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REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE IMPLEMENTATION OF WILD AQUATIC ANIMAL PROTECTION

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Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the provisions of the Law of the People's Republic of China on the Protection of Wildlife (hereinafter referred to as the Law on the Protection of Wildlife).

Article 2 The term "wild aquatic animal" mentioned in these Regulations refers to the species of wild aquatic animal which are precious or being endangered; whereas the "products of wild aquatic animal" refers to any part of the species of wild aquatic animal which are precious or being endangered and their derivatives.

Article 3 The competent department of fishery administration under the State Council shall be responsible for the nationwide administration of wild aquatic animal.

The competent department of fishery administration under the people's governments at or above the county level shall be responsible for the administration of wild aquatic animal in their respective administrative areas.

The administrative sanction rights stipulated in the Law of the People's Republic of China on the Protection of Wildlife and these Regulations shall be exercised by departments of fishery administration or their subordinate fishery superintendency agencies.

Article 4 The people's governments at or above the county level and their relevant authorities shall encourage and support the relevant research or teaching institutions in undertaking scientific research on wild aquatic animal.

Article 5 The competent department of fishery administration and their fishery superintendency agency shall have the right to supervise and inspect the implementation of the Law on the Protection of Wildlife and these Regulations, whereas all units and individuals subject to inspection shall have the obligation to be prepared for such inspection.

Chapter II Protection of Wild Aquatic Animal

Article 6 The competent department of fishery administration under the State Council and the competent departments of fishery administration under the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government shall regularly carry out surveys of wild aquatic animal resources and keep records of them so as to provide the basis for the planning of the protection and development of wild aquatic animal resources and the preparation of the list or revised list of wild aquatic animal under special protection by the State or local authorities.

Article 7 The competent departments of fishery administration shall organize all possible social forces and adopt effective measures to maintain and improve the living environment of wild aquatic animal and to protect and increase wild aquatic animal resources.

Any damage to the living and breeding waters and areas or the living conditions of wild aquatic animal under special protection by the State or local authorities by any unit or individual shall be prohibited.

Article 8 Any unit or individual shall have the right to report and charge the conduct of seizing or destroying wild aquatic animal resources to the local departments of fishery administration and their subordinate fishery superintendency agencies.

Article 9 If any injured, stranded or strayed wild aquatic animal is found in a harbor or a branch of a river by any unit or individual, the same should be promptly reported to the local department of fishery administration or their fishery superintendency agencies which shall take emergency measures to rescue. Alternately, the nearby unit which is capable of rendering rescue can be asked to take emergency first-aid measures to rescue such wild aquatic animal, and report to the fishery administration.

Dead wild aquatic animal should be appropriately handled by the competent department of fishery administration. Wild aquatic animal caught by mistake in fishing operation should be freed at once without any condition.

Article 10 If the protection of wild aquatic animal under special protection by the State or local authorities causes losses, claim for compensation may be made to the competent department of fishery administration under the local people's government. If after investigation, it has been established that the loss has actually occurred and the compensation is necessary, such compensation shall be made by the local people's government in accordance with the relevant provisions of the people's government of the relevant province, autonomous region or municipality directly under the Central Government.

Article 11 The competent department of fishery administration under the State Council and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, in the main districts and water areas where wild aquatic animal under special State or local protection lives and breeds, designate natural reserves for wild aquatic animal and strengthen the protection and administration of wild aquatic animal under special State or local protection and of the environment for its survival. Concrete administrative measures shall be formulated separately by the State Council.

Chapter III Administration of Wild Aquatic Animal

Article 12 The catching or killing of wild aquatic animal under special protection by the State shall be prohibited.

If, under any of the following cases, the catching of wild aquatic animal under special protection by the State is necessary, the organization concerned must apply for a special catching license.

(1) Where the wild aquatic animal has to be caught for the purpose of scientific exploration and survey of resources

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(2) Where the origin of the wild aquatic animal has to be obtained from natural waters or areas for the purpose of domestication and breeding thereof under special protection by the State;

(3) Where the wild aquatic animal under special protection by the State has to be obtained from natural waters or areas for the purpose of undertaking scientific research above the provincial level or the production of medicine assigned by the State;

(4) Where the wild aquatic animal under special protection by the State has to be obtained from natural waters or areas for the purpose of propagation and popularization of knowledge about aquatic wildlife or for the purpose of education or exhibition;

(5) Be caught for other special reasons.

Article 13 The procedures for the application for special license for catching wild aquatic animal:

(1) Where the catching of wild aquatic animal under class I State protection is necessary, the application must be made to the competent department of fishery administration under the State Council for a special catching license, and attached with the views of the competent department of fishery administration under the people's government of the province, autonomous region or municipality directly under the Central Government where the applicant's place of residence is located and where the catching is to be carried out;

(2) Where the catching of wild aquatic animal under class II State protection is to be carried out in the applicant's own province, autonomous region or municipality directly under the Central Government, the applicant must apply to the competent department of fishery administration under the people's government of the province, autonomous region or municipality directly under the Central Government for a special catching license, and be attached with the views of the competent department of fishery administration under the people's government at the county level, where the applicant's residence is located;

(3) Where the catching of wild aquatic animal under class II State Protection is to be carried out across the borders of different provinces, autonomous regions or municipalities directly under the Central Government, the applicant must apply to the competent department of fishery administration under the people's governments of the provinces, autonomous regions or municipalities directly under the Central Government where the catching is to be carried out for a special catching license, the application shall be attached with the views of the competent department of fishery administration under the people's government of the province, autonomous region or municipality directly under the Central Government where the applicant's residence is located.

Any zoo applying for the catching of the wild aquatic animal under class I State protection shall have the application examined and approved by the competent department of construction administration under the State Council before it is submitted to the competent department of fishery administration under the State Council for a special catching license. Where the catching of wild aquatic animal under class II State protection is to be carried out, the application shall be examined and approved by the competent department of construction administration under the government at the same level with the competent department of fishery administration before it is submitted to competent department of fishery administration under the people's government of the relevant province, autonomous region or municipality directly under the Central Government where the applicant's residence is located for a special catching license.

The department responsible for issuing the special catching license shall decide to approve or disapprove the application within three months from the date of receipt of the application.

Article 14 No special catching license shall be issued under any of the following circumstances:

(1) Where there are legal and non-catching method available to the applicant to obtain the origin of the species of wild aquatic animal under special protection by the State or the products thereof or to fulfill the applicant's purpose;

(2) The application made is not in conformity with the relevant provisions of the State, or the applicant's gear or catching method is inappropriate, or the season or location for catching is not suitable;

(3) The catching is not justified taking into consideration the situation of wild aquatic animal resources.

Article 15 The unit or individual that has obtained the special catching license shall observe the stipulations contained therein with respect to the species, quantity, area, time limit, gear and method of catching, in order to prevent the wild aquatic animal from accidental injury and their living environment from accidental damage.

After the completion of catching, an application for examination shall be made in time to the competent department of fishery administration or their subordinate fishery superintendency agency under the relevant people's government at county level.

The competent department of fishery administration or their fishery superintendency agency under the people's government at the county level shall exercise supervision and inspection over the catching of wild aquatic animal under special protection by the State within their respective

administrative area, and timely report the results of supervision and inspection to the department by which approval for the catching has been granted.

Article 16 Any foreigner intending to make scientific surveys or to collect specimens or to make films or videos of wild aquatic animal under special protection by the state in the territory of China must apply to the competent department of fishery administration under the people's government of the relevant province, autonomous region or municipality directly under the Central Government where the relevant species of wild aquatic animal under special protection by the State exist. After such application has been examined by the above said department, it shall be submitted to the competent department of fishery administration under the State Council or by a body authorized thereby for approval.

Article 17 A domestication and breeding license is required for the domestication and breeding of wild aquatic animal under class I special protection by the State, to be issued by the competent department of the fishery administration under the State Council. A domestication and breeding license is required for the domestication and breeding of wild aquatic animal under class II special protection by the State, to be issued by the competent department of fishery administration under the people's governments of the relevant provinces, autonomous regions or municipalities directly under the Central Government.

The competent department of fishery administration may entrust the competent department of construction administration at the same level to issue domestication and breeding licenses if any zoo intends to domesticate and breed wild aquatic animal under special protection by the State.

Article 18 The sale and purchase of wild aquatic animal under special State protection or the products thereof shall be prohibited. Where the sale, purchase or utilization of wild aquatic animal under class I State protection or the products thereof is necessary for scientific research, domestication and breeding, exhibition or other special purposes, the unit concerned must put forward the application to the competent department of fishery administration under the people's government of the relevant provinces, autonomous regions and municipalities directly under the Central Government, which shall, together with its remarks, submit the application to the competent department of fishery administration under the State Council for approval. Where the sale, purchase or utilization of wild aquatic animal under class II State protection or the products thereof is necessary, the unit concerned must submit the application to the competent department of fishery administration under the people's government of the relevant province, autonomous region or municipality directly under the Central Government for approval.

Article 19 The competent department of fishery administration and the administrative authorities for industry and commerce under the people's government at or above the county level shall establish a system of supervision and inspection of the business operation and utilization of wild aquatic animal or the products thereof, and to enhance the supervision and control over the business operation and utilization of wild aquatic animal or the products thereof.

Transactions of wild aquatic animal or their products at country fairs shall be supervised and managed by the administrative authorities for industry and commerce, with the assistance of the competent department of fishery administration, while those transactions outside the country fairs shall be supervised and managed by the competent department of fishery administration, the administrative authorities for industry and commerce or units authorized by them.

Article 20 An application shall be made to the competent department of fishery administration under the people's government at the county level, attached with the special catching license or the domestication and breeding license, if transportation or carrying of wild aquatic animal under special protection by the State or the products thereof is to be effected out of a county. The application shall be submitted to and approved by the competent department of fishery administration under the people's government of the relevant province, autonomous region or municipality directly under the Central Government or by a department authorized thereby. If the transportation of wild aquatic

animal under special protection by the State is necessary for the breeding of wild aquatic animal among different zoos, the application for the transportation shall be approved by the competent department of construction administration under the people's government of the relevant province, autonomous region or municipality directly under the Central Government authorized by the competent department of fishery administration at the same level.

Article 21 the transportation, railway, civil aviation administration and postal enterprises should inform the relevant administration in time to handle the wild aquatic animal or products thereof which have no lawful transport certificate, and are not allowed to carry, accept and send the above-mentioned items by post.

Article 22 With respect of the species of wild aquatic animal to be imported or introduced from abroad, the unit concerned shall apply to the competent department of fishery administration under the people's government of the relevant province, autonomous region or municipality directly under the Central Government, and such application shall be submitted to and approved by the competent department of fishery administration under the State Council, after going through scientific authentication by the science research institution designated by the competent department of fishery administration under the people's government at or above the provincial level.

Article 23 With respect to the export of wild aquatic animal under special protection by the State or the products thereof, and the import or export of wild aquatic animal or products thereof which are restricted by international conventions to which China is a party, an application shall be filed to the competent department of fishery administration under the people's government of the relevant province, autonomous region or municipality directly under the Central Government where the unit or individual concerned is located for scrutiny. Such application shall then be submitted to and approved by the competent department of fishery administration under the State Council. Where the import or export is made for trade purposes, the same must be undertaken by the unit which has the right to be engaged in import and export trade in the relevant commodities.

Where any zoo intends to import or export wild aquatic animal described in the preceding paragraph for the purpose of mutual exchanges, the same shall be scrutinized and agreed to by the competent department of construction administration under the State Council, pending submission to the competent department of fishery administration under the state Council for approval.

Article 24 The economic benefits derived from the exhibition of wild aquatic animal or the products thereof and from other activities shall be mainly used for the purpose of wild aquatic animal protection.

Chapter IV Awards and Penalties

Article 25 Any unit or individual that has achieved any of the following deeds shall be rewarded by the people's government at or above the county level or by the competent department of fishery administration thereunder:

(1) Where outstanding contribution has been made in the survey of wild aquatic animal resources, protection and maintenance, propagation and public education, as well as development and utilization;

(2) Where outstanding achievements have been scored in the implementation of laws and regulations on wildlife protection;

(3) Where outstanding achievements have been made in the rescue, protection, domestication and breeding of wild aquatic animal;

(4) Where any act of violation of laws and regulations on wild aquatic animal protection has been stopped in time or anyone who is credited with reporting the violation thereof;

(5) Where outstanding contribution has been made in the handling of cases of damage to wild aquatic animal resources;

(6) Where great achievements have been made in the scientific research of wild aquatic animal or remarkable benefits have been gained in the application and extension of the results of scientific research;

(7) Where five years or more have been spent continuously in a grass-root unit on the protection and maintenance of wild aquatic animal and outstanding achievements have been made;

(8) Where other special contribution has been made in the protection and maintenance of wild aquatic animal.

Article 26 Illegal catching or killing of wild aquatic animal under special protection by the State shall be liable to be prosecuted for criminal responsibility in accordance with the Supplementary Provisions of the Standing Committee of the National People's Congress Concerning the Punishment of the Crimes of Catching or Killing Precious and Endangered Species of Wildlife Under Special State Protection; if the case is obviously not serious enough and the damage is a minor one, or the circumstances of the offence are too light to be punished, the competent department of fishery administration shall confiscate the captured quarries, catching gears and the illegal income obtained therefrom, and revoke the special catching license, and impose a fine of below ten times the value of the captured quarries or, in case there is no captured quarry, a fine below 10,000 RMB yuan shall be imposed.

Article 27 Anyone, in violation of the provisions of the laws and regulations on wildlife protection, destroying the main areas where wild aquatic animal under special protection by the State or local authorities lives and breeds in natural reserves for wild aquatic animal shall be imposed a fine in accordance with the provisions of Article 34 of the Law on the Protection of Wildlife, and the fine range shall be below three times the cost for the restoration thereof.

Article 28 Where anyone in violation of the provisions of the laws and regulations on wildlife protection, sells, purchases, transports or carries wild aquatic animal under special protection by the State or local authorities or the products thereof, such wild aquatic animal and products and unlawful income obtained therefrom shall be confiscated by the administrative authorities for industry and commerce or by the competent department of fishery administration authorized thereby, and a fine below ten times the value thereof shall be imposed.

Article 29 Anyone forging, speculatively selling or transferring a domestication and breeding license shall be imposed a fine below 5,000 RMB yuan in accordance with the provisions of Article 37 of the Law on the Protection of Wildlife. Anyone forging, speculatively selling or transferring special hunting and catching license or an import or export permit shall be imposed a fine below 50,000 RMB yuan in accordance with the provisions of Article 37 of the Law on the Protection of Wildlife.

Article 30 Where anyone, in violation of the provisions of the laws and regulations on wildlife protection, domesticates or breeds aquatic wildlife under special protection by the State without domestication or breeding license or domesticates or breeds wild aquatic animal under special protection by the State beyond those specified in the domestication and breeding license, his unlawful income shall be confiscated by the competent department of fishery administration, and a fine below 3,000 RMB yuan shall be imposed; the species of wild aquatic animal may be concurrently confiscated and the domestication and breeding license may be revoked.

Article 31 Where any foreigner makes scientific surveys, collects specimens or makes films or videos of wild aquatic animal under special protection by the State in the field within the territory of China without approval, the data of survey and film and video shooting and the specimens collected by him shall be confiscated by the competent department of fishery administration, and he may concurrently be imposed a fine below 50,000 RMB yuan.

Article 32 Anyone who has committed any of the following acts being not so serious as to constitute a crime shall, in accordance with the provisions of the Regulations of the People's Republic of China on Administrative Penalties for Public Security, be punished by the public security organs:

- (1) Refusing or impeding the fishery inspectors to carry out their duty in accordance with law;
- (2) Stealing, robbing or intentionally damaging instruments, devices or facilities for protection of wildlife.

Article 33 The wildlife or the products thereof confiscated in accordance with the provisions of the laws and regulations on wildlife protection shall be dealt with according to the provisions made by the competent department of fishery administration under the State Council.

Chapter V Supplementary Provisions

Article 34 The competent department of fishery administration under the State Council shall be responsible for the interpretation of the Regulations.

Article 35 The Regulations shall come into force on the date of promulgation.