

IMPLEMENTATION OF ENVIRONMENTAL IMPACT ANALYSIS, ENVIRONMENTAL TREATMENT EFFORTS, AND ENVIRONMENTAL MONITORING EFFORTS FOR REHABILITATION AND RECONSTRUCTION OF NANGGROE ACEH DARUSSALAM PROVINCE AND NIAS ARCHIPELAGO, NORTH SUMATERA PROVINCE

(Regulation of the State Minister of Environment No. 308/2005 dated September 28, 2005)

THE STATE MINISTER OF ENVIRONMENT,

Considering:

- a. that, the earthquake and tsunami sweeping over Nanggroe Aceh Darussalam Province and Nias Archipelago, North Sumatera Province had caused death, extraordinary damages of facilities and infrastructure killing various social aspects and operation of government administrative functions;
- b. that, the regions swept by the earthquake and tsunami should immediately be rehabilitated to recover the psychological condition of the society, socio-economic condition, and government administration through rehabilitation and reconstruction efforts;
- c. that, to immediately solve the above conditions, Government Regulation In Lieu of Law No. 2/2005 on Aceh and Nias Rehabilitation and Reconstruction Agency was issued;
- d. that, in the rehabilitation and reconstruction of the above regions, regulations concerning Environmental Impact Analysis and Environmental Treatment Efforts (UKL) and Environmental Monitoring Efforts (UPL) could not fully be applied;
- e. that, considering the matters as meant in paragraphs a, b, c, and d, it is necessary to stipulate Regulation of the State Minister of Environment on Implementation of Environmental Impact Analysis, Environmental Treatment Efforts, and Environmental Monitoring Efforts for Rehabilitation and Reconstruction of Nanggroe Aceh Darussalam Province and Nias Archipelago, North Sumatera Province;

In view of:

1. Law No. 23/1997 on Environmental Treatment (Statute Book of 1997 No. 68, Supplement to Statute Book No. 3699);
2. Law No. 18/2001 on Special Autonomy for Special Region of Aceh as Nanggroe Aceh Darussalam Province (Statute Book of 2001 No. 114, Supplement to Statute Book No. 4134);
3. Law No. 32/2004 on Regional Administration (Statute Book of 2004 No. 125, Supplement to Statute Book No. 4437);
4. Government Regulation In Lieu of Law No. 2/2005 on Aceh and Nias Rehabilitation and Reconstruction Agency (Statute Book of 2005 No. 35, Supplement to Statute Book No. 4492);
5. Government Regulation No. 27/1999 on Environmental Impact Analysis (Statute Book of 1999 No. 59, Supplement to Statute Book No. 3838);

D E C I D E S :

To stipulate:

REGULATION OF THE STATE MINISTER OF ENVIRONMENT ON IMPLEMENTATION OF ENVIRONMENTAL IMPACT ANALYSIS, ENVIRONMENTAL TREATMENT EFFORTS, AND ENVIRONMENTAL MONITORING EFFORTS FOR REHABILITATION AND RECONSTRUCTION OF NANGGROE ACEH DARUSSALAM PROVINCE AND NIAS ARCHIPELAGO, NORTH SUMATERA PROVINCE.

CHAPTER I GENERAL PROVISIONS

Article 1

Hereinafter referred to as:

1. Environmental Impact Analysis (AMDAL) is analysis into potential and significant impact of an activity and/or operation to be operated on an environment, which is necessary for making of decisions concerning operation of activity and/or operation;
2. Potential and Significant Impact is very significant changes on environment as a result of an activity and/or operation.
3. Term of Reference is the scope of environmental impact analysis, which is as a result of scoping;
4. Analysis on Environmental Impact (AMDAL) is careful and in-depth analysis into potential and significant impact of activity and/or operational plan.
5. Environmental Treatment Efforts (UKL) and Environmental Monitoring Efforts (UPL) is analysis into identification of the impact of activity and/or operational plan not necessarily completed with AMDAL.
6. Initiator is a person or corporation responsible for a plan of activity and/or operation to be operated in the framework of rehabilitation and reconstruction of Nanggroe Aceh Darussalam Province and Nias Archipelago, North Sumatera Province.
7. Institution Responsible is the institution authorized to issue decision regarding environmental worthiness meaning that the rehabilitation and reconstruction of Nanggroe Aceh Darussalam Province and Nias Archipelago, North Sumatera Province are with the respective governor.
8. Institution Supervising Activity and/or Operation is the institution conducting technical development of the concerned activity and/or operation.
9. Environmental Impact Control Institution is the institution responsible for environmental impact control in Nanggroe Aceh Darussalam Province and North Sumatera Province.
10. AMDAL Evaluating Commission is a commission in charge of verifying document on environmental impact analysis in Nanggroe Aceh Darussalam Province and North Sumatera Province.
11. Minister is the minister in charge of environmental treatment.
12. Governor is the Governor of Nanggroe Aceh Darussalam Province and the Governor of North Sumatera Province.

Article 2

- (1) Every activity and/or operation of rehabilitation and reconstruction of Nanggroe Aceh Darussalam and Nias Archipelago, North Sumatera Province must be completed with AMDAL.
- (2) The activity and/or operation as meant in paragraph (1) is as specified in Attachment I to this regulation.
- (3) Activities and/or operations not stipulated in paragraph (2) must be completed with Environmental Treatment Efforts (UKL) and Environmental Monitoring Efforts (UPL).

Article 3

- (1) The Governor may submit request for amendment to the list of activities and/or operations as meant in Article 2 to the Minister.
- (2) The request for amendment as meant in paragraph (1) shall be based on scientific considerations regarding the supporting and accommodating capacity of the environment and the local ecosystem typology.

CHAPTER II

AMDAL EVALUATING COMMISSION AND TECHNICAL TEAM

Part One

AMDAL Evaluating Commission

Article 4

- (1) AMDAL Evaluating Commission is established:

- a. In Nanggroe Aceh Darussalam Province: by the Governor;
- b. In North Sumatera Province: by the Governor.

- (2) The Secretariat of the AMDAL Evaluating Commission as meant in paragraph (1) shall have its seat in the provincial environmental impact control institution.
- (3) The AMDAL Evaluating Commission shall discuss the term of reference and evaluate environmental impact analysis, environmental treatment plan, and environmental monitoring plan.
- (4) In performing its duties, the Commission as meant in paragraph (1), shall be assisted by a Technical Team and a Secretariat.

Article 5

- (1) The AMDAL Evaluating Commission consisted of members from the Provincial BAPPEDA, provincial environmental impact control institution, provincial institution for land affairs, provincial health institution, representative of the related institution in the province, regental/municipal environmental impact control institution, provincial environmental organization, representatives of the society suffering from environmental impact, and other members deemed necessary.
- (2) The membership structure of the AMDAL Evaluating Commission consisted of Chairman and member, Secretary and member, and members.
- (3) The Chairman of the Commission is head of the provincial environmental impact control institution.
- (4) The Secretary of the Commission is Head of AMDAL Division having its seat in the provincial environmental control institution.
- (5) Further provisions regarding structure of the AMDAL Evaluating Commission as meant in paragraph (1) will be stipulated by the Governor.

Article 6

- (1) Chairman of the AMDAL Evaluating Commission shall have duties:
 - a. To do coordination in evaluating term of reference, environmental impact analysis, environmental treatment plan, and environmental monitoring plan;
 - b. To submit materials to be considered by the AMDAL Evaluating Commission for making of decision on term of reference and environmental worthiness to the Governor.
- (2) The Secretary of the AMDAL Evaluating Commission shall have duties:
 - a. To assist the Chairman;
 - b. To arrange results of discussion on term of reference, evaluation into environmental impact analysis, environmental treatment plan, and environmental monitoring plan conducted by the AMDAL Evaluating Commission.

Part Two

Technical Team

Article 7

- (1) The technical team that assisted the AMDAL Evaluating Commission as meant in Article 4 paragraph (4) consisted of professionals of the institutions supervising the concerned businesses and/or activities, professionals of the provincial environmental impact control institution, professionals of the State Ministry of Environment, and other professionals in other related fields.
- (2) The membership structure of the technical team consisted of a chairman and member and a secretary and member and other members, on condition total members shall not exceed seven (7).
- (3) The technical team is established upon announcement of activity and/or operational plan.
- (4) Further provisions regarding membership structure of the technical team as meant in paragraph (1) will be stipulated by the Chairman of the AMDAL Evaluating Commission.

Article 8

The technical team shall have duties:

- a. To coordinate with the initiator in the process of scoping;
- b. To determine term of reference of environmental impact analysis;
- c. To report the term of reference of environmental impact analysis to the AMDAL Evaluating Committee;
- d. To give technical directives upon the arrangement of environmental impact analysis, environmental treatment plan, and environmental monitoring plan;
- e. To give technical evaluation on environmental impact analysis, environmental treatment plan, and environmental monitoring plan;
- f. To report result of the evaluation to the AMDAL Evaluating Commission and to give recommendation on the result of evaluation of AMDAL;
- g. To assist the AMDAL Evaluating Commission in preparing recommendation on result of evaluation of AMDAL to the Governor in the framework of decision-making.

CHAPTER III

PROCEDURE OF AMDAL

Part One

Announcement

Article 9

- (1) The initiator to start arranging AMDAL document must:
 - a. Notify its activity and/or operational plan to the institution responsible;
 - b. To announce the activity and/or operational plan to the society according to the schedule of announcement agreed jointly with the institution responsible on the announcement board or in printed or electronic media.
- (2) The announcement as meant in paragraph (1) shall contain the following items:
 - a. Name and address of the initiator;
 - b. Location and scale/measure/size of activity and/or operation;

- c. Types of activity and/or operation;
- d. Products;
- e. Potential impact;
- f. Date of publication of announcement and deadline for receipt of comments, opinions, and responses by the public; and
- g. Name and address of the institution responsible in receiving comments, opinions, and responses from the public.

Article 10

Every person is entitled to submit comments, opinions, and responses, in writing, to the announced activity and/or operational plan within not later than ten (10) working days since date of announcement.

Article 11

The AMDAL Evaluating Commission must consider the comments, opinions, and responses from the public in giving recommendation regarding environmental worthiness of the activity and/or operation to be operated.

Part Two

Scoping

Article 12

- (1) In the framework of scoping of the evaluation of AMDAL, the initiator must provide data and information, in writing, to the AMDAL Evaluating Commission.
- (2) The data and information as meant in paragraph (1) included:
 - a. Activity and/or operational plan and alternatives to be evaluated in AMDAL;
 - b. Components of activity and/or operation potential to generate impact;
 - c. Environmental components potential to suffer from the impact of the activity and/or operation;
 - d. Area where the impact will spread, based on ecological and social aspects;
 - e. The society potential to suffer from the impact;

- f. Government institutions or other parties potential to be affected or to affect the activity and/or operation;
- g. Other relevant information.

Article 13

- (1) In the framework of the process of scoping, the technical team may ask for additional information from the initiator and other parties, and may conduct a site visit.
- (2) The technical team must report the additional information as meant in paragraph (1) to the AMDAL Evaluating Committee, and the additional information shall contain:
 - a. Activity and/or operational plan and alternatives to be evaluated in AMDAL and the factors considered in deciding the alternatives;
 - b. Groups of society that suffer from the impact necessarily involved in AMDAL;
 - c. Government institutions or other parties necessarily involved in AMDAL;
 - d. Potential hypothetic impact to be evaluated in AMDAL.

Article 14

- (1) The technical team shall submit the term of reference of environmental impact analysis to the AMDAL Evaluating Commission.
- (2) The term of reference of environmental impact analysis contained:
 - a. The alternatives to be evaluated in environmental impact analysis study;
 - b. Location of environmental impact analysis study;
 - c. Potential hypothetic impact to be analyzed in environmental impact analysis study;
 - d. Data on environmental hues necessary for environmental impact analysis study;
 - e. Depth of environmental impact analysis study;
 - f. Professionalism necessary for the arrangement of environmental impact analysis study.

Part Three

Discussion of Term of Reference of Environmental Impact Analysis

Article 15

- (1) The AMDAL Evaluating Commission, the technical team, and the initiator shall jointly discuss the term of reference of environmental impact analysis to reach an agreement on the scope of environmental impact analysis study.
- (2) The AMDAL Evaluating Commission, based on the discussion as meant in paragraph (1) shall stipulate Agreement on term of reference of environmental impact analysis.

Part Four

Arrangement of Environmental Impact Analysis, Environmental Treatment Plan, and Environmental Monitoring Plan

Article 16

- (1) Based on the agreement on term of reference of environmental impact analysis as meant in Article 15 paragraph (2), the initiator must consult the society who suffers from the impact, the related institutions in the concerned province and regency/municipality, and other parties deemed necessary.
- (2) The initiator must document the consultation as meant in paragraph (1) and must conclude the results of the consultation to be forwarded to the AMDAL Evaluating Commission.
- (3) The technical team may assist the initiator in doing the consultation as meant in paragraph (1).

Article 17

The initiator must arrange environmental impact analysis, environmental treatment plan, and environmental monitoring plan based on the term of reference of environmental impact analysis stipulated by the AMDAL Evaluating Commission and the result of the consultation as meant in Articles 15 and 16.

Article 18

- (1) The initiator must consult the technical team in arranging environmental impact analysis, environmental treatment plan, and environmental monitoring plan.
- (2) The consultation as meant in paragraph (1) is necessary to ensure that the arrangement of environmental impact analysis, environmental treatment plan, and environmental monitoring plan was in accordance with the stipulated term of reference of environmental impact analysis.
- (3) In case of inconformity of the term of reference of environmental impact analysis, environmental treatment plan, and environmental monitoring plan with the term of reference of environmental impact analysis and/or in case of changes of activity and/or operational plan, the AMDAL Evaluating Commission shall make decision regarding the inconformity and/or the changes after considering the recommendation of the technical team.
- (4) The Commission must submit result of the decision-making as meant in paragraph (3) to the Governor.

Article 19

- (1) Environmental impact analysis documents shall contain the following:
 - a. Objectives and purposes of operation of activity and/or operational plan;
 - b. Description of compatibility of activity and/or operational plan with spatial arrangement plan, development policies, and the applicable regulations;
 - c. Description of activity and/or operation enabling the achievement of the objectives and purposes, including the proposed activity and/or operational plan;
 - d. Environmental hues on the study location;
 - e. Environmental impact as a result of activity and/or operational plan;
 - f. Directions of environmental treatment and monitoring.

- (2) Environmental treatment plan consisted of the following:
 - a. Environmental components or parameters estimated to experience significant changes based on the result of environmental impact analysis;
 - b. Sources of impact;
 - c. Indicators of impact to measure changes of environmental components;
 - d. Purposes of environmental treatment plan and indicators of environmental treatment performances;
 - e. Environmental treatment efforts;
 - f. Environmental treatment location;
 - g. Institution responsible for environmental treatment.

- (3) Environmental monitoring plan shall contain the following:
 - a. Environmental components or parameters monitored;
 - b. Sources of impact;
 - c. Environmental parameters monitored;
 - d. Purposes of environmental monitoring;
 - e. Environmental monitoring methods;
 - f. Term and frequency of monitoring;
 - g. Environmental monitoring location;
 - h. Institution responsible for environmental monitoring.

Part Five

Evaluation of Environmental Impact Analysis,
Environmental Treatment Plan, and
Environmental Monitoring Plan

Article 20

- (1) The initiator shall submit result of evaluation of environmental impact analysis, environmental treatment plan, and environmental monitoring plan to AMDAL Evaluating Commission.
- (2) The AMDAL Evaluating Commission as meant in paragraph (1) must deliver a receipt to the initiator, and the receipt shall contain day and date of receipt of environmental impact analysis, environmental

treatment plan, and environmental monitoring plan as meant in paragraph (1).

Article 21

- (1) The AMDAL Evaluating Commission shall assign the technical team to do technical evaluation into the result of environmental impact analysis, environmental treatment plan, and environmental monitoring plan submitted by the initiator.
- (2) The technical evaluation as meant in paragraph (1) included evaluation into:
 - a. Conformity of the content of environmental impact analysis document, environmental treatment plan, and environmental monitoring plan as meant in Article 20;
 - b. Compliance with regulations on the technicalities of the concerned sectors;
 - c. Accuracy of application of methods of research/analysis;
 - d. Up-to-date-ness of the data applied;
 - e. Worthiness of design and/or technology and/or process of production applied.
- (3) In conducting evaluation, the technical team may consult professionals in environmental field and professionals in the field of the activity and/or operation being evaluated.
- (4) The technical team shall report the result of the evaluation as meant in paragraph (2) to the AMDAL Evaluating Commission.

Article 22

- (1) The AMDAL Evaluating Commission shall evaluate the environmental impact analysis document, environmental treatment plan, and environmental monitoring plan in observance of the result of evaluation of the technical team.
- (2) In conducting the evaluation as meant in paragraph (1):
 - a. Members from the related provincial institutions

shall conduct evaluation based on the aspects of the policies of the institutions represented by them;

- b. Members from the regency/municipality shall conduct evaluation based on the aspect of regional development and area development policies;
- c. Members from environmental organizations/non-governmental institutions shall conduct evaluation based on the aspect of environmental interest;
- d. Members from representatives of the society shall submit public aspirations and interests.

Part Six

Decision-Making

Article 23

- (1) The AMDAL Evaluating Commission shall give recommendation on the result of evaluation into environmental impact analysis, environmental treatment plan, and environmental monitoring plan to the Governor for decision-making.
- (2) If the result of the evaluation of the AMDAL Evaluating Commission concluded that:
 - a. A potentially and significantly negative impact generated by the concerned activity and/or operation could not be solved by the available technology; or
 - b. Cost of prevention of potentially and significantly negative impact is higher than the benefits of potentially and significantly positive impact to be generated by the concerned activity and/or operation, the Governor shall decide that the activity and/or operational plan is unworthy.
- (3) The institution authorized to issue operational license must reject the request for the operational license if the Governor issue the decision as meant in paragraph (2).

Article 24

Environmental impact analysis, environmental treatment plan, and environmental monitoring plan, and

the copies of decisions on environmental worthiness or environmental unworthiness of an activity and/or operation must be submitted to the Minister, the institution authorized to issue operational license, the related institutions, the concerned regent/mayor, and other parties deemed necessary.

CHAPTER IV

PROCEDURE OF ENVIRONMENTAL TREATMENT EFFORTS AND ENVIRONMENTAL MONITORING

EFFORTS

Part One

Arrangement

Article 25

- (1) On types of activities and/or operations not mandatory to AMDAL, the initiator of the concerned activities and/or operations must arrange environmental treatment efforts and environmental monitoring efforts *before operating the project*.
- (2) The environmental treatment efforts and environmental monitoring efforts as meant in paragraph (1) shall be arranged pursuant to the environmental treatment and environmental monitoring form as specified in Attachment II to this regulation.
- (3) Environmental treatment efforts and environmental monitoring efforts must consider the conditions of the environment and the society at the location of operations so that the environmental treatment and *environmental monitoring form could be adjusted to the actual condition*.

Part Two

Submitting Environmental Treatment and Environmental Monitoring Form

Article 26

The initiator shall file the environmental treatment and environmental monitoring form to the provincial institution responsible for environmental treatment.

Article 27

- (1) Based on the environmental treatment and environmental monitoring form as meant in Article 25 paragraph (2), the provincial environmental impact con-

trol institution must coordinate with the regency/municipality and the provincial institution supervising the activity and/or operation to inspect the form within not later than seven (7) working days since receipt of the form.

- (2) In case of *inconformity of the operational plan with the spatial arrangement plan and/or regulations on protected forests*, the provincial environmental impact control institution must instruct the initiator to relocate the location of activity and/or operation in compliance with the applicable regulations.
- (3) In case of lack of information written on the environmental treatment and environmental monitoring form, and additional information and/or revisions were necessary, the initiator must revise and/or complete the above based on the result of inspection as meant in paragraph (1) *within not later than seven (7) working days*.
- (4) The provincial environmental impact control institution must issue recommendation on environmental treatment efforts and environmental monitoring efforts to the initiator *within not later than ten (10) working days since receipt of the environmental treatment and environmental monitoring form already revised by the initiator*.

Article 28

In case that the environmental treatment and environmental monitoring form did not need any revisions, the provincial environmental control institution must give recommendation within not later than fourteen (14) working days since receipt of the form.

Article 29

The initiator shall file recommendation on environmental treatment efforts and environmental monitoring efforts from the officer of the institution as meant in Article 27 to the competent institution for the issuance of operational license.

Article 30

- (1) The officer of the institution authorized to issue

operational license must contain the terms and conditions for environmental treatment efforts and environmental monitoring efforts in the operational license.

- (2) Copies of the license issued by the officer of the institution as meant in paragraph (1) must be submitted to the institution responsible for environmental treatment and environmental control or the provincial or regental/municipal institution responsible for environmental treatment according to the authorities as meant in Article 25.

CHAPTER V SUPERVISION

Article 31

- (1) The initiator must submit report on operation of environmental treatment plan and environmental monitoring plan to the institution authorized to issue license, the institution supervising the concerned activity and/or operation, the State Ministry of Environment, the governor, and the regent/mayor.
- (2) The environmental impact control institution and the regental/municipal environmental impact control institution shall perform:
- Supervision and evaluation into the operation of environmental treatment plan and environmental monitoring plan;
 - Verification of the report submitted by the initiator as meant in paragraph (1);
 - Submission of supervision and evaluation reports to the Minister, the governor, and the regent/mayor periodically, at least twice a year with carbon copies forwarded to the institution authorized to issue license.

CHAPTER VI FUNDING

Article 32

The cost of operations of the AMDAL Evaluating Committee and the Technical Team shall be charged to State and/or Regional Revenue and Expenditure Budget (APBN and/or APBD), and acquired from other non-binding sources.

Article 33

- (1) Cost of arrangement of environmental impact analysis, environmental treatment plan, and environmental monitoring plan shall be borne by the initiator.
- (2) Cost of discussion of term of reference, evaluation of environmental impact analysis, environmental treatment plan, and environmental monitoring plan shall be borne by the initiator.

Article 34

Cost of the supervision as meant in Article 31 paragraph (2) shall be charged to the account of the respective institution, and acquired from other non-binding sources of fund.

CHAPTER VII CLOSING PROVISIONS

Article 35

Environmental impact analysis document is an inseparable part of the contract document.

Article 36

This regulation is only applicable to the rehabilitation and reconstruction of Nanggroe Aceh Darussalam Province swept by earthquake and tsunami on December 26, 2004 and Nias Archipelago, North Sumatera Province swept by an afterward earthquake on March 28, 2005.

Article 37

This regulation is valid since the date it is stipulated and expired on April 16, 2009.

Stipulated in Jakarta

On September 28, 2005

THE STATE MINISTER OF ENVIRONMENT

Sgd

Ir. RACHMAT WITOELAR

Editor's Note :

Attachments are not available.

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