For Coal Mining in Indonesia

Environmental Impact Assessment

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The Laws & Regulations on Environmental Impact Assessment For Coal Mining in Indonesia

Ministry of Environment and Forestry-Indonesia
DG for Forestry and Environmental Planning
Directorate for Environmental Impact Prevention of Business and Activity
The 1945 Indonesian Constitution, Article 28H verse (1): Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment...”.”

Article 33 verse (4) of The 1945 Indonesian Constitution: “The organisation of the national economy shall be conducted on the basis of economic democracy upholding the principles of ... , sustainability, environmental perspective, ....... and keeping a balance in the progress and unity of the national economy.
### Schematic Division of AMDAL, UKL-UPL dan SPPL

<table>
<thead>
<tr>
<th>AMDAL Boundary</th>
<th>UKL-UPL Boundary</th>
<th>SPPL Boundary</th>
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</thead>
<tbody>
<tr>
<td><strong>Business and/or Activity shall be obliged to have AMDAL</strong></td>
<td>Having Significant Impacts on the Environment</td>
<td>OUT OF AMDAL/ UKL-UPL LIST</td>
</tr>
<tr>
<td>Article 22 Law 32/2009</td>
<td></td>
<td>SMALL SCALE ACTIVITY</td>
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<td><strong>Business and/or Activity shall be obliged to have UKL/UPL</strong></td>
<td>Having No Significant Impacts on the Environment</td>
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<tr>
<td>Article 34 Law 32/2009</td>
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<tr>
<td><strong>SPPL</strong></td>
<td>The Stipulation of Governors or Regents/Mayors</td>
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<td>Article 35 Law 32/2009</td>
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**MoE Regulation No 05/2012**

*Article 22 Law 32/2009*

*Article 34 Law 32/2009*

*Article 35 Law 32/2009*
SEA & EIA for Environmental Protection and Management

• Supportive Carrying Capacity (SCC);
• Assimilative Carrying Capacity (ACC)

Carrying Capacity

Strategic Environmental Assessment (SEA)

Environmental Impact Assessment (EIA) & Environmental Permit

Environmental Permit Implementation & Environmental Compliance

Spatial Plan

Conform with Spatial Plan

Business & Activity

Outcome:
• Sustainability of the approved Business and Activity in the watershed;
• Healthy Environment i.e. Good water quality
• Quality of life

Coastal Watershed

Prop. A

Prop. B

Prop. C

Prop. D

Prop. E

Muka Air Tanah

Ambient Water Quality Standard

Wastewater Quality Standard

Sea Water Quality Standard
Environmental Permit Governance in Indonesia

**Planning Stage**
- Environmental Permit
- EIA Review Process (Admal/UKL-UPL)
- Proposed Project
- Spatial Plan
- General/Detail

**Pre-Construction, Construction & Operation Stages**
- The Business and/or Activity Permit
- Forest Utilization (IPPKH) or Conversion Permit
- Implementation of the Project Activity
- Environmental Protection & Management Permit
- Environmental Audit
- Environmental Compliance Inspection
- Environmental Law Enforcement

**Post Operation Stage**
- Decommissioning and Closure of the Project

**Environmental Permit Governance**:
1. Environmental permit application and issuance;
2. Environmental Permit Implementation and Reporting;
3. Environmental Compliance

**IPPKH**: if the proposed project is located in Production and/or Protected Forest;
**The Conversion Permit**: if the proposed project is located in Conversion Forest.
Business Process for Coal Mining Activity Located in the Production and Protected Forest and Its Permits

- UKL-UPL or AMDAL and Environmental Permit
- General Survey
- Exploration
- FS
- Exploration Activity in the Forest Area
  - Mining Exploration Permit
  - Forest Utilization Permit for Mining Exploration
- Mining Exploitation Permit
  - Forest Utilization Permit for Mining Exploitation
  - Exploitation Activity in the Forest Area
Business Process for Coal Mining Activity Located outside the Production and Protected Forest and Its Permits

- UKL-UPL and Environmental Permit
- Exploration Activity in the Forest Area
  - General Survey
  - Exploration
  - FS
- UKL-UPL or AMDAL and Environmental Permit
- Mining Exploration Permit
- Mining Exploitation Permit
- Exploitation Activity in the Forest Area
Laws and Regulations related to EIA Systems In Indonesia

- The Government Regulation No. 27/2012: Environmental Permit
- The MoE Regulation No. 05/2012: the types of businesses and/or activities subject to EIA (Amdal)
- The MoE Regulation No. 16/2012: Guideline for Compiling EIA (Amdal), UKL-UPL and SPPL;
- The MoE Regulation No. 17/2012: Guideline for Public Participation in EIA and Environmental Permit
- The MoE Regulation No. 07/2010: Competence Certification for EIA Compiler and the EIA Compiling Service Providier (LPJP)
- The MoE Regulation No. 15/2010: the Requirments and Procedures for the EIA Appraisal Commission license;
- The MOE Regulation No. 8/2013: Procedures for EIA Review and Environmental Permit Issuance;
- The MoE Regulation No. 25/2008: Supervision and Fostering Local EIA Commissions
Coal Mining shall have AMDAL (MOE Regulation No. 5/2012)

Coal Mining is located within and/or adjacent to the protected areas (i.e. Protected Forest)

The scale of Coal Mining is the same scale and/or more than the scale of Coal Mining stated in Annex I of MOE Regulation No. 5 Of 2012
<table>
<thead>
<tr>
<th>No</th>
<th>Type of Activity</th>
<th>Scale</th>
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<tbody>
<tr>
<td><strong>K.1</strong> COAL AND MINERAL</td>
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</tr>
<tr>
<td><strong>1.</strong> Minerals and Coal Exploitation (Production Operations)</td>
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<tr>
<td>a. License area</td>
<td>≥ 200 ha</td>
<td></td>
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<tr>
<td>b. Cleared/opened area for mining</td>
<td>≥ 50 ha (cumulative per year)</td>
<td></td>
</tr>
<tr>
<td><strong>2.</strong> Coal Exploitation (Production Operations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Capacity, and/or</td>
<td>≥ 1,000,000 tonnes/year</td>
<td></td>
</tr>
<tr>
<td>b. amount of overburden material transferred</td>
<td>≥ 4,000,000 bank cubic meter (b cm)/year</td>
<td></td>
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<tr>
<td><strong>3.</strong> Processing and Purification:</td>
<td></td>
<td></td>
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<tr>
<td>Coal</td>
<td>≥ 1,000,000 m³/year</td>
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<tr>
<td><strong>4.</strong> Coal Bed Methane (CBM) Development - in the exploitation and production development stage, that includes:</td>
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<tr>
<td>a. Production well drilling;</td>
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<tr>
<td>b. Development of production and supporting facilities;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Operational production activities; and</td>
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<td></td>
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<tr>
<td>d. Post-operation</td>
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</table>
Proposed Project is located within the protected areas, (as long as it is allowed by Laws and Regulations i.e. Government Regulation No. 24/2010 Concerning Forest Area Utilization)

1. The boundary of a proposed project shares the border with the protected areas

2. Potential environmental impacts of a proposed project influence the nearest protected areas

3. Proposed Project is located within and/or adjacent to the protected areas (Article 3, MOE Regulation No. 05/2012)

Note:
- = a proposed project
- = A Proposed Project shall conform to the Spatial Plan

6 Types of business and/or activity located within and/or in the protected areas is excluded from the responsibility to have EIA
Process of AMDAL Formulation and Review, and the Environmental Permit Issuance

**Project Proponent**

1. Public Notice & Public Consultation
   - Public Comments = 10 working days

2. Formulating TOR (KA)
   - Submitting TOR for Review

3. Administrative Appraisal by the Secretariat

4. Technical Review by the Technical Team

5. Decision on TOR Approval by Head of EIA Commission

6. TOR (KA) REVIEW
   - 30 working days

**EIA Secretariat, EIA Technical Team & EIA Commission**

7. Formulating ANDAL & RKL-RPL
   - Submitting an application letter of environmental permit and ANDAL & RKL-RPL Review
   - One application letter

8. Administrative Appraisal by the Secretariat

9. Technical Review by the Technical Team

10. Public Notice on Environmental Permit Application

11. ANDAL & RKL (Environmental Feasibility/Acceptability) Review by the EIA Commission

12. Recommendation

13. Decision on environmental unfeasibility
   - Not Feasible

14. Environmentally feasible/Acceptable
   - 10 working days

15. At least 5 working days after issuance
   - Public Notice of decision on environmental permit

**Minister, governor, regent/mayor**

- 2 Decisions:
  1. Environmental feasibility/Acceptability; and
  2. Environmental Permit

**Note:** the time frame (duration) for EIA Review does not include the duration for revision by the project proponent.
Standardization of EIA Commissions and Consultants

1. National EIA Review Commission (ERC);
2. Provincial EIA Review Commission (ERC);
3. District/City EIA Review Commission (ERC).

EIA Review Commissions

Project Proponents

EIA Quality

EIA Consultants

EIA Consultants Firm

Indonesian EIA Standardization Systems

EIA Licence

EIA Certification

EIA Registration

Legal Basis:
1. Article 27-30 8 EPMA 32-2009;
2. Article 58 GR 27-2012;
3. MOE Regulation 15-2010: Requirements and Procedure to Obtain License
4. Article 64-66 GR 27-2012;

Legal Basis:
1. Article 29-30 8 EPMA 32-2009;
2. Article 10 and Article 11 GR 27-2012;
3. MOE Regulation 7-2010;

Legal Basis:
1. Article 27-28 EPMA 32-2009;
2. Article 10 and Article 11 GR 27-2012;
3. MOE Regulation 7-2010;

Note:
1. EPMA=Environmental Protection & Management Act;
2. GR=Government Regulation;
3. MOE=Ministry of the Environment

EPMA=Environmental Protection & Management Act;
GR=Government Regulation;
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The Proposed Project Subject to AMDAL

1. **Public Participation in EIA (the proponent Responsibility)**
   - Article 26 Act No. 32/2009 EPM & Article 9 GR No. 27/2012 Environmental Permit

2. **Public Participation in Environmental Permit (the Government Responsibility)**
   - Article 39 Act No. 32/2009 & Article 44-45 GR No. 27/2012

3. **Public Participation in EIA & Environmental Permit: the affected community is involved in the EIA Commission**
   - Article 39 Act No. 32/2009 & Article 56 GR No. 27/2012

4. **Public Participation in Environmental Permit (the Government Responsibility)**
   - Article 39 Act No. 32/2009 & Article 56 GR No. 27/2012

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**The EIA Process and Public Participation In Indonesia**

- **Public Participation in EIA**
  - Formulating EIS TOR
  - Administrative Appraisal
  - Reviewing EIS TOR
  - Formulating EIS, EMaP-EMoP
  - Application of Env. Permit & Application of EIS and EMaP-EMoP Reviewing
  - Administrative Appraisal
  - Announcement
  - Reviewing EIS and EMaP-EMoP
  - Decision of Environmental Feasibility & Environmental Permit
  - Announcement

- **Public Participation in Environmental Permit**
  - Application of Env. Permit & Application of EIS and EMaP-EMoP Reviewing
  - Administrative Appraisal
  - Announcement
Scoping, Environmental Impacts, EMP and Environmental Permit

Description of the proposed project

Description of baseline or Environmental Setting:

Results of Public Involvement

Scoping - TOR

Potential Impacts (DP)

Evaluation of Potential Impacts

DPH

Prediction and Evaluation (EIS)

Significant Impacts

Prediction

Holistic Evaluation

insignificant Impacts

DTPH

Not Mitigated & Monitored

Mitigated and Monitored

Mitigated and Monitored

EMail Direction

Mitigated and Monitored

Operational EMP

Not Mitigated & Monitored

Mitigated and Monitored
1. Impacts of the proposed project on the environment
2. Impacts of the environment on the proposed project
Reviewing/Approving AMDAL

MoE Regulation No. 08/2013

Proponent

Docs of TOR, EIS, EMaP-EMoP & ES

Meet the Administrative requirements

Conform to the Spatial Plan

Yes

REJECTED

No

Yes

REJECTED

No

the Business and/or activity is in the construction/operation phase

Project Phase Appraisal

Consistency appraisal

Mandatory appraisal

In-Dept appraisal

Relavancy Appraisal

The Documents meet the Quality requirement

Correction

The Docs attached on. The decision of TOR or SKKLH & Environmental Permit

The Proposed business and/or activity approved

ADMINSITRATIVE APPRAISAL

Ya

No

REJECTED

Ya

REJECTED

No

No

REJECTED
Decision making: Determining the Environmental Feasibility of Proposed Projects

Technical Analysis
(e.g., physical, ecological, socio-economic, other)

Facts

Information

Environmental Feasibility Criteria

Amdal

Decision Making
prioritizing problems & actions, ensuring effective implementation

Values

Public Involvement

Proposed Project

Other Input
(e.g., benefit-cost analysis, political priorities)

Sources: modification from The United Nations University, RMIT University, and the United Nations Environment Programme (UNEP) under a Creative Commons License 2007
The Environmental Feasibility Criteria of Proposed Projects

In the EIA Review, the EIA Commission will assess the environmental feasibility of the Proposed Renewable Energy Project based on the following criteria:
1. Conformity to the Spatial Plan
2. Conformity to the Laws and Regulation related to natural resource and environmental management;
3. National Defence Concern;
4. Result of Environmental Impact Prediction;
5. Result of Holistic evaluation of environmental impacts: Positive and Negative Impacts;
6. Capacity of the proponent in dealing with the negative environmental impacts
7. A Proposed project does not disrupt social values (emic view);
8. A Proposed project does not disrupt ecological entities that are key species, ecologically, economically and scientifically important;
9. A Proposed project does not interfere existing activities or projects located in the vicinity of the proposed project;
10. A Proposed project does not disrupt the environmental capacity;
**Project Proponent**

- **Fill out an UKL-UPL Form**

**Minister, governor, regent/mayor**

1. **Submitting an application letter of Environmental Permit and UKL-UPL Review**
2. **Administrative Appraisal**
3. **Public Notice on Environmental Permit Application**
4. **UKL/UPL Technical Review**
5. **Decision on Approval Recommendation of UKL-UPL & Environmental Permit**
6. **Public Notice of decision on environmental permit**

**Note:** the time frame (duration) for UKL-UPL Review: **14 working days**, including Public Notice on environmental permit application and not including revision by project proponent.

**UKL-UPL Review and Issuance of UKL-UPL Approval Recommendation can be carried out by:**

- a. The Official assigned by the Minister;
- b. Head of Provincial Environmental Agency
- c. Head of Regent/Municipality Environmental Agency

**Source:** Article 40 PP 27/2012
Interconnectivity between Environmental Permit and EPM Permits

- decision on environmental acceptability (SKKL for AMDAL)
- UKL-UPL approval recommendation

Environmental Permit
- Requirement and Obligations contained in SKKL or UKL-UPL Approval Recommendation
- Environmental Protection and Management Requirements and Obligations specified by Minister of Environment, governor and/or regents/mayor
- Number and Types of EPM Permits Required
- Validity of Environmental Permit

Business and/or activity Permit
- Not all business and/or activity requires EPM Permits

Integrated EPM Permits into Environmental Permit (Article 123 of EPMA 32/2009)

Waste water discharge permit
Hazardous management permit
Other EPM Permits

Detailing of EPM Permits stated on Environmental Permit
Modification to Environmental Permit as a result of Modification to Business and/or Activity

Modification to Environmental Permit Issuance

1. Modification to Environmental Permit Issuance
   - A report on Modification of EMP
2. Modification to Business and/or Activity
   - Modification to Environmental Management Plan
3. Modification to Business and/or Activity
   - Modification that will have impacts on the environment
   - Changes in impacts and/or risk on the environment based on Environmental Risk Assessment (ERA) and/or Environmental Audit
4. Modification to Decision to Environmental Feasibility
   - New EIA
   - Adendum EIS & EMP
5. The proposed businesses and/or activities are not carried out within 3 years from the environmental permit issuance

Source: Article 50-51 of GR. 27/2012

If a proponent changes or modifies a business or activity, then he or she must seek a changed or renewed environmental permit before initiating the changes/modifications
Implementation of the Permits in order to Meet The Environmental Standards

Environmental Impacts:
The environmental changes result from businesses and/or activities

Compliance with the Environmental Pollution Standards and Environmental Degradation Criteria

Pre-Construction, Construction, Operation

Implementation of Environmental Permit & EMP Permit, Business and or Activity Permit

Environmental Audit

The MoE Regulation No. 03/2013 concerning Environmental Audit

The MoE Regulation No. 07/2001: Environmental Inspector

Implementation of Environmental Permit & EMP Permits + Continuous Improvement

Environmental Inspection

The MoE Regulation No. 56/2002: General Guideline of Environmental Compliance Inspection by Environmental Inspectors

The MoE Regulation No. 45/2005: Guideline for Compiling the RKL-RPL Report (Environmental Permit Implementation Report)

The MoE Regulation No.57/2002: SOP for the National Environmental Inspector

MoE Regulation No.58/2002: SOP for the Local Environmental Inspector
Environmental Permit Holders have responsibilities to:

a. Comply with the requirements and obligations contained in the Environmental Permit and Environmental Protection and Management Permit;

b. Create and submit report on the implementation of the requirements and obligations in the permit to the Minister of Environment, the Governor, or regent / mayor → the report must be delivered periodically every 6 months, and

c. Provide a guarantee fund for the restoration of environmental functions in accordance with the regulations

Source: Government Regulation No. 27 Year 2012 on Environmental Permit Article 53
Environmental Compliance Inspection

THE environmental Permit & EPM Permit Holder (Proponent)

Minister of Environment, Governor Regent/Mayor (in accordance with their authority)

May delegate their authority in conducting environmental inspection to officials or technical institutions in charge of environmental protection and management affairs

Status of Compliance

- Environmental Laws & Regulations
- Environmental Permit

Implementation of Environmental Permit & EMP Permits + Continuous Improvement

Assign Environment Inspectors

Source: Article 71 & 72 EPMA 32/2009
Administrative and Penal Sanctions under EPMA 32/2009

Article 111 of EPMA 32/2009:
(1) Officials: granting environmental permit without AMDAL: Imprisonment and fine
(2) Officials granting business and/or activity permit without environmental permit: Imprisonment and fine

Article 109 of EPMA 32/2009: Without having an environmental permit: Imprisonment 1-3 years, Fine (Rp 1-3 Billions)

Article 98-100 of EPMA 32/2009: Violating environmental pollution standard and environmental degradation criteria \(\rightarrow\) Imprisonment and fine

Article 71 of GR 27/2012:
Administrative Sanction for Environmental Permit Holders do not:
- Comply with the Environmental Permit and EMP Permit;
- Submit the report
Thank You

For Further Information, Please Contact:

Ministry of Environment and Forestry - Indonesia
Directorate General for Forestry and Environmental Planning
Directorate for Environmental Impact Prevention of Business and Activity

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