Institute for Climate Law & Sustainable Policy
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From Blame to Accountability

What the 2026 fire season requires of the state, corporations, and the region

Key Messages

- The 2026 fire season was not a failure of firefighting. It was the predictable result of drained peat, contested tenure, and a weakening liability regime, met by a state that had been warned and was not ready.
- There is no single agreed burned-area total. The last official total covers January to July only. Independent estimates for longer periods are far larger and measure different things. Any brief that offers one number is misleading its reader.
- Enforcement was extensive on paper and unverified in court. Dozens of companies were sealed or sanctioned and suspects were named, but no 2026 court judgment was verified, and execution of historic judgments is disputed.
- Three legal uncertainties must be resolved before the next dry season: the local-wisdom exception narrowed by Inpres 11/2026, the open effect of Article 613(3) of UU 1/2026 on sectoral criminal provisions, and the mismatch between district responsibility and district authority.
- Recommendations are phased: publish one reconciled record and fund alternatives and rewetting first, then clarify the law and execute judgments, and only then decide the future of the 12.7 million hectare critical-land estate on published maps.



Illustrative image of smoke over drained peatland. This is an illustration, not a photograph of a specific location.

Indonesia entered the 2026 dry season with a warning from its own science agencies, a peat agency whose mandate had expired, and a burned-area accounting system that still cannot produce one agreed national total. By October, smoke had closed schools in Malaysia, pushed Singapore's air to its worst levels in years, and filled hospitals in seven Indonesian provinces. The question the season leaves behind is not who to blame. It is who must act, with what authority, under what law, and by what deadline, before the next dry season. This brief answers that question with the evidence available on 12 November 2026, and states plainly what could not be verified. It draws on the Institute's national webinar of 9 November 2026, 'Kebakaran Hutan, Salah Siapa?', and on deep research conducted the same week.

1 The season in numbers

The last official total, from the Ministry of Forestry's SiPongi system, covers January to July 2026 only: 202,004 hectares, 69 percent above the same period in 2025 (Official). MapBiomas Indonesia and Auriga Nusantara put January to August at 637,011 hectares, while Nusantara Atlas puts January to September at 1,916,588 hectares of land affected by fire, 38 percent above the same period in 2019 (Institutional). The government told AFP in October that it was still calculating the total and that the independent estimate could not readily be confirmed. A figure of 2.88 million hectares for January to October circulated in November reporting, but no primary page for it was found, and this brief does not use it. Between 17 and 23 percent of the area mapped by Nusantara Atlas fell within official peatland boundaries, though overlap with a peat map does not by itself establish that peat soil burned.

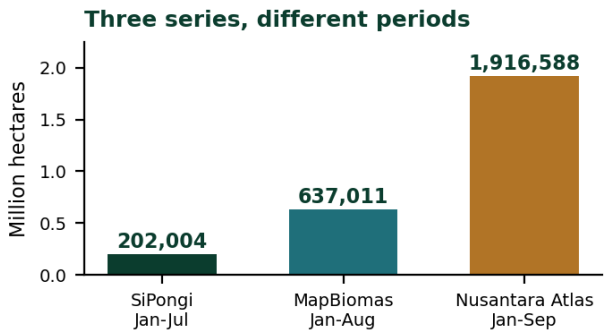


Chart 1: Three burned-area series. Different periods, different methods, different definitions. They must not be merged or averaged. Sources: SiPongi via press reporting; MapBiomas Indonesia and Auriga Nusantara factsheet; Nusantara Atlas, January to September assessment.

Copernicus Atmosphere Monitoring Service data put Indonesian wildfire emissions at 140.5 megatonnes of carbon by 6 October 2026, about 13 percent of the global fire total to that date and the highest since 2019 (Institutional). Cumulative acute respiratory infection cases in seven provinces rose from 50,891 on 1 September to 333,470 on 21 October, about a quarter of them children aged five and under (Official, via press reporting of Ministry of Health data). A later press-reported total of 401,586 on 2 November could not be verified against a Ministry release. Modelled fire-smoke-attributable deaths from the Centre for Research on Energy and Clean Air were 1,700 in August and 3,560 in September (Modelled, not an official death toll; no official haze death toll was found). Four people were killed directly fighting a fire at Bromo Tengger Semeru National Park on 15 October (Official).

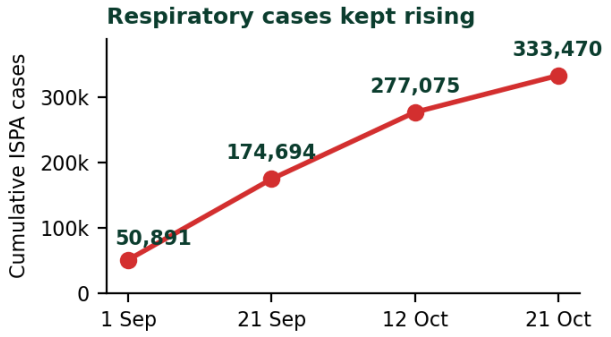


Chart 2: Cumulative respiratory infection cases, seven provinces, as reported from Ministry of Health data. Windows differ between releases; the series is shown as reported, not reconciled.

The economic cost is estimated, not counted. CELIOS published two vintages in 2026: Rp39.29 trillion to Rp123.1 trillion for January to August, and Rp359.58 trillion to Rp565.03 trillion in a November report based on cumulative fire data accessed on 20 October (Institutional, modelled; the jump between vintages is unexplained in the sources seen, and the November report appears to reuse the January to September burned-area figure under a January to October label). No official government total economic-loss figure for 2026 was found. The haze crossed borders. Singapore recorded 24-hour Pollutant Standards Index readings above 200 in mid-October, kept schools open under a closure threshold of 300, and ran a haze health subsidy scheme from 12 October to 12 November (Official, foreign). Malaysia closed schools in several states from 9 October, with about two million students affected in press estimates. A claim circulating online that Malaysia and Brunei fined Indonesia Rp17 trillion is false: the ASEAN haze agreement contains no fine mechanism.

2 Why it happened: the governance chain

Linda Yanti Sulistiawati's webinar presentation put the mechanism in one chain: land-use choices produce degraded peat and forests, which make ignition more likely, which meet a slow or weak response, which produce health, livelihood, and haze impacts. The warning existed: BRIN cautioned in June 2026 that the dry season could be longer than normal under a moderate El Nino scenario. More than half of the Nusantara Atlas burned area was detected in September alone. Peat governance had a hole at its centre. The Peat and Mangrove Restoration Agency (BRGM) saw its mandate end on 31 December 2024 and was not extended. On 24 September 2026, President Prabowo decided to form a new National Peat and Mangrove Management Agency (BPGMN) directly under the President, covering six peat provinces, and its head and deputy head were inaugurated on 15 October 2026. But as of 12 November 2026, no forming presidential regulation, mandate text, structure, or budget figure for BPGMN was found in open sources. A new agency without a published legal basis and budget is a promise, not yet an institution.

Rewetting without maintenance does not hold. Official claims credit the restoration programme with large areas rewetted and tens of thousands of canal blocks built. Independent monitoring by Pantau Gambut in June 2026 found the restoration target cut from 2.6 million to 1.2 million hectares and still not fully met, 70 percent of observed canal-block units damaged, and 52 percent of intervention sites still below the safe groundwater threshold of 40 centimetres below the surface set by PP 57/2016 (Institutional). Peer-reviewed research supports the science: a 2026 national-scale study found peat restoration reduces fire occurrence, and a Riau study found canal blocking raised groundwater to an average of 26.7 centimetres below the surface against 58.7 centimetres without blocking (Peer reviewed). The gap is maintenance, monitoring, and enforcement of water management inside concessions.

Permits remain the structural driver that suppression cannot fix. WALHI's actor mapping found 9,951 hotspots across 561 oil-palm HGU companies and 293 forest-utilisation (PBPH) holders between January and 7 September 2026, with nearly half of hotspots in that period inside corporate operational areas (Institutional). Greenpeace and Pantau Gambut found 2,211 of 5,540 smoke-source points in areas previously burned between 2015 and 2023 (Institutional). Hotspot location alone does not prove a company lit a fire: peer-reviewed fieldwork in two certified concessions found fires on community-controlled enclaves inside permit boundaries, outside company-cultivated land. But recurrence in the same concessions, including 17 of the 57 companies sealed by the Environment Ministry with repeat fire histories (Official), shows that permit conditions and fire

prevention duties are not enforced as a system.

3 Accountability: extensive on paper, unverified in court

Enforcement figures conflict across dates and agencies and must be read as a dated timeline, not summed. The Environment Ministry sealed 57 companies covering 34,636 hectares in September, rising to 68 companies by 13 October (Official). The Forestry Ministry's press release of 19 October reported 32 companies under administrative sanction covering 12,926.74 hectares, with 125 subjects in criminal process, though the same ministry's enforcement directorate headline gave 120 (Official, internal conflict noted). The National Police criminal investigation agency reported on 29 October that 20 corporations, including 4 foreign-investment companies, and 245 individuals had been named suspects, and recommended licence revocation for 23 corporations (Official). No 2026 court judgment in a fire case, criminal or civil, was verified. The execution record for historic judgments is disputed: Greenpeace put final civil awards from 2015 to 2019 at Rp18.9 trillion with only Rp78 billion collected, while a former enforcement director-general put 18 final cases at Rp6.1 trillion with Rp458 billion deposited in one year (Contested, different periods and definitions). Ali Rido's webinar analysis identified the core problem: the largest failure is execution, not norms.

The asymmetry the webinar documented must be named. Traditional farmers were arrested in September 2026 under burning provisions, while corporations rarely reach a courtroom as defendants. Dr. Zico Junius Fernando's presentation showed that corporate criminal liability has been recognised since 1955, yet very few corporations are brought to court and judgments are inconsistent. The new Criminal Code (KUHP 2023, in force 2 January 2026) strengthens the tools: corporations are criminal subjects, liability can reach order-givers, controllers, and beneficial owners, and Article 56 lists ten factors judges must consider when sentencing a corporation, including harm, frequency, track record, and cooperation. Whether those tools are used in the 2026 cases is the test of the coming year.

4 Three legal uncertainties

First, the local-wisdom exception. UU 32/2009 Article 69(1)(h) prohibits clearing land by burning, but Article 69(2) requires the prohibition to take local wisdom seriously into account, and its elucidation describes burning of at most 2 hectares per household, for local-variety crops, surrounded by firebreaks. Inpres 11/2026, dated 31 August 2026, narrows that exception through cumulative conditions, including prohibitions in peat ecosystems, buffer zones, protected areas, riverbanks, and forest areas, and during emergency status, with no application to corporations or concession holders. The full signed text was not located, so this summary rests on official and press summaries. An instruction is below a statute and cannot repeal it. The Inpres also imposes a duty to provide non-burning alternatives for communities. That duty must be funded before traditional-burning enforcement is tightened further.

Second, Article 613 paragraph (3) of UU 1/2026. Its wording, verified across three legal sources, requires that where a law outside the Criminal Code is an administrative law with criminal sanctions, guidance and administrative sanctions must be prioritised over criminal sanctions. Whether this applies to the forestry, environmental, plantation, and forest-destruction statutes, and whether it bars prosecution or merely orders the sequence of responses, is unsettled: no Supreme Court guidance or official elucidation addressing UU 18/2013 specifically was found. The Forum for Law Enforcement Coordination warned in October 2026 that the provision must not become an exit for acts that caused real ecological damage. A joint elucidation setting escalation criteria, intent, scale, repetition, harm, and defiance of prior sanctions, is needed before the next dry season.

Third, the authority mismatch. PP 4/2001, made under a repealed 1997 law, places regents and mayors in charge of controlling fire-related environmental damage in their regions. UU 23/2014 divides forestry affairs only between the central government and provinces, leaving districts with almost no forestry authority, staff, or budget for forest management. The party burdened with frontline responsibility does not hold the instruments. The new Criminal Procedure Code (UU 20/2025) adds a related risk: police investigators now lead and supervise civil-servant investigators, whose coercive measures require police orders. Joint procedures are needed so the new hierarchy does not become a bottleneck in specialised forestry investigations.

5 The transboundary test and the 12.7 million hectare question

The ASEAN Agreement on Transboundary Haze Pollution, signed in 2002 and ratified by Indonesia in 2014 through UU 26/2014, obliges cooperation, prevention, monitoring, and response, but contains no enforcement mechanism, court, or fines. Its coordinating centre requires six ratifications to take effect; as of early November 2026, only Vietnam had submitted its instrument in the sources found (Contested, secondary reporting). Singapore served preventive-measures notices on 10 Indonesian companies and document notices on 10 Singapore-registered companies in October 2026 (Official, foreign; notices are investigative, not findings of liability), and passed amendments on 4 November 2026 raising maximum penalties to S$20 million with disgorgement of profits. The amendments do not apply retroactively. On 7 October 2026, Hashim Djojohadikusumo, Presidential Special Envoy for Climate and Energy, said biodiesel from B50 to B100 would later also use sources from degraded forest, not primary forest, citing 12.7 million hectares. No locations, scheme, or timeline were given. The same figure had previously been pledged for reforestation, at COP29 in 2024 and again in July 2026. A reported clarification in a single outlet could not be corroborated, and no formal ministry correction was found. Land-use decisions on this estate must be made only on published maps and land status, with customary rights respected. Burned peat must not become plantation by default.

6 Recommendations, in phases

Phase 0, before the next dry season. Publish one reconciled official series for burned area, emissions, and health impacts, with methods stated, updated monthly. Publish the BPGMN forming regulation, mandate, structure, and budget, with six-province workplans, or state the interim ministerial tasking explicitly. Fund canal-block maintenance and groundwater monitoring, and publish water-table compliance data by concession. Publish a single public enforcement tracker, sealed, sanctioned, suspect, charged, convicted, executed, with beneficial owners where lawful. Fund non-burning alternatives before tightening traditional-burning enforcement. Issue the joint clarification on Article 613(3) and joint police and civil-servant-investigator procedures.

Phase 1, six to 24 months. Give the peat institution a multi-year budget and independent audit of restoration outputs against hydrological outcomes. Review permits on peat, including repeat-fire concessions and beneficial ownership, and link licence renewal to fire and water compliance. Execute historic civil judgments transparently, publishing amounts awarded, paid, and restored, by company. Scale fire-free village and peat-care village models that blend deterrence, health messaging, and incentives, with tenure disputes inside concession boundaries resolved. Complete the ASEAN coordinating centre ratifications and operationalise the Indonesia-Singapore joint task force with published terms.

Phase 2, structural, two to five years. Replace or harmonise PP 4/2001 with the regional-government, environmental, and disaster laws, clarifying who funds and commands district suppression. Decide the future of the 12.7 million hectare critical-land estate on published evidence. Tie peat finance to water-table and fire outcomes, not infrastructure counts, and stabilise pre-season fire budgets on El Nino-based forecasts rather than in-season emergency spending.

Triggers: if the official burned-area total is not published by the start of the 2027 dry season, if BPGMN still has no forming regulation or budget, or if no 2026 fire case has reached a court judgment within 12 months of the suspects being named, the accountability system should be treated as failing on its own terms, and these recommendations should be escalated from administrative action to legislative review.

Evidence gaps that must be closed

Twenty-two items could not be verified in the research for this brief, including the full text of Inpres 11/2026, the BPGMN forming regulation and budget, primary Ministry of Health releases for the latest case totals, any 2026 court judgment, the reported clarification of the degraded-land plan, and full citations for three peer-reviewed studies. This brief does not present the burned-area series as interchangeable, modelled deaths or costs as counted tolls, hotspot location as proof of arson, or Article 613(3) as a bar on prosecution. Those gaps are listed openly so that a ministerial reader can see what still needs primary verification before this brief is quoted as a settled government position.

About the publisher

The Institute for Climate Law & Sustainable Policy works on climate law and sustainable policy in Indonesia and beyond, through research, its journal, and public analysis. This brief draws on the Institute's national webinar of 9 November 2026 and on the Institute's article, Fire, Peat and the State: The 2026 Fire Season and the Limits of Suppression in Indonesia, published on iclsp.org on 30 October 2026, updated with the deep research of 12 November 2026.

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Note: Figures are as reported by the sources above. Estimates, claims, and single sourced explanations are labelled as such and are not presented as independently verified measurements by the Institute. Research date: 12 November 2026, via web index and live page reads, not live portal verification. Verify primary texts and conflicting official figures before ministerial use.