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ANDALAS BORNEO JUSTICE

Original Article

Strengthening Environmental Governance through HCV Regulation: Bulungan Regent Regulation Design

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Abstract

The High Conservation Value (HCV) approach originated as a voluntary certification tool, but in Indonesia it is increasingly being translated into binding regional regulation. Bulungan Regency, North Kalimantan, which has lost a substantial share of its primary forest to plantation expansion, issued Regent Regulation Number 26 of 2025 on the identification, management and monitoring of HCV areas. This study aims to analyse the authority of a regency to regulate HCV areas, examine the design of the Regent Regulation, identify its gaps, and propose a model for strengthening it. This study employs normative legal research using statutory, conceptual, and comparative approaches, combined with a regulatory design analysis informed by regulatory impact assessment and a comparison with East Kalimantan Governor Regulation Number 43 of 2021. The findings show that the Regent Regulation rests on the concurrent environmental authority of regencies and is a significant innovation: it establishes a cross-sectoral working team, six HCV criteria, staged identification with public consultation and village involvement, designation by regent decree, integration into spatial plans, budgets and licensing, annual monitoring, and incentives. Its effectiveness is, however, constrained by its executive legal form, unclear enforcement provisions, the absence of explicit safeguards for customary communities and free, prior and informed consent, limited district jurisdiction over forest areas, and the lack of data and restoration standards. This study concludes that HCV governance should be strengthened through a regional regulation, graduated sanctions linked to licensing, tenure safeguards, multilevel coordination, and open data and adaptive review.

Keywords: High conservation value, regional environmental governance, regulatory design, regent regulation, Bulungan Regency

Introduction

Indonesia's tropical forests are among the most biologically important and most threatened ecosystems in the world, and the expansion of plantation agriculture has been one of the principal drivers of their decline. The Constitution guarantees every person the right to a good and healthy environment and requires that the national economy be organised on the principle of sustainability and environmental insight.[1] Asshiddiqie describes these provisions as the green dimension of the 1945 Constitution, which elevates environmental protection to a constitutional norm that binds all organs of the state, including regional governments.[2] Yet the translation of this constitutional commitment into effective governance at the level where land-use decisions are actually made, namely the regency, remains one of the most persistent challenges of Indonesian environmental law.[3]

[1] Articles 28H paragraph (1) and 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia.
[2] Jimly Asshiddiqie, *Green Constitution: Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (Jakarta: RajaGrafindo Persada, 2010).
[3] Takdir Rahmadi, *Hukum Lingkungan di Indonesia* (Jakarta: RajaGrafindo Persada, 2012); Koesnadi Hardjasoemantri, *Hukum Tata Lingkungan* (Yogyakarta: Gadjah Mada University Press, 2017).

Received: Month [X], 2026 - Accepted: Month [X], 2026 - Published online: Month [X], 2026, ISSN xxxx-xxxx

The case of Bulungan Regency in North Kalimantan illustrates the scale of the challenge. Siahaan's assessment of environmental governance in the Bulungan landscape shows that between 2001 and 2024 the regency lost approximately 197,000 hectares of primary forest, or about nineteen per cent of its primary forest cover, and that roughly sixty-nine per cent of this loss was attributable to conversion for plantations, while fires accounted for a much smaller share.[4] The same study records that forest-related emissions peaked at about 19.8 million tonnes of carbon dioxide equivalent in 2012 before declining to around 5.52 million tonnes in 2024, which suggests that the pressure has eased but not disappeared.[5] For a regency whose economy depends heavily on land-based investment, the question is therefore not whether development should continue, but how the areas of greatest ecological and social importance within production landscapes can be identified, protected, and managed.

The High Conservation Value (HCV) approach was developed precisely to answer this question. It identifies, within landscapes allocated for production, those areas that possess biological, ecological, social, or cultural values of outstanding significance, and it requires that these values be maintained or enhanced.[6] Styring and others explain that HCV assessment combines biodiversity data with landscape and social information in order to determine which values are present in a production landscape and how they should be managed.[7] In Indonesia, the approach has been applied most extensively in the oil palm sector. Studies in Riau show that HCV areas within oil palm plantations retain a meaningful diversity of plant species and can serve as refuges for biodiversity in otherwise simplified landscapes.[8] Nahlunnisa, Zuhud, and Santosa further argue that these areas hold genuine prospects for plant conservation if they are managed consistently over time.[9]

The ecological promise of HCV set-asides, however, depends heavily on how they are designed and governed. Scriven and others, modelling oil palm landscapes in Borneo, found that only about twenty-one per cent of the area designated as HCV set-asides was actually forested, and that the existing set-asides improved habitat connectivity by only about three per cent, whereas reforestation of all set-aside areas could raise connectivity by about sixteen per cent.[10] Lee and others, examining certified oil palm plantations in Indonesia, show that certification has had environmental effects but also implies trade-offs with development outcomes for surrounding communities.[11] These findings indicate that voluntary, company-level HCV practice, though valuable, is insufficient to secure conservation outcomes at the landscape scale. They point to the need for public regulation capable of coordinating set-asides across concessions, linking them to spatial planning, and ensuring their long-term management.

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4 Yosua Partahian Siahaan, 'Plantation-Driven Deforestation and Ecosystem Degradation: Assessing the Efficacy of Environmental Governance in Tropical Forest Landscapes', *Jurnal Bisnis Kehutanan dan Lingkungan*, 3.2 (2026), 131–44 https://doi.org/10.61511/jbkl.v3i2.2026.3146

5 Siahaan, 'Plantation-Driven Deforestation'.

6 Alison R. Styring and others, 'Determining High Conservation Values in Production Landscapes: Biodiversity and Assessment Approaches', *Frontiers in Environmental Science*, 10 (2022), 783794 https://doi.org/10.3389/fenvs.2022.783794

7 Styring and others, 'Determining High Conservation Values'.

8 Siti Nurjannah, Ervizal Amzu, and Arzyana Sunkar, 'Peran Kawasan Bernilai Konservasi Tinggi Bagi Pelestarian Keanekaragaman Hayati di Perkebunan Kelapa Sawit Provinsi Riau', *Risalah Kebijakan Pertanian dan Lingkungan*, 3.1 (2016), 68–77; Hafizah Nahlunnisa, Ervizal A. M. Zuhud, and Yanto Santosa, 'Keanekaragaman Spesies Tumbuhan di Areal Nilai Konservasi Tinggi (NKT) Perkebunan Kelapa Sawit Provinsi Riau', *Media Konservasi*, 21.1 (2016), 91–98 https://doi.org/10.29244/medkon.21.1.91-98

9 Hafizah Nahlunnisa, Ervizal A. M. Zuhud, and Yanto Santosa, 'Prospek Konservasi Tumbuhan di Areal Nilai Konservasi Tinggi Perkebunan Kelapa Sawit Riau', *ULIN: Jurnal Hutan Tropis*, 6.1 (2022), 68–79 https://doi.org/10.32522/ujht.v6i1.6066

10 Sarah A. Scriven and others, 'Testing the Benefits of Conservation Set-Asides for Improved Habitat Connectivity in Tropical Agricultural Landscapes', *Journal of Applied Ecology*, 56.10 (2019), 2274–85 https://doi.org/10.1111/1365-2664.13472

11 Janice Ser Huay Lee and others, 'Does Oil Palm Certification Create Trade-Offs between Environment and Development in Indonesia?', *Environmental Research Letters*, 15 (2020), 124064 https://doi.org/10.1088/1748-9326/abc279

The shift from voluntary to regulatory HCV practice also changes the legal character of HCV obligations. Under voluntary certification, the obligation to identify and maintain HCV areas arises from the contractual relationship between a company and a certification scheme, and its enforcement depends on audits and the threat of losing certification. Under public regulation, the obligation arises from law, binds all addressees within the territory irrespective of their certification status, and is enforced by public authorities through administrative instruments. This transformation brings HCV within the domain of environmental administrative law, in which the state uses planning, permitting, supervision, and sanctions to secure environmental objectives.[12] It also subjects HCV governance to the principles that govern the exercise of public authority, including legality, legal certainty, participation, and accountability.[13] The design of HCV regulation must therefore satisfy not only ecological criteria but also the requirements of good legislation and good administration.

A growing body of literature has accordingly examined the jurisdictional approach, in which governments at the district or provincial level take the lead in setting sustainability standards for an entire territory.[14] Seymour, Aurora, and Arif identify the incentives and actions that have encouraged Indonesian subnational governments to pursue jurisdictional sustainability and the connections that facilitate such efforts.[15] Padmanaba and others report on a pilot project in Seruyan Regency, Central Kalimantan, in which HCV areas were designated through a regulatory instrument; they show that the outcome of designation was highly sensitive to the parameters laid down in regulation and to lobbying by interested parties, and that about three-quarters of the identified HCV area lay outside the exclusive authority of the district.[16] Their study demonstrates both the possibility and the legal complexity of transforming HCV from a voluntary standard into a public regulatory instrument.

This transformation takes place within a framework of decentralised environmental authority that is itself contested. Law Number 23 of 2014 on Regional Government classifies the environment as a concurrent governmental affair shared among the central, provincial, and regency or municipal governments, while forestry authority has been largely withdrawn from regencies.[17] Muhyidin argues that post-decentralisation forest governance has been characterised by efforts of the central government to retain control over forests.[18] Mahardika shows that the Job Creation Law has further reshaped the authority of regional governments in environmental protection and management.[19] At the same time, international evidence suggests that decentralisation can affect the effectiveness of protected areas in complex ways.[20] Regional environmental governance in Indonesia is thus defined by a tension between the territorial proximity of regencies to land-use decisions and the progressive centralisation of key authorities.

This tension has practical consequences for the ability of regencies to protect ecologically important areas. Rosdiana and others show, in their study of the Balikpapan Bay essential ecosystem area in East Kalimantan, that areas of high ecological value located outside formal conservation areas remain

[12] Hardjasoemantri, *Hukum Tata Lingkungan*; Rahmadi, *Hukum Lingkungan di Indonesia*.

[13] Maria Farida Indrati, *Ilmu Perundang-Undangan 1: Jenis, Fungsi Dan Materi Muatan* (Yogyakarta: Kanisius, 2017); Muhammad Ikhsan Ritonga and others, 'Partisipasi Masyarakat Dalam Pembentukan Peraturan Daerah', *Jurnal Pendidikan Tambusai*, 7.2 (2023), 13333–40 https://doi.org/10.31004/jptam.v7i2.8513

[14] Frances J. Seymour, Leony Aurora, and Joko Arif, 'The Jurisdictional Approach in Indonesia: Incentives, Actions, and Facilitating Connections', *Frontiers in Forests and Global Change*, 3 (2020), 503326 https://doi.org/10.3389/ffgc.2020.503326

[15] Seymour, Aurora, and Arif, 'The Jurisdictional Approach in Indonesia'.

[16] Michael Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation Using Regulatory Instruments: An Indonesian Pilot Project', *Frontiers in Environmental Science*, 11 (2023), 1226070 https://doi.org/10.3389/fenvs.2023.1226070

[17] Law of the Republic of Indonesia Number 23 of 2014 on Regional Government, Annex on the Division of Concurrent Governmental Affairs in the Environmental and Forestry Sectors.

[18] Ali Muhyidin, 'Guarding Central Government Control over Forest: Forest Governance in the Post Decentralization Indonesia', *Jurnal Politik*, 4.1 (2018), 5–30 https://doi.org/10.7454/jp.v4i1.186

[19] Muhammad Mahardika, 'Eksistensi Kewenangan Daerah Dalam Perlindungan Dan Pengelolaan Lingkungan Hidup Pasca Diterbitkannya Undang-Undang Cipta Kerja', *Journal of Government: Kajian Manajemen Pemerintahan dan Otonomi Daerah*, 9.1 (2023), 1–9 https://doi.org/10.52447/gov.v9i1.7280

[20] Daniela A. Miteva and Subhrendu K. Pattanayak, 'The Effectiveness of Protected Areas in the Context of Decentralization', *World Development*, 142 (2021), 105446 https://doi.org/10.1016/j.worlddev.2021.105446

vulnerable when their legal status and the responsibilities of the authorities concerned are not clearly defined.[21] Kumandhani similarly finds that environmental law enforcement by regional governments is hampered by unclear authority and limited capacity.[22] The amendment of the conservation law by Law Number 32 of 2024 has opened a new avenue by introducing preservation areas outside conservation areas, which may include HCV areas, but the implementation of this concept depends on further regulation.[23] HCV regulation by regencies can be understood as an attempt to fill part of this gap from below, by giving legal status to ecologically and socially important areas within production landscapes.

It is against this background that Bulungan Regency enacted Regent Regulation Number 26 of 2025 on Guidelines for the Identification, Management and Monitoring of Areas with High Conservation Value, promulgated on 10 December 2025.[24] The Regent Regulation follows the earlier East Kalimantan Governor Regulation Number 43 of 2021 on the Management of Areas with High Conservation Value in Plantation Areas, but it extends the HCV approach beyond plantations to other land-based activities and to areas both inside and outside permit areas.[25] As one of the first regency-level instruments of its kind, it offers an important opportunity to examine how HCV can be institutionalised in regional law.

Existing legal scholarship has examined regional environmental law enforcement, the effect of the Job Creation Law on regional authority, risk-based licensing, the protection of essential ecosystem areas, and the recognition of indigenous rights through free, prior and informed consent (FPIC).[26] The ecological and policy literature has examined HCV assessment, certification, and jurisdictional approaches.[27] What remains largely unexamined is the regulatory design of HCV instruments at the regency level: the legal basis on which a regency may regulate HCV areas, the institutional and procedural choices embodied in such regulations, and the design gaps that may limit their effectiveness. This study addresses that gap by examining the Bulungan Regent Regulation as a case of regulatory design.

The novelty of this study lies in three aspects. First, it treats a regency HCV regulation as an object of legal design analysis, rather than as a technical conservation tool, and evaluates it against the requirements of the Indonesian legal order concerning authority, hierarchy, and content of legislation. Second, it connects the findings of ecological and policy studies on HCV set-asides, certification, and jurisdictional approaches to specific design choices in regional law, thereby explaining how the effectiveness of HCV depends on legal design. Third, it proposes a reconstructed

[21] Rosdiana and others, 'Perlindungan Hukum Terhadap Kawasan Ekosistem Esensial Teluk Balikpapan', *Jurnal Lex Suprema*, 4.2 (2022).

[22] Prahesti Sekar Kumandhani, 'Penegakan Hukum Lingkungan Hidup Oleh Pemerintah Daerah Dalam Kerangka Otonomi Daerah', *Dharmasisya: Jurnal Program Magister Hukum FHUI*, 2.3 (2023).

[23] Nabila Syahrani, 'Free, Prior Dan Informed Consent Untuk Jaminan Tenurial Dalam Areal Preservasi', *PUSKAPSI Law Review*, 5.2 (n.d.) https://doi.org/10.19184/puskapsi.v5i2.53788; Candra Kurniansyah and others, 'Kebijakan Hukum Pidana Dalam Perlindungan Satwa Yang Dilindungi di Indonesia: Analisis Terhadap Undang-Undang Nomor 32 Tahun 2024 Tentang Konservasi Sumber Daya Alam Hayati dan Ekosistem (KSDAHE)', *Lex Journal: Kajian Hukum & Keadilan* (2026), 339–56.

[24] Regulation of the Regent of Bulungan Number 26 of 2025 on Guidelines for the Identification, Management and Monitoring of Areas with High Conservation Value.

[25] Regulation of the Governor of East Kalimantan Number 43 of 2021 on the Management of Areas with High Conservation Value in Plantation Areas; Article 2 and Article 6 of Regulation of the Regent of Bulungan Number 26 of 2025.

[26] Kumandhani, 'Penegakan Hukum Lingkungan Hidup'; Mahardika, 'Eksistensi Kewenangan Daerah'; Anjar Setiarma, Wilson Tungmiharja, and Simona Bustani, 'Implikasi Perizinan Berusaha Berbasis Risiko Terhadap Eksploitasi Sumber Daya Alam Dalam Upaya Percepatan Investasi di Indonesia', *Ferenda*, 2.1 (2024), 44–56 https://doi.org/10.25105/ferenda.v2i1.19701; Rosdiana and others, 'Perlindungan Hukum Terhadap Kawasan Ekosistem Esensial'; Saher Remal Agungta Ketaren and M. Rizki Yudha Prawira, 'Unheard Voices: Analyzing Non-Compliance with the FPIC Principle in Protecting Indigenous Peoples' Rights in Indonesia', *Law Development Journal*, 6.4 (2024), 478–502 https://doi.org/10.30659/ldj.6.4.478-502

[27] Styring and others, 'Determining High Conservation Values'; Lee and others, 'Does Oil Palm Certification Create Trade-Offs'; Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.

model that integrates legal certainty, compliance, community rights, multilevel coordination, and adaptive management. In doing so, the study seeks to bridge the literatures on environmental law, legislative science, and landscape conservation.[28]

The study addresses four research questions. First, what is the legal basis and authority of a regency to regulate HCV areas within the Indonesian legal system? Second, how is HCV governance designed in Bulungan Regent Regulation Number 26 of 2025? Third, what are the design gaps that may limit the effectiveness of the Regent Regulation? Fourth, what model of regulatory reconstruction can strengthen HCV-based regional environmental governance in Bulungan and comparable regencies? By answering these questions, the study seeks to contribute to the literature on regional environmental law, regulatory design, and the jurisdictional approach to sustainable land use.

Method

This study employs normative legal research, which examines law as a system of norms and evaluates its coherence, adequacy, and design. Three approaches are combined. The statutory approach examines the provisions of the 1945 Constitution, the laws on environmental protection and management, conservation, plantations, regional government, spatial planning, and the formation of legislation, together with the implementing regulations on risk-based licensing and sustainable palm oil certification. The conceptual approach draws on the concepts of HCV, regional environmental authority, the hierarchy and content of legislation, and regulatory impact assessment.[29] The comparative approach contrasts the Bulungan Regent Regulation with East Kalimantan Governor Regulation Number 43 of 2021, the most directly relevant regional precedent, and draws on lessons from the Seruyan pilot reported in the literature.[30]

The analysis is framed as a regulatory design study. Regulatory design refers to the choices that legislators and regulators make about the objectives, scope, institutions, procedures, obligations, compliance mechanisms, and review processes of a regulation. To structure this analysis, the study draws on the logic of regulatory impact assessment (RIA), which asks whether a regulation addresses a clearly identified problem, considers alternatives, involves affected parties, and provides for monitoring and evaluation.[31] Nasokah shows that RIA can serve as a means of guaranteeing public participation in the drafting of regional regulations, while Novemyanto, Nur, and Ridlo argue that reformed RIA is needed to restore regulatory rationality in Indonesian law-making.[32] These insights are applied here not as a quantitative assessment but as a qualitative framework for evaluating the design of the Regent Regulation.

The legal materials consist of primary materials, namely the legislation listed above; secondary materials, comprising peer-reviewed journal articles and authoritative textbooks on environmental law and legislative science; and the text of the Bulungan Regent Regulation itself. The text of the Regent Regulation was examined as published in a public legal database. Some parts of that text, including the considerations and legal bases in its preamble and the full content of certain provisions such as those concerning supervision and sanctions, could not be examined in full. The analysis of these elements is therefore limited, and the conclusions concerning them should be read as conditional on the official text. All legal materials were analysed qualitatively through legal

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[28] Rahmadi, *Hukum Lingkungan di Indonesia*; Indrati, *Ilmu Perundang-Undangan 1*; Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.

[29] Styring and others, 'Determining High Conservation Values'; Indrati, *Ilmu Perundang-Undangan 1*; Nasokah, 'Implementasi Regulatory Impact Assessment (RIA) Sebagai Upaya Menjamin Partisipasi Masyarakat Dalam Penyusunan Peraturan Daerah', *Jurnal Hukum IUS QUIA IUSTUM*, 15.3 (2008), 443–58 https://doi.org/10.20885/iustum.vol15.iss3.art5

[30] Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.

[31] Nasokah, 'Implementasi Regulatory Impact Assessment'; Alfin Dwi Novemyanto, Rismawati Nur, and Muhammad Rosyid Ridlo, 'Reforming the Regulatory Impact Assessment to Restore Regulatory Rationality in Indonesia's Fast-Track Legislation', *Jurnal Pemerintahan dan Politik*, 11.1 (2026), 135–52 https://doi.org/10.36982/jpp.v11i1.6136

[32] Nasokah, 'Implementasi Regulatory Impact Assessment'; Novemyanto, Nur, and Ridlo, 'Reforming the Regulatory Impact Assessment'.

interpretation, systematisation, and comparison, and the results are presented descriptively and prescriptively.

The analysis proceeds in four steps that correspond to the research questions. The first step identifies the constitutional, statutory, and regulatory provisions that confer and limit the authority of regencies to regulate HCV areas. The second step examines the design of the Regent Regulation through eight elements: scope and addressees, institutions, criteria, identification and designation, management planning, information and integration, obligations, and monitoring, supervision, and incentives. The third step evaluates these elements against the legal framework, the comparative model, and the findings of the ecological and policy literature in order to identify design gaps. The fourth step formulates recommendations for strengthening HCV governance in the form of a reconstructed regulatory model.

Results and Discussions

The Legal Basis and Authority of the Regency to Regulate High Conservation Value Areas

The authority of a regency to regulate HCV areas must be traced through several layers of the Indonesian legal order. At the constitutional level, Article 18 paragraph (6) of the 1945 Constitution grants regional governments the right to enact regional regulations and other regulations in order to implement autonomy and assistance tasks.[33] The constitutional right to a good and healthy environment and the principle of sustainability in the organisation of the national economy provide the substantive orientation of that authority.[34] Asshiddiqie argues that these provisions make the Indonesian Constitution a green constitution, so that environmental protection is not merely a policy preference but a constitutional obligation of every level of government.[35] On this reading, a regency that regulates HCV areas is not acting outside its mandate but is giving concrete effect to constitutional environmental norms within its territory.

At the statutory level, the principal source of regency environmental authority is Law Number 32 of 2009 on Environmental Protection and Management. The law assigns to regency and municipal governments a range of duties and authorities, including the determination of regency environmental policies, the implementation of environmental protection and management plans, the management of biodiversity information, and supervision of compliance by business actors with environmental permits and legislation.[36] Rahmadi explains that the law adopts an integrated system of environmental protection and management in which planning, utilisation, control, maintenance, supervision, and law enforcement are carried out by the central and regional governments according to their respective authorities.[37] Hardjasoemantri similarly emphasises that environmental administrative law rests on the coordinated use of planning and permitting instruments by public authorities.[38] The identification and management of HCV areas fits within this integrated system as an instrument of environmental planning and control at the regency level.

The relationship between HCV regulation and the instruments of the Environmental Law deserves closer attention. The Environmental Law provides for a hierarchy of planning instruments, including environmental protection and management plans, and for prevention instruments such as strategic environmental assessment, spatial planning, environmental quality standards, criteria for environmental damage, environmental impact assessment, and environmental approval.[39] HCV identification and designation can be understood as a specialised form of environmental planning that identifies, within production landscapes, the areas whose values must be maintained, and as an input into spatial planning and environmental assessment. Hardjasoemantri's account of

33 Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia.

34 Articles 28H paragraph (1) and 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia.

35 Asshiddiqie, *Green Constitution*.

36 Article 63 paragraph (3) of Law of the Republic of Indonesia Number 32 of 2009 on Environmental Protection and Management, as amended by Law Number 6 of 2023.

37 Rahmadi, *Hukum Lingkungan di Indonesia*.

38 Hardjasoemantri, *Hukum Tata Lingkungan*.

39 Law of the Republic of Indonesia Number 32 of 2009 on Environmental Protection and Management, as amended by Law Number 6 of 2023.

environmental administrative law underlines that such planning instruments are effective only when they are connected to permitting decisions.[40] The design question for HCV regulation is therefore how to ensure that the results of HCV identification feed into spatial plans, environmental assessments, and licensing conditions, rather than remaining a separate inventory without legal consequences.

Law Number 23 of 2014 on Regional Government confirms this position by classifying the environment as a concurrent governmental affair, divided among the central, provincial, and regency or municipal governments. Within this division, regencies retain authorities concerning environmental planning, the control of pollution and damage, the management of biodiversity, and the supervision of environmental compliance within their territories, while most forestry authorities, including the management of forest areas, have been assigned to the central and provincial governments.[41] Muhyidin interprets this reallocation as part of a broader effort by the central government to guard its control over forests after decentralisation.[42] The consequence for HCV regulation is significant: a regency may regulate HCV areas on the basis of its environmental authority, particularly in areas outside the state forest estate, such as land allocated for other uses (*areal penggunaan lain*), but its authority over HCV areas within the forest estate is limited.

The Job Creation Law has further complicated this picture. Mahardika shows that the Job Creation Law and its implementing regulations have reshaped the existence of regional authority in environmental protection and management, drawing a number of authorities towards the centre and redefining others.[43] Devara, Priyanta, and Adharani explain that the law replaced the former environmental permit with environmental approval within a risk-based approach to business licensing.[44] Setiarma, Tungmiharja, and Bustani argue that risk-based licensing, while intended to accelerate investment, carries implications for the exploitation of natural resources that require careful safeguards.[45] For HCV regulation, these developments mean that regency instruments must be designed to operate within, rather than in opposition to, the centralised licensing architecture of the Online Single Submission (OSS) system. The Bulungan Regent Regulation's attempt to integrate HCV into OSS-based processes must be understood in this light.

The sectoral laws on plantations and conservation provide further support. Law Number 39 of 2014 on Plantations, as amended, requires plantation business actors to protect the environment and to undertake plantation development on a sustainable basis.[46] Presidential Regulation Number 44 of 2020 establishes the Indonesian Sustainable Palm Oil (ISPO) certification system, which is mandatory for oil palm plantation businesses.[47] Fahamsyah and Pramudya describe ISPO as the national response to the challenges of sustainable palm oil development, while Hidayah and Auliyak examine the extent to which human rights principles are reflected in its standards.[48] Rahayu and others show that ISPO is being adapted to the European Union Deforestation Regulation in order

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40 Hardjasoemantri, *Hukum Tata Lingkungan*.

41 Law of the Republic of Indonesia Number 23 of 2014 on Regional Government, Annex on the Division of Concurrent Governmental Affairs in the Environmental and Forestry Sectors.

42 Muhyidin, 'Guarding Central Government Control over Forest'.

43 Mahardika, 'Eksistensi Kewenangan Daerah'.

44 Evan Devara, Maret Priyanta, and Yulinda Adharani, 'Inovasi Pendekatan Berbasis Risiko Dalam Persetujuan Lingkungan Berdasarkan Undang-Undang Cipta Kerja', *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, dan Agraria*, 1.1 (2021) https://doi.org/10.23920/litra.v1i1.641

45 Setiarma, Tungmiharja, and Bustani, 'Implikasi Perizinan Berusaha Berbasis Risiko'.

46 Law of the Republic of Indonesia Number 39 of 2014 on Plantations, as amended by Law Number 6 of 2023.

47 Presidential Regulation of the Republic of Indonesia Number 44 of 2020 on the Indonesian Sustainable Palm Oil Plantation Certification System.

48 Ermanto Fahamsyah and Eusebius Pantja Pramudya, 'Sistem ISPO Untuk Menjawab Tantangan Dalam Pembangunan Kelapa Sawit Indonesia Yang Berkelanjutan', *Masyarakat Indonesia*, 43.1 (2017), 65–79 https://doi.org/10.14203/jmi.v43i1.718; Ratu Bilqis Naily Hidayah and Waro Satul Auliyak, 'Principles of Human Rights (HAM) in Indonesian Sustainable Palm Oil (ISPO)', *Indonesian Journal of Law and Islamic Law*, 5.2 (2023), 89–97 https://doi.org/10.35719/ijlil.v5i2.290

to shape Indonesia's normative position in the global market.[49] These developments create a market and regulatory environment in which regency-level HCV regulation can serve as a bridge between national certification and local land-use governance.

The amendment of the conservation law by Law Number 32 of 2024 adds a new dimension. The amended law introduces the concept of preservation areas (*areal preservasi*) as areas outside conservation areas that serve as ecosystem buffers and may include customary land and HCV areas.[50] Syahrani argues that, because such areas may overlap with the territories of local and customary communities, their designation must be accompanied by FPIC in order to secure tenure.[51] Kurniansyah and others show that the amended law also strengthens criminal-law policy for the protection of protected species.[52] For regencies, the concept of preservation areas offers a potential statutory anchor for HCV regulation, but its implementation depends on further regulations that clarify the respective roles of central and regional governments.

The emergence of market-based deforestation requirements adds an external dimension to this legal framework. Rahayu and others show that the adaptation of ISPO to the European Union Deforestation Regulation is reshaping Indonesia's normative position in the global palm oil market.[53] Lee and others' study of certified plantations suggests that the environmental gains associated with certification are real but uneven and that they interact with development outcomes for surrounding communities.[54] For a regency such as Bulungan, whose plantation sector is oriented towards domestic and international markets, the existence of a credible public HCV framework may help producers demonstrate compliance with sustainability requirements, while also giving the regency a stronger voice in shaping how such requirements are applied within its territory. Seymour, Aurora, and Arif note that such market and reputational incentives have been among the factors encouraging Indonesian subnational governments to pursue jurisdictional sustainability.[55] Regency HCV regulation thus sits at the intersection of national law, regional authority, and transnational market governance.

The form of regulation chosen also matters. Law Number 12 of 2011 on the Formation of Legislation, as amended, establishes a hierarchy in which regency regional regulations occupy the lowest rung, and recognises other regulations, including those issued by regional heads, as binding to the extent that they are ordered by higher legislation or established on the basis of authority.[56] Indrati explains that each type of legislation has a distinct function and appropriate content, and that the imposition of obligations and sanctions on citizens is properly the content of laws and regional regulations enacted with the participation of the representative body.[57] A regent regulation, by contrast, is an executive instrument that implements higher norms.

This distinction has a democratic as well as a technical rationale. Regional regulations are enacted jointly by the regional head and the regional people's representative council, and their drafting is subject to requirements of academic study, public consultation, and harmonisation. Regional head regulations are issued by the executive alone and are generally intended to elaborate the technical and procedural details of higher norms. Nasokah argues that RIA can strengthen public participation in the drafting of regional regulations by requiring that the problem, objectives, alternatives, and impacts of a proposed regulation be made explicit and discussed with affected parties.[58] Novemyanto, Nur, and Ridlo show that the weakening of such rationality-enhancing procedures in fast-track legislation

[49] Dini Septyana Rahayu and others, 'Adaptation of ISPO to the EUDR in Shaping Indonesia's Normative Position in the Global Palm Oil Market', *Journal of International and Local Studies*, 10.2 (2026), 138–48 https://doi.org/10.56326/eam2cm31

[50] Syahrani, 'Free, Prior Dan Informed Consent'.

[51] Syahrani, 'Free, Prior Dan Informed Consent'.

[52] Kurniansyah and others, 'Kebijakan Hukum Pidana Dalam Perlindungan Satwa'.

[53] Rahayu and others, 'Adaptation of ISPO to the EUDR'.

[54] Lee and others, 'Does Oil Palm Certification Create Trade-Offs'.

[55] Seymour, Aurora, and Arif, 'The Jurisdictional Approach in Indonesia'.

[56] Articles 7 paragraph (1) and 8 paragraphs (1) and (2) of Law of the Republic of Indonesia Number 12 of 2011 on the Formation of Legislation, as last amended by Law Number 13 of 2022.

[57] Indrati, *Ilmu Perundang-Undangan 1*.

[58] Nasokah, 'Implementasi Regulatory Impact Assessment'.

has undermined the quality of Indonesian law-making.[59] The choice of instrument therefore affects not only the binding force of HCV norms but also the legitimacy and quality of the process through which they are made. Article 246 of the Regional Government Law confirms that regional heads may issue regional head regulations to implement regional regulations or on the basis of authority conferred by legislation.[60] Zaman, Saraswati, and Herawati show that the relationship between ministerial regulations and regional regulations remains a source of uncertainty in the Indonesian legal system.[61] This hierarchical position shapes what the Bulungan Regent Regulation can and cannot do, a theme to which this study returns below.

Table 1 summarises the legal framework within which the Bulungan Regent Regulation operates.

Table 1. Legal Framework for HCV Regulation at the Regency Level

No.	Legal Instrument	Relevance to HCV Regulation in Bulungan
1	1945 Constitution (Articles 18 paragraph (6), 28H paragraph (1), and 33 paragraph (4))	Grants regional governments the power to enact regulations; guarantees the right to a good and healthy environment; requires an economy organised on sustainability and environmental insight.
2	Law Number 32 of 2009 on Environmental Protection and Management, as amended by Law Number 6 of 2023 (Article 63 paragraph (3))	Assigns regencies duties in environmental policy, planning, biodiversity information, and supervision of compliance by business actors.
3	Law Number 23 of 2014 on Regional Government (Article 246 and Annex)	Classifies the environment as a concurrent affair; limits regency forestry authority; empowers regional heads to issue regional head regulations.
4	Law Number 12 of 2011 on the Formation of Legislation, as last amended by Law Number 13 of 2022 (Articles 7 and 8)	Determines the hierarchy and binding force of regional regulations and regional head regulations.
5	Law Number 5 of 1990, as amended by Law Number 32 of 2024 (KSDAHE)	Introduces preservation areas outside conservation areas, which may include customary land and HCV areas.
6	Law Number 39 of 2014 on Plantations; Presidential Regulation Number 44 of 2020 (ISPO)	Require sustainable, environmentally responsible plantation development and mandatory sustainability certification for oil palm.
7	Government Regulation Number 5 of 2021 on Risk-Based Business Licensing	Establishes the risk-based licensing architecture and the OSS system into which HCV obligations must be integrated.
8	East Kalimantan Governor Regulation Number 43 of 2021	Regional precedent on HCV management in plantation areas, including indicative maps, management plans, supervision, complaints, awards, and funding.
9	Bulungan Regent Regulation Number 26 of 2025	Establishes guidelines for the identification, management, and monitoring of HCV areas in Bulungan Regency.

The legal framework shows that the regency's authority to regulate HCV areas is real but bounded. It is real because the Constitution, the Environmental Law, and the Regional Government Law

[59] Novemyanto, Nur, and Ridlo, 'Reforming the Regulatory Impact Assessment'.

[60] Article 246 of Law of the Republic of Indonesia Number 23 of 2014 on Regional Government.

[61] Muhamad Nafi Uz Zaman, Retno Saraswati, and Ratna Herawati, 'Analisis Dan Evaluasi Kedudukan Peraturan Menteri Terhadap Peraturan Daerah Dalam Sistem Ketatanegaraan Indonesia', *Diponegoro Law Journal*, 9.2 (2020), 384–402.

confer on regencies authority over environmental planning, biodiversity management, and supervision of compliance within their territories. It is bounded because forestry authority lies largely with higher levels of government, licensing is increasingly centralised, and the form of a regent regulation limits the imposition of new obligations and sanctions. Rangkuti observes that environmental policy at every level must be integrated with national environmental policy if it is to be effective.[62] The design of HCV regulation at the regency level must therefore be judged both by its internal quality and by its fit within this multilevel framework.

The Regulatory Design of Bulungan Regent Regulation Number 26 of 2025

The Bulungan Regent Regulation consists of twenty-three articles accompanied by annexes setting out technical guidance. Its first article defines twenty-three key terms. Of these, the most fundamental is the definition of high conservation value as the biological, ecological, social, or cultural values of great importance inherent in an area.[63] The regulation distinguishes between areas with high conservation value generally and regional areas with high conservation value (*ANKTD*), which are those designated through the procedure established by the regulation, and it introduces the instrument of a management and monitoring plan (*RPP ANKTD*) for those areas.[64] The definition broadly corresponds to that of East Kalimantan Governor Regulation Number 43 of 2021, which defines HCV areas by reference to their biological, ecological, social, or cultural importance at site, regional, national, or global level.[65] The alignment of terminology between the provincial and regency instruments is a positive design feature, because it facilitates coherence across levels of government.

Scope and addressees. The scope of the Regent Regulation is notably broad. It applies to regional apparatus, village governments, permit holders, and other stakeholders, and it covers land-based business permits in the plantation, agriculture, and tourism sectors.[66] This breadth distinguishes it from the provincial regulation, which is limited to plantation areas.[67] The extension to agriculture and tourism recognises that pressure on HCV areas does not arise from oil palm alone, and the explicit inclusion of village governments acknowledges that villages are both custodians of local landscapes and actors in land-use decisions. From a design perspective, broad scope increases the potential coverage of the regulation, but it also increases the demands on administrative capacity and the need for clear differentiation of obligations among addressees.

Institutional arrangements. The Regent Regulation establishes a working team for the identification, management, and monitoring of HCV areas. The regent and deputy regent act as patrons, the regional secretary as director, and the head of the regional apparatus responsible for the environment as chair, with members drawn from the relevant sectoral apparatus.[68] The team is entrusted with a wide range of tasks, from coordinating identification and verifying reports to preparing maps and management plans, facilitating integration into planning and licensing, and conducting monitoring and evaluation.[69] This cross-sectoral design responds to a central lesson of the jurisdictional literature, namely that sustainability outcomes depend on connections among government agencies, businesses, and civil society.[70]

The institutional design nevertheless raises questions of capacity and accountability. A working team composed of officials from multiple agencies depends on the time, expertise, and budget that each agency is able and willing to contribute. The literature on regional environmental law enforcement shows that limited human resources and unclear divisions of authority are recurring obstacles to the

[62] Siti Sundari Rangkuti, *Hukum Lingkungan Dan Kebijaksanaan Lingkungan Nasional* (Surabaya: Airlangga University Press, 2005).

[63] Article 1 of Regulation of the Regent of Bulungan Number 26 of 2025 on Guidelines for the Identification, Management and Monitoring of Areas with High Conservation Value.

[64] Article 1 of Regulation of the Regent of Bulungan Number 26 of 2025.

[65] Regulation of the Governor of East Kalimantan Number 43 of 2021 on the Management of Areas with High Conservation Value in Plantation Areas.

[66] Article 2 of Regulation of the Regent of Bulungan Number 26 of 2025.

[67] Regulation of the Governor of East Kalimantan Number 43 of 2021 on the Management of Areas with High Conservation Value in Plantation Areas.

[68] Articles 3 and 4 of Regulation of the Regent of Bulungan Number 26 of 2025.

[69] Article 4 of Regulation of the Regent of Bulungan Number 26 of 2025.

[70] Seymour, Aurora, and Arif, 'The Jurisdictional Approach in Indonesia'.

effective performance of regional environmental functions.[71] In addition, the composition of the team as described in the regulation is governmental; the extent to which scientists, civil society organisations, community representatives, and business associations are involved in its work is not specified in the text examined. Padmanaba and others' account of the Seruyan pilot suggests that multi-stakeholder involvement can enrich the information on which designation decisions are based but also exposes the process to competing interests.[72] A transparent rule on the participation of non-governmental actors, coupled with clear procedures for recording and responding to their input, would strengthen both the expertise and the legitimacy of the working team. Placing the team under the direction of the regional secretary gives it the authority needed to coordinate sectoral agencies whose mandates, such as licensing, agriculture, and spatial planning, bear directly on HCV areas.

Criteria for HCV. The Regent Regulation adopts six criteria: biodiversity; landscape-level ecosystems; rare or threatened ecosystems and habitats; ecosystem services; the basic needs of local communities; and cultural values, with technical details set out in an annex.[73] These criteria mirror the internationally recognised HCV categories and thereby connect regional regulation to an established body of assessment practice.[74] The inclusion of community needs and cultural values is especially important, because it recognises that HCV is not only an ecological concept but also a social one. Studies in Riau confirm that HCV areas within plantations retain significant biodiversity, but they also show that the conservation value of these areas depends on consistent management.[75] By embedding the six criteria in law, the Regent Regulation gives them a public, binding status that they lack in voluntary certification.

The legal codification of HCV criteria nonetheless involves a trade-off between certainty and flexibility. Criteria that are defined too precisely may fail to capture local ecological and social variations, while criteria that are defined too broadly may leave excessive discretion to those who apply them. Styring and others show that HCV determination involves choices among different biodiversity data and assessment approaches, which may lead to different conclusions about the presence and extent of HCV.[76] The decision to set out the technical details of the criteria in an annex, rather than in the body of the regulation, allows them to be updated more easily but also means that their content is less visible to the public. A balance between certainty and flexibility can be achieved by stating the six criteria and their core elements in the regulation itself, while leaving detailed methods to technical guidelines subject to periodic review and public consultation.

Identification and designation. The regulation provides for the identification of regional HCV areas both inside and outside permit areas, with mapping at a scale of 1:20,000.[77] Identification proceeds in stages that include public consultation, and the involvement of village governments is expressly required.[78] Identification reports are to be assessed within three months, and any required revisions are to be completed within a further three months.[79] The resulting map of regional HCV areas is established by decree of the regent and is to be reviewed at least once every five years.[80] These provisions establish a clear sequence of identification, assessment, designation, and review, with time limits that promote procedural certainty. The requirement of public consultation and village involvement reflects the principle that regional legislation should be formed with meaningful participation.[81]

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[71] Kumandhani, 'Penegakan Hukum Lingkungan Hidup'; Mahardika, 'Eksistensi Kewenangan Daerah'.
[72] Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.
[73] Article 5 and Annex I of Regulation of the Regent of Bulungan Number 26 of 2025.
[74] Styring and others, 'Determining High Conservation Values'.
[75] Nurjannah, Amzu, and Sunkar, 'Peran Kawasan Bernilai Konservasi Tinggi'; Nahlunnisa, Zuhud, and Santosa, 'Keanekaragaman Spesies Tumbuhan'; Nahlunnisa, Zuhud, and Santosa, 'Prospek Konservasi Tumbuhan'.
[76] Styring and others, 'Determining High Conservation Values'.
[77] Article 6 of Regulation of the Regent of Bulungan Number 26 of 2025.
[78] Article 7 of Regulation of the Regent of Bulungan Number 26 of 2025.
[79] Article 8 of Regulation of the Regent of Bulungan Number 26 of 2025.
[80] Article 9 of Regulation of the Regent of Bulungan Number 26 of 2025.
[81] Ritonga and others, 'Partisipasi Masyarakat'; Nasokah, 'Implementasi Regulatory Impact Assessment'.

The choice of a regent decree as the instrument for designating maps is significant. It allows the designation to be updated relatively quickly as new information becomes available, but it also places considerable discretion in the hands of the executive. Padmanaba and others' study of the Seruyan pilot warns that HCV designation through regulatory instruments is highly sensitive to the parameters set in regulation and to lobbying by interested parties.[82] The transparency of the identification process and the clarity of the criteria are therefore critical safeguards against the capture of designation decisions.

Management planning. Once areas are designated, a management and monitoring plan for regional HCV areas is established by decree of the regent and remains valid for five years.[83] Permit holders whose areas contain HCV are required to submit management and monitoring plans at the permit level within three months.[84] The regulation also refers to the traditional wisdom of local communities in management.[85] This two-tier planning structure, comprising a regency-wide plan and permit-level plans, is an important innovation. It addresses the problem identified by Scriven and others, that HCV set-asides designed concession by concession fail to secure landscape connectivity.[86] A regency-wide plan can, in principle, link individual set-asides into corridors and prioritise restoration where it will produce the greatest ecological benefit.

The relationship between the regency-wide plan and permit-level plans must, however, be clearly defined. If permit-level plans are prepared independently by each permit holder and merely collected by the regional government, the landscape perspective may be lost. If, on the other hand, the regency-wide plan sets binding parameters for permit-level plans, such as the location of corridors, restoration priorities, and minimum management standards, it can ensure that individual plans contribute to a coherent whole. The provision that permit holders must submit their plans within three months gives a clear timetable, but the text examined does not indicate in detail how permit-level plans are to be assessed against the regency-wide plan or what happens if they are inadequate.[87] Nurjannah, Amzu, and Sunkar's analysis of the role of HCV areas in oil palm plantations in Riau suggests that the conservation contribution of these areas depends on their management and on their connection with surrounding landscapes.[88] Clear rules on the assessment and approval of permit-level plans would therefore enhance the effectiveness of the two-tier structure.

Information and integration. The Regent Regulation provides for an HCV information system managed by the regional apparatus responsible for communications and informatics.[89] It requires that regional HCV areas be integrated into regional and village development policy, the regional spatial plan and village spatial plans, regional and village budgets, and the OSS licensing system.[90] It further requires integration into the annual work plans of regional apparatus and the use of HCV management as an indicator of compliance.[91] This integration is perhaps the most important design feature of the regulation. It transforms HCV from a stand-alone conservation designation into a cross-cutting consideration that must be reflected in planning, budgeting, and licensing. In the terminology of environmental administrative law, it connects HCV to the core instruments of environmental planning and control.[92]

The integration with village spatial plans and village budgets is particularly noteworthy. It recognises that villages are not merely passive recipients of regency decisions but have their own planning and budgetary instruments through which they can support HCV management. Villages whose territories include HCV areas may, for example, incorporate those areas into village spatial plans, allocate village

[82] Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.
[83] Article 10 of Regulation of the Regent of Bulungan Number 26 of 2025.
[84] Article 11 of Regulation of the Regent of Bulungan Number 26 of 2025.
[85] Article 11 paragraph (3) of Regulation of the Regent of Bulungan Number 26 of 2025.
[86] Scriven and others, 'Testing the Benefits of Conservation Set-Asides'.
[87] Articles 10 and 11 of Regulation of the Regent of Bulungan Number 26 of 2025.
[88] Nurjannah, Amzu, and Sunkar, 'Peran Kawasan Bernilai Konservasi Tinggi'.
[89] Article 12 of Regulation of the Regent of Bulungan Number 26 of 2025.
[90] Article 13 of Regulation of the Regent of Bulungan Number 26 of 2025.
[91] Article 14 of Regulation of the Regent of Bulungan Number 26 of 2025.
[92] Hardjasoemantri, *Hukum Tata Lingkungan*; Rahmadi, *Hukum Lingkungan di Indonesia*.

funds to community-based patrols or restoration, and use village regulations to protect local resources. The provision for incentives to villages reinforces this role.[93] Integration with OSS, by contrast, depends on the technical and legal possibility of incorporating regency-level HCV information into a licensing system that is managed nationally. Devara, Priyanta, and Adharani's analysis of the risk-based approach to environmental approval suggests that environmental considerations are embedded in licensing primarily through the assessment of risk and the conditions of environmental approval.[94] The practical effectiveness of the OSS integration clause will therefore depend on whether HCV information is recognised as an input into risk assessment and environmental approval at the national level.

Management of unpermitted areas and obligations of permit holders. For HCV areas located outside permit areas, the regional government coordinates management, including restoration.[95] For areas within permits, the regulation lists the obligations of permit holders, which include the identification, management, and monitoring of HCV areas within their permits, the implementation of management plans, and reporting.[96] The allocation of responsibility according to whether an area is within or outside a permit is a sensible design choice, because it ensures that both company-held and public lands are covered. It is consistent with the approach of the provincial regulation, which identifies the permit-granting authority, the regent or mayor or, for cross-district areas, the governor, as responsible for supervising HCV management within plantation permits.[97]

Monitoring, supervision, incentives, and transition. The regional apparatus responsible for the environment conducts annual monitoring and evaluation and reports to the regent each March, while permit holders report each January.[98] Supervision is carried out by the environmental apparatus together with the licensing apparatus.[99] The regulation provides for incentives for permit holders and villages that manage HCV areas, to be determined by decree of the regent, and for funding from the regional budget and other lawful sources.[100] Existing HCV areas must be registered within six months, and the regulation entered into force on its promulgation.[101] The combination of reporting calendars, joint supervision, and incentives reflects a mixed compliance strategy that relies on both oversight and positive inducement.

Table 2 compares the principal design elements of the Bulungan Regent Regulation with those of the East Kalimantan Governor Regulation.

Table 2. Design Elements of the Bulungan Regent Regulation and the East Kalimantan Governor Regulation

No.	Design Element	Bulungan Regent Regulation 26/2025 compared with East Kalimantan Governor Regulation 43/2021
1	Scope	Bulungan: land-based permits in plantations, agriculture, and tourism, inside and outside permit areas (Arts. 2, 6). East Kalimantan: plantation areas.
2	Addressees	Bulungan: regional apparatus, village governments, permit holders, and stakeholders (Art. 2). East Kalimantan: permit-granting authorities and plantation businesses.
3	Institutions	Bulungan: working team led by the environmental apparatus under the regional secretary, with the regent as patron (Arts. 3–4).

93 Articles 13 and 20 of Regulation of the Regent of Bulungan Number 26 of 2025.
94 Devara, Priyanta, and Adharani, 'Inovasi Pendekatan Berbasis Risiko'.
95 Article 15 of Regulation of the Regent of Bulungan Number 26 of 2025.
96 Article 16 of Regulation of the Regent of Bulungan Number 26 of 2025.
97 Regulation of the Governor of East Kalimantan Number 43 of 2021 on the Management of Areas with High Conservation Value in Plantation Areas.
98 Articles 17 and 18 of Regulation of the Regent of Bulungan Number 26 of 2025.
99 Article 19 of Regulation of the Regent of Bulungan Number 26 of 2025.
100 Articles 20 and 21 of Regulation of the Regent of Bulungan Number 26 of 2025.
101 Articles 22 and 23 of Regulation of the Regent of Bulungan Number 26 of 2025.

4	Criteria	Bulungan: six criteria on biodiversity, landscapes, ecosystems and habitats, ecosystem services, community needs, and cultural values (Art. 5, Annex I).
5	Identification and designation	Bulungan: staged identification with public consultation and village involvement; 1:20,000 maps; designation by regent decree; review at least every five years (Arts. 6–9). East Kalimantan: indicative maps.
6	Management planning	Bulungan: regency-wide five-year plan by regent decree; permit-level plans within three months (Arts. 10–11). East Kalimantan: HCV management plans.
7	Integration	Bulungan: development policy, regional and village spatial plans, regional and village budgets, OSS, work plans, compliance indicators (Arts. 13–14).
8	Monitoring and supervision	Bulungan: annual evaluation, reports in January and March, joint supervision with the licensing apparatus (Arts. 17–19). East Kalimantan: guidance and supervision.
9	Incentives and funding	Bulungan: incentives for permit holders and villages; regional budget and other lawful sources (Arts. 20–21). East Kalimantan: complaints, awards, and funding.

Figure 1 depicts the regulatory design cycle that emerges from the Regent Regulation.

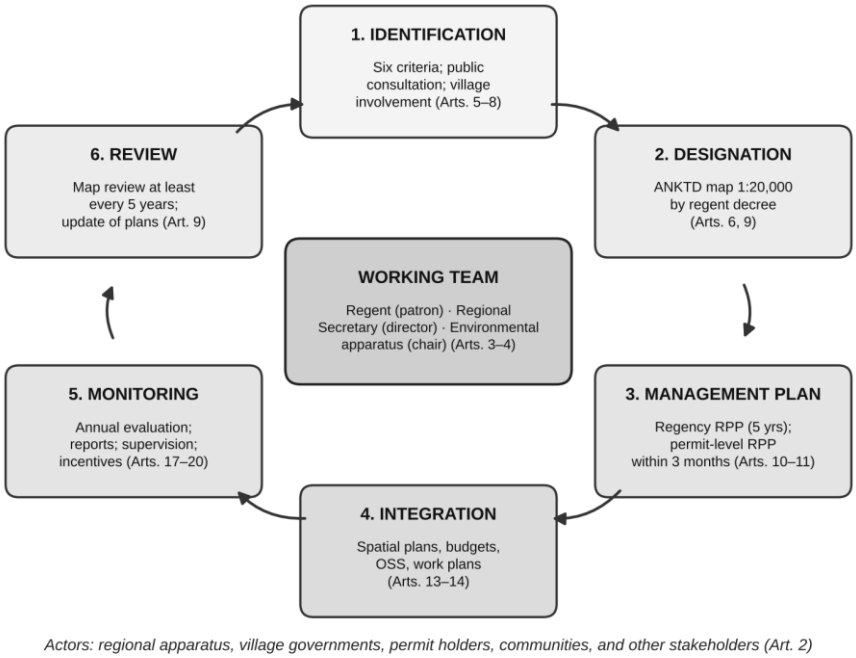


Figure 1. Regulatory design cycle of HCV governance under Bulungan Regent Regulation Number 26 of 2025

Taken together, the design elements show that the Bulungan Regent Regulation is a comprehensive and innovative instrument. It moves beyond the voluntary, company-led model of HCV practice by establishing a public procedure of identification and designation, a regency-wide management plan, integration into planning, budgeting, and licensing, and a monitoring and incentive system. In the language of the jurisdictional approach, it represents an attempt by a district government to set a territorial sustainability standard.[102] Compared with the provincial regulation, it is broader in sectoral

[102] Seymour, Aurora, and Arif, 'The Jurisdictional Approach in Indonesia'; Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.

and spatial scope and more explicit about integration and village involvement. These are significant achievements for a regency-level instrument.

The comparison with the provincial regulation also reveals a question of coherence between the two instruments. Bulungan lies in North Kalimantan, which was separated from East Kalimantan, so the East Kalimantan Governor Regulation does not apply directly to Bulungan; it serves here as a comparative model rather than as a higher norm.[103] This means that the Bulungan Regent Regulation operates without a provincial HCV framework above it. On the one hand, this gives the regency room to innovate, as reflected in its broader sectoral scope and its integration provisions. On the other hand, it leaves unresolved how HCV areas that extend into neighbouring regencies, or that require provincial authority, are to be managed. The East Kalimantan model, in which the governor is the competent authority for cross-district plantation areas, suggests that a provincial framework in North Kalimantan would be a valuable complement to the regency regulation.

Design Gaps in the Bulungan Regent Regulation

Despite its strengths, the Regent Regulation contains design gaps that may limit its effectiveness. These gaps arise partly from the internal choices of the regulation and partly from the constraints of the legal framework within which it operates. Six gaps are particularly significant.

First, the hierarchical position of the instrument. As a regent regulation, the instrument is an executive regulation that may implement higher legislation or be issued on the basis of authority, but it is not the product of joint deliberation between the regent and the regional people's representative council.[104] Indrati's account of the functions and content of legislation suggests that norms which impose significant obligations on citizens and business actors, and especially those which provide for sanctions, are properly located in laws or regional regulations.[105] The Regent Regulation imposes obligations on permit holders that may restrict the use of land within their permits, including the obligation to manage and report on HCV areas.[106] Where these obligations go beyond what is already required by higher legislation, their binding force may be contested. Zaman, Saraswati, and Herawati's analysis of the uncertain relationship between ministerial and regional regulations shows that disputes over the hierarchical position of executive instruments are not merely theoretical in Indonesia.[107] A regent regulation is therefore a suitable instrument for establishing procedures and technical guidance, but a less secure basis for new substantive obligations.

Second, the clarity of enforcement. The supervision provision assigns supervisory responsibility to the environmental apparatus together with the licensing apparatus, and the regulation uses the management of HCV areas as an indicator of compliance.[108] However, in the published text examined in this study, the consequences of non-compliance are not set out with sufficient visibility. Kumandhani shows that environmental law enforcement by regional governments within the framework of regional autonomy faces persistent obstacles, including limited capacity and unclear division of authority.[109] Rahmadi emphasises that administrative sanctions, ranging from written warnings to government coercion and the suspension or revocation of permits, are the primary instruments of environmental compliance.[110] Without a clear link between HCV obligations and the administrative sanctions available under the Environmental Law and the licensing regime, the obligations of permit holders risk remaining declaratory. This gap is aggravated by the centralisation

[103] Regulation of the Governor of East Kalimantan Number 43 of 2021 on the Management of Areas with High Conservation Value in Plantation Areas.

[104] Articles 7 paragraph (1) and 8 paragraphs (1) and (2) of Law of the Republic of Indonesia Number 12 of 2011 on the Formation of Legislation, as last amended by Law Number 13 of 2022.

[105] Indrati, *Ilmu Perundang-Undangan 1*.

[106] Article 16 of Regulation of the Regent of Bulungan Number 26 of 2025.

[107] Zaman, Saraswati, and Herawati, 'Analisis Dan Evaluasi Kedudukan Peraturan Menteri'.

[108] Articles 14 and 19 of Regulation of the Regent of Bulungan Number 26 of 2025.

[109] Kumandhani, 'Penegakan Hukum Lingkungan Hidup'.

[110] Rahmadi, *Hukum Lingkungan di Indonesia*.

of licensing through OSS, which may limit the regency's ability to impose permit-related sanctions directly.[111]

Third, the position of customary communities and FPIC. The Regent Regulation recognises the basic needs and cultural values of communities as HCV criteria, requires public consultation and village involvement, and refers to the traditional wisdom of local communities.[112] However, the published text does not use the term customary law community (*masyarakat hukum adat*) and does not provide expressly for FPIC. This omission matters because HCV areas defined by community needs and cultural values frequently overlap with customary territories, and their designation may affect the access of communities to land and resources. Ketaren and Prawira demonstrate that non-compliance with the FPIC principle has been a recurring source of injustice for indigenous peoples in Indonesia.[113] Gaman, Markus, and Tuasikal show, in the case of the Awyu customary forests in South Papua, that the legal protection of customary forests requires both national and international legal safeguards.[114] Dedihasriadi, Ananda, and Fernando argue, drawing on comparative experience from Canada and Norway, that FPIC must be embedded in law rather than left to corporate discretion.[115] Syahrani's argument that the designation of preservation areas under the amended conservation law must be accompanied by FPIC applies with equal force to regional HCV designation.[116] Hidayah and Auliyak's analysis of human rights principles in ISPO further shows that sustainability standards that do not adequately protect community rights remain vulnerable to criticism.[117] Consultation alone is not equivalent to consent, and the absence of explicit FPIC safeguards is a significant design gap.

The significance of this gap is heightened by the social and cultural criteria of HCV. When an area is designated as HCV because it meets the basic needs of local communities or holds cultural value for them, the designation directly concerns the relationship between those communities and their land. Designation can protect that relationship by preventing conversion of the area, but it can also restrict community uses if management plans are prepared without community consent. The reference to traditional wisdom in the management provisions acknowledges community knowledge, but it does not by itself confer rights.[118] Ketaren and Prawira's analysis shows that the voices of indigenous communities are often unheard when FPIC is not legally guaranteed.[119] An HCV regulation that protects community values without protecting community rights risks reproducing the very injustices that the social criteria of HCV were intended to prevent.

Fourth, the limits of district jurisdiction. The Regent Regulation applies to areas both inside and outside permit areas, but the regency's authority over the state forest estate is limited, and areas that span administrative boundaries fall within provincial competence.[120] Padmanaba and others' finding that about three-quarters of the HCV area identified in the Seruyan pilot lay outside exclusive district authority is a warning that regency-level regulation alone cannot secure HCV protection across a landscape.[121] Miteva and Pattanayak's analysis of protected areas under decentralisation similarly suggests that the effectiveness of conservation measures depends on the alignment of incentives and

[111] Setiarma, Tungmiharja, and Bustani, 'Implikasi Perizinan Berusaha Berbasis Risiko'; Devara, Priyanta, and Adharani, 'Inovasi Pendekatan Berbasis Risiko'.
[112] Articles 5, 7, and 11 paragraph (3) of Regulation of the Regent of Bulungan Number 26 of 2025.
[113] Ketaren and Prawira, 'Unheard Voices'.
[114] Nonce Kristin Gaman, Dwi Pratiwi Markus, and Hadi Tuasikal, 'Legal Protection of Customary Forests of the Awyu Tribe in South Papua: From a National and International Law Perspective', *Jurnal Ius Constituendum*, 10.2 (2025), 296–315 https://doi.org/10.26623/jic.v10i2.12042
[115] La Ode Dedihasriadi, Adhe Ismail Ananda, and Zico Junius Fernando, 'Free, Prior, and Informed Consent in Indonesia's Mining Law: Comparative Lessons from Canada and Norway', *Indonesian Comparative Law Review*, 8.1 (2025), 1–15 https://doi.org/10.18196/iclr.v8i1.27659
[116] Syahrani, 'Free, Prior Dan Informed Consent'.
[117] Hidayah and Auliyak, 'Principles of Human Rights'.
[118] Article 11 paragraph (3) of Regulation of the Regent of Bulungan Number 26 of 2025.
[119] Ketaren and Prawira, 'Unheard Voices'.
[120] Law of the Republic of Indonesia Number 23 of 2014 on Regional Government, Annex on the Division of Concurrent Governmental Affairs in the Environmental and Forestry Sectors.
[121] Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.

authority across levels of government.[122] Muhyidin's account of central control over forests indicates that this alignment cannot be presumed.[123] The Regent Regulation does not, in the text examined, set out explicit mechanisms for coordination with the provincial government, the Ministry responsible for forestry, or neighbouring regencies, beyond the general reference to integration and the working team's coordinating role. This gap is especially relevant for HCV categories such as landscape-level ecosystems and ecosystem services, which by their nature transcend administrative boundaries.

Fifth, data, standards, and verification. The regulation requires mapping at a scale of 1:20,000, establishes an information system, and provides for the assessment of identification reports.[124] These are important elements, but their effectiveness depends on technical standards that the regulation leaves largely to its annexes and to subsequent decrees. Styring and others show that HCV determination depends on the choice of biodiversity data and assessment approaches, and that different approaches may yield different results.[125] The credibility of regional HCV designation therefore depends on clear standards concerning the qualifications of assessors, the data to be used, the methods of verification, and public access to maps and reports. The provision that HCV maps are to be reviewed at least every five years is valuable, but without public data and independent verification, review may become a formality.

Sixth, restoration and outcome orientation. The regulation provides for the coordination of management and restoration in unpermitted areas and for the implementation of management plans by permit holders.[126] However, it does not, in the text examined, establish measurable targets for the condition of HCV areas, such as forest cover, connectivity, or species presence. Scriven and others' finding that many HCV set-asides are not forested and contribute little to connectivity unless restored shows that designation without restoration may produce only paper protection.[127] Lee and others' evidence on the trade-offs of certification further suggests that conservation outcomes must be considered together with their effects on communities.[128] Siahaan's assessment of the Bulungan landscape shows that the efficacy of environmental governance must ultimately be measured by its effect on forest loss and ecosystem degradation.[129] An outcome-oriented design would link monitoring and evaluation to ecological and social indicators and use the results to adjust management plans and incentives.

The question of who bears the cost of restoration is also left open. For HCV areas within permits, restoration may be regarded as part of the obligations of permit holders, but the extent of this obligation, particularly for areas degraded before the regulation entered into force, is not specified in the text examined. For areas outside permits, the regional government is responsible for coordinating management and restoration, but the funding provisions refer generally to the regional budget and other lawful sources.[130] Without a clear allocation of restoration responsibilities and dedicated financing, restoration may remain an aspiration rather than an obligation. Nahlunnisa, Zuhud, and Santosa's discussion of the prospects for plant conservation in HCV areas indicates that sustained management over time is necessary for those prospects to be realised.[131]

These six gaps are not unique to Bulungan.

They also interact with one another. The uncertain hierarchical position of the instrument weakens the enforcement of permit-holder obligations; the absence of FPIC safeguards may generate community opposition that complicates identification and designation; the limits of district jurisdiction reduce the area that can be effectively managed; and the absence of data standards and

[122] Miteva and Pattanayak, 'The Effectiveness of Protected Areas'.
[123] Muhyidin, 'Guarding Central Government Control over Forest'.
[124] Articles 6, 8, and 12 of Regulation of the Regent of Bulungan Number 26 of 2025.
[125] Styring and others, 'Determining High Conservation Values'.
[126] Articles 15 and 16 of Regulation of the Regent of Bulungan Number 26 of 2025.
[127] Scriven and others, 'Testing the Benefits of Conservation Set-Asides'.
[128] Lee and others, 'Does Oil Palm Certification Create Trade-Offs'.
[129] Siahaan, 'Plantation-Driven Deforestation'.
[130] Articles 15, 16, and 21 of Regulation of the Regent of Bulungan Number 26 of 2025.
[131] Nahlunnisa, Zuhud, and Santosa, 'Prospek Konservasi Tumbuhan'.

outcome targets makes it difficult to determine whether the regulation is achieving its objectives. Because of these interactions, reforms that address one gap in isolation are likely to produce limited results.

For instance, strengthening sanctions without securing community rights could intensify conflicts over land, while recognising community rights without coordinating with the forestry authority could leave the most important areas outside effective management. Similarly, investing in data and monitoring without clarifying the legal consequences of the results would produce information without action. An integrated approach that addresses the legal form, compliance, rights, coordination, and information dimensions together is therefore necessary. The reconstructed model proposed in the following section is designed with these interactions in mind, so that each pillar supports the others and the regulatory cycle as a whole becomes more robust.[132] They reflect broader challenges of regional environmental governance in Indonesia, where regional governments possess territorial proximity to land-use decisions but face limits of authority, capacity, and legal form.[133] Rosdiana and others' analysis of the legal protection of the Balikpapan Bay essential ecosystem area shows that, in East Kalimantan too, the protection of ecologically important areas outside conservation areas depends on the clarity of legal status and on the coordination of authorities.[134] Akib observes that the effectiveness of environmental law depends on the integration of global and national perspectives with local implementation.[135] The gaps identified here should therefore be understood as points at which the Regent Regulation can be strengthened, rather than as reasons to question its value.

Table 3 summarises the design gaps and the corresponding recommendations.

Table 3. Design Gaps and Recommendations for Strengthening HCV Governance in Bulungan

No.	Design Gap	Recommendation
1	Executive legal form limits new obligations and sanctions	Elevate core norms to a regency regional regulation supported by regulatory impact assessment and public participation.
2	Unclear consequences of non-compliance	Graduated administrative responses linked to environmental approval, licensing, and OSS; transparent incentives.
3	No explicit recognition of customary communities or FPIC	Recognise customary communities and territories; require FPIC before designation; provide for benefit sharing and community management.
4	Limited district jurisdiction over forest and cross-boundary areas	Formal coordination with the province, the central forestry and conservation authority, and neighbouring regencies; use of preservation areas.
5	Insufficient data, standards, and verification	Standards on assessors, data, and methods; independent verification; public access to maps, plans, and reports.
6	No measurable restoration and outcome targets	Ecological and social indicators such as forest cover and connectivity; restoration targets; indicator-based five-year review.

Towards a Reconstructed Model of HCV-Based Regional Environmental Governance

The analysis above suggests that HCV-based regional environmental governance in Bulungan can be strengthened through a reconstructed model built on five pillars. Each pillar responds to one or more of the design gaps identified in the preceding section and draws on the legal framework and the literature examined in this study.

[132] Seymour, Aurora, and Arif, 'The Jurisdictional Approach in Indonesia'; Kumandhani, 'Penegakan Hukum Lingkungan Hidup'.
[133] Mahardika, 'Eksistensi Kewenangan Daerah'; Kumandhani, 'Penegakan Hukum Lingkungan Hidup'.
[134] Rosdiana and others, 'Perlindungan Hukum Terhadap Kawasan Ekosistem Esensial'.
[135] Muhammad Akib, *Hukum Lingkungan: Perspektif Global Dan Nasional*, rev. edn (Depok: Rajawali Pers, 2018).

Pillar one: legal elevation and hierarchical coherence. The first pillar is the elevation of the core norms of HCV governance to a regency regional regulation enacted jointly by the regent and the regional people's representative council. A regional regulation would provide a more secure basis for the obligations of permit holders, for the linkage between HCV obligations and sanctions, and for the allocation of budgetary resources.[136] The existing Regent Regulation could then be retained as the implementing instrument for technical procedures, criteria, and annexes. The drafting of the regional regulation should be accompanied by a regulatory impact assessment that identifies the problem, considers alternatives, estimates costs and benefits, and involves affected parties.[137] Ritonga and others emphasise that public participation in the formation of regional regulations is both a constitutional requirement and a means of improving their quality.[138] Elevation would also strengthen the regulation's position within the hierarchy of legislation and reduce the risk of conflict with higher regulations.[139]

Pillar two: graduated compliance and integration with licensing. The second pillar is the establishment of a graduated compliance system linked to the licensing regime. Building on the existing provisions on supervision and compliance indicators, the regulation should specify a clear sequence of responses to non-compliance, beginning with guidance and written warnings and progressing to recommendations for the suspension or revocation of permits through the licensing apparatus and OSS.[140] Because environmental approval has become a condition of business licensing under the risk-based approach, HCV obligations can be incorporated into the conditions of environmental approval and monitored through the same system.[141] At the same time, the incentive provisions should be developed into a transparent system of rewards, such as public recognition, priority in regional programs, or facilitation of certification, for permit holders and villages that demonstrably maintain or enhance HCV areas.[142] A combination of credible sanctions and meaningful incentives is more likely to secure compliance than either alone.

The design of incentives deserves particular care. Incentives that are determined case by case through regent decrees may be perceived as discretionary and may be vulnerable to the same pressures that Padmanaba and others identified in the designation process.[143] A more robust design would set out in the regulation the types of incentives available, the criteria for eligibility, and the procedure for their award, with the results published. Incentives for villages could be channelled through regency financial transfers to villages or through priority in regency programs, linking HCV management to village development. Incentives for permit holders could include facilitation of ISPO certification or recognition that supports access to markets with deforestation-free requirements.[144]

Pillar three: tenure security and FPIC. The third pillar is the explicit protection of the rights of customary and local communities. The regulation should expressly recognise customary law communities and their territories, require FPIC before the designation of HCV areas that overlap with customary or community lands, and provide mechanisms for communities to participate in the management of such areas and to share in their benefits.[145] The existing reference to the traditional wisdom of local communities provides a foundation on which such safeguards can be built.[146] The recognition of community rights is not only a requirement of justice but also a condition of effective conservation, because communities who see HCV designation as a threat to their livelihoods are

[136] Indrati, *Ilmu Perundang-Undangan 1*.
[137] Nasokah, 'Implementasi Regulatory Impact Assessment'; Novemyanto, Nur, and Ridlo, 'Reforming the Regulatory Impact Assessment'.
[138] Ritonga and others, 'Partisipasi Masyarakat'.
[139] Zaman, Saraswati, and Herawati, 'Analisis Dan Evaluasi Kedudukan Peraturan Menteri'.
[140] Rahmadi, *Hukum Lingkungan di Indonesia*; Kumandhani, 'Penegakan Hukum Lingkungan Hidup'.
[141] Devara, Priyanta, and Adharani, 'Inovasi Pendekatan Berbasis Risiko'; Setiarma, Tungmiharja, and Bustani, 'Implikasi Perizinan Berusaha Berbasis Risiko'.
[142] Seymour, Aurora, and Arif, 'The Jurisdictional Approach in Indonesia'.
[143] Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.
[144] Fahamsyah and Pramudya, 'Sistem ISPO'; Rahayu and others, 'Adaptation of ISPO to the EUDR'.
[145] Ketaren and Prawira, 'Unheard Voices'; Dedihasriadi, Ananda, and Fernando, 'Free, Prior, and Informed Consent in Indonesia's Mining Law'; Syahrani, 'Free, Prior Dan Informed Consent'.
[146] Article 11 paragraph (3) of Regulation of the Regent of Bulungan Number 26 of 2025.

unlikely to support it.[147] Integration with village spatial plans and village budgets, already provided for in the regulation, can be used to channel support to villages that manage HCV areas.[148]

Pillar four: multilevel coordination. The fourth pillar is the institutionalisation of coordination across levels of government. The regulation should provide for formal mechanisms of coordination with the provincial government of North Kalimantan, the central government authority responsible for forestry and conservation, and neighbouring regencies, particularly for HCV areas within the state forest estate or spanning administrative boundaries.[149] Such mechanisms could include joint identification and mapping, the submission of regency HCV maps for incorporation into provincial and national planning, and the use of the preservation area concept under the amended conservation law as a vehicle for recognising HCV areas outside conservation areas.[150] The East Kalimantan experience, in which the governor acts as the competent authority for cross-district plantation areas, offers a model for the allocation of responsibilities.[151] The jurisdictional approach literature confirms that connections among levels of government are a key condition of success.[152]

Coordination is also required horizontally within the regency government. The Regent Regulation already assigns roles to the environmental apparatus, the licensing apparatus, and the communications and informatics apparatus, and places the working team under the direction of the regional secretary.[153] Effective horizontal coordination would require that the agencies responsible for spatial planning, agriculture and plantations, tourism, and village community empowerment incorporate HCV considerations into their own decisions and work plans, as the integration provisions require. Using HCV management as an indicator in the performance evaluation of regional apparatus, as the regulation contemplates, can create internal incentives for such coordination.[154]

Pillar five: open data, verification, and adaptive review. The fifth pillar is the establishment of an open and adaptive information system. The HCV information system provided for in the regulation should make maps, identification reports, management plans, and monitoring results publicly accessible, subject to legitimate restrictions such as the protection of sensitive species locations.[155] Technical standards should specify the qualifications of assessors, the data and methods to be used, and procedures for independent verification.[156] Monitoring should be linked to measurable ecological and social indicators, including forest cover, connectivity, and the condition of community resources, and the five-yearly review of maps and plans should be informed by these indicators.[157] Such a system would allow the regulation to learn from experience and to adjust its management plans and incentives accordingly. It would also enable the regency to demonstrate its performance to national authorities and to markets increasingly concerned with deforestation-free supply chains.[158]

Figure 1 can thus be read not only as a description of the existing regulatory cycle but also as a framework for reconstruction. Each stage of the cycle, from identification and designation to planning, integration, monitoring, and review, is strengthened by one or more of the five pillars.

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147 Gaman, Markus, and Tuasikal, 'Legal Protection of Customary Forests'; Hidayah and Auliyak, 'Principles of Human Rights'.

148 Article 13 of Regulation of the Regent of Bulungan Number 26 of 2025.

149 Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'; Muhyidin, 'Guarding Central Government Control over Forest'.

150 Syahrani, 'Free, Prior Dan Informed Consent'; Kurniansyah and others, 'Kebijakan Hukum Pidana Dalam Perlindungan Satwa'.

151 Regulation of the Governor of East Kalimantan Number 43 of 2021 on the Management of Areas with High Conservation Value in Plantation Areas.

152 Seymour, Aurora, and Arif, 'The Jurisdictional Approach in Indonesia'.

153 Articles 3, 4, 12, and 19 of Regulation of the Regent of Bulungan Number 26 of 2025.

154 Article 14 of Regulation of the Regent of Bulungan Number 26 of 2025.

155 Article 12 of Regulation of the Regent of Bulungan Number 26 of 2025.

156 Styring and others, 'Determining High Conservation Values'.

157 Scriven and others, 'Testing the Benefits of Conservation Set-Asides'; Siahaan, 'Plantation-Driven Deforestation'.

158 Rahayu and others, 'Adaptation of ISPO to the EUDR'; Fahamsyah and Pramudya, 'Sistem ISPO'.

Legal elevation secures the foundation of the cycle; graduated compliance strengthens the link between planning and implementation; tenure security and FPIC legitimise identification and designation; multilevel coordination extends the cycle beyond the regency's exclusive authority; and open data and adaptive review ensure that the cycle produces learning rather than repetition.

The reconstructed model is consistent with the conception of environmental protection and management as an integrated system in which planning, utilisation, control, maintenance, supervision, and enforcement are mutually reinforcing.[159] It is also consistent with the constitutional vision of a green constitution that binds all levels of government to environmental protection.[160] Rangkuti's emphasis on the integration of local environmental policy with national policy is reflected in the pillar on multilevel coordination.[161] Finally, the model reflects the insight of the jurisdictional approach that territorial sustainability standards require government leadership, multi-stakeholder participation, and credible monitoring.[162]

The model can be implemented progressively. In the short term, the regency can strengthen implementation of the existing Regent Regulation through technical decrees on standards, sanctions procedures within existing authority, incentives, and public data. In the medium term, it can prepare a regional regulation on HCV governance, supported by a regulatory impact assessment and broad public participation. In the longer term, the experience of Bulungan can inform the development of provincial and national frameworks, particularly the implementing regulations of the amended conservation law concerning preservation areas. This staged approach allows the regency to build on its existing innovation while addressing its design gaps.

The reconstructed model also carries lessons beyond Bulungan. Many Indonesian regencies face similar combinations of plantation expansion, biodiversity loss, community land claims, and limited authority over forest areas. The Bulungan experience shows that regencies can use their environmental authority creatively to establish public HCV frameworks, but it also shows that such frameworks require a secure legal form, credible compliance mechanisms, recognition of community rights, coordination with higher levels of government, and reliable information. Regencies that wish to adopt similar instruments can learn from both the innovations and the gaps of the Bulungan Regent Regulation. At the national level, the experience of regency HCV regulation can inform the development of implementing regulations under the amended conservation law and of guidance on the integration of HCV into spatial planning and licensing.[163] In this way, regional innovation can contribute to the development of national environmental law, consistent with the vision of a constitution that places environmental protection at the heart of the state's obligations.[164]

Conclusion

This study concludes that a regency has a defensible legal basis to regulate HCV areas within its territory, derived from the constitutional right to a good and healthy environment, the principle of sustainability, the concurrent environmental authority of regencies under the Regional Government Law, and the duties of regencies under the Environmental Law. This authority is, however, bounded by the centralisation of forestry and licensing authority and by the hierarchical position of a regent regulation. Bulungan Regent Regulation Number 26 of 2025 is a comprehensive and innovative instrument that transforms HCV from a voluntary certification tool into a public regulatory instrument. Its design establishes a cross-sectoral working team, six HCV criteria, a staged identification procedure with public consultation and village involvement, designation of maps and management plans by regent decree, integration into spatial plans, budgets, work plans, and the

[159] Rahmadi, *Hukum Lingkungan di Indonesia*; Hardjasoemantri, *Hukum Tata Lingkungan*.
[160] Asshiddiqie, *Green Constitution*.
[161] Rangkuti, *Hukum Lingkungan Dan Kebijaksanaan Lingkungan Nasional*.
[162] Seymour, Aurora, and Arif, 'The Jurisdictional Approach in Indonesia'; Padmanaba and others, 'Jurisdictional Approaches to High Conservation Value Area Designation'.
[163] Syahrani, 'Free, Prior Dan Informed Consent'; Mahardika, 'Eksistensi Kewenangan Daerah'.
[164] Asshiddiqie, *Green Constitution*; Akib, *Hukum Lingkungan*.

licensing system, annual monitoring and reporting, incentives, and a transitional registration requirement.

The effectiveness of the Regent Regulation is nevertheless constrained by six design gaps: its hierarchical position as an executive instrument, the limited clarity of its enforcement provisions, the absence of explicit recognition of customary communities and FPIC, the limits of district jurisdiction over forest areas and cross-boundary landscapes, the lack of detailed technical standards for data and verification, and the absence of measurable restoration and outcome targets. To address these gaps, this study proposes a reconstructed model of HCV-based regional environmental governance built on five pillars: legal elevation to a regional regulation supported by regulatory impact assessment; graduated compliance integrated with licensing and incentives; tenure security and FPIC; multilevel coordination; and open data, independent verification, and adaptive review. Further research is recommended to examine the implementation of the Regent Regulation empirically, including the designation of HCV maps, the content of management plans, and the response of permit holders and communities, once these instruments have been established.

Ethics approval

This study is normative legal research based on documentary legal materials and did not involve human participants. *"Not required."*

Acknowledgments

The authors would like to thank the editors and the anonymous reviewers of SORLEV for their constructive comments and suggestions on this manuscript.

Competing interests

"All the authors declare that there are no conflicts of interest."

Funding

"This study received no external funding."

Underlying data

"Derived data supporting the findings of this study are available from the corresponding author on request."

Declaration of artificial intelligence use

"This study used artificial intelligence (AI) tools and methodologies in the following capacities:

1. **Manuscript writing support**: AI-based language models, such as Claude (Anthropic), were employed to:
    a. Language refinement (improving grammar, sentence structure, and readability of the manuscript).
    b. Content summarization (assisting in summarizing findings and conclusions in a concise manner).
    c. Technical writing assistance (providing suggestions for structuring complex technical descriptions more effectively).
    d. Generate scientific content, interpret data, and draw conclusions.

"We confirm that all AI-assisted processes were critically reviewed by the authors to ensure the integrity and reliability of the results. The final decisions and interpretations presented in this article were solely made by the authors."

How to cite

Author A, Author B, Author C, *et al.* Strengthening Regional Environmental Governance through High Conservation Value (HCV) Regulation: A Regulatory Design Study of the Regent Regulation of Bulungan Regency, Indonesia. SORLEV 2026; 1 (1): e[X] - http://doi.org/[X].

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