

Environmental Permit Update



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On February 23rd, 2012, the Government of Indonesia issued Government Regulation No. 27 of 2012 regarding Environmental Permits (GR 27/2012).

GR 27/2012 is an implementing regulation of the recent 2009 Environmental Law (Law No. 32 of 2009) and revokes Government Regulation No. 27 of 1999 (GR 27/1999) which previously regulated two types of environmental reporting and compliance for companies operating in Indonesia: an Environmental Impact Analysis Report (AMDAL) and an Environmental Management/Monitoring Efforts Report (UKL – UPL).

The aim of GR 27/2012 is to provide greater legal certainty for businesses in terms of environmental licensing while ensuring the protection and management of the natural environment.

Environmental Permit

The key requirement of the new regulation is the Environmental Permit. The idea for an environmental permit was initially introduced by the 2009 Environmental Law but has not been implemented until now. In brief, any business which currently requires either an AMDAL or an UKL-UPL now also requires an Environmental Permit.

The Environmental Permit is also a requirement for obtaining a business permit. In the event the Environmental Permit is revoked, the business permit will also be canceled.

An Environmental Permit does not replace AMDAL

Under GR 27/2012, companies must still apply for and receive approval of an AMDAL or UKL – UPL. As an additional requirement, companies must now also apply for an Environmental Permit. Both the Environmental Permit and approval of an AMDAL or UKL – UPL will be issued on the same day.

An Environmental Permit shall report the requirements and

obligations which have been stated in the approval of the AMDAL or UKL – UPL. Additional requirements may be added as stipulated by the issuing authority (e.g. Minister of Environmental Affairs, Governors, or Regents/Mayors). In the event the business is also required to obtain other environmental protection and management permits, such as hazardous waste permits, then the Environmental Permit shall also contain the type and number of permits required.

It is believed that the Government of Indonesia's intention in introducing the Environmental Permit is to prioritise environmental protection. However, the necessity of an Environmental Permit is questionable as it only restates and confirms what has been stated under the AMDAL or UKL – UPL. According to the regulation, the Environmental Permit appears to be just another approval of an AMDAL or UKL – UPL. Critics have noted that the Environmental Permit may simply add another layer of bureaucracy to facilitating investment in Indonesia.

Changes to AMDAL

Beyond the Environmental Permit, we note that there are also significant changes to AMDAL and UKL – UPL provisions provided in GR 27/2012 as compared to GR 27/1999. These changes include:

- Simplifying AMDAL documents and shortening the time period for preparation of an AMDAL;
- Expanding the criteria for relevant stakeholders who may participate in an AMDAL preparation and extending their opportunity to provide comments on the AMDAL and UKL-UPL; and
- Determining certain criteria for environmental feasibility of business and/or activities that are required to obtain an AMDAL or UKL-UPL.

In general, GR 27/2012 has clear provisions to manage the implementation of an Environmental Permit. However, some technical provisions within the regulation and the rationale behind the Environmental Permit need to be further clarified and articulated in the near future.

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