

No: 95 QĐ/2008/BNN-KL

Hanoi, September 29, 2008

DECISION

On the promulgation of the Regulation on the Management and Conservation of Captive Bears

MINISTER OF MARD

- Based on Decree No. 86/2003/ND-CP dated 18 July 2003 of the Government on stipulating functions, duties, powers and structure of MARD;
- Based on Decree No. 82/2006/ND-CP dated 10 August 2006 of the Government on the Management of import, export, re-export, introduction from the sea, transit, breeding, rearing and artificial propagation of endangered species of precious and rare wild fauna and flora.
- Based on Decree No. 32/2006/ND-CP dated June 30, 2006 of the Government on the Management of endangered, precious and rare wild fauna and flora;
- In consideration of requests made by Chief of the National FPD

DECIDES THAT:

Article 1. The Regulation on the Management and Conservation of Captive Bears is issued together with this Decision.

Article 2. This Decision replaces Decision No. 47/2006/QĐ-BNN of June 6, 2006 of the Minister of MARD on promulgation of the Regulation on Management of captive bears. This Decree shall take effect 15 days after its publication in the "Official Gazette."

Article 3. Chairmen of provincial/municipal People's Committees directly under the Government, Chief of units under MARD, Directors of Departments of Agriculture and Rural Development (DARD), Chief of provincial / city FPD, and relevant organizations and individuals shall be responsible to implement this Decision.

On behalf of the Minister of MARD
Vice Minister

Recipient :

- As mentioned in Article 3;
- National Assembly Office;
- Prime Minister Office;
- Vietnamese Communist Party Office ;
- Government Office;
- Prime Minister;
- Deputy Prime Ministers
- Central Party Department of Propaganda and Training
- National Assembly's Scientific, Technological and Environmental Committee
- Ministry, ministerial agencies, governmental agencies;

Signed

Hua Duc Nhi

- People's Supreme Procuracy
- People's Supreme Court;
- Central agency of unions;
- Document Checking Bureau –
Ministry of Justice;
- Official Gazette;
- Office Archive

REGULATION ON THE MANAGEMENT OF CAPTIVE BEARS

(Issued together with Decision No: /2008/QD-BNN dated ... 2008 by Minister of
MARD)

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope and subjects of application

1. Governing scope

This Regulation stipulates the management of bears that being kept in control environment rather than wild bears (hereafter called captive bears).

2. Subjects of application

This Regulation shall apply for domestic organizations, households and individuals, overseas Vietnamese, foreign organizations and individuals that are involved in the bear being kept in the Vietnamese territory (whom will be called bear raisers in following parts of this Regulation).

Article 2. Prohibited actions

1. Hunting, trapping, catching, buying, selling, killing, transporting, advertising, export, import, temporary import, re-export of bears, bear products and derivative from bears in violation of the law.
2. Keeping bears in captivity without registration record and microchip or of illegal origin.
3. Keeping bears in captivity without facilities or with facilities that do not satisfy the requirements defined in this Regulation.

Chapter II

CONDITIONS OF BEAR FARMING

Article 3: Bear farm

1. Farms on which bears are completely kept in captivity must satisfy the following conditions:
 - a) Provide houses to put bear cages or with roofs in order to prevent bears from being exposed to rain, sun and unfavorable weather conditions.
 - b) Have firm protective surrounding walls of at least 20cm thick, 1.8m tall in order to prevent bears from escaping.
 - c) Equipped with waste-treatment system in accordance with Article 6 of this Regulation.
2. Farms on which bears are kept in way of semi-wild conditions:
 - a) Farms are securely protected by surrounding walls of at least 40cm thick, 2.5m high; covered with strong metal fence of at least 50cm in height in order to ensure that bears cannot escape. The fence is at least 2m away from other construction works. (Fence map is provided in Appendix I).
 - b) Density of captive bears kept in way of semi-wild conditions must be at least 150m² per bear.

Article 4: Conditions of bear cages

1. Bear cages are places in which bears may be kept. Bear cages can be made of, strong metals, concretes, bricks, or other strong materials. The following requirements apply to a cage for one bear

(except for baby bears which have not yet been separated from their mothers); In the case of many bears kept in one cage, the size of the cage must be sufficient for the number of bears

2. For cages made of strong metal

- a) The cage must be at least 1.5m long; 1.5m wide and 2m high in size.
- b) The cage's frame: needs to be made of round and strong metal pipes with diameter of at least 25mm or solid and strong metal with diameter of at least 18mm; junctions must be welded together to ensure the solidity and safety. (A drawing of a cage's frame is provided in Appendix II).
- c) The front, top, back, left side, and right side should be made of round and strong metal of minimum diameter of 12mm, junctional points are welded into the cage's frame, each bar should be robustly placed at an equal safe distance of 7cm in order to ensure bears could not escape or stick out their arms or legs. (Drawing of the structure of these sides is provided in Appendix II).
- d) The cage's floor should be made of round and strong metal of minimum diameter of 12mm which are welded into the cage's frame and are robustly placed both vertically and horizontally, each bar should be placed at a same maximum safe distance of 6cm in order to ensure that bears cannot escape. The floor should be at least 25cm away from base. A drawing of the floor is provided in Appendix II)
- d) The trough must be made of stainless and strong metal and put in a convenient position or be detachable in order to be convenient for frequent cleaning; the base of the cage must be coved with cement or paved with enamel tiles, which have a slope to one side in order to be convenient for cleaning.
- e) The cage's doors must have a key for safety.
- g) The position of the cage: the cage should be placed in a place that is cool in summer and wind-tight in winter, and be at least 50cm away from other cages, fences or other things. The door of the cage must be at least 3m away from other cages.

3. Built cages:

- a) A cage should be at least 2m long, 2m wide and 2m high in size.
- b) At most, three of the sides of the cage should have the thickness of 20cm (if the cage is made of reinforced concrete the minimum thickness should be 10cm). The wall surfaces and the base of the cage must be smoothly covered with cement or bricks. The base should have an adequate slope for draining off waste water. If there is any wall made of metal, it should satisfy requirements in (b), (c) of Item 1, Article 5 in this Regulation.
- c) The trough must be placed in a convenient position or can be detachable in order to be convenient for frequent cleaning.
- d) The position of the cage: the cage should be placed in a cool place, and can be built adjoining other cages, but metal sides must be at least 50 cm away from other cages, fences or other things. The right door of the cage must be at least 3m away from other cages.

4. Semi-wild bears cages

The cage should be built or made of metal as defined in Item 2 and 3, Article 4 of this Regulation, with a front door for the bear to go in and out and a back door to be convenient for cleaning. These doors should be also able to be opened from the outside.

Article 5: Conditions of environment, sanitation and waste treatment

1. Bear farms must be certified to satisfy conditions of hygiene and environment by provincial environmental management agencies.
2. The farms must be equipped with a waste treatment system that meets hygienic and environmental standards such as biogas tunnel, septic tank or with other suitable methods rather than releasing waste directly into the environment.
3. The cages and farms should be cleaned frequently in order to prevent the environment from being polluted by the food remains and waste.

Item 6: Diet and veterinary care

1. Bear farms must have employees with veterinary knowledge, or have a contract with veterinarians or veterinary units to take care of the captive bears.
2. The farms must keep records of diseases of each bear (in accordance with the form in Appendix III).
3. Provide a house to put food for bears. The food and drink must meet sanitation and safety standards. Bears should receive a sufficient amount of food and drink daily.

Chapter III**REGISTRATION OF BEAR FARMS AND BEAR TRANSPORTATION****Article 7. Conditions of bear registration**

1. Bears must be of legal origin and have a registration record and micro chip.
2. Cages and farms must satisfy requirements defined in Article 3, 4, 5 and 6 of this Regulation.
3. Bear farms must be approved to be built in the territory by Communal/ ward People's Committees.

Article 8. Records of requests to be granted for bear farming certification

The owner of the farm must have a registration document submitted to FPD (or Department of Agriculture and Rural Development for provinces in which there is not an FPD station). This document includes:

1. A request paper for bear farm registration (following the sample defined in Appendix IV) verified by communal / ward authorities according to Item 3, Article 7 of this Regulation.
2. Record to prove legal origin of bears or record to prove that the bears have been registered and electronically chipped.
3. A drawing of the bear cage and farm enclosed with their photos
4. A notarized copy of a labor contract with veterinary- specialized people, veterinarians or veterinary units.
5. A confirmation paper from the provincial-level environment management agencies that the farm satisfies hygiene and environment requirements.

Article 9. Assessment of file and authorization to grant bear farming certification

1. Authorization to grant bear-breeding confirmation paper is given to the body that has received the registration documentation defined in Article 8 of this Regulation.
2. Procedure of granting bear farming certification
 - a) Establishing the Board of Assessors: Agencies receiving registration documents from bear farms are responsible for the establishment of a Board of Assessors including provincial FPD (or the Department of Agriculture and Rural Development for provinces in which FPD is not stationed) act as chairman of the Board with other members that are representatives from provincial Veterinary Department, Department of Natural Resource and Environment, Environment Police and communal / ward authorities in whose territory bear farms requesting for certification for file assessment are located
 - b) Duties of the Board of Assessors: examine the facilities of the farm which has requested the confirmation paper; write an assessment paper as evidence for related evaluating agencies; grant confirmation paper for the farm if it satisfies the requirements defined in this Regulation.
 - c) Assessment Time: to be completed within 5 working days after all documentation has been received as defined in Article 8 of this Regulation. The body that receives the documentation is

responsible for establishing the Board of Assessors. Within 5 working days after the date that the Board of Assessors is established the Board has the duty to complete the assessment paper.

d) Time to grant bear-breeding confirmation paper: should be completed within five working days after the assessment document has been received. The body which received the document is responsible for granting of confirmation paper (defined in Appendix V) for farms which satisfy the requirements or releasing documentation in response to the bear farm owners that do not satisfy the conditions or procedures.

Article 10. Bear transportation

1. General conditions:

a) Only bears that are regulated in the Provision 1, Article 7 of this Regulation are allowed to be transported.

b) Those bears that have been registered and implanted with microchips must be examined for chips to identify the chip code at their original location by the provincial FPD (or local FPD for provinces without provincial FPD before being moved.

c) Destination of these bears should be a certificated farm or Rescue Center as required under the current regulation of the State.

d) The safety and the bears' health is to be ensured during the transportation process.

2. Documentation to move the bears: the owners provide documentation to move the bears and must submit it to the FPD (or local FPD in the provinces without FPD), the documents should include :

a) Form for bear movement (Appendix VI);

b) Dossier of the bear' s legal source. Dossier of the bears' registration.;

c) Copy of the Certificate for the destination farm. In cases where bears are moved beyond the provincial area, there must be agreement in writing of the destination's provincial FPD (or DARD in the provinces without FPD).

3. Authority and time to grant special certificate of transportation:

a) Authority and time to grant special certificate of transportation: The agencies that receive the dossier of request to move bears as regulated in the Provision 2, Article 10 on this Regulation are authorized to grant the special certificate of transportation..

b) The task of the agencies which receive the dossier of bear movement: the agencies must examine, check micro chip (for registered bears), issue a report to confirm the number of bears that they intend to move and grant special certificate of transportation as regulated in this Regulation and existing state regulations on inspection and control of forest products..

c) Time to grant certificate of transportation: 10 working days after receiving the full dossier, functional authorities must complete report to confirm the number of the bears that will be moved and issue certificate of transferring bears within provincial area or issue special certificate of transporting bears beyond the provincial area. In cases where the authorities do not agree the movement of the bears, they must respond in writing to the owner about the reasons why the bears are not allowed to move.

d) Authority and time to grant certificate of receiving bear: the bear owner submit a letter requesting to move the bear to the destination provincial FPD (or the DARD in the provinces without FPD). A certificate of facilities of the farm in which the bears will be placed must be attached with the letter. Within five working days since receiving the dossier, the authorities who receiveing the dossier must check and respond in writing to confirm whether the bears will be allowed to move or not.

CHAPTER IV

SETTLEMENT OF VOLUNTARILY TRANSFERRED BEARS, DEAD BEARS AND DISEASED BEARS.

Article 11. Settlement for the owners who voluntarily transfer bears to the State.

1. Documents to transfer bears to the State: the owners who voluntarily transfer bears to the State should complete the application form (as the sample in the Appendix VII) to submit to the provincial FPD (or the Department of Agriculture and Rural Development - DARD in the provinces without FPD) with the documents of the bears' origins.

2. The agencies that have the function to settle the voluntary transfers of bears:

a) The provincial FPD (the DARD in the provinces without FPD) decide the transferal for cases involving local enterprises.

b) The National FPD shall decide the transferal of bears that bear owners voluntarily turn over to authorities across the country.

3. Time to settle the transfer:

After receiving the application form, the FPD (or the DARD in the provinces without FPD) complete the procedures within five days to transfer the bear to the local agencies or report to the FPD if there is no local agency to receive the case.

4. Those bears that are voluntarily transferred to the State will be transferred as follows:

a) Bear Rescue Center, Wildlife Rescue Center.

b) Zoos, domestic research and training centers with the purpose of research, display and environmental education.

c) Farms that meet the conditions regulated in this Regulation and agree to voluntarily raise the bear with the purpose of rescue and conservation.

d) Other organizations as decided by relevant State agencies.

Article 12. Settlement of dead and diseased bears

1. Responsibility of bear owners: One day after a bear has died or confirmation by the person in charge that it is infected by disease which could create an epidemic or pollute the environment, the owner should use the fastest means to inform either the local or the National FPD (or the DARD in the provinces without FPD).

2. The task of the agencies that receive information about dead and diseased bears: Must cooperate with the local veterinary agencies to visit the site and report on the dead and diseased bears as soon as possible. There should be clear reason and the microchip number of the dead bears must be obtained (with registered bears). After completing the report, the bear should be destroyed in accordance with the law. The destruction should meet the requirements of decontamination, environment hygiene and prevent the disease from spreading.

CHAPTER V

RESPONSIBILITY OF BEAR OWNERS AND ADMINISTRATIVE AGENCIES

Article 13. Responsibility of bear owners

1. To ensure that bears are raised properly in accordance with the requirements of this Regulation; to take responsibility in cases in which bears may affect people, pollute the environment and develop diseases.

2. Set up documents to keep track of each bear (as the sample in the Appendix VIII).

3. Conduct annual report before January 15 for the previous year's report and irregular reports of the bears' conditions (reproductivity, death or other incidents) to the FPD (or the DARD in the province without FPD).

4. Comply with the examination and management of the functional State agencies.

Article 14. Responsibility of the State agencies

1. The people's committee of provinces and cities under the management of the Central Government play the principal role in guiding local relevant agencies to implement the Regulation and schedule the deadline for finishing condition of bear cages and farms according to Items 3,4,5, 6 of the Regulation.
2. The FPD should examine and guide the implementation of the Regulation and collate and report to MARD on the situation of captive bear management across the country.
3. The FPD (or the DARD) are responsible for:
 - a) Advising the People's committees of provinces and cities under the management of the Central government about the management of captive bears in the locality including communicating with and guiding bear owners and people to make right implementation of the Regulation and relating regulations of the State to bear owners and local people
 - b) Investigating, annually inspecting or irregularly inspecting if necessary; completing annual collective reports to submit the FPD before January 30 for the previous year's report (as the sample in the enclosed Appendix IX).
 - c) Directing the agencies to receive the regular and irregular reports of bear owners; verifying newly-born bears, dead bears, moved-in and moved-out bears. Granting special certificates for the transport of bears to the provinces and cities under the management of the Central government.
 - d) Supervising and uncovering violations of this Regulation and regulations of the law; settling or advising the functional State agencies to settle violations.
 - đ) Coordinating relevant agencies to assess farms, grant and revoke farm certification. The certification for farming is effective for five years, after five years farms need to be reassessed and will be granted the new certificate if they meet the conditions in this Regulation.
 - e) Advising the provincial People's Committee and cooperating with relevant agencies to settle violations of this Regulation and destroy bears as regulated by the law.

CHAPTER VI

SETTLEMENT OF VIOLATIONS AND EXPENSES

Article 15. Settlement of violations

1. Depending on the seriousness of the violation, the organization or individual that violate the regulations on captive bears in this Regulation will be dealt with in accordance with the current regulation of the law.
2. Those bears that are confiscated will be settled in accordance with the regulation on the settlement of wildlife evidence issued by MARD.

Article 16. Expense to management of captive bears

1. Bear owners have to ensure they have finances to take care, breed bears, and build cages and farms that comply with the Article 3, 4, 5 and 6 of this Regulation.
2. Expenditure for the management of bears is implemented in accordance with Circular No. 59/2008/TT-BTC issued in July 4 2008 by the Ministry of Finance on the instruction of managing and using revenue from violation settlements in the area of anti-smuggling, fraudulent commerce and fake goods. In the event of insufficient money, the following budgets should be used:
 - a) The local budget to cover expenditure for the FPD (or the DARD in the province without FPD) to manage the captive bears in the locality.
 - b) MARD will ensure financial support required for the FPD to implement the instruction of this Regulation.
3. Rescue centers or establishments receive bears that have been voluntarily turned over to the State by owners shall cover the cost for transporting bears.

4. Encourage both financial and technical support of foreign and local organizations and individuals to conserve, save and manage bears.

**On behalf of the Minister
DEPUTY MINISTER
Signed**

Hua Duc Nhi