Annex 4.3. Regulations and Policies related to REDD+ implementation and protection of HCV areas within forestry and estate crop concessions

1. Timeline of Regulations related to REDD+ in Indonesia

National	Year	East Kalimantan Province
Law No 32 of 2009 on the Protection and Management of The Environment	**2009**	EK Provincial Regulation No 5 of 2009 on Forest and Land Fire Control
	2010	January 2010: Declaration of Green East Kalimantan (Kaltim Green), signed by the Provincial Government, District Government, Provincial Parliament, Entrepreneurs, Academics and Communities
Constitutional Court Decision No 45/PUU-IX /2011 that Forest areas are certain areas set by the government to maintain their existence as permanent forests	**2011**	EK Governor Regulation No 2 of 2011 on East Kalimantan Climate Change Council
Presidential Regulation No 61 of 2011 on National Action Plans for Reducing Greenhouse Gas Emissions		EK Governor Decree No 22 of 2011 on Green East Kalimantan (Kaltim Green) Implementation Guidelines
Presidential Regulation No. 71 of 2011 on the Implementation of National Greenhouse Gas Inventories		East Kalimantan Low Carbon Growth Strategies
Constitutional Court Decision No 35/PUU-X /2012 excluding customary forests from the state forest area	**2012**	Strategy and Action Plan for Implementing REDD+ in East Kalimantan
Minister of Environment and Forestry Regulation No. 19 of 2012 on Program Kampung Iklim (Climate Village Program)		EK Governor Regulation No 54 of 2012 on Regional Action Plan for Reducing Greenhouse Gas Emissions
	2013	EK Governor Letter No 180/1375-Ek/2013, 25 January 2013, on Administration of Permits and Audits for Mining, Forestry and Plantation Permits
Law No 23 of 2014 on Regional Government	**2014**	EK Provincial Regulation No 1 of 2014 on Environmental Protection and Management.
		EK Provincial Regulation No 7 of 2014 on Medium-term Provincial Development Plan 2013-2018, The fifth mission is to realize the quality of a good and healthy environment and have a climate change perspective

National	Year	East Kalimantan Province
		EK Governor Regulation No 39 of 2019 on the Revision of Regional Action Plan for Reducing Greenhouse Gas Emissions
Presidential Regulation No. 16 of 2015 on Ministry of Environment and Forestry	**2015**	EK Governor Regulation No 15 of 2015 on guidelines for issuing village forest licenses
Minister of Environment and Forestry Regulation No P.32/Menlhk-Setjen/2015 on Private Forest		Strategic Plan of Heart of Borneo 20016-2020
Minister of Environment and Forestry Regulation No P.60/Menlhk-Setjen/2015 on The Role Of The Community and Business Actors in The Protection and Management of Environment and Forestry		
Minister of Environment and Forestry Regulation No P.83/MenLHK/Setjen/2015 on Social Forestry		Master Plan for Green Economy Development in East Kalimantan 2015-2030: Strategy for Acceleration and Expansion of East Kalimantan Economic Development
Minister of Environment and Forestry Regulation No P.84/MenLHK-Setjen/2015 on Guidelines for Tenurial Conflict Resolution in Forest Areas		EK Governor Regulation No 17 of 2015 on Arrangement of Granting Permits and Non-Licensing in Mining, Forestry and Oil Palm Plantations
		EK Provincial Regulation No 1 of 2015 on Guidelines for Recognition of Customary Law Communities in East Kalimantan
Law No 16 Of 2016 on The Ratification of The Paris Agreement to The United Nations Framework Convention nn Climate Change	**2016**	EK Provincial Regulation No 1 of 2016 on East Kalimantan Province Spatial Plan for 2016-2036. Provincial spatial planning policies, including: a) the development of the productive economic sector of oil and gas and coal with high added value and environmentally oriented into the leading sector to spur economic growth and utilization for all communities; b) development of leading sectors to anticipate the reduction of oil and gas and coal resources that cannot be renewed through the development of renewable sectors of agriculture, tourism and energy, as part of efforts to improve regional and national food and energy security;

National	Year	East Kalimantan Province
		c) the realization of space that synergizes with green growth d) the realization of the equitable distribution of development and services for the entire community by providing opportunities to all parts of the region to develop according to potential; e) the realization of sustainable development by maintaining harmonization of economic, investment and social activities by considering environmental support and sustainability
Minister of Environment and Forestry Regulation No. P.32/MenLHK/Setjen/ Kum.1/3/2016 on Forest and Land Fire Control		Revise of Strategy and Action Plan on Implementing of REDD+ in East Kalimantan
Minister of Environment and Forestry Regulation No. P.84/MenLHK-Setjen/Kum.1/11/2016 on Program Kampung Iklim (Climate Village Program)		East Kalimantan Master Plan of Climate Change
Letter of Intent: Potential Results-based Payment for Emission Reductions from the Indonesian Provincial Level REDD+ Emission Reductions Program in the Republic of Indonesia	**2017**	EK Governor Regulation No 9 of 2017 on East Kalimantan Climate Change Council,
Presidential Regulation No 88 of 2017 on Settlement of Land Ownership Conflict in Forest Areas		EK Regional Regulation 2017 on Sustainable Plantation
Minister of Environment and Forestry Regulation No P.22/MenLHK/Setjen/ SET.1/3/2017 on Procedures for Managing Compliance and/or Living Environmental Compliance and/or Forest Destruction		
Minister of Environment and Forestry Regulation No. P.70/MenLHK/Setjen/ Kum.1/12/2017 on Procedure for Implementing Reducing Emissions from Deforestation and Forest Degradation, Role of Conservation, Sustainable Management of Forest and Enhancement of Forest Carbon Stocks		
Minister of Environment and Forestry Regulation No. P.71/MenLHK/Setjen/		

National	Year	East Kalimantan Province
Kum.1/12/2017 on Management of The National Registration System for Climate Change Control		
Minister of Environment and Forestry Regulation No. P.72/MenLHK/Setjen/ Kum.1/12/2017 on Guidelines for The Implementation of Measurement, Reporting and Verification of Actions and Resources Management of Climate Change		
Minister of Environment and Forestry Regulation No. P.73/MenLHK/Setjen/ Kum.1/12/2017 on Guidelines for Management and Reporting of National Greenhouse Gas Inventory		
Regulation of the Coordinating Minister for the Economy No 3 of 2018 on Guidelines for the Implementation of Task Team for Inventory and Verification of Land Ownership in Forest Areas	**2018**	EK Governor Regulation No 1 of 2018 on Arrangement of Granting Permits and Non-Permits in Mining, Forestry and Oil Palm Plantations, that continue Governor Decree No 17 of 2015
		EK Governor Regulation No 26 of 2018 on Citizens' Inspirational Action for Change in Village Development Assistance

2. **Regulations related to the protection of HCV areas within timber plantation concessions (IUPHHK-HT)**

No	Regulation	Content
1.	SE Menteri ATR/Kepala BPN No 10/SE/VII/2015 concerning Issuance of Permits on HCVF Areas	• Maintain the sustainability of HCV in the area of HGU • HCV is included as a consideration prior to granting permit for estate crop plantation. • In order to protect HCVF, germplasm sources, wildlife ranges, biodiversity and the livelihoods of local communities have to be protected.
2.	Ministerial Regulation of Environment No. 29 Th 2009 concerning Guidelines for Biodiversity Conservation in Sub-national	Guidelines for the protection of biodiversity at the sub-national level
3.	Ministerial Regulation No. P.12/Menlhk-II/2015 about HTI Development	Identification of IUPHHK-HTI areas needs to take account of HCVF requirements

4.	Ministerial Regulation P.14/PHPL/SET/4/2016 Concerning Standards and Guidelines for the Implementation of Performance Assessment for Sustainable Production Forest Management (PHPL) and Timber Legality Verification (VLK)	Standards and Guidelines for the Implementation of Performance Assessment for Sustainable Production Forest Management and Timber Legality Verification take into account HCV requirements
5.	Ministerial Regulation No P.7/VI-BUHT/2014 concerning Guidelines for Preparation, Assessment and Approval of Work Plans on Businesses for Utilizing Timber Forest Products for Industrial Plantation Forests	The Guidelines for Preparation, Assessment and Approval of Work Plans on Businesses for Utilizing Timber Forest Products for Industrial Plantation Forests also take into account HCV requirements
6.	Ministerial Regulation P.3/VI-SET/2015 concerning the Application of Plant Types and Planting Patterns in HTI Activities	Selection of tree species and cropping patterns in timber plantations should contribute to local community income and to a reduction of conflict.
7.	Government Regulation No.28/2011 about KSA and KPA Management	Buffer Zone management

3. Regulations related to HCV areas in oil palm estates

The protection of HCV areas within oil palm estates is regulated voluntarily through the Indonesian Sustainable Palm Oil (ISPO) standard, through the International Sustainability and Carbon Certification (ISCC) and through the RSPO (Roundtable Sustainable Palm Oil). However, of the three systems, only RSPO requires its members to apply the HCV concept. The incentives derived from RSPO membership are the existence of a premium price for CPO products and access to the international market. Sanctions for RSPO members who do not comply with HCV rules are imposed by the remediation and compensation procedure (RaCP) rules since 2014, namely in situ remediation and compensation for land compensation of USD 2500/ha (Laksono, 2018).

The ISPO policy does not explicitly require HCV implementation for its members. In 2011, the HCV principle was still accommodated in Permentan No. 19/2011 concerning ISPO, requiring palm oil managers to identify areas that have high conservation value (HCV/HCV). The Ministry of Agriculture replaced the ISPO regulation with Ministerial Regulation No.11/2015. The newer regulation does not specifically state HCV, but some of the criteria are adopted in the articles.

The RSPO and ISPO systems differ in their approach to the following: a) protected areas and the concept of High Conservation Values (HCVs), b) procedures for transferring oil palm plantation rights based on Indonesian law, and c) the implementation of Free Prior Informed Consent (FPIC) within the RSPO, as well as procedures for new planting.

The Ministry of Agriculture required all oil palm plantation companies to have an ISPO certificate with a deadline of December 31, 2014 (extended to September 2015). But by September 2015, there were only 225 of 2,302 oil palm plantation companies that had been ISPO certified with a total area of 1.5 million hectares, and a CPO production of 7.4 million tons. Some oil palm companies do not have a HGU which is needed to comply with ISPO criteria and indicators.

Reported weaknesses of the ISPO standard include: lack of transparency, lack of a mechanism for public consultation, lack of access to information, limited public participation and lack of independence of certification bodies. (FWI, 2017). The government is currently preparing a Presidential Regulation on ISPO, which should address some of these issues. The final draft regulation has been submitted to the President.

At the provincial level in East Kalimantan, up to 2018 the certified RSPO area covered 137,083 ha or 11.5% of the total area of oil palm planted in East Kalimantan, whereas the ISPO-certified area covered 198,170 ha or 16.6% of the total. There were 10 oil palm companies with RSPO certificates, and 23 companies with ISPO certificates.

Palm Oil Development	Hectare	%
Total size allocated areas	3,101,628	
Total permit areas	2,585,685	
Total Palm Oil planted	1,192,342	100%
ISPO	198,170	16,6%
RSPO	137,083	11,5%

4. Regulations related Reduced Impact Logging (RIL) and Sustainable Forest Management in natural forests

The regulation on Reduced Impact Logging (RIL) was first issued by the Director General of Management of Forest Production of the Ministry of Forestry in February 2001. The purpose was to require the forest concessions in Indonesia to meet SFM criteria and indicators. RIL has been acknowledged as a key indicator for SFM certification. RIL aims to a) reduce the impact of timber harvesting on soils, b) reduce timber waste, and c) to reduce costs of post-harvest rehabilitation.

In East Kalimantan, the DG's regulation was distributed through the Head of Provincial Forestry Service letter in 2001. RIL is one of the key indicators for Sustainable Forest Management (SFM) practices and for voluntary SFM certification through the Forest Stewardship Council (FSC) and the Indonesian Ecolabel Institute (LEI). The Government of Indonesia formulated the criteria and indicators for SFM in 2009. The criteria and indicators were widely consulted with stakeholders within the country and

underwent six revisions from 2009 to 2016[1]. The latest policy on SFM criteria and indicator was issued in 2016 through Ministry Decree (P.30/MenLHK/Setjen/PHPL.3/3/2016).

In early 2019, 19 out of 532 IUPHHKs in East Kalimantan had SFM certificates. Performance monitoring on SMF implementation is conducted annually by an independent auditor. Companies that have a valid certificate are allowed to self-approve their annual harvesting plan.

[1] P.38/Menhut-II/2009 revised to P.68/Menhut-II/2011, and then to P.45/Menhut-II/2012, P.42/Menhut-II/2013, P.43/Menhut-II/2014, P.95/2014, and finally to P.30/MenLHK/Setjen/ PHPL.3/2016

[2] Total IUPPHKs in East Kalimantan were 64 forest concessions. However, 13 IUPHHKs were expired their concession permits by 2018. The concessions are taken over by the Government of Indonesia (MoEF).