

**THE REPUBLIC OF INDONESIA FORESTRY MINISTER'S REGULATION
NUMBER: P.38/Menhut-II/2009**

CONCERNING

**STANDARD AND GUIDELINES ON ASSESSMENT OF PERFORMANCE OF
SUSTAINABLE PRODUCTION FOREST MANAGEMENT AND VERIFICATION OF
TIMBER LEGALITY**

FOR LICENSE HOLDERS OR IN PRIVATE FORESTS

WITH THE BLESSING OF THE ALMIGHTY GOD

THE REPUBLIC OF INDONESIA MINISTER OF FORESTRY ,

- Considering : a. whereas by virtue of Article 125 paragraph (3) of the Government Regulation Number 6/2007 [revised by] Government Regulation Number 3/2008 and its elucidation, it has been mandated that the success of sustainable forest management shall be reflected in the performance of Forest Product Utilization License (IUPHH) Holder;
- b. whereas by virtue of Article 100 of the Government Regulation Number 6/2007 [revised by] Government Regulation Number 3/2008, utilization of private forest is aimed at gaining the optimal benefit without detriment to the function;
- c. whereas by virtue of Article 119 of the Government Regulation Number 6/2007 [amended by] Number 3/2008, any transportation, control or ownership of forest products originating from the State-Owned Forest must be accompanied by documents that confirm the forest products' legality;
- d. whereas based on the above consideration and the promotion of Sustainable Forest Management (SFM) and the implementation of forest governance, suppression of illegal logging and its associated trade, it is deemed necessary to stipulate the Guidelines on the Assessment of Performance of Sustainable Production Forest Management and the Verification of Timber Legality for Forest License Holders or in Private Forests through a Forestry Minister's Regulation.
- Recalling : 1. Law Number 5/1990 concerning the Conservation of Biological Natural Resources and the Ecosystem (the Republic of Indonesia's Government Official Gazette of 1990 Number 49; Annex to the Republic of Indonesia's Government Official Gazette Number 3419);
2. Law Number 23/1997 concerning Environmental Management (the Republic of Indonesia's Government Official Gazette of 2007 Number 68; Annex to the Republic of Indonesia's Government Official Gazette Number 3699);
3. Law Number 41/1999 concerning Forestry (the Republic of Indonesia's Government Official Gazette of 1999 Number 167, Annex to the Government Official Gazette Number 3888) as amended with Law Number 19/2004 concerning the Stipulation of the Government Regulation in Lieu of Law Number 1/2004 concerning the Amendment to Law Number 41/1999 concerning Forestry to become Law (the Republic of Indonesia's Government Official Gazette of 2004

- Number 86, Annex to the Government Official Gazette Number 4412);
4. Law Number 32/2004 concerning Local Government Administration (the Republic of Indonesia's Government Official Gazette of 2004 Number 125, Annex to the Republic of Indonesia's Government Official Gazette Number 4437) as amended several times, the last being with Law Number 12/2008 concerning Second Amendment to Law Number 32/2004 concerning Local Government Administration (the Republic of Indonesia's Government Official Gazette of 2008 Number 59, Annex to the Republic of Indonesia's Government Official Gazette Number 4844);
 5. Government Regulation Number 27/1999 concerning Analysis of the Environmental Impacts (the Republic of Indonesia's Government Official Gazette of 1999 Number 59, Annex to the Republic of Indonesia's Government Official Gazette Number 3838);
 6. Government Regulation Number 102/2000 concerning National Standardization (the Republic of Indonesia's Government Official Gazette of 2000 Number 1999, Annex to the Republic of Indonesia's Government Official Gazette Number 4020);
 7. Government Regulation Number 35/2002 concerning Reforestation Fund (the Republic of Indonesia's Government Official Gazette of 2002 Number 67, Annex to the Republic of Indonesia's Government Official Gazette Number 4207);
 8. Government Regulation Number 44/2004 concerning Forest Planning (the Republic of Indonesia's Government Official Gazette of 2007 Number 146, Annex to the Republic of Indonesia's Government Official Gazette Number 4452);
 9. Government Regulation Number 45/2004 concerning Forest Protection (the Republic of Indonesia's Government Official Gazette of 2004 Number 147, Annex to the Republic of Indonesia's Government Official Gazette Number 4453);
 10. Government Regulation Number 6/2007 concerning Forest System and Forest Management Planning, and Forest Utilization (the Republic of Indonesia's Government Official Gazette of 2007 Number 22, Annex to the Republic of Indonesia's Government Official Gazette Number 4696) as amended with Government Regulation Number 3/2008 (the Republic of Indonesia's Government Official Gazette of 2008 Number 16, Annex to the Republic of Indonesia's Government Official Gazette Number 4814);
 11. Government Regulation Number 38/2007 concerning Division of Governmental Functions between Government, provincial Local Government Administration and Kabupaten/City Local Government Administration (the Republic of Indonesia's Government Official Gazette of 2007 Number 82, Annex to the Republic of Indonesia's Government Official Gazette Number 4737);
 12. Presidential Decree Number 78 Year 2001 concerning the National Accreditation Committee;
 13. Republic of Indonesia's Presidential Decree Number 187/M of 2004 concerning the Formation of United Indonesia Cabinet as amended several times, the last being with Number 31/P/2007;

14. The Republic of Indonesia Presidential Regulation Number 9/2005 concerning Position, Tasks, Functions, Organizational Structure and Working Arrangement of the Republic of Indonesia State Ministry as amended several times, the last being with Number 20/2008;
15. Presidential Regulation Number 10/2005 concerning Organization Unit and Task of Echelon I officials of the Republic of Indonesia State Ministry, as amended several times, the last being with Number 50/2008;
16. Forestry Minister's Regulation Number P.13/Menhut-II/2005 concerning Organization and Working Procedure of Ministry of Forestry as amended several times, the last being with Number P.64/Menhut-II/2008;
17. Forestry Minister's Regulation Number P.55/Menhut-II/2006 concerning Administration of Forest Product Originating in State-Owned Forest as amended several times, the last being with Number P.8/Menhut-II/2009;
18. Forestry Minister's Regulation Number P.51/Menhut-II/2006 concerning Use of Origin Certificates (SKAU) for Transportation of Timber Forest Products Originating in Right Forest as amended several times, the last being with Number P.33/Menhut-II/2007;
19. Regulation of Trade Minister Number 20/M-DAG/PER/5/2008 concerning Provisions for Forestry Industrial Product Export.

HAS DECIDED:

To stipulate : **FORESTRY MINISTER'S REGULATION CONCERNING STANDARD AND GUIDELINES ON ASSESSMENT OF PERFORMANCE OF SUSTAINABLE PRODUCTION FOREST MANAGEMENT AND VERIFICATION OF TIMBER LEGALITY FOR LICENSE HOLDERS OR IN PRIVATE FORESTS.**

**CHAPTER I
GENERAL PROVISIONS**

Article 1

In this Regulation:

1. Forest license holders shall mean the holder of Timber Product Utilization License in Natural Forest abbreviated to IUPHHK-HA (formerly HPH), the holder of Forest Product Utilization License in Plantation Forest abbreviated to IUPHHK-HT (formerly HP-HTI), the holder of Forest Product Utilization License in Community Plantation Forest abbreviated to IUPHHK-HTR, the holder of Timber Product Utilization License for Ecosystem Restoration abbreviated to IUPHHK-RE, the holder of Timber Product Utilization License in Community Forest abbreviated to IUPHHK-HKm as referred to in Government Regulation Number 6/2007 [revised by] Government Regulation Number 3/2008.
2. Primary (Upstream) Timber Industry License Holder (IUIPHHK) shall be as referred to in Government Regulation Number 6/2007 [revised by] Government Regulation Number 3/2008.
3. Advanced (Downstream) Timber Industry License Holder (Advanced IUI) shall mean a downstream timber product processing company, with products such as furniture.
4. State-Owned Forest shall mean a forest situated upon land that is had rights allocated

to it.

5. Private (right) forest shall mean a forest situated upon land which has had rights allocated to it outside the forest area and which has evidence of [or right to land].
6. Accreditation agency shall mean the institution that provides accreditation for the Independent Assessment and Verification Agencies (LP & VI), namely the National Accreditation Committee (NAC).
7. Independent Assessment and Verification Agency (LP&VI) shall mean the institution having been accredited by the accreditation agency to assess the performance of sustainable forest management or to verify the legality of timber forest product of license holders or private forest owners.
8. Independent Monitoring Agency shall mean the institution that can perform the supervisory/monitoring function relating to public services in forestry such as the issuance of SFM Certificate or TL (timber legality) Certificate. This includes non-governmental organizations (NGOs) in forestry.
9. Standard and guidelines on sustainable forest management shall be a set of requirements for attaining sustainable forest management and which contains standards, criteria, assessment indicators, the assessment method, and the assessment manual.
10. Timber Legality Verification Standard (TLVS) shall be a set of requirements for fulfilling the timber/timber product legality which was developed based on a forestry-stakeholders agreement containing standards, criteria, indicators, verifiers, verification methods, and appraisal norms.
11. SFM Certificate shall mean a certificate describing the level of success in the implementation of sustainable forest management.
12. Timber Legality Certificate (TL Certificate) shall mean a certificate granted to license holder or private forest owner, which states that the license holder or private forest owner has met the timber legality standard (legal compliance) in removing the timber forest product.
13. Certificate of Primary Timber Industry Performance (KIPHHK Certificate) shall mean the certificate explaining the performance level in carrying out the sustainable management of primary timber industry.
14. Independent Assessment and Verification Agency (LP&VI) shall be a state-owned or private company accredited to assess the performance of Sustainable Forest Management (SFM) and/or to verify the timber legality.
15. Technical Forestry Personnel for Sustainable Production Forest Management (GANIS PHPL) shall mean the officer of license holder company in the management and/or utilization of sustainable production forest with competence and certification in sustainable production forest management in accordance with the qualification, appointed and dismissed by Head of Balai on behalf of the Director General.
17. Technical Forestry Personnel Supervisor (WASGANIS) PHPL shall mean the forestry agency employee with competence in supervision and inspection of sustainable production forest management in accordance with the qualification, appointed and dismissed by Head of Balai on behalf of the Director General.
18. Minister shall mean the Minister assigned a task and responsibility in the forestry sector.
19. Director General shall mean the Director General in charge of forest product utilization and/or forest production .

20. Head of Balai shall mean the Head of Technical Implementing Unit of the Directorate General of Forestry Product Development in the region.

CHAPTER II

ASSESSMENT AND VERIFICATION

Part One

Article 2

- (1) Assessment of performance and timber legality verification on the holder of IUPHHK, IPK, IUIPHHK, and Advanced IUI is to be carried out by the LP&VI.
- (2) Assessment of IUPHHK holder's performance shall be carried out by LP&VI based on the Standard for Assessment of Sustainable (production) Forest Management.
- (3) Timber legality verification for the holders of IUPHHK, IPK, and IUIPHHK and Advanced IUI shall be carried out by LP&VI based on the Timber Legality Verification Standard (TLVS).

Article 3

Assessment and/or verification as referred to in Article 2, of Natural, Plantation, Community Plantation, and Community Forests IUPHHKs can be carried out jointly and/or separately by LP&VI to obtain the SFM Certificate or TL Certificate, either by order of the Minister or at the license holder's request;

Article 4

- (1) In principle, a forest utilization license holder with a SFM Certificate does not need a TL certificate.
- (2) The Holder of IUIPHHK or Advanced IUI shall obtain a TL certificate.

Article 5

Standard and guidelines on SFM appraisal as referred to in Article Section 2 paragraph (2), and Timber Legality as referred to in Article 2 paragraph (3) shall be stipulated further by the Director General's Regulation.

Part Two

Accreditation and Designation of LP&VI

Article 6

- The LP&VI as referred to in Article 2 shall be accredited by the National Accreditation Committee;
- (1) Committee;
 - (2) To acquire accreditation as referred to in paragraph (1), LP&VI shall submit an application to the National Accreditation Committee in accordance with the prevailing legislation;
 - (3) Based on the accreditation by the National Accreditation Committee as referred to in paragraph (2), the Director General on behalf of the Minister shall appoint the LP&VI.

Part Three

Assessment

Article 7

- (1) The first period of SFM assessment or timber legality verification by LP&VI of the license holder shall be carried out based on instruction from the Director General on

behalf of the Minister.

- (2) The financing for the first period of SFM performance assessment and/or timber legality verification as referred to in paragraph (1) shall be charged to the Ministry of Forestry's budget in accordance with the prevailing cost standard.
- (3) The cost standard as referred to in paragraph (2), shall be regulated by the Minister and can be reviewed as needed.
- (4) The financing of a further period of SFM assessment or timber legality verification shall be borne by the right/license holder or private right owner.
- (5) Community plantation forest or community forestry holder or private forest owner, due to financ constraints, can make a request for a SFM assessment and/or timber legality verification in a collective manner.

Article 8

- (1) In the event of a Ministry of Forestry budget limitation for assessment and or verification in the first period as referred to in Article 7 paragraph (2), a license holder can take the initiative to submit an application to LP&VI as referred to in Article 7 paragraph (3) for assessment to obtain the SFM certificate and or TL certificate.
- (2) The cost for assessment and or verification as referred to in paragraph (1) shall be borne by the applicant.

Part Four Objection

Article 9

- (1) The result of an assessment and/or verification by LP&VI as referred to in Article 2 paragraph (2), Article 2 paragraph (3), and Article 3 shall be delivered first to the license holder or private forest owner;
- (2) In the event that the license holder or private forest owner has any objection to the result of assessment and/or verification, they can submit the objection to LP&VI no later than 10 (ten) working days after receiving the report of assessment and verification as referred to in paragraph (1);
- (3) LP&VI shall set up an ad-hoc team to respond to the objections and the team members shall be independent, representing stakeholders and experts in their respective field;
- (4) In the event that the objection be accepted, LP&VI shall make a correction to the substance objected to in the assessment and/or verification report.

Part Five Issuance of Certificates

Article 10

- (1) Based on the result of the assessment or verification in Article 2 paragraph (2), Article 2 paragraph (3), and Article 3 and the result of correction as referred to in Article 9 paragraph (4), LP&VI shall issue a SFM Certificate and/or TL Certificate to the license holder or private forest owner and report it to the Director General;
- (2) The certificate referred to in paragraph (1) shall be used as information material for fostering and/or extension of IUPHHK by the Director General;
- (3) SFM Certificate for IUPHHK holder or private forest owner shall be effective for 3 (three) years as from the issuance, and surveillance shall be conducted every 1 (one) year;

- (4) TL Certificate shall be effective for 3 (three) years as from the issuance, and surveillance shall be conducted every 1 (one) year;
- (5) Surveillance as referred to in paragraph (2) and (3) can be conducted either simultaneously or separately at the license holder's expense;
- (6) The SFM Certificate referred to in paragraph (3) shall as a minimum contain the name of company or name of the license holder or private forest owner, size of the area, location, number of decree of right/license/ownership rights, name of LP&VI company, issuance date, validity period, and certification identification number, as well as the numeral value and performance category;
- (7) The TL Certificate referred to in paragraph (4) shall at least contain the name of company or name of the license holder or private forest owner, size of area, location, number of decree of right/license/ownership rights, name of LP&VI company, issuance date, validity period and certification identification number, as well as legality standard reference.

Article 11

- (1) The SFM Certificate referred to in Article 10 paragraph (6) shall be issued with a "Good" category.
- (2) In the event that the result of the assessment is categorized as "Bad", LP&VI shall give the report on the result assessment to the license holder.
- (3) Based on the report of the assessment result as referred to in paragraph (2), the license holder shall be given an opportunity to improve the SFM performance.

Article 12

- (1) The TL Certificate referred to in Article 10 paragraph (7) shall be issued in the category of "Compliance" to the TLVS.
- (2) In the event that the verification result is "None Compliance", LP&VI shall give the report on verification result to the license holder.
- (3) Based on the report of the verification result referred to in paragraph (2), the license holder shall be given an opportunity to comply with the TLVS.

Article 13

- (1) In the event an IUIPHHK or Advanced IUI has obtained a TL Certificate, and its raw material supply originated from IUPHHK-HA/HT/Private Forest that has an SFM certificate or TL certificate, the aforementioned IUIPHHK or Advanced IUI can self-endorse their products which will be exported.;
- (2) Endorsement as referred to in paragraph (1) shall become one of the attachments to Goods Export Notification (PEB).

CHAPTER III INDEPENDENT MONITOR AND OBJECTION

Article 14

- (1) Non Governmental Organizations (NGOs) or civil society in forestry sector can perform as independent monitors in the process of SFM assessment and/or timber legality verification carried out by LP&VI.
- (2) In the event that an NGO or civil society organization in the forestry sector should have an objection to the result of an assessment as referred to in paragraph (1), the objection shall be submitted no later than 20 (twenty) workdays later to the LP&VI for settlement.

- (3) In the event that the LP&VI cannot resolve the issue of objection as referred to in paragraph (2), the NGO or civil society organization in the forestry sector can bring the objection to the National Accreditation Committee.
- (4) The National Accreditation Committee shall resolve the issue of objection as referred to in paragraph (3) in accordance with the existing objection settlement procedure in the National Accreditation Committee.
- (5) The result of the objection settlement by LP&VI as referred to in paragraph (2) or by the National Accreditation Committee referred to in paragraph (3), in the form of Corrective Action Request (CAR) shall be delivered to the license holder or private forest owner.
- (6) In the event the license holder or private forest owner is unable to complete the Corrective Action Request (CAR) as referred to in paragraph (5), the status of SFM Certificate or TL Certificate shall be frozen by the LP&VI issuing the certificate until the license holder or private forest owner is able to comply with the request.
- (7) In the event that the license holder or private forest owner is unable to complete the Corrective Action Request (CAR) as referred to in paragraph (6), the status of the SFM Certificate or TL Certificate shall be frozen until the expiry of SFM Certificate or TL Certificate validity period.

CHAPTER IV CAPACITY BUILDING Article 15

- (1) The technical skill or financial assistance required for strengthening the LP&VI capacity and organisation can be provided by the Government;
- (2) In the event that Government funds referred to in paragraph (1) are not available, financial assistance can be obtained from other sources of a non-binding nature with the approval of Ministry.

Article 16

SFM Assessment whose funding has been available in the 2009 fiscal year, shall be implemented by virtue of Forestry Minister's Decree Number 4795/Kpts-II/2002 concerning Criteria and Indicators for Management of Sustainable Production Natural Forest in the Management Unit and Forestry Minister's Decree Number 208/Kpts-II/2003 concerning Procedure for Assessment of Timber Forest Product Utilization Performance in Natural Forest in the Management Unit for Sustainable Forest Management;

Article 17

SFM Certificates that have already been issued before the entry into effect of this regulation shall remain effective until the expiry of the certificate.

CHAPTER V TRANSITIONAL PROVISIONS Article 18

- (1) LPI or LP&VI, that have already obtained accreditation from the National Accreditation Committee before this regulation comes into effect, shall remain effective until the expiry of the accreditation validity period.
- (2) SFM Certificates for license holders that have been issued before this regulation comes into effect, shall remain effective until the expiry of the SFM Certificate validity period.
- (3) Certificate of Verified Legal Origin (VLO) obtained by a license holder shall remain

effective until the expiry of the VLO certificate.

**CHAPTER VI
OTHER PROVISIONS
Article 19**

With this regulation is in effect:

1. Forestry Minister's Decree Number 4795/Kpts-II/2002 concerning Criteria and Indicators for Management of Sustainable Production Natural Forest in the Management Unit along with the implementing regulation except as referred to in Article 16;
2. Forestry Minister's Decree Number 177/Kpts-II/2003 concerning Criteria and Indicators for Sustainable Forest Management in the Management Unit of Planted Forest Utilization along with the implementing regulation;
3. Forestry Minister's Decree Number 178/Kpts-II/2003 concerning Procedure for Appraisal of Performance of Planted Forest Utilization in the Management Unit for Sustainable Forest Management along with the implementing regulation; and
4. Forestry Minister's Decree Number 208/Kpts-II/2003 concerning Procedure for Appraisal of Performance of Timber Forest Product Utilization in Natural Forest in the Management Unit for Sustainable Forest Management along with the implementing regulation;

shall be cancelled.

Article 20

This Forestry Minister's Regulation shall enter into effect on the date of its enactment and shall be implemented beginning in 1 September 2009.

In order that everybody may take cognizance thereof, this Forestry Minister's Regulation shall be enacted by placing it in the Republic of Indonesia's Government Official Gazette.

Stipulated in Jakarta

On : 12 June 2009

**MINISTER OF FORESTRY OF
THE REPUBLIC OF INDONESIA,**

signed

H. M.S. KABAN

Enacted in: Jakarta

On: 12 June 2009

MINISTER OF JUSTICE AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

signed

ANDI MATTALATA

THE REPUBLIC OF INDONESIA'S OFFICIAL REPORT OF 2009 NUMBER 141