

Supplementary Document: Analysis of the Regulations

Ministry of Marine Affairs and Fisheries Regulation No. 26/2021

Regulation No. 26/2021 provides a legal framework for rehabilitating fish resources and their environments, including coral reefs, mangroves, seagrass, estuaries, lagoons, and bays, within Coastal Ecosystem Management Zones and other protected area. It aligns with Criteria A, as these are not formally designated protected area. The regulation mandates a minimum two-year rehabilitation period, with activities such as mangrove replanting and artificial habitat creation. While these interventions contribute to biodiversity conservation (Criteria C), their long-term ecological benefits are not explicitly ensured beyond the initial rehabilitation phase.

The regulation establishes clear governance mechanisms (Criteria B), requiring spatial clearance, land ownership verification, implementation planning, and funding provisions at the private/local community level. However, it lacks provisions for securing ongoing community stewardship post-rehabilitation. While Article 48(2) acknowledges socio-economic considerations as a basis for management (Criterion D), it does not require that management result in the protection of ecosystem services or the recognition of socio-cultural values that contribute to biodiversity outcomes. Without long-term governance mechanisms, rehabilitated areas risk reverting to extractive use rather than evolving into equitable and inclusive conservation spaces with biodiversity benefits. Strengthening post-rehabilitation management, clarifying long-term responsibilities, and integrating long-term, community-led conservation incentives could enhance its potential as an OECM pathway.

Ministry of Marine Affairs and Fisheries Regulation No. 28/2021

Law No. 6/2023 is an omnibus law integrating various complex subjects, including coastal management and fisheries law. It introduces a mechanism called Approval of the Appropriateness of Marine Space Utilisation Activities (PKKPRL), which offers a potential entry point for recognising community-led OECMs. Under Article 175 of MMAF Ministerial Regulation No. 28/2021 (a derivative regulation of Law No. 6/2023), PKKPRL can be granted to local communities utilising coastal areas and small islands for their daily needs. This applies to areas outside formal protected area (Criteria A). Activities such as artificial reef development or tourism may contribute to biodiversity conservation (Criteria C), though there is no explicit mandate for achieving biodiversity outcomes. Applications for PKKPRL require government-led area delineation, fulfilling Criteria B, but there is no requirement for a formal governance body. Nevertheless,

communities applying for this scheme can establish governance structures and define clear marine area boundaries, supporting a community-led OECM approach. While the regulation highlights socio-economic aspects, it lacks explicit reference to how these outcomes are linked to the maintenance of ecosystem functions, services, or culturally grounded practices that support biodiversity conservation, as required under Criterion D. However, community recognition of economic benefits and spiritual significance suggest potential indirect alignment. Despite the absence of a direct mandate to achieve B, C, and D, the scheme provides a legal foothold for OECM recognition. To unlock this potential, targeted support and incentives are needed to encourage community uptake.

MMAF Regulation No. 8/2018 and MoHA Regulation No. 52/2014

These regulations recognise Masyarakat Hukum Adat (MHA), granting Indigenous (adat) communities the right to manage areas inside and outside protected area (Criteria A). The regulation does not explicitly mandate biodiversity outcomes, but management by MHA often results in biodiversity conservation (Criteria C) through customary practices (Halim, 2020; Adhuri et al., 2022). Institutional and territorial recognition ensures governance clarity (Criteria B) (Dudayev et al., 2023). Additionally, socio-economic benefits linked to ecosystem-related cultural practices fulfill Criteria D, making this regulation highly compatible with OECM recognition. Although the regulatory framework offers one of the most promising avenues for recognising existing and future OECMs, legal protection for adat communities under MMAF Regulation 8/2018 and MoHA Regulation 52/2014 is limited to formally recognized customary areas. This requires communities to undergo a complex validation process to achieve recognition (Zakaria et al., 2022). Strengthening institutional support for the formal registration of MHA could therefore enhance governance mechanisms and provide a clearer pathway for OECM recognition.

Ministry of Village, Development of Disadvantaged Regions, and Transmigration (MVDRT) of No. 1/2015 as Derivative Regulation of Law No. 6/2014 jo 1/2014

Law No. 6/2014 on Village Law grants villages autonomy to manage natural resources within their administrative boundaries, including forestry, fisheries, and coastal areas, based on local needs and customary practices (Dudayev et al., 2023), including in areas other than protected areas (Criteria A). This framework allows communities to establish local regulations, enforce sustainable resource use, and integrate biodiversity conservation into village development planning, aligning with Criteria C. Governance structures are formalized through village regulations, ensuring clear authority over resource management, fulfilling Criteria B. Additionally, integration of traditional

knowledge and practices ensures management results in the provision or preservation of ecosystem services and/or associated sociocultural values, addressing Criteria D (Sampean et al., 2019). However, the regulation lacks clarity on the specific types of management activities permitted, creating uncertainty about the extent of its applicability as an OECM pathway. Strengthening guidelines on resource management, biodiversity safeguards, and long-term governance mechanisms could enhance its potential for OECM recognition.

3.2.5. PP 23/2021 jo MoEF Regulation No. 9/2021 on Social Forestry

MoEF Regulation No. 9/2021 on Social Forestry Management enables community-driven social forestry schemes across all forest types in Indonesia, including production forests, protected forests, and conservation forests. However, under OECM Criteria A, only social forestry schemes in production and limited production forests are applicable, as these areas are located outside formal protected areas designations. PP No.23/2021 supports Criteria C by ensuring forest and mangrove ecosystems remain intact, as utilization is limited to non-timber products. Governance requirements, including institutional clarity and land designation via the Indicative Map of Social Forestry Areas (PIAPS), fulfill Criteria B. Additionally, social forestry schemes support Criterion D where community livelihoods are directly tied to ecosystem services—such as sustainable fisheries, agroforestry, and non-timber forest product harvesting—that depend on maintaining healthy and functioning ecosystems.. While MoEF Regulation No. 9/2021 covers mangrove areas that could qualify as marine-based OECMs, its implementation has largely focused on terrestrial contexts. As a result, its applicability to coastal and marine OECMs remains limited and underexplored. Expanding its scope to explicitly include marine and coastal environments could strengthen its role as a potential OECM pathway (Estradivari, et al., 2024).

Local Government Law No. 23/2014 jo 6/2023

Local Government Law No. 23/2014 jo 6/2023 grants authority to provincial governments to manage marine areas, including the development of marine spatial planning and marine conservation. Under this law, provincial governments can delegate marine management authority to communities, thus fulfilling OECM Criteria A by enabling community governance in non-protected areas. This law allows for long-term biodiversity conservation for cultural and spiritual purposes by providing a legal basis for community involvement in marine resource management (Criteria B, C, and D). However, local regulations alone do not automatically enable community-led marine OECMs; rather, they serve as a foundation for delegating authority through enabling policies, often formalized through governor-issued decrees (Jompa et al., 2023).

For example, in Southeast Sulawesi, Provincial Regulation No. 9/2018 jo. Governor Regulation No. 97/2022 provides a legal pathway for community-led marine management, with the Governor Decree No. 135/2022 formally recognising specific management areas. Despite the promising potential of the regulatory framework for recognising present and future OECMs, the absence of a national OECM recognition framework means that such approaches remain fragmented and dependent on provincial discretion. Strengthening national-level legal mechanisms for community-led marine governance could enhance consistency and ensure long-term OECM recognition across Indonesia.