意见稿。</p>	<p>opinions of experts in relevant fields such as law, wildlife protection, industry management, etc., and further revise and improve according to the opinions of experts, and form the Marking Management Measures and Marking Scope Draft.</p>
<p>(三) 必要性与可行性。通过适当的技术手段，在野生动物或其制品上加载专用标识，以便于执法查验野生动物及其制品来源合法性，在许多国家和地区已成为加强野生动物保护管理的有效措施之一。《濒危野生动植物种国际贸易公约》(CITES) 在上世纪 90 年代开始要求对特定物种或特定产品实施标识管理。我国于 2003 年 5 月 1 日开始对陆生野生动物及其制品开展专用标识管理试点，很快得到业界的认可和支持，试点范围迅速扩大，现标识试点范围已涵盖中成药、乐器、标本等数百种野生动物制品，用户超过 3200 多家，在强化野生动物经营利用管理和执法监管方面发挥了积极作用。</p> <p>一是极大便利执法机构对野生动物及其制品来源合法性的查验，有利于严防非法来源野生动物及其制品混入流通渠道；</p> <p>二是便于公众了解野生动物及其制品来源的合法性，有助于公众自觉抵制野生动物及其制品非法交易；</p> <p>三是实现了对野生动物及其制品来源的可追溯，有助于增强从业者依法从业的责任感，有利于促进行业自律；</p>	<p>(3) Necessity and feasibility. Through appropriate technical means, special markings are placed on wild animals or products thereof to enable law enforcement to check the legal sources of wild animals and products thereof. In many countries and regions, it has become one of the effective measures to strengthen the protection and management of wild animals. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) began requiring a marking management system for specific species or products in the 1990s. On 1 May 2003, China began to carry out a pilot project on the management of special markings for terrestrial wild animals and their products, which was quickly recognised and supported by the industry, and the scope of the pilot project expanded rapidly. Hundreds of wild animal products, with more than 3,200 users, have played an active role in strengthening the management of wild animal business and utilization and law enforcement supervision.</p> <p>First, it greatly facilitates law enforcement agencies to check the legality of the source of wild animals and products thereof, which is conducive to strictly preventing illegally sourced wild animals and their products from being circulated into distribution channels;</p> <p>Secondly, to facilitate the public to understand the legality of the source of wild animals and their products, and help the public to consciously resist illegal trade in wild animals and their products;</p> <p>Thirdly, the source of wild animals and products thereof can be traced back, which helps to enhance the sense of responsibility of practitioners to work in accordance with the law, and is enables promoting self-discipline in</p>

四是对合法从业者依法从事人工繁育、经营利用等活动，简化了行政管理程序，减少了审批环节，更有效维护了合法从业活动的时效性和自主性。

鉴于上述情况，《野生动物保护法》修订过程中将国家重点保护野生动物及其制品标识措施确立为野生动物保护管理领域一项新的法律制度，不仅充分肯定了标识管理措施的必要性，还对进一步规范标识工作程序提出了更高要求。

此外，经过多年标识试点，我国在标识防伪、加载、信息管理等技术方面积累大量经验，曾面临的主要技术问题均得以解决，具备技术可行性。但由于配套管理制度尚未出台，国家重点保护陆生野生动物及其制品专用标识管理工作的持续推进还面临标识法律效力不明、程序不清晰、要求不到位等问题。

为此，尽快制定专用标识管理办法、明确标识范围，不仅是贯彻落实《野生动物保护法》的要求，而且是进一步强化执法监管、打击野生动物非法交易、加强生态文明建设的现实需要。

the industry;

Fourthly, for legal practitioners dealing with captive breeding, business utilisation, and other activities in accordance with the law has simplified administrative procedures, shortened approval links, and maintained the timeliness and autonomy of legal business activities more effectively.

In view of the above situation, during the revision process of the Wildlife Protection Law, the marking measures for wildlife under national key protection and products thereof were established as a new legal system in the field of wildlife protection and management, which not only fully affirmed the necessity of marking management measures, but also further requirements are put forward to further standardise the identification work procedures.

In addition, after years of piloting the marking system, China has accumulated a lot of experience in applying the marking system to anti-counterfeiting, applying, information management and other technologies, and the main technical problems it has faced have been resolved and are now technical feasibility. However, since the supporting management system has not yet been introduced, the continuous advancement of the management of the special marking system for key protected terrestrial wildlife and their products still faces problems such as unclear legal validity, unclear procedures, and inadequate requirements.

To this end, to formulate special marking management measures and clarify the scope of markings as soon as possible is necessary not only to implement the requirements of the Wildlife Protection Law, but also to further strengthen law enforcement supervision, crack down on illegal wildlife trade, and strengthen the construction of ecological civilisation.

二、主要内容 2. Main content	
<p>本办法征求意见稿共十二条，主要对出售、购买、利用、运输、携带、寄递国家重点保护陆生野生动物及其制品活动中依法取得、使用“中国野生动物管理专用标识”等行为，以及专用标识信息管理和技术要求等作出规定，主要内容如下：</p>	<p>There are 12 articles in the draft of these Measures, which mainly deal with the lawful acquisition and use of the "Special Markings for China's Wildlife Management" in the activities of selling, purchasing, utilising, transporting, carrying, and delivering national key protected terrestrial wild animals and their products, as well as special identification information management and technical requirements, the main contents are as follows:</p>
<p>（一）专用标识性质及统一式样。一是申明专用标识是国家管理野生动物及其制品经营利用活动的官方标志，擅自制作、加载专用标识无效；</p> <p>二是明确专用标识可作为野生动物及其制品合法来源证明和依法出售、购买、利用、运输、携带、寄递国家重点保护陆生野生动物及其制品的凭据。对应当取得、使用专用标识，但未取得、使用专用标识的出售、购买、利用、运输、携带、寄递野生动物及其制品活动，依法进行查处；</p> <p>三是统一采用“中国野生动物管理专用标识”式样。与“中国野生动物管理专用标识”式样不一致的，按无效处理。</p>	<p>(1) The nature and uniform style of the special marking system. Firstly, it is stated that the special marking is the official marking of the State to manage the operation and utilisation of wild animals and their products, and it is invalid to make or apply the special marking without authorisation;</p> <p>The second is to clarify that the special marking can be used as the legal source of wild animals and their products, as well as the evidence for the legal sale, purchase, utilisation, transportation, carrying, and delivery of national key protected terrestrial wild animals and their products. Activities such as selling, purchasing, utilising, transporting, carrying, and delivering wild animals and products thereof will be investigated as to whether they have not obtained and used special markings;</p> <p>Thirdly, to uniformly adopt the style of "Special Marking System for China's Wildlife Management". If it is inconsistent with the style of the "Special Marking System for China's Wildlife Management", it will be treated as invalid.</p>
<p>（二）确定专用标识范围的基本要求。一是依法重申实行国家重点保护陆生野生动物及制品专用标识的范围由国家林草局研究制定、调整并公布；</p>	<p>(2) Basic requirements for determining the scope of the special marking system. Firstly, to reiterate that the scope of the implementation of special marking system for national key protected terrestrial wildlife and products shall be researched, formulated, adjusted and announced by the National Forestry and Grassland Administration;</p>

<p>二是从事野生动物保护管理、执法监督、科学研究、人工繁育、经营利用、科普教育等活动的单位和个人可以对标识范围的调整提出建议；</p> <p>三是明确规定国家林草局应当在定期调查研究、科学评估论证的基础上，对调整标识范围的建议作出判定。</p>	<p>Secondly, enterprises and individuals engaged in activities such as wildlife protection management, law enforcement supervision, scientific research, captive breeding, business utilisation, and popular science education can make suggestions on the adjustment of the scope of the marking system;</p> <p>Thirdly, it is clearly stipulated that the National Forestry and Grassland Administration should make a judgment on the suggestion to adjust the scope of the marking system on the basis of regular investigation, research and scientific evaluation and demonstration.</p>
<p>(三) 专用标识管理的基本程序。一是林业草原主管部门对出售、购买、利用列入专用标识范围的野生动物或其制品活动依法作出准予许可决定，或者对《人工繁育国家重点保护野生动物名录》所列野生动物及其制品依法进行核验，应当一并书面告知其限定使用的专用标识数量；</p> <p>二是从业单位或个人制作、加载专用标识，应当向国家林业和草原局全国野生动植物研究与发展中心传送行政许可决定或核验文书和有关野生动物及其制品涉及的野生动物种类、制品名称、包装规格、外观形态描述等信息，经核对无误后由该中心发布专用标识编码；</p> <p>三是从业单位或个人，应当在书面限定使用的数量内，制作和加载专用标识。禁止超数量制作、加载专用标识；</p> <p>四是明确了变更、更换专用标识的具体程序和要求；</p>	<p>(3) The basic procedures of special identification management. Firstly, the competent department of Forestry and Grassland authority makes a decision to approve the sale, purchase, and use of wild animals or their products that are included in the scope of the special marking, or make a legal decision on the sale, purchase, and use of wild animals or their products in accordance with the law. For verification, they shall be informed in writing of the number of special markings to be used;</p> <p>Secondly, if the enterprise or individual makes and applies special markings, they shall share the administrative licensing decision or verification document and the wild animal species, product names, packaging specifications, appearance descriptions and other information related to wild animals with to the National Wildlife Research and Development Center of the State Forestry and Grassland Administration; after verification the centre will issue a special identification code;</p> <p>Thirdly, enterprises or individuals should make and apply the special markings within the limited number of written use. It is forbidden to excessively produce and apply special markings;</p> <p>Fourthly, to clarify the specific procedures and requirements for changing and replacing the special markings;</p>

<p>五是明确国家林草局全国野生动植物研究与发展中心为依法制作、加载专用标识等活动，提供技术服务，实施技术监督。</p>	<p>Fifthly, it is clarified that the National Wildlife Research and Development Center of the National Forestry and Grassland Administration provides technical services and implements technical supervision for activities such as making and applying special markings in accordance with the law.</p>
<p>(四) 专用标识管理的基本技术要求。一是实行一件实物直接对应使用一枚独立编码的专用标识的加载方式；</p> <p>二是制作和加载专用标识须执行统一式样和技术要求，具体由国家林草局授权全国野生动植物研究与发展中心公布；</p> <p>三是建立中国野生动物管理专用标识信息系统，确保依据专用标识编码可公开、准确查验相对应的野生动物或其制品信息，保证其可追溯。</p>	<p>(4) Basic technical requirements for the management of special markings. Firstly, to implement an application method in which an object directly corresponds to a special marking with an independent code;</p> <p>Secondly, to implement a unified style and technical requirements for the production and application of special markings, which are specifically authorized by the National Wildlife Research and Development Center of the National Forestry and Grass Administration.</p> <p>Thirdly, to establish a special identification information system for China's wildlife management to ensure that the corresponding information about wild animals and products thereof can be publicly and accurately inspected according to the special identification code, so as to ensure their traceability.</p>
<p>(五) 加强对专用标识使用的监督。一是从业单位或个人应当妥善保存有关资料，依法接受保护管理部门、执法司法机关和技术监督机构的检查；</p> <p>二是县级以上林业和草原主管部门应当会同各有关部门对本行政区域内出售、购买、利用、运输、携带、寄递野生动物及其制品活动中专用标识使用情况加强监督和查验；</p>	<p>(5) Strengthen the supervision over the use of special signs. Firstly, the enterprises or individuals should properly keep the relevant materials, and accept the inspection by the protection management department, the law enforcement judicial authorities and the technical supervision agency according to the law;</p> <p>Secondly, the competent Forestry and Grassland departments at or above the county level in conjunction with other relevant departments shall strengthen the supervision and inspection of the use of special markings in the activities such as selling, purchasing, utilising, transporting, carrying, and delivering wild animals and their products within their respective administrative regions.</p>

<p>三是对应当取得、使用专用标识但未取得、使用专用标识的出售、购买、利用、运输、携带、寄递野生动物及其制品活动依法进行查处；</p> <p>四是明确了专用标识失效的四种情形。</p>	<p>Thirdly, participating in activities of selling, purchasing, utilising, transporting, carrying, and delivering wild animals and products thereof that should have obtained or used the special markings but have not done so shall be investigated.</p> <p>Fourthly, the four situations in which the special marking system may fail are clarified.</p>
<p>(六) 其它规定。一是在国家有特别规定，以及林业草原主管部门行政许可决定对从业活动有特定要求的情况下，即使有关野生动物或其制品已加载专用标识，仍适用上述特别规定或特定要求。例如：象牙雕刻品即使加载了专用标识，仍不得商业性销售；</p> <p>二是对地方法规实行标识管理制度的非国家重点保护野生动物及其制品，明确可统一采用“中国野生动物管理专用标识”式样，参照本办法执行。</p>	<p>(6) Other provisions. Firstly, if there are special regulations in the State and the administrative licensing decision of the competent Forestry and Grassland authority stipulates specific requirements for business activities, even if the relevant wild animals or products thereof have been tagged with special markings, the above-mentioned special regulations or specific requirements still apply. For example, even if the ivory carvings have applied the special marking, they are still not allowed to be sold commercially;</p> <p>Secondly, the marking management system should be applied to local regulations and non-state key protected wild animals and their products. It is clear that the "Special Marking System for China's Wildlife Management" can be uniformly adopted, and the implementation shall be carried out with reference to these measures.</p>
<p>一、 专用标识范围</p> <p>3. The scope of special identification</p>	
<p>在研究拟定本专用标识管理办法的同时，国家林草局在总结专用标识试点工作的基础上，组织研究拟定了确定国家重点保护陆生野生动物及其制品专用标识范围的基本思路：</p> <p>一是拟定的专用标识范围限于国家重点保护陆生野生动物及其制品，以及从境外引进、依法按国家重点保护陆生野生动物管理的野生动物及其制品。目前，各地尚未提出对非国家重</p>	<p>While researching and formulating the special marking management Measures, the National Forestry and Grassland Administration, on the basis of summarising the pilot work of the special marking system, organised research to formulate the basic idea of determining the scope of special markings for terrestrial wild animals and their products under national key protection:</p> <p>Firstly, the scope of the proposed special marking system is limited to national key protected terrestrial wild animals or products thereof, as well as wild animals and their products imported from abroad and managed</p>



<p>点保护陆生野生动物及其制品加载中国野生动物管理专用标识的诉求，暂没有列入专用标识范围；</p> <p>二是列入标识范围的野生动物及其制品，其用途须符合国家法律及相关规定。例如：对以食用为目的的陆生野生动物及其制品，国家已明确禁止，不纳入专用标识范围。</p> <p>三是列入专用标识范围的陆生野生动物及其制品，其标识技术需具有现实可行性。例如：对非规格包装、零散的野生动物原材料，以及小型昆虫活体等，未列入专用标识范围；</p> <p>四是对有关野生动物及其制品利用活动有悖于《野生动物保护法》第二十九条规定的，不列入专用标识范围；</p> <p>五是在符合上述要求的前提下，尽可能扩大专用标识范围，以强化对野生动物及其制品经营利用等活动的执法监管，更有利于打击野生动物非法交易。</p>	<p>according to the law based on national key protection terrestrial wild animals. At present, all localities have not put forward any demands for non-state key protected terrestrial wild animals and their products to apply the special marking system for China's wildlife management, and they have not been included in the scope of special markings for the time being;</p> <p>Secondly, the wild animals and products thereof included in the scope of the marking must be used in accordance with national laws and relevant regulations. For example, the State has clearly prohibited terrestrial wild animals and their products for consumption, and they are not included in the scope of special markings.</p> <p>Thirdly, for terrestrial wild animals and products thereof that are included in the scope of the special marking system, their marking technology must be practical and feasible. For example, non-standard packaging, scattered wild animal raw materials, and small live insects are not included in the scope of the special marking system;</p> <p>Fourthly, the utilisation of wild animals and products thereof that are contrary to Article 29 of "Wild Animal Protection Law" are not included in the scope of special markings;</p> <p>Fifthly, supposing that the above requirements are met, the scope of special markings should be expanded as much as possible to strengthen the law enforcement and supervision of activities such as the business and utilisation of wild animals and their products, which enables cracking down on wild animals illegal trading.</p>
<p>按照上述思路，本次提出的国家重点保护陆生野生动物及其制品专用标识范围，主要包括：人工繁育用作宠物的12种鹦鹉和7种爬行类活体；含国家重点保护陆生野生动物成分的药品及中药饮片，国家重点保护陆生野生动物标本，利用国家重点保护陆生野</p>	<p>According to the above ideas, the proposed scope of the special marking system for terrestrial wild animals under national key protection and products thereof on this occasion primarily includes: 12 species of parrots and 7 species of live reptiles artificially bred for pets; including terrestrial wild animal ingredients and national key protection in</p>

<p>生动物皮张生产的制品和其它野生动物制品等。</p>	<p>processed Traditional Chinese Medicine ingredients, specimens of terrestrial wild animals under national key protection, products made from the skins of terrestrial wild animals under key national protection and other wild animal products.</p>
<p>为确保专用标识制度实施过程中严格落实国家对有关野生动物保护管理的特别规定，本专用标识范围一并对相关要求作出了明确说明。</p>	<p>In order to ensure that the special provisions of the state on the protection and management of wild animals are strictly implemented during the implementation of the special marking system, the scope of the special markings has clearly explained the relevant requirements.</p>