

**海南热带雨林国家公园特许经营
管理办法**

**Administrative Measures of Concessions in
Hainan Tropical Rainforest National Park**

海南热带雨林国家公园特许经营管理办法

(2020年12月2日海南省第六届人民代表大会常务委员会第二十四次会议通过)

第一章 总 则

第一条 为了规范海南热带雨林国家公园特许经营活动，严格保护和合理利用自然资源，实行自然资源有偿使用制度，根据有关法律、法规，结合海南热带雨林国家公园实际，制定本办法。

第二条 海南热带雨林国家公园一般控制区内的经营服务活动实行特许经营，核心保护区内禁止开展经营服务活动。

本办法所称特许经营，是指海南热带雨林国家公园管理机构（以下简称国家公园管理机构）依法授权公民、法人或者其他组织在一定期限和范围内开展经营活动，特许经营者依照特许经营协议和有关规定履行相关义务的行为。

未经国家公园管理机构授权不得从事特许经营活动。

第三条 海南热带雨林国家公园内特许经营项目实行目录管理。

特许经营目录由国家公园管理机构依据海南热带雨林国家公园总体规划和专项规划以及相关产业准入政策编制，经省人民政府批准后向社会公布，并根据需要适时调整。

Administrative Measures of Concessions in Hainan Tropical Rainforest National Park

(Adopted at the 24th Session of the Standing Committee of the 6th Hainan Provincial People's Congress on December 2, 2020)

Chapter I General Provisions

Article 1 These Measures are enacted based on applicable laws and regulations and actual circumstances of the Hainan Tropical Rainforest National Park (Rainforest Park) for the purposes of regulating concession activities within the Rainforest Park, strictly protecting and reasonably utilizing natural resources, and implementing a paid use system for natural resources.

Article 2 Business and services are subject to concessions within Rainforest Park affiliated areas but are prohibited in the core protected area.

“Concession” in these Measures refers to the operator's performance of obligations in compliance with the concession agreement and applicable law after the Rainforest Park's Management Office (hereinafter referred to as the “Park Office”) authorizes citizens, juristic persons, or other organizations to conduct business activities within a certain term and scope pursuant to law.

No concession activities shall be allowed without the authorization of the Park Office.

Article 3 The particular concessions in the Rainforest Park shall be administered as a list.

The list of concessions shall be prepared by the Park Office based on the Rainforest Park comprehensive and ad hoc plans and applicable industrial access policies, announced to the public after being approved by the provincial people's government, and promptly adjusted based on current requirements.

第四条 国家公园管理机构应当通过竞争方式确定特许经营者。海南热带雨林国家公园内原住居民（以下简称原住居民）利用自有或者本集体经济组织及其成员的房屋开展餐饮、住宿、商品销售等经营服务活动，以及国家和省人民政府规定的其他经营服务活动，可以不通过竞争方式确定特许经营者。

第五条 海南热带雨林国家公园内的基础设施和公用事业实行特许经营的，由国家公园管理机构和县级以上人民政府相关主管部门依照本办法和国家有关规定执行。

第六条 特许经营使用费标准由国家公园管理机构会同省财政部门制定，经省人民政府批准后施行。

特许经营使用费应当上缴省级国库，纳入财政预算管理。

第二章 特许经营范围

第七条 海南热带雨林国家公园一般控制区内可以开展下列符合海南热带雨林国家公园总体规划和专项规划的特许经营项目：

- （一）建设、运营经营服务设施；
- （二）销售商品；
- （三）租赁设备或者场地；
- （四）提供住宿、餐饮、游憩导览、解说；
- （五）经营户外运动项目或者商业拍摄、商业演艺活动等文化体育服务；
- （六）提供生态旅游和体验、森林康养、休闲度假服务；
- （七）提供生态科普、自然教育服务；

Article 4 Park Office shall determine the operator on a competitive basis. Where the indigenous peoples in The Rainforest Park (hereinafter referred to as the “indigenous peoples”) use their own houses or collective economic organizations and their members’ houses to provide food service, accommodation, product sales, and other business service activities, in addition to those business service activities specified by the national and provincial people’s governments, the operators may be determined without competition.

Article 5 Concessions for infrastructure and public utilities in the Rainforest Park shall be granted by the Park Office and appropriate people’s government agencies at or above the county level in compliance with these Measures and applicable national provisions.

Article 6 Concession fees shall be jointly calculated by the Park Office and the provincial finance agency and implemented after being approved by the provincial people’s government.

Concession fees shall be handed over to the provincial treasury and subject to financial budget management.

Chapter II Concession Scope

Article 7 The following concession projects may be performed in Rainforest Park affiliated areas in compliance with the Rainforest Park overall and special planning:

- (a) constructing and operating business and service facilities;
- (b) selling products;
- (c) leasing equipment or sites;
- (d) providing accommodation, catering, guiding tours, and interpretive guiding;
- (e) operating outdoor sports or cultural and sports services such as commercial shooting and performing arts activities;
- (f) providing ecological tourism and experiences, forest health, recreation, and vacation services;
- (g) providing ecological science awareness and nature education services;

(八) 提供旅游运输服务；

(九) 生产、销售载有海南热带雨林国家公园标识的产品；

(十) 其他实行特许经营的项目。

第八条 海南热带雨林国家公园内的宗教活动、原住居民开展的种养等传统生产活动以及国家和省人民政府规定的不实行特许经营的其他经营活动，不列为特许经营项目。

第九条 国家公园管理机构编制特许经营目录，应当征求海南热带雨林国家公园所在地县级以上人民政府、有关部门、专家学者、原住居民和社会公众的意见。

国家公园管理机构应当对拟实行的特许经营项目的合理性和可行性组织论证；重大项目应当委托具有相应资质的第三方机构对项目资源使用情况和生态环境保护要求等方面进行合理性和可行性评估。

第三章 特许经营者的确定

第十条 国家公园管理机构通过竞争方式确定特许经营者的，应当符合国家和本省的有关规定，具体方式包括：

(一) 招标；

(二) 竞争性谈判或者竞争性磋商；

(三) 法律、法规规定的其他竞争方式。

具备招标条件的特许经营项目，应当优先采用招标方式确定特许经营者。

- (h) providing tourism and transportation services;
- (i) producing and selling products bearing the Rainforest Park logo; and
- (j) other concession projects.

Article 8 Religious activities in the Rainforest Park, traditional production activities such as agricultural planting and animal husbandry by indigenous peoples, and other business activities provided by the state and provincial people's government not subject to concessions are not listed as concession projects.

Article 9 When compiling the concession list, the Park Office shall collect the opinions of the people's governments at or above the county level, applicable agencies, experts and scholars, indigenous peoples, and the public where the Rainforest Park is located.

The Park Office shall organize and demonstrate the rationality and feasibility of the proposed concession project. Third party agencies with appropriate qualifications shall be hired to evaluate the rationality and feasibility of project resource utilization and ecological environment protection requirements for major projects.

Chapter III Determination of Operator

Article 10 Where the Park Office determines the operator on a competitive basis, state and provincial regulations shall be abided by and the specific methods shall be as follows:

- (a) bidding;
- (b) competitive negotiation or competitive consultation; and
- (c) other competitive methods provided by laws and regulations.

For concession projects with bidding conditions, priority shall be given to selecting operators through bids.

第十一条 下列特许经营项目应当依照有关规定通过招标方式确定特许经营者：

（一）利用海南热带雨林国家公园内国有自然资源资产开展特许经营活动的；

（二）租赁海南热带雨林国家公园内国有固定资产开展特许经营活动的；

（三）建设经营性服务设施开展文化体育、生态旅游和体验、森林康养、休闲度假、生态科普、自然教育、旅游运输等特许经营活动的；

（四）设立独立的经营性商业广告设施的；

（五）国家和本省规定应当招标的其他项目。

第十二条 需要授予土地等自然资源使用权、涉及固定资产投资的特特许经营项目，由国家公园管理机构和所在地县级以上人民政府有关部门联合实施组合性特许，确定特许经营者。具体办法由省人民政府制定。

第十三条 依法通过竞争方式确定的特许经营者，国家公园管理机构应当向社会公示。

第十四条 申请开展本办法第四条第二款规定的经营服务活动的，应当向国家公园管理机构提交特许经营申请材料，经批准后依法签订特许经营协议，并办理相关许可手续。

具体办法由国家公园管理机构制定，报省人民政府批准后实施。

第十五条 本办法实施前海南热带雨林国家公园一般控制区内已经实施且属于特许经营目录范围内的经营项目，符合相关法律、法规规定的，应当依照本办法规定重新签订特许经营协议。

Article 11 Operators of the following concession projects shall be determined through bidding pursuant to applicable provisions:

(a) where state-owned natural resource assets in the Rainforest Park are utilized to conduct concession activities;

(b) where state-owned fixed assets in the Rainforest Park are leased to conduct concession activities;

(c) where business service facilities are constructed to conduct concession activities, such as cultural and sports, eco-tourism and experiences, forest health, recreation and vacation, ecological science awareness, nature education, tourism, and transportation;

(d) where independent commercial advertising facilities are set up; and

(e) other projects that shall be determined through bidding pursuant to national and provincial regulations.

Article 12 Where concession projects require use rights for natural resources such as land to be granted and involve investment in fixed assets, the Park Office and appropriate local people's government agencies at or above the county level shall jointly implement the combined concessions and determine the operators. Specific measures for such shall be prepared by the provincial people's government.

Article 13 The operators determined through competitive methods pursuant to law shall be announced to the public by the Park Office.

Article 14 Anyone requesting to conduct business service activities provided in Paragraph 2 of Article 4 of these Regulations shall submit their concession application materials to the Park Office, sign the concession agreement pursuant to law following approval, and complete the necessary licensing procedures.

Specific measures shall be prepared by the Park Office and implemented following approval from the provincial people's government.

Article 15 Concession agreements for projects operating in Rainforest Park affiliated areas before the implementation of these Measures, fall under the scope of the concession list, and conducted pursuant to applicable laws and regulations shall be restated and executed in compliance with these Measures.

依法应当退出的经营项目，依照有关规定办理。需要设定过渡期的，由国家公园管理机构提出具体办法，并报省人民政府批准后执行。

第四章 特许经营协议和相关义务

第十六条 国家公园管理机构应当与特许经营者签订特许经营协议。

特许经营协议应当包括以下主要内容：

- （一）特许经营项目名称；
- （二）特许经营方式、内容、区域、范围、期限以及资源利用限制性要求；
- （三）所提供产品或者服务的数量、质量和标准；
- （四）特许经营使用费的缴费标准、金额、支付方式；
- （五）设施的维护、更新改造要求；
- （六）项目的自然资源保护要求和损害治理；
- （七）项目实施情况评估和方式；
- （八）根据项目评估结果应采取的整改措施和整改不符合要求的退出情形；
- （九）违约责任以及争议解决方式；
- （十）特许经营协议的变更、解除、终止及补偿；
- （十一）特许经营协议终止后，相关设施和设备资产处置、技术资料和其他相关档案资料移交方式、程序和要求等；
- （十二）其他应当明确的事项。

Operating projects that need to be stopped pursuant to law shall be managed in compliance with applicable provisions. Where a transition period is required, the Park Office shall recommend specific measures and submit them to the provincial people's government for approval before implementation.

Chapter IV Concession Agreement and Obligations

Article 16 The Park Office shall sign concession agreements with operators.

A concession agreement shall contain of the following main provisions:

- (a) name of the concession project;
- (b) concession method, description, area, scope, term, and restrictive requirements for resource utilization;
- (c) quantity, quality, and standard of the products or services provided;
- (d) payment standards, amounts, and payment methods for concession fees;
- (e) facility and equipment maintenance, renovation, and conversion requirements;
- (f) natural resources protection requirements and damage control;
- (g) project implementation evaluation and methods;
- (h) corrective action to be taken based on the project evaluation results and the exit conditions when such corrective actions fail to meet the requirements;
- (i) liability for breach of contract and dispute resolution methods;
- (j) concession agreement amendment, cancellation, termination, and indemnification;
- (k) management of facilities and equipment assets, assignment methods, procedures, and requirements of technical data and other filings following the termination of the concession agreement; and
- (l) other matters that shall be explicitly provided.

第十七条 海南热带雨林国家公园特许经营项目的经营期限，应当综合考虑项目所提供产品或者服务要求、建设内容、投资额度、项目生命周期、投资回收期、经济社会和生态效益等因素确定。

授予特许经营者建设、运营涉及固定资产投资的经营服务设施的，特许经营期限一般为 10 年，原则上不超过 20 年。需要授予更长特许经营期限的，报省人民政府批准后确定。

前款规定以外的其他特许经营项目按照特许经营协议确定特许经营期限，最长不超过 10 年。

第十八条 特许经营者应当依照约定缴纳特许经营使用费。

符合下列情形之一的，可以免收或者减收特许经营使用费：

（一）原住居民利用自有或者本集体经济组织及其成员的房屋开展餐饮、住宿、商品销售等经营服务活动，或者从事海南热带雨林国家公园内游憩导览等微利项目的；

（二）与国家公园管理机构合作，从事自然教育等提升海南热带雨林国家公园管理成效的活动的；

（三）可以免收或者减收特许经营使用费的其他情形。

免收或者减收特许经营使用费的具体办法由国家公园管理机构会同省财政部门制定，报省人民政府批准后施行。

第十九条 特许经营者应当按照海南热带雨林国家公园有关管理要求从事特许经营活动，不得有下列行为：

（一）破坏自然资源、环境、景观；

（二）超出约定范围从事经营服务活动；

（三）违反国家、行业标准提供产品和服务，损害公共利益；

Article 17 When determining the operating period for a Rainforest Park concession project, factors including requirements for products or services provided by the project, construction descriptions, investment quota, project life cycle, investment payback period, and economic, social, and ecological benefits shall be given comprehensive consideration.

Where an operator is granted the right to build and operate business and service facilities involving investment in fixed assets, the concession period is generally 10 years and, in principle, no more than 20 years. The grant of a longer concession period shall be determined following the approval of the provincial people's government.

Concession projects other than those provided in the above paragraph shall be determined based on the concession agreement, and the concession period shall not exceed 10 years.

Article 18 Operators shall pay the concession fees subject to the agreement.

Concession fees may be exempted or reduced under any of the following circumstances:

(a) where indigenous peoples use their own houses or houses belonging to collective economic organizations and their members to conduct catering, accommodation, product sales, and other business service activities, or are involved in low-profit projects such as tour guiding and interpretive guiding within the Rainforest Park;

(b) where environmental education activities are organized to improve Rainforest Park management effectiveness in collaboration with the Park Office; or

(c) other circumstances under which concession fees may be exempted or reduced.

Specific measures for exempting or reducing concession fees shall be jointly prepared by the Park Office and the provincial finance agency and implemented after being approved by the provincial people's government.

Article 19 Operators shall conduct concession activities in compliance with the applicable Rainforest Park administration requirements and shall not commit any of the following acts:

(a) destroying natural resources, the environment, or landscape;

(b) conducting business service activities beyond the agreed scope;

(c) providing products and services in violation of national and industrial standards, and harming the public interest;

（四）以转让、出租、质押等方式处置特许经营权或者国家公园管理机构提供给特许经营者使用的资源资产、设施设备：

（五）擅自停业、歇业；

（六）其他违反法律、法规及特许经营协议约定的行为。

第二十条 鼓励特许经营者通过向常住居民分享特许经营收益、聘用常住居民等方式，促进居民增收。

第二十一条 特许经营者申请提前终止特许经营协议的，国家公园管理机构应当自收到申请3个月内作出答复。在国家公园管理机构决定终止协议前，特许经营者应当继续履行协议。

第五章 监督管理

第二十二条 国家公园管理机构及县级以上人民政府有关部门应当根据各自职责对特许经营活动进行监督管理。

第二十三条 省人民政府应当建立由县级以上人民政府有关部门参加的特许经营协调机制，协调解决海南热带雨林国家公园内特许经营活动中的重大问题。

第二十四条 国家公园管理机构应当加强对特许经营者履行特许经营协议和相关义务、利用自然资源、保护生态环境等情况的监督。

第二十五条 国家公园管理机构应当建立健全特许经营活动的社会监督机制，发挥媒体、社会监督员作用，及时处理举报和投诉，严格追究特许经营活动中破坏生态环境等方面的违法责任。

(d) assigning, leasing, or pledging the concession or any resource, asset, or facility that the park office provides the operator to a third party;

(e) suspending or temporarily closing business without authorization; or

(f) other acts in violation of the law or concession agreement.

Article 20 Operators are encouraged to increase local residents' income by sharing concession revenues with indigenous peoples or employing indigenous peoples.

Article 21 Where an operator requests the early termination of the concession agreement, the Park Office shall respond within 3 months of receiving the request. Before the Park Office decides to terminate the agreement, the operator shall continue to perform the agreement.

Chapter V Oversight and Administration

Article 22 The Park Office and appropriate agencies of the people's governments at or above the county level shall oversee and administrate concession activities in line with their duties.

Article 23 The provincial people's government shall set up a concession coordination system with the participation of agencies from people's governments at or above the county level to coordinate and solve major problems in concession activities within the Rainforest Park.

Article 24 The Park Office shall improve the oversight of operators fulfilling concession agreements and their obligations, utilizing natural resources, and protecting the ecological environment.

Article 25 The Park Office shall establish and optimize a public oversight system for concession activities, take full advantage of media and public oversight, resolve reports and complaints in a timely manner, and strictly hold those damaging the ecological environment during concession activities accountable.

第二十六条 国家公园管理机构应当依据有关规定对特许经营重大项目的社会效益和生态环境效益进行评估，并向社会公开评估结果。对评估发现问题的，责令特许经营者限期整改；整改不符合要求、严重违反有关规定和约定情形的，解除特许经营协议。

第二十七条 特许经营协议终止时，对法律、法规规定和协议约定应当移交政府的资产，国家公园管理机构和相关部门应当及时接管。

第六章 法律责任

第二十八条 特许经营者违反本办法第十九条第一项规定，破坏自然资源、环境、景观的，国家公园管理机构对价值减损等情况组织评估，责令责任人采取有效措施修复，并依照有关法律、法规予以处罚；情节严重的，解除特许经营协议。

第二十九条 特许经营者违反本办法第二条第三款和第十九条第二项规定，未经授权擅自开展特许经营活动或者超出约定范围从事经营服务活动的，责令改正，予以警告，没收违法所得，并处一万元以上五万元以下罚款；情节严重的，处五万元以上十万元以下罚款，解除特许经营协议。

第三十条 特许经营者违反本办法第十九条第四项规定，以转让、出租、质押等方式处置特许经营权或者国家公园管理机构提供给特许经营者使用的资源资产、设施设备的，责令恢复原状、赔偿损失，并处一万元以上五万元以下罚款；情节严重的，处五万元以上十万元以下罚款，解除特许经营协议。

Article 26 The Park Office shall evaluate the social benefits and ecological and environmental benefits of major concession projects pursuant to applicable regulations and publicly announce the evaluation results. Where problems are found in the evaluation, the operator shall be required to correct such within a time limit. Should the corrections fail to meet requirements and materially violate applicable regulations and agreements, the concession agreement shall be terminated.

Article 27 When the concession agreement is terminated, the Park Office and the appropriate agencies shall promptly take over the assets to be assigned to the government pursuant to law and the agreement.

Chapter VI Legal Liability

Article 28 Where the operator violates Subparagraph (a) of Article 19 of these Measures and damages natural resources or the environment and landscape, the Park Office shall organize an evaluation of the reduction in value and require the responsible person to take action to effectively correct such, as well as impose penalties pursuant to laws and regulations. The concession agreement may be terminated under serious circumstances.

Article 29 Where the operator violates Paragraph 3 of Article 2 and Subparagraph (b) of Article 19 of these Measures, conducts concession activities without authorization, or engages in business service activities beyond the agreed scope, the operator shall be ordered to correct its actions, receive warnings, have any illegal income earned confiscated, and be subject to a fine of not less than 10,000 Yuan and not more than 50,000 Yuan. A fine of not less than 50,000 Yuan and not more than 100,000 Yuan shall be imposed for material violations and the concession agreement shall be terminated.

Article 30 Where the operator violates Subparagraph (d) of Article 19 of these Measures and assign, lease, or pledge the concession or any resource, asset, or facility that the Park Office provides the operator to a third party, the operator shall be ordered to pay restitution and indemnify against losses, and be subject to a fine of not less than 10,000 Yuan but not more than 50,000 Yuan; a fine of not less than 50,000 Yuan and not more than 100,000 Yuan shall be imposed for material violations and the concession agreement shall be terminated.

第三十一条 特许经营者违反本办法第十九条第五项规定，擅自停业、歇业的，责令改正，并处三万元以下罚款；情节严重的，处三万元以上十万元以下罚款，解除特许经营协议。

提供旅游运输等对海南热带雨林国家公园管理有重大影响的特许经营者擅自停业、歇业的，从重处罚。

在海南热带雨林国家公园内开展特许经营活动的原住居民、个体工商户、小微企业擅自停业、歇业，情节轻微的，可视情况免于处罚。

第三十二条 国家公园管理机构和有关主管部门及其工作人员在特许经营监督管理活动中，不依法履行监督管理职责、违法授予特许经营权或者违法变更、解除特许经营协议，以及有其他滥用职权、玩忽职守、徇私舞弊行为的，依法予以问责、给予处分；构成犯罪的，依法追究刑事责任。

第三十三条 违反本办法规定的行为，由省人民政府确定的执法机构实施处罚。法律、法规另有规定的，从其规定。

第三十四条 违反本办法规定的行为，本办法未设定处罚但其他法律、法规已设定处罚的，依照有关法律、法规的规定处罚；有关法律、法规的处罚规定严于本办法的，适用有关法律、法规的规定。

第七章 附 则

第三十五条 海南热带雨林国家公园内的国有林业企业、农垦企业职工参照适用本办法有关原住居民的规定。

第三十六条 本办法自 2021 年 3 月 1 日起施行。

Article 31 Operators who violate Subparagraph (e) of Article 19 of these Measures and suspend or temporarily close business without authorization shall be required to make corrections and be subject to a fine of not more than 30,000 Yuan. A fine of not less than 30,000 Yuan and not more than 100,000 Yuan shall be imposed for material violations and the concession agreement shall be terminated.

Operators who provide tourism transportation and other services that have a significant impact on the administration of the Rainforest Park shall be severely penalized if they suspend or temporarily close their business without authorization.

Where the operators are indigenous people, sole proprietorships, or small and micro-sized businesses that carry out concession activities in the Rainforest Park, they may be exempted from penalties for minor violations.

Article 32 Where the Park Office and applicable agencies or their employees fail to perform their duties of oversight and administration pursuant to law, illegally grant concessions or illegally amend or terminate concession agreements, and engage in other acts of abuse of position, dereliction of duty, or playing favoritism and committing irregularities, they shall be held accountable and punished pursuant to law. Those committing crimes shall be held criminally liable pursuant to law.

Article 33 Penalties for violations of these Measures shall be issued by the law enforcement agencies determined by the provincial people's government, except as otherwise provided by laws and regulations.

Article 34 Where other laws and regulations provide penalties for violations of these Measures not provided in these Measures or provide more severe penalties than these Measures, such laws and regulations shall govern.

Chapter VII Supplementary Provisions

Article 35 State-owned forestry and agricultural reclamation business entities employees in the Rainforest Park shall refer to these Measures for matters concerning indigenous peoples.

Article 36 These Measures shall come into force as of March 1, 2021.

