

ENVIROMENTAL PROTECTION AND MANAGEMENT
(Law No. 32/ 2009, dated October 3, 2009)

BY GRACE OF GOD THE ALMIGHTY
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that a proper and healthy environment constitutes a human right of every Indonesian citizen as mandated in Article 28 of the Constitution of 1945;
- b. that national economic development as mandated by the Constitution of 1945 is executed on the basis of sustainable and environmentally-sound development principles;
- c. that the regional economic spirit in the execution of public administration of the Unitary State of the Republic of Indonesia has brought about changes in relations and authority between the government and regional government, including in the field of environmental protection and management;
- d. that the decreasing environmental quality has threatened the continuation of life of human and other creatures so that all stakeholders need to protect and manage the environment seriously and consistently;
- e. that since the rising global warming has caused climate change thus worsening the environmental quality, environmental protection and management are needed;
- f. that in order to better guarantee legal certainty and protect right of everybody to obtain a proper and healthy environment as part of the extensive environmental protection, it's necessary to

renew Law No. 23/1997 on Environmental Management;

- g. that based on the considerations as referred to letters a, b, c, d, e and f, it's necessary to enact a law on environmental protection and management;

In view of:

Article 20, Article 21, Article 28H paragraph (1), as well as Article 33 paragraph (3) and paragraph (4) of the Constitution of 1945;

By Joint Approval of
THE HOUSE OF REPRESENTATIVES OF
THE REPUBLIC OF INDONESIA

And

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDES:

To stipulate:

THE LAW ON ENVIRONMENTAL PROTECTION AND MANAGEMENT.

CHAPTER I

GENERAL PROVISION

Article 1

Referred to in this law as:

1. Environment shall be a totality of space with all materials, resources, situations and creatures, including human and their behavior that influence the nature, continuation of livelihood and human welfare as well as other creatures.
2. Environmental Protection and Management shall be systematic and integrated efforts to preserve the functions of the environment and prevent environmental pollution and/or destruction, which cover planning, utilization, control, preservation, supervision and law enforcement.
3. Sustainable Development shall be conscious and integrated efforts integrating environmental, social and economic aspects into a development strategy to assure the totality of environment as well as safety, capability, welfare and living standards of the present and future generations.
4. Environmental Protection and Management Plan hereinafter abbreviated to RPPLH shall be written planning containing environmental potentials, issues as well as protection and management in a specified period.
5. Ecosystem shall be an order of environment components constituting a comprehensive and mutually influencing totality in forming environmental equilibrium, stability and productivity.
6. Conservation of Environmental Functions shall be a series of efforts to preserve the continuation of the support and carrying capabilities of the environment.
7. Support Capacity of the Environment shall be the capability of the environment to support livelihood of human, other creatures and equilibrium between the both.
8. Carrying Capability of the Environment shall be the capability of the environment to absorb substances, energies and/or other components coming or inserted therein.
9. Natural Resources shall be environmental elements consisting of biological and non-biological resources wholly forming a totality of ecosystem.
10. Strategic Environmental Assessment hereinafter abbreviated to KLHS shall be a series of systematic, comprehensive and participatory analyses to ascertain that the principles of sustainable development have become a basis and been integrated into the development of a region and/or policy, plan and/or program.

11. **Environmental Impact Analysis** hereinafter called Amdal shall be a study on substantial impacts of a planned business and/or activity in the environment, which is needed for making decision on the operation of business and/or activity.
12. **Environmental Management and Monitoring Programs** hereinafter called UKL-UPL shall be the management and monitoring of businesses and/or activities not having substantial impacts on the environment, which are needed for making decision on the operation of businesses and/or activities.
13. **Quality Standard of the Environment** shall be indicator of limit or content of creature, substances, energies or components which exist or must exist and/or pollutants having existence thereof tolerable in a specified resource as environmental substance.
14. **Environmental Pollution** shall be the incoming or inclusion of creature, substances, energies and/or other components into the environment by human activities so as to exceed the stipulated environmental quality standard.
15. **Standard Criteria for Environmental Destruction** shall be limits of change in physical, chemical and/or biological characteristics of the environment with are tolerable by the environment so as to be able to preserve its functions.
16. **Environmental Destruction** shall be human actions changing directly or indirectly physical, chemical and/or biological characteristics of the environment so as to exceed the standard criteria for environmental destruction.
17. **Environmental Damage** shall be a direct and/or indirect change in physical, chemical and/or biological characteristics of the environment, which exceeds the standard criteria for environmental damage.
18. **Natural Resource Conservation** shall be the management of natural resources to assure wise utilization and the continuation of their availability by preserving and enhancing the quality of value as well as biodiversity thereof.
19. **Climate Change** shall be climate change attributed directly or indirectly by human activities thus changing composition of atmosphere globally, besides change in variability of natural climate observed in a comparable period.
20. **Waste** shall be remainders of a business and/or activity.
21. **Hazardous and Toxic Materials** hereinafter abbreviated to B3 shall be substances, energies and/or other components which may pollute and/or destroy directly or indirectly the environment and/or endanger the environment, health as well as continuation of life of human and other creatures because of their characteristics, concentration and/or quantity.
22. **Waste of Hazardous and Toxic Materials** hereinafter called Waste of B3 shall be remainders of a business and/or activity containing B3.
23. **B3 Waste Management** shall be an activity covering the reduction, storage, collection, transportation, utilization, treatment and/or filling.
24. **Dumping** shall be an activity to dump, place and/or insert waste and/or materials in a specified quantity, concentration, time and location by certain requirements into a specified environmental media.
25. **Environmental Dispute** shall be a dispute between two parties, which arises from an activity potential to affect and/or already affecting the environment.
26. **Environmental Impact** shall be influence on the environment, which is attributable to a business and/or activity.

27. **Environmental Organization** shall be a group of organized people and established on the basis of their own will, having goal and activity related to the environment.
28. **Environmental Audit** shall be evaluation executed to judge the compliance of personnel in charge of a business and/or activity to the legal requirements and policies stipulated by the government.
29. **Ecoregion** shall be geographic areas sharing the same characteristics of climate, land, water, original flora and fauna as well as pattern of human interaction with the nature, which describes integrity of natural and environmental systems.
30. **Local Wisdom** shall be noble value effective in human life, which are intended to protect and manage the environment eternally.
31. **Traditional Community** shall be a group of communities living traditionally in a specific geographic area because of binding in origin of ancestor, strong relations with the environment as well as system of values determining economic, political, social and legal structures.
32. **Everybody** shall be individual or business entity whether in the form of legal entity or not.
33. **Environmental economic instrument** shall be a set of economic policies to motivate the government, regional government or everybody to conserve the functions of the environment.
34. **Serious Threat** shall be a threat having extensive impact on the environment and causing public unrest.
35. **Environmental Permit** shall be a license granted to everybody undertaking businesses and/or activities obliged to undergo Amdal or UKL-UPL in the framework of environmental protection and management as pre-requisite for securing business and/or activity permit.
36. **Business and/or Activity Permit** shall be a license issued by a technical institution to undertake a business and/or activity.
37. **Central Government** hereinafter called the government shall be the President of the Republic of Indonesia holding the executive power of the Republic of Indonesia as referred to in the Constitution of 1945.
38. **Regional Governments** shall be governors, regents or mayors and regional apparatuses as regional administrators.
39. **Minister** shall be the Minister in charge of environmental protection and management affairs.

CHAPTER II

PRINCIPLE, GOAL AND SCOPE

Part One

Principle

Article 2

Environmental protection and management shall be executed on the basis of principles:

- a. state responsibility;
- b. conservation and sustainability;
- c. harmony and equilibrium;
- d. integration;
- e. benefit;
- f. prudence;
- g. justice;
- h. ecoregion;
- i. biological diversity;
- j. polluter pays;
- k. participation;
- l. local wisdom;
- m. good governance; and
- n. regional autonomy.

Part Two**Goal****Article 3**

Environmental Protection and Management shall aim:

- a. protecting the territory of the Unitary State of the Republic of Indonesia from environmental pollution and/or damage;
- b. assuring human safety, health and life;
- c. assuring the continuation of life of creatures and ecosystem conservation;
- d. preserving the conservation of environmental functions;
- e. achieving environmental harmony, synchronization and balance;
- f. assuring the fulfillment of justice for the present and future generations;
- g. assuring the fulfillment and protection of right to the environment as part of human rights;
- h. controlling the utilization of natural resources wisely;
- i. realizing sustainable development; and
- j. anticipating global environmental issues.

Part Three**Scope****Article 4**

Environmental Protection and Management shall cover:

- a. planning;
- b. utilization;
- c. control;
- d. preservation;
- e. supervision; and
- f. law enforcement.

CHAPTER III**PLANNING****Article 5**

Environmental protection and management shall be planned through phases:

- a. environmental inventorying;
- b. stipulating ecoregion; and
- c. formulating RPPLH.

Part One**Environmental Inventorying****Article 6**

- (1) The environmental inventorying as referred to in Article 5 letter a shall consist of environmental inventorying:
 - a. in national level;
 - b. in Island/archipelago level; and
 - c. in ecoregion level.
- (2) The environmental inventorying shall be done to obtain data and information about natural resources, which cover:
 - a. potential and availability;
 - b. utilized kinds;
 - c. model of control;
 - d. knowledge of management;
 - e. kind of damage; and
 - f. conflict and cause of conflict arising from the management.

Part Two**Stipulation of Ecoregion****Article 7**

- (1) The environmental inventorying as referred to in Article 6 paragraph (1) letter a and letter b shall become a basis in the stipulation of ecoregion and be done by the Minister after coordinating with related institutions.

- (2) The ecoregion as referred to in paragraph (1) shall be stipulated by taking into account similarity of:
- a. characteristic of landscape;
 - b. river basin area;
 - c. climate;
 - d. flora and fauna;
 - e. socio culture;
 - f. economy;
 - g. community institution; and
 - h. result of environmental inventoring.

Article 8

The environment inventoring in the ecoregion level as referred to in Article 6 paragraph (1) letter c shall aim at determining the support and carrying capabilities as well as reserves of natural resources.

Part Three

Formulation of Environmental Protection and Management

Article 9

- (1) RPPLH as referred to in Article 5 letter c shall consist of:
- a. National RPPLH;
 - b. Provincial RPPLH; and
 - c. Regental/Municipal RPPLH.
- (2) The National RPPLH as referred to in paragraph (1) letter a shall be formulated on the basis of national inventoring.
- (3) The provincial RPPLH as referred to in paragraph (1) letter b shall be formulated on the basis of:
- a. National RPPLH;
 - b. inventoring at the island/archipelago level; and
 - c. inventoring at the ecoregion level.

- (4) The regental/municipal RPPLH as referred to in paragraph (1) letter c shall be formulated on the basis of:
- a. Provincial RPPLH;
 - b. inventoring at the island/archipelago level; and
 - c. inventoring at the ecoregion level.

Article 10

- (1) RPPLH as referred to in Article 9 shall be formulated by the Minister, governors or regents/mayors by virtue of their authority.
- (2) The formulation of RPPLH as referred to in paragraph (1) shall take into account:
- a. diversity of ecological characteristics and functions;
 - b. distribution of population;
 - c. distribution of natural resource potentials;
 - d. local wisdom;
 - e. aspirations of communities; and
 - f. climate change.
- (3) RPPLH shall be governed by:
- a. a government regulation in the case of national RPPLH;
 - b. a provincial regulation in the case of provincial RPPLH; and
 - c. a regental/municipal regulation in the case of regental/municipal RPPLH.
- (4) RPPLH shall contain information about:
- a. utilization and/or reservation of natural resources;
 - b. preservation and protection of the environmental quality and/or function;
 - c. control, monitoring as well as exploitation and preservation of natural resources; and
 - d. adaptation and mitigation of climate change.
- (5) RPPLH shall become a basis for the formulation and be written down in a long-term development plan and medium-term development plan.

Article 11

Further provision on the environmental inventorying as referred to in Article 6, stipulation of ecoregion as referred to in Article 7 and Article 8, as well as RPPLH as referred to in Article 9 and Article 10 shall be governed in a government regulation.

CHAPTER IV UTILIZATION

Article 12

- (1) Natural resources shall be utilized on the basis of RPPLH.
- (2) If RPPLH as referred to in paragraph (1) has not been formulated, natural resources shall be utilized on the basis of the support and carrying capabilities of the environment by regarding:
 - a. the continuation of environmental process and function;
 - b. the continuation of environmental productivity; and
 - c. safety, living standard and welfare of communities.
- (3) The support and carrying capabilities of the environment as referred to in paragraph (2) shall be stipulated by:
 - a. the Minister, in the case of the support and carrying capabilities of national and insular/archipelagic environment;
 - b. governors in the case of the support and carrying capabilities of provincial environment and inter-regency/city ecoregion; or
 - c. regents/mayors in the case of the support and carrying capabilities of regental/municipal environment and ecoregion in a regency/city.
- (4) Further provision on procedures for stipulating the support and carrying capabilities of the

environment as referred to in paragraph (3) shall be governed by a government regulation.

CHAPTER V CONTROL Part One General Article 13

- (1) Environmental pollution and/or damage shall be controlled in the framework of preserving the environmental functions.
- (2) The control over the environmental pollution and/or damage as referred to in paragraph (1) shall cover:
 - a. prevention;
 - b. mitigation; and
 - c. restoration.
- (3) The control over environmental pollution and/or damage as referred to in paragraph (1) shall be done by the government, regional governments and personnel in charge of businesses and/or activities on the basis of their respective scopes of authority, role, and responsibility.

Part Two Prevention Article 14

Preventing instruments of environmental pollution and/or damage shall consist of:

- a. KLHS;
- b. layout;
- c. quality standard of the environment;
- d. standard criteria for environmental damage;
- e. Amdal;
- f. UKL-UPL;
- g. licensing;
- h. economic instrument of the environment;
- i. environment-based legislation;

- j. environment-based budget;
- k. environmental risk analysis;
- l. environmental audit; and
- m. other instruments in accordance with the need and/or developments of science.

Paragraph 1

Strategic Environmental Assessment

Article 15

- (1) The government and regional governments shall be obliged to make KLHS to ascertain that the principles of sustainable development have become a basis of and been integrated into the development of a region and/or policy, plan and/or program.
- (2) The government and regional government shall be obliged to implement KLHS as referred to in paragraph (1) in the formulation or evaluation of:
 - a. spatial plan (RTRW) along with detailed plan thereof, national, provincial and regental/municipal long-term development plan (RPJP), and medium term development plan; and
 - b. policies, plans and/or programs potential to cause environmental impacts and/or risks.
- (3) KLHS shall be executed by mechanism of:
 - a. assessment of influence of policies, plans and/or programs against the environmental condition in a region;
 - b. formulation of alternatives for the improvement of policies, plans and/or programs; and
 - c. recommendation about improvement for making decision on policies, plans and/or programs integrating the principles of sustainable development.

Article 16

KLHS shall contain assessment of, among others:

- a. the capability of the environment to support and carry development;
- b. estimated environmental impacts and risks;
- c. performance of service/ecosystem service;
- d. efficiency in the utilization of natural resources;
- e. vulnerability and capacity of adaptation to climate change; and
- f. security and potential of biological diversity.

Article 17

- (1) Results of KLHS as referred to in Article 15 paragraph (3) shall become a basis for development policies, plans and/or programs in a region.
- (2) In the case of the results of KLHS as referred to in paragraph (1) certifying that the support and carrying capabilities have been excessive,
 - a. the development policies, plans, and/or programs shall be improved in accordance with recommendation of KLHS; and
 - b. all businesses and/or activities already surpassing the support and carrying capabilities of the environment shall not be permitted anymore.

Article 18

- (1) KLHS as referred to in Article 15 paragraph (1) shall be executed by involving communities and stakeholders.
- (2) Further provision on procedures for the implementation of KLHS shall be governed in a government regulation.

Paragraph 2

Layout

Article 19

- (1) In order to preserve the conservation of environmental functions and public safety, every spatial plan shall be based on KLHS.

- (2) The spatial planning as referred to in paragraph (1) shall be stipulated by observing the support and carrying capabilities of the environment.

Paragraph 3

Quality Standard of Environment

Article 20

- (1) Environmental pollution shall be measured through the quality standard of the environment.
- (2) The quality standard of the environment shall include:
- a. quality standard of water;
 - b. quality standard of waste water;
 - c. quality standard of sea water;
 - d. quality standard of ambient air;
 - e. quality standard of emission;
 - f. quality standard of nuisance; and
 - g. other quality standards in accordance with developments of science and technology.
- (3) Everybody shall be permitted to dispose waste into environmental media with the requirements:
- a. complying with the quality standard of the environment; and
 - b. securing license from the Minister, governors or regents/mayors by virtue of their authority.
- (4) Further provision on the quality standard of the environment as referred to in paragraph (2) letter a, letter c, letter d, and letter g shall be regulated in a government regulation.
- (5) Further provision on the quality standard of the environment as referred to in paragraph (2) letter b, letter e, and letter f shall be governed in a regulation of the Minister.

Paragraph 4

Standard Criteria for Environmental Damage

Article 21

- (1) Criteria for environmental damage shall be stipulated to determine the occurrence of environmental damage.

- (2) Standard criteria for environment damage shall include standard criteria for ecosystem damage and standard criteria for damage attributed to climate change.

- (3) Kriteria baku kerusakan ekosistem meliputi:
- a. standard criteria for soil damage for biomass production;
 - b. standard criteria for damage of coral reef;
 - c. standard criteria for environmental damage related to forest and/or land fire;
 - d. standard criteria for mangrove damage;
 - e. standard criteria for lawn;
 - f. standard criteria for peat damage;
 - g. standard criteria for karst area; and/or
 - h. standard criteria for other ecosystem damage in accordance with developments of science and technology.
- (4) Standard criteria for damage attributed to climate change shall be based on parameters, among others:
- a. increase in temperature;
 - b. increase in sea water surface;
 - c. typhoon; and/or
 - d. drought.
- (5) Further provision on the standard criteria for the environmental damage as referred to in paragraph (3) and paragraph (4) shall be regulated by on the basis of a government regulation.

Paragraph 5

A m d a l

Article 22

- (1) Every business and/or activity having substantial impact on the environment shall be obliged to have Amdal.
- (2) The substantial impact shall be stipulated on the basis of criteria:

- a. the quantity of population to be affected by the business and/or activity plan;
- b. the size of distribution area of impact;
- c. intensity and duration of impact;
- d. environmental components to be affected;
- e. cumulative characteristic of impact;
- f. whether impacts reverts or not; and/or
- g. other criteria in accordance with developments of science and technology.

Article 23

(1) Criteria for business and/or activity having substantial impact shall be furnished with amdal consisting of:

- a. change in formation of land and landscape;
- b. exploitation of natural resources, either renewable or non-renewable;
- c. process and activity potential to cause environmental pllution and/or damage as well as squandering and degradation of natural resources in the utilization;
- d. process and activity having results potential to influence the natural environment, artifiican environment as well as socio and cultural environment;
- e. process and activity having result influencing the conservation of conservation area of natural resources and/or protection of cultural reserves;
- f. introduction of plants, animals and micro-organism;
- g. production and utilization of biological and non-biological substances;
- h. activity which is highly risky and/or influence state defense; and/or
- i. application of technology predicted to have great potential to influence the environment.

(2) Further provision on businesses and/or activities obliged to have amdal as referred to in

paragraph (1) shall be governed by a regulation of the Minister.

Article 24

The document of as referred to in Article 22 shall constitute a basis for stipulating decision on environmental feasibility.

Article 25

Amdal document shall contain:

- a. study on impact of business and/or activity plan;
- b. evaluation of activities around the location of business and/or activity plan;
- c. public recommendation, input as well as response to business and/or activity plan;
- d. estimate of the coverage and important characteristic of the occuring impact if the business and/or activity plan is/are executed;
- e. holistic evaluation of the occurring impact to determine environmental feasibility or unfeasibility; and
- f. environmenta management and monitoring plan.

Article 26

(1) The amdal document as referred to in Article 22 shall be formulated by initiators by involving communities.

(2) The involvement of communities shall be based on principle of provision of information transparently and completely as well as shall be notified prior to the execution of the activity.

(3) The communities as referred to in paragraph (1) shall include:

- a. the affected communities;
- b. environmental activists; and/or
- c. parties affected by all kinds of decision in amdal process.

(4) The communities as referred to in paragraph (1) may raise objection to the amdal document.

Article 27

In formulating amdal document, the initiators as referred to in Article 26 paragraph (1) may seek assistance from other parties.

Article 28

(1) Formulators of amdal as referred to in Article 26 paragraph (1) and Article 27 shall have certificate of competence of amdal formulator.

(2) Criteria for securing the certificate of competence of amdal formulator as referred to in paragraph (1) shall include:

- a. mastery of amdal formulation methodology;
- b. capability of scoping, predicting and evaluating impact as well as making decision; and
- c. capability of formulating environmental management and monitoring plan.

(3) The certificate of competence of Amdal formulator as referred to in paragraph (1) shall be issued by amdal formulator certification institute stipulated by the Minister in accordance with the provision of legislation.

(4) Further provision on certification and criteria for competence of amdal formulators shall be regulated by a regulation of the Minister.

Article 29

(1) Amdal document shall be judged by amdal appraisal commission established by the Minister, governors or regents/mayors by virtue of their authority.

(2) The amdal appraisal commission shall secure license from the Minister, governors or regents/mayors by virtue of their authority.

(3) Requirements and procedures for the licensing as referred to in paragraph (2) shall be regulated by a regulation of the Minister.

Article 30

(1) Members of the Amdal appraisal commission as referred to in Article 29 shall consist of representatives of:

- a. environmental institution;
- b. related technical institutions;
- c. experts in the field of knowledge related to kinds of the assessed business and/or activity;
- d. experts in the field of knowledge related to impacts, which arise from the assessed business and/or activity;
- e. communities potential to affect; and
- f. environmental organization.

(2) In executing the task, the Amdal appraisal commission shall be assisted by a technical team consisting of independent experts undertaking technical assessment and secretariat established for the purpose.

(3) The independent experts and secretariat as referred to in paragraph (3) shall be stipulated by the Minister, governors or regents/mayors by virtue of their authority.

Article 31

Based on result of judgment by the amdal appraisal commission, the Minister, governors or regents/mayors shall stipulate decision on environmental feasibility or unfeasibility by virtue of their authority.

Article 32

(1) The government and regional governments shall help the formulation of amdal for businesses and/or activities of economically weak groups having substantial impact on the environment.

(2) The assistance provided for the formulation of amdal as referred to in paragraph (1) shall be in the form of facilitation, costs and/or formulation of amdal.

(3) Criteria for businesses and/or activities of economically weak groups shall be regulated by legislation.

Article 33

Further provision on amdal as referred to in Article 22 up to Article 32 shall be regulated in a government regulation.

Paragraph 6

UKL-UPL

Article 34

- (1) Every business and/or activity excluding from the criteria for undertaking amdal compulsorily as referred to in Article 23 paragraph (1) shall be obliged to have UKL-UPL.**
- (2) Governors or regents/mayors shall stipulate kinds of businesses and/or activities obliged to have UKL-UPL.**

Article 35

- (1) Businesses and/or activities not obliged to have UKL-UPL as referred to in Article 34 paragraph (2) shall be obliged to prepare statement of readiness to manage and monitor the environment.**
- (2) The kinds of businesses and/or activities as referred to in paragraph (1) shall be stipulated on the basis of criteria:**
- a. excluding from the category having substantial impact as referred to in Article 23 paragraph (1); and**
 - b. micro- and small-scale business activities.**
- (3) Further provision on UKL-UPL and statement of readiness to manage and monitor environment shall be regulated by a regulation of the Minister.**

Paragraph 7

Licensing

Article 36

- (1) Every business and/or activity obliged to have amdal or UKL-UPL shall be obliged to have environmental permit.**
- (2) The environmental permit as referred to in paragraph (1) shall be issued on the basis of decision on environmental feasibility as referred to in Article 31, or recommendation of UKL-UPL.**
- (3) The environmental permit as referred to in paragraph (1) shall be obliged to mention requirements contained in decision on environmental feasibility or recommendation of UKL-UPL.**
- (4) The environmental permit shall be issued by the Minister, governors or regents/mayors by virtue of their authority.**

Article 37

- (1) The Minister, governors or regents/mayors by virtue of their authority shall be obliged to reject application for environmental permit in the case of the application being not accompanied by amdal or UKL-UPL.**
- (2) The environmental permit as referred to in Article 36 paragraph (4) may be nullified in the event that:**
- a. the requirements submitted in the application for environmental permit contain legal invalidity, mistake, misuse, as well as untruth and/or falsified data, documents and/or information;**
 - b. the issuance thereof fails to abide by the requirements mentioned in the decision of the commission on environmental feasibility or recommendation of UKL-UPL; or**

- c. the obligations stipulated on document of amdal or UKL-UPL are not executed by the personnel in charge of businesses and/or activities.

Article 38

Besides the provision as referred to in Article 37 paragraph (2), the environmental permit may be nullified through a decision of the state administration court.

Article 39

- (1) The Minister, governors or regents/mayors by virtue of their authority shall be obliged to announce every application and decision on environmental permit.
- (2) The announcement as referred to in paragraph (1) shall be done by a method that the public could understand easily.

Article 40

- (1) The environmental permit shall constitute a requirement for securing business and/or activity permit.
- (2) In the case of environmental permit being revoked, the business and/or activity permit shall be nullified.
- (3) In the case of any change in business and/or activity, personnel in charge of the business and/or activity shall be obliged to renew environmental permit.

Article 41

Further provision on the permit as referred to in Article 36 up to Article 40 shall be regulated in a government regulation.

Paragraph 8

Economic Instrument of Environment

Article 42

- (1) In the framework of preserving the environmental function, the government and regional governments shall be obliged to develop economic instruments of the environment.
- (2) The economic instruments of the environment as referred to in paragraph (1) shall include:
- a. planning of economic development and activities;
 - b. environmental funding; and
 - c. incentives and/or disincentives.

Article 43

- (1) The instrument of planning of economic development and activities as referred to in Article 42 paragraph (2) letter a shall include:
- a. balance of natural resources and environment;
 - b. formulation of gross domestic product and regional gross domestic product covering the depreciation of natural resources and environmental damage;
 - c. mechanism of environmental compensation/exchange between regions; and
 - d. internalization of environmental costs.
- (2) The instrument of the environmental funding as referred to in Article 42 paragraph (2) letter b shall include:
- a. guarantee funds of environmental restoration;
 - b. funds of pollution and/or damage mitigation and environmental restoration; and
 - c. conservation trust funds/aids.
- (3) The incentives and/or disincentives as referred to in Article 42 paragraph (2) letter c shall be among other applied in the form of:

a. procurement.....

- a. procurement of environmentally sound goods and services;
 - b. application of environmental tax, levy and subsidy;
 - c. development of environmentally sound financial institution and capital market;
 - d. development of trading system of waste and/or emission disposal permit;
 - e. development of environmental service payment system;
 - f. development of environmental insurance;
 - g. development of environmentally sound labeling system; and
 - h. system of performance appreciation in the field of environmental protection and management.
- (4) Further provision on the economic instruments of the environment as referred to in Article 42 and Article 43 paragraph (1) up to paragraph (3) shall be regulated in a government regulation.

Paragraph 9

Environment-based Legislation

Article 44

The formulation of every regulation in the national and regional levels shall be obliged to observe the protection of environmental functions and principles of environmental protection and management in accordance with the provisions governed in this law.

Paragraph 10

Environment-based Budget

Article 45

(1) The government and the House of Representatives of the Republic of Indonesia as well as

regional governments and Regional Legislative Councils shall be obliged to allocate adequate budget to finance:

- a. activities of environmental protection and management; and
 - b. environmentally-sound development programs.
- (2) The government shall be obliged to allocate a budget of special environment allocation adequately to regions showing good environmental-protection and management performance.

Article 46

Besides the provision as referred to in Article 45, in the framework of restoring the quality of environment already polluted and/or damaging when this law is stipulated, the government and regional government shall be obliged to allocate a budget to environmental restoration.

Paragraph 11

Environmental Risk Analysis

Article 47

- (1) Every business and/or activity potential to bring about substantial impact into the environment, threat against ecosystem and life and/or human health and safety shall be obliged to undergo environmental risk analysis.
- (2) The environmental risk analysis as referred to in paragraph (1) shall include:
- a. risk assessment;
 - b. risk management; and/or
 - c. risk communications.
- (3) Further provision on the environmental risk analysis shall be regulated in a government regulation.

Paragraph 12
Environmental Audit
Article 48

The government shall encourage personnel in charge of businesses and/or activities to undertake environmental audit in the framework of enhancing environmental performance.

Article 49

- (1) The Minister shall require environmental audit for:
- a. certain businesses and/or activities highly risky to the environment; and/or
 - b. personnel in charge of businesses and/or activities showing disobedience to legislation.
- (2) Personnel in charge of businesses and/or activities shall be obliged to implement environmental audit.
- (3) The environmental audit of the certain highly risky activities shall be executed periodically.

Article 50

- (1) In the case of personnel in charge of businesses and/or activities not executing the obligations as referred to in Article 49 paragraph (1), the Minister may implement or assign the independent third party to undertake environmental audit at expense of the said personnel in charge of businesses and/or activities.
- (2) The Minister shall announce result of environmental audit.

Article 51

- (1) The environmental audit as referred to in Article 48 and Article 49 shall be executed by environmental auditor.
- (2) The environmental auditor as referred to in paragraph (1) shall be obliged to have certificate of environmental auditor competence.

- (3) Criteria for securing the environmental auditor competence certificate as referred to in paragraph (2) shall include capability of:
- a. understanding principles, methodology and mechanism of environmental audit;
 - b. executing environmental audit, which covers planning, implementation, concluding and reporting; and
 - c. formulating recommendation about improvement measures as follow to the environmental audit.
- (4) The environmental auditor competence certificate as referred to in paragraph (2) shall be issued by the environment auditor certification institute in accordance with the provisions of legislation.

Article 52

Further provision on the environmental audit as referred to in Article 48 up to Article 51 shall be governed by a regulation of the Minister.

Part Three

Mitigation

Article 53

- (1) Everybody polluting and/or damaging the environment shall be obliged to mitigate the environmental pollution and/or damage.
- (2) The environmental pollution and/or damage as referred to in paragraph (1) shall be mitigated by:
- a. providing information about the warning of environmental pollution and/or damage for communities;
 - b. isolating environmental pollution and/or damage;
 - c. discontinuing source of environmental pollution and/or damage; and/or

d. other methods in accordance with developments of science and technology.

(3) Further provision on procedures for mitigating the environmental pollution and/or damage as referred to in paragraph (1) shall be regulated in a government regulation.

**Part Four
Restoration
Article 54**

(1) Everybody polluting and/or damaging the environment shall be obliged to restore the environmental function.

(2) The environmental function as referred to in paragraph (1) shall be restored by phases:

a. discontinuation of source of pollution and cleaning of pollutant;

b. remedy;

c. rehabilitation;

d. restoration; and/or

e. other methods in accordance with developments of science and technology.

(3) Further provision on procedures for the restoration of the environmental function as referred to in paragraph (2) shall be regulated in a government regulation.

Article 55

(1) Holders of the environmental permit as referred to in Article 36 paragraph (1) shall be obliged to provide guarantee funds for the restoration of the environmental function.

(2) The guarantee funds shall be saved at state banks appointed by the Minister, governors or regents/mayors by virtue of their authority.

(3) The Minister, governors or regents/mayors by virtue of their authority may stipulate the third party to restore the environmental function by using guarantee funds.

(4) Further provision on the guarantee funds as referred to in paragraph (1) up to paragraph (3) shall be regulated in a government regulation.

Article 56

Further provision on control over the environmental pollution and/or damage as referred to in Article 13 up to Article 55 shall be regulated in a government regulation.

**CHAPTER VI
PRESERVATION**

Article 57

(1) Environmental preservation shall be done through efforts:

a. conservation of natural resources;

b. reservation of natural resources; and/or

c. conservation of atmosphere function.

(2) The conservation of natural resources as referred to in paragraph (1) letter a shall include activities:

a. protection of natural resources;

b. preservation of natural resources; and

c. eternal utilization of natural resources.

(3) The reserved natural resources as referred to in paragraph (1) letter b shall constitute natural resources not manageable in a specified period.

(4) The conservation of atmosphere function as referred to in paragraph (1) letter c shall include:

a. mitigation and adaptation to climate change;

b. protection of ozone layer; and

c. protection against acid rain.

(5) Further provision on conservation and reservation of natural resources as well as conservation of the atmosphere as referred to in paragraph (1) shall be regulated by a government regulation.

**CHAPTER VII
MANAGEMENT OF HAZARDOUS AND
TOXIC MATERIALS AS WELL AS WASTE OF
HAZARDOUS AND TOXIC MATERIALS**

Part One

Management of Hazardous and Toxic Materials

Article 58

- (1) Everybody importing into the territory of the Unitary State of the Republic of Indonesia, producing, carrying, distributing, storing, utilizing, disposing, processing and/or piling B3 shall be obliged to manage the said B3.
- (2) Further provision on the management of B3 as referred to in paragraph (1) shall be regulated in a government regulation.

Part Two

**Management of Waste of Hazardous
and Toxic Materials**

Article 59

- (1) Everybody producing waste of B3 shall be obliged to manage the produced waste of B3.
- (2) In the case of B3 as referred to in Article 58 paragraph (1) already expiring, the management thereof shall abide by the provision on the management of waste of B3.
- (3) In the case of the party being unable to manage directly waste of B3, the management thereof may be entrusted to the other party.
- (4) Management of B3 waste shall be obliged to secure license from the Minister, governors or regents/mayors by virtue of their authority.
- (5) The Minister, governors or regents/mayors by virtue of their authority shall mention environmental requirements that shall be fulfilled and obligations that shall be obeyed by managers of B3 waste in their license.
- (6) The licensing decision shall be announced.
- (7) Further provision on the management of B3 waste shall be regulated in a government regulation.

Part Three

Dumping

Article 60

Everybody shall be prohibited from dumping waste and/or materials into environmental media without permit.

Article 61

- (1) The dumping as referred to in Article 60 may only be executed by license from the Minister, governors or regents/mayors by virtue of their authority.
- (2) The dumping as referred to in paragraph (1) may only be done in the stipulated locations.
- (3) Further provision on procedures and requirements for the dumping of waste or materials shall be regulated in a government regulation.

CHAPTER VIII

INFORMATION SYSTEM

Article 62

- (1) The government and regional governments shall develop environmental information system to support the implementation and development of environmental protection and management policies.
- (2) The environmental information system shall be prepared in an integrated and coordinative manner and shall be published to communities.
- (3) The environmental information system shall contain information about the environmental status, map of environmental vulnerability and other environmental information.
- (4) Further provision on the environmental information system shall be regulated by a regulation of the Minister.

CHAPTER IX.....

(To be continued)

====(R)====

ENVIRONMENTAL PROTECTION AND MANAGEMENT

(Law No. 32/ 2009, dated October 3,2009)

[Continued from Business News No. 7933-7934 pages 11A-27A]

CHAPTER IX

TASK AND AUTHORITY OF THE GOVERNMENT AND REGIONAL GOVERNMENTS

Article 63

**(1) In protecting and managing the environment,
the government shall be assigned and authorized to:**

- a. stipulate national policies;**
- b. stipulate norms, standards, procedures and criteria;**
- c. stipulate and implement national RPPLH policies;**
- d. stipulate and implement KLHS policies;**
- e. stipulate and implement amdal and UKL-UPL policies;**
- f. inventory national natural resources and green house gas;**
- g. develop cooperation standards;**
- h. coordinate and implement control over environmental pollution and/or damage;**
- i. stipulate and implement policies on biological and non-biological natural resources, biological diversity, genetic resources and biological safety of genetically engineered products;**
- j. stipulate.....**

- j. stipulate and implement policies on control over impacts of climate change and protection of ozone layer;**
 - k. stipulate and implement policies on B3, waste as well as B3 waste;**
 - l. stipulate and implement policies on maritime environment protection policies;**
 - m. stipulate and implement policies protection and/or damage of inter-state border environment;**
 - n. foster and supervise the implementation of national policies, regional regulations and regulations of heads of regions;**
 - o. foster and supervise compliance of personnel in charge of businesses and/or activities to the provisions of environmental licensing and legislation;**
 - p. develop and stipulate environmental instruments;**
 - q. coordinate and facilitate cooperation and settlement of inter-regional disputes as well as settlement of disputes;**
 - r. develop and implement policies on the management of public complaints;**
 - s. stipulate minimum service standards;**
 - t. stipulate policies on procedures for recognizing the existence of traditional communities, local wisdom, and rights of traditional communities with respects to environmental protection and management;**
 - u. manage national environmental information;**
 - v. coordinate, develop and socialize the utilization of environmentally sound technology;**
 - w. provide education, training, fostering and apperciation;**
 - x. develop facilities and standards of environmental laboratory;**
 - y. issue environmental license;**
 - z. stipulae ecoregion area; and**
 - aa. enforce environmental law.**
- (2) In protecting and managing the environment, provincial governments shall be assigned and authorized to:**
- a. stipulate provincial policies;**
 - b. stipulate and implement provincial KLHS;**
 - c. stipulate and implement provincial RPPLH policies;**
 - d. stipulate and implement amdal and UKL-UPL policies;**
 - e. inventory natural resources and green house gas emission in the provincial level;**
 - f. develop and implement cooperation and partnership;**
 - g. coordinate and implement control over inter-regency/ city environmental pollution and/or damage;**
 - h. foster and supervise the implementation of regional policies, regulations and regulations of heads of regency/municipal governments;**

- i. foster and supervise compliance of personnel in charge of businesses and/or activities to the provisions of environmental licensing and legislation;
 - j. develop and stipulate environmental instruments;
 - k. coordinate and facilitate cooperation and settlement of inter-regency/ city disputes as well as settlement of disputes;
 - l. foster, provide technical assistance and supervise regencies/cities in the field of programs and activities;
 - m. implement minimum service standards;
 - n. stipulate policies on procedures for recognizing the existence of traditional communities, local wisdom, and rights of traditional communities with respects to environmental protection and management in the provincial level;
 - o. manage environmental information in the provincial level;
 - p. develop and socialize the utilization of environmentally sound technology;
 - q. provide education, training, fostering and appreciation;
 - r. issue environmental license in the provincial level; and
 - s. enforce environmental law in the provincial level.
- (3) In protecting and managing the environment, regency/municipal governments shall be assigned and authorized to:
- a. stipulate regency/municipal policies;
 - b. stipulate and implement regency/municipal KLHS;
 - c. stipulate and implement regency/municipal RPPLH policies;
 - d. stipulate and implement amdal and UKL-UPL policies;
 - e. inventory natural resources and green house gas emission in the regency/municipal level;
 - f. develop and implement cooperation and partnership;
 - g. develop and apply environmental instruments;
 - h. facilitate the settlement of disputes;
 - i. foster and supervise compliance of personnel in charge of businesses and/or activities to the provisions of environmental licensing and legislation;
 - j. implement minimum service standards;
 - k. implement policies on procedures for recognizing the existence of traditional communities, local wisdom, and rights of traditional communities with respects to environmental protection and management in the regency/municipal level;
 - l. manage environmental information in the regency/municipal level;

- m. develop and socialize the utilization of environmentally sound technology;
- n. provide education, training, fostering and appreciation;
- o. issue environmental license in the regency/ municipal level; and
- p. enforce environmental law in the regency/ municipal level.

Article 64

The Minister shall implement and/or coordinate the tasks and authority of the government as referred to in Article 63 paragraph (1).

CHAPTER X

RIGHT, OBLIGATION AND PROHIBITION

Part One

Right

Article 65

- (1) Everybody shall be entitled to proper and healthy environment as part of human rights.
- (2) Everybody shall be entitled to environmental education, information access, participation access and justice access in fulfilling the right to proper and healthy environment.
- (3) Everybody shall reserve a right to submit recommendation and/or objection against businesses and/or activities predicted to affect the environment.

- (4) Everybody shall reserve a right to participate in the environmental protection and management in accordance with legislation.
- (5) Everybody shall reserve a right to report the alleged consequences of environmental pollution and/or damage.
- (6) Further provision on procedures for the reporting as referred to in paragraph (5) shall be governed by a regulation of the Minister.

Article 66

Everybody struggling for a right to proper and healthy environment may not be charged with criminal or civil offense.

Part Two

Obligation

Article 67

Everybody shall be obliged to preserve the environmental functions as well as control environmental pollution and/or damage.

Article 68

Everybody undertaking business and/or activity shall be obliged to:

- a. provide information related to environmental protection and management truthfully, transparently and punctually;
- b. preserve the sustainability of environmental functions; and

c. abide by the provision on the quality standard of environment and/or standard criteria for environmental damage.

Part Three

Prohibition

Article 69

(1) Everybody shall be prohibited from:

- a. committing action causing environmental pollution and/or damage;
- b. importing B3 which is forbidden according to legislation into the territory of the Unitary State of the Republic of Indonesia;
- c. importing waste from outside the territory of the Unitary State of the Republic of Indonesia into environmental media of the Unitary State of the Republic of Indonesia;
- d. importing B3 waste into the territory of the Unitary State of the Republic of Indonesia;
- e. dumping waste into environmental media;
- f. dumping B3 and B3 waste into environmental media;
- g. releasing genetically engineered products into environmental media that contravene environmental legislation or license;
- h. opening land by means of burning;
- i. formulate amdal without having competence certificate of amdal formulator; and/or

j. provide fake, misleading information, disappear information, destroy information or provide untrue information.

(2) The provision as referred to in paragraph (1) letter h shall take into account seriously local wisdom in the respective countries.

CHAPTER XI

PUBLIC PARTICIPATION

Article 70

(1) Communities shall have the equal and broad right and opportunity to participate actively in environmental protection and management.

(2) Public participation may be in the form of:

- a. social control;
- b. suggestion, opinion, recommendation, objection, complaint; and/or
- c. information and/or report.

(3) Public participation shall aim at:

- a. generating awareness in environmental protection and management
- b. enhancing independence, capability of communities and partnership;
- c. develop capability and pioneer of communities;
- d. develop emergency response of communities to social control ; and
- e. develop and preserve local culture and wisdom in the conservation of environmental functions.

CHAPTER XII

SUPERVISION AND ADMINISTRATIVE SANCTION

Part One

Supervision

Article 71

- (1) The Minister, governors or regents/mayors by virtue of their authority shall supervise the compliance of personnel in charge of businesses and/or activities to the provisions stipulated in environmental protection and management legislation.
- (2) The Minister, governors or regents/mayors may delegate the authority to conduct the supervision to technical functionaries/institutions in charge of environmental protection and management affairs.
- (3) In executing the supervision, the Minister, governors or regents/mayors shall stipulate environmental supervisors constituting functional officials.

Article 72

The Minister, governors or regents/mayors by virtue of their authority shall be obliged to supervise the compliance of personnel in charge of businesses and/or activities to environmental permit.

Article 73

The Minister may supervise the compliance of personnel in charge of businesses and/or activities

having environmental permit issued by regional governments if the government deems a serious violation in the field of environmental protection and management.

Article 74

- (1) The environmental supervisors as referred to in Article 71 paragraph (3) shall be authorized to:
- a. conduct monitoring;
 - b. ask information;
 - c. make copies of documents and/or necessary notes;
 - d. enter certain places;
 - e. take photograph;
 - f. make audio-visual records;
 - g. take samples;
 - h. check equipment;
 - i. inspect installations and/or transportation facilities; and/or
 - j. discontinue certain violations.
- (2) In executing their tasks, the environmental supervisors may coordinate with civil servant investigators.
- (3) Personnel in charge of businesses and/or activities shall be prohibited from preventing the execution of tasks of the environmental supervisors.

Article 75

Further provision on procedures for appointing

the environmental supervisors as well as technical directives for the supervision as referred to in Article 71 paragraph (3), Article 73, and Article 74 shall be governed in a government regulation.

Part Two

Administrative Sanction

Article 76

- (1) The Minister, governors or regents/mayor shall impose administrative sanctions on personnel in charge of businesses and/or activities in the case of environmental permit being violated.
- (2) The administrative sanctions shall consist of:
 - a. written warning;
 - b. government coerciveness;
 - c. freezing of environmental permit; or
 - d. revocation of environmental permit.

Article 77

The Minister may apply administrative sanctions on personnel in charge of businesses and/or activities if the government deems that regional governments does not apply intentionally administrative sanctions on serious violation in the field of environmental protection and management.

Article 78

The administrative sanctions as referred to in Article 76 shall not discharge personnel in charge of businesses and/or activities from restoration and penal responsibility.

Article 79

The administrative sanction in the form of the freezing or revocation of environmental permit as referred to in Article 76 paragraph (2) letter c and letter d shall be imposed unless personnel in charge of businesses and/or activities implement the government's coerciveness.

Article 80

- (1) The government's coerciveness as referred to in Article 76 paragraph (2) letter b shall be in the form of:
 - a. suspension of production activities;
 - b. removal of production facilities;
 - c. closure of waste-water or emission disposal tunnel;
 - d. breaking off;
 - e. confiscation of goods or equipment potential to cause violation;
 - f. suspension of the whole activities; or
 - g. other actions intended to discontinue violations and restoration of environmental functions.
- (2) The government's coerciveness may be imposed without prior warning in the case of the committed violation causing:
 - a. extremely serious threat to humans and the environment;
 - b. greater and broader impact unless the pollution and/or destruction is terminated; and/or

c. greater.....

- c. greater loss on the environment unless the pollution and/or destruction is terminated promptly.

Article 81

Every personnel in charge of businesses and/or activities not implementing the government's coerciveness shall be liable to fine against the lateness in implementing coercive sanction imposed by the government.

Article 82

- (1) The Minister, governors or regents/mayors shall be authorized to force personnel in charge of businesses and/or activities to restore the environment attributed to environmental pollution and/or destruction committed by the relevant.
- (2) The Minister, governors or regents/mayors shall be authorized to appoint or may appoint the third party to restore the environment attributed to environmental pollution and/or destruction committed by personnel in charge of businesses and/or activities at the expense of the said personnel in charge of businesses and/or activities.

Article 83

Further provision on administrative sanctions shall be regulated in a government regulation.

CHAPTER XIII

SETTLEMENT OF ENVIRONMENTAL DISPUTE

Part One

General

Article 84

- (1) Every environmental dispute may be settled through the court or outside the court.
- (2) The mechanism of settlement of environmental dispute shall be chosen voluntarily by the parties in dispute.
- (3) Lawsuit through the court may only be done if the out-of-court settlement of dispute is declared unsuccessful by any of or the parties in dispute.

Part Two

Out-of-Court Settlement of Environmental Dispute

Article 85

- (1) Out-of-court settlement of environmental dispute shall be executed to achieve an agreement on:
- a. model and amount of compensation;
 - b. restoration of consequences of pollution and/or destruction;
 - c. certain measures to assure that the pollution and/or destruction won't repeat; and/or
 - or
 - d. preventive measures of negative impact on the environment.

- (2) Out-of-court settlement shall not apply to the environmental crime as governed in this law.
- (3) Mediators and/or arbitrators may be hired to settle environmental dispute in out-of-court settlement of environmental dispute.

Article 86

- (1) Communities may establish independent and impartial institutes providing service for the settlement of environmental dispute.
- (2) The government and regional governments may facilitate the establishment of the independent and impartial institutes providing service for the settlement of environment dispute.
- (3) Further provision the institute providing service for the settlement of environmental dispute shall be governed by a government regulation.

Part Three

**Settlement of Environmental Dispute
through Court**

Paragraph 1

**Compensation for Loss and
Environmental Restoration**

Article 87

- (1) Every personnel in charge of businesses and/or activities committing legal violation in the form of environmental pollution and/or destruction incurring losses on other people or the environment shall be obliged to pay compensation for the losses and/or take certain measures.

- (2) Everybody transferring, changing the nature and model of business, and/or activity of a business entity violating the law shall not discharge legal responsibility and/or obligation of the business entity.
- (3) The court may stipulate the payment of coercive money for every day of lateness in the execution of the court decision.
- (4) The amount of coercive money shall be decided on the basis of legislation.

Paragraph 2

Strict Liability

Article 88

Everybody having action, business and/or activity using B3, producing and/or managing B3 waste and/or causing serious threat to the environment shall be responsible absolutely for the incurred losses without necessary to prove substance of mistake.

Paragraph 3

Expiration of Lawsuit Submission

Article 89

- (1) The expiration of lawsuit submission to the court shall follow the deadline as governed in the provisions of Civil Code and be counted as from the moment when the environmental pollution and/or damage is/are ascertained.

(2) The provision on the expiration shall not apply to environmental pollution and/or damage attributed to businesses and/or activities using and/or managing B3 as well as producing B3 waste.

Paragraph 4

**Litigating Right Government and
Regional Government**

Article 90

- (1) Institutions of the government and regional governments in charge of environmental affairs shall be authorized to file litigation for compensation and certain measures against businesses and/or activities causing environmental pollution and/or damage inflicting environmental loss.
- (2) Further provision on the environmental loss as referred to in paragraph (1) shall be regulated by a regulation of the Minister.

Paragraph 5

Litigating Right of Communities

Article 91

(1) Communities shall reserve a right to file class action for their own interest and/or public interest in the event that they suffer from losses attributable to environmental pollution and/or damage.

(2) Class action may be submitted in the case of representatives of groups and members of their groups sharing the same fact or incident, legal basis as well as kind of demand.

(3) Further provision on class action shall be implemented in accordance with legislation.

Paragraph 6

Litigating Right of Environmental Organization

Article 92

- (1) In the framework of executing responsibility for environmental protection and management, environmental organizations shall reserve a right to file lawsuit in the interest of environmental function conservation.
- (2) The right to file lawsuit shall be limited to the implementation of certain measures without demand for compensation, except the real cost or expenditure.
- (3) Environmental organizations may file lawsuit if the following requirements are fulfilled:
 - a. in the form of legal entity;
 - b. affirming in their memorandum of association that the organizations are established in the interest of environmental function conservation; and
 - c. already executing concrete activities in accordance with their memorandum of association for 2 (two) years at the minimum.

Paragraph 7

Administrative Lawsuit

Article 93

(1) Everybody may file lawsuit against state-administration decision in the event that:

- a. state administration agencies or officials issue environmental permit to businesses and/or activities obliged to undergo AMDAL but not accompanied by AMDAL documents;**
- b. state administration agencies or officials issue environmental permit to activities obliged to undergo UKL-UPL but not accompanied by UKL-UPL documents; and/or**
- c. state administration agencies or officials issue business and/or activity permit not accompanied by environmental permit.**

(2) Procedures for filing lawsuit against the state administration decision shall refer to the State Administration Code.

CHAPTER XIV

INVESTIGATION AND VERIFICATION

Part One

Investigation

Article 94

(1) Besides investigators of the Police of the Republic of Indonesia, certain civil servant investigators within the government institution in charge of environmental protection and management affairs shall be authorized to act

as the investigators as referred to in the Criminal Code to investigative environmental crime.

(2) Civil servant investigators shall be authorized to:

- a. examine the truth of reports or information related to crime in the field of environmental protection and management;**
- b. interrogate everybody allegedly committing crime in the field of environmental protection and management;**
- c. ask information and evidence from everybody with respects to incident of crime in the field of environmental protection and management;**
- d. audit bookkeeping, records and other documents related to crime in the field of environmental protection and management;**
- e. conduct inspection in certain places allegedly containing evidences, bookkeeping, records and other documents;**
- f. seize materials and goods resulting from the violation, which may be used as evidence in criminal case in the field of environmental protection and management;**
- g. seek assistance from specialists in the framework of executing task of investigation into crime in the field of environmental protection and management;**
- h. discontinue investigation;**

- i. enter certain places, take photograph and/or make audio visual records;
- j. raid body, clothing, room and/or other places where crime is allegedly committed; and/or
- k. catch and detain criminals.

(3) In executing the catching and detention as referred to in paragraph (2) letter k, civil servant investigators shall cooperate with investigators of the Police of the Republic of Indonesia.

(4) In the case of civil servant investigators investigating, the civil servant investigators shall inform investigators of the Police of the Republic of Indonesia and the investigators of the Police of the Republic of Indonesia shall provide assistance for facilitating the investigation.

(5) Civil servant investigators shall notify the commencement of investigation to public prosecutors with a copy made available to investigators of the Police of the Republic of Indonesia.

(6) Results of investigation already completed by civil servant investigators shall be submitted to public prosecutors.

Article 95

(1) In the framework of law enforcement against environmental criminals, integrated law enforcement may be executed by civil servant investigators, police and prosecutors under coordination of the Minister.

(2) Further provision on the integrated law enforcement shall be regulated by legislation.

Part Two Verification Article 96

Legitimate evidences in lawsuit against environmental crime shall consist of:

- a. testimonies from witnesses;
- b. testimonies from specialists;
- c. letters;
- d. directives;
- e. information from defendant; and/or
- f. other evidences, including evidences regulated in legislation.

CHAPTER XV PENAL PROVISION

Article 97

Criminal act in this law shall constitute crime.

Article 98

(1) Anybody intentionally committing action causing standard quality of ambient air, water, sea water or standard criteria for environmental damage to be surpassed shall be subject to imprisonment for 3 (three) years the minimum and 10 (ten) years at the maximum and a fine amounting to Rp 3,000,000,000 (three billion rupiah) at the minimum and Rp10,000,000,000 (ten billion rupiah) at the maximum.

(2) In the case of the action as referred to in paragraph (1) wounding people and/or endangering human health, the said person shall be subject to Imprisonment for 4 (four) years at the minimum and 12 (twelve) years at the maximum and a fine amounting to Rp4,000,000,000 (four billion rupiah) at the minimum and Rp12,000,000,000 (twelve billion rupiah) at the maximum.

(3) In the case of the action as referred to in paragraph (1) causing serious injury or death to people, the said person shall be subject to imprisonment for 5 (five) years at the minimum and 15 (fifteen) years at the maximum and a fine amounting to Rp5,000,000,000 (five billion rupiah) at the minimum and Rp15,000,000,000 (fifteen billion rupiah) at the maximum.

Article 99

(1) Anybody causing standard quality of ambient air, water, sea water or standard criteria for environmental damage to be surpassed because of his/her negligence shall be subject to imprisonment for one year the minimum and 3 (three) years at the maximum and a fine amounting to Rp 1,000,000,000 (one billion rupiah) at the minimum and Rp 3,000,000,000 (three billion rupiah) at the maximum.

(2) In the case of the action as referred to in paragraph (1) wounding people and/or endangering human health, the said person shall

be subject to Imprisonment for 2 (two) years at the minimum and 6 (six) years at the maximum and a fine amounting to Rp2,000,000,000 (two billion rupiah) at the minimum and Rp6,000,000,000 (six billion rupiah) at the maximum.

(3) In the case of the action as referred to in paragraph (1) causing serious injury or death to people, the said person shall be subject to imprisonment for 3 (three) years at the minimum and 9 (nine) years at the maximum and a fine amounting to Rp 3,000,000,000 (three billion rupiah) at the minimum and Rp 9,000,000,000 (nine billion rupiah) at the maximum.

Article 100

(1) Anybody violating the quality standard of waste water, emission or nuisance shall be subject to imprisonment for 3 (three) years at the maximum and a fine amounting to Rp Rp3,000,000,000 (three billion rupiah) at the maximum.

(2) The penalty as referred to in paragraph (1) may only be imposed if the imposed administrative sanction is not obeyed or violation is committed more than once.

Article 101

Anybody releasing and/or distributing genetically engineered products to environmental

media that contravenes legislation or environmental permit as referred to in Article 69 paragraph (1) letter g, shall be subject to imprisonment for one year at the minimum and 3 (three) years at the maximum and a fine amounting to Rp1,000,000,000 (one billion rupiah) at the minimum and Rp3,000,000,000 (three billion) at the maximum.

Article 102

Anybody treating B3 waste without the permit as referred to in Article 59 paragraph (4), shall be subject to imprisonment for one year at the minimum and 3 (three) years at the maximum and a fine amounting to Rp1,000,000,000 (one billion rupiah) at the minimum and Rp3,000,000,000 (three billion) at the maximum.

Article 103

Anybody producing B3 waste and not conducting the treatment as referred to in Article 59, shall be subject to imprisonment for one year at the minimum and 3 (three) years at the maximum and a fine amounting to Rp1,000,000,000 (one billion rupiah) at the minimum and Rp3,000,000,000 (three billion) at the maximum.

Article 104

Anybody dumping waste and/or materials into environmental media with the permit as referred

to in Article 60, shall be subject to imprisonment for 3 (three) years at the maximum and a fine amounting to Rp3,000,000,000 (three billion) at the maximum.

Article 105

Anybody importing waste into the territory of the Republic of Indonesia as referred to in Article 69 paragraph (1) letter c shall be subject to imprisonment for 4 (four) years at the minimum and 12 (twelve) years at the maximum and a fine amounting to Rp4,000,000,000 (four billion rupiah) at the minimum and Rp12,000,000,000 (twelve billion rupiah) at the maximum.

Article 106

Anybody importing B3 waste into the territory of the Republic of Indonesia as referred to in Article 69 paragraph (1) letter d, shall be subject to imprisonment for 5 (five) years at the minimum and 15 (fifteen) years at the maximum and a fine amounting to Rp5,000,000,000 (five billion rupiah) at the minimum and Rp15,000,000,000 (fifteen billion rupiah) at the maximum.

Article 107

Anybody importing B3 which are forbidden by legislation into the territory of the Republic of Indonesia as referred to in Article 69 paragraph (1) letter b, shall be subject to imprisonment for 5 (five)

years at the minimum and 15 (fifteen) years at the maximum and a fine amounting to Rp5,000,000,000 (five billion rupiah) at the minimum and Rp15,000,000,000 (fifteen billion rupiah) at the maximum.

Article 108

Anybody committing the land burning as referred to in Article 69 paragraph (1) letter h, shall be subject to imprisonment for 3 (three) years at the minimum and 10 (ten) years at the maximum and a fine amounting to Rp 3,000,000,000 (three billion rupiah) at the minimum and Rp10,000,000,000 (ten billion rupiah) at the maximum.

Article 109

Anybody running business and/or activity without the environmental permit as referred to in Article 36 paragraph (1), shall be subject to imprisonment for one year at the minimum and 3 (three) years at the maximum and a fine amounting to Rp1,000,000,000 (one billion rupiah) at the minimum and Rp3,000,000,000 (three billion) at the maximum.

Article 110

Anybody formulating amdal without having certificate of competence of amdal formulator as referred to in Article 69 paragraph (1) letter i, shall be subject to imprisonment for 3

(three) years at the maximum and a fine amounting to Rp3,000,000,000 (three billion) at the maximum.

Article 111

(1) Officials issuing environmental permit that issue environmental permit without amdal or UKL-UPL as referred to in Article 37 paragraph (1) shall be subject to imprisonment for 3 (three) years at the maximum and a fine amounting to Rp3,000,000,000 (three billion) at the maximum.

(2) Officials issuing business and/or activity permit that issue business and/or activity permit without the environmental permit as referred to in Article 40 paragraph (1) shall be subject to imprisonment for 3 (three) years at the maximum and a fine amounting to Rp3,000,000,000 (three billion) at the maximum.

Article 112

Every authorized official not supervising intentionally the compliance of personnel in charge of businesses and/or activities to legislation and the environmental permit as referred to in Article 71 and Article 72, thus causing environmental pollution and/or damage that costs lives, shall be subject to imprisonment for one year at the maximum or a fine amounting to Rp500,000,000 (five hundred million rupiah) at the maximum.

Article 113.....

Article 113

Anybody providing fake information, misleading information, disappearing information, damaging information or providing untrue information which is needed for the need of supervision and law enforcement with respects to environmental protection and management as referred to in Article 69 paragraph (1) letter j shall be subject to imprisonment for one year at the minimum and a fine amounting to Rp1,000,000,000 (one billion rupiah).

Article 114

Personnel in charge of businesses and/or activities not implementing the government's co-erciveness shall be subject to imprisonment for one year at the maximum and a fine amounting to Rp1,000,000,000 (one billion rupiah) at the maximum.

Article 115

Anybody intentionally preventing, impeding or aborting the execution of theasks of environmental supervisors and/or civil servant investigators shall be subject to imprisonment for one year at the maximum and a fine amounting to Rp 500,000,000 (five hundred million rupiah) at the maximum.

Article 116

(1) In the case of environmental crime being committed by, for and on behalf of a business entity,

the criminal offense and penalty shall be imposed on:

- a. the said business entity; and/or
- b. person ordering the crime or person acting as activity manager in the crime.

(2) In the case of the environmental crime as referred to in paragraph (1) being committed by a person acting the working scope of business entity on the basis of working relations or other relations, the penalty shall be imposed on the ordering party or leader in the crime without regarding whether the crime is committed individually or collectively.

Article 117

If criminal offense is filed to the ordering party or leader in the crime as referred to in Article 116 paragraph (1) letter b, the imposed penalty shall be in the form of imprisonment and fine weightened by one thirds.

Article 118

With regards to the crime as referred to in Article 116 paragraph (1) letter a, penalty shall be imposed on business entities represented by executives aithorized to represent the business entities inside and outside the court in accordance with legislation as functional executives.

Article 119

Besides the penalty as referred to in this law, the business entities shall be liable to additional penalty or disciplinary measures in the form of:

- a. seizure of profits earned from the crime;
- b. closure of business and/or activity place wholly or partly;
- c. improvement of impacts of the crime;
- d. requirement for working what is neglected without right; and/or
- e. placement of companies under custody for 3 (three) years at the maximum.

Article 120

(1) In executing the provision as referred to in Article 119 letter a, letter b, letter c, and letter d, prosecutors shall coordinate with institution in charge of environmental protection and management affairs to implement execution.

(2) In executing the provision as referred to in Article 119 letter e, the government shall be authorized to manage business entities subject to sanction of placement under custody to implement the legally fixed court verdict.

CHAPTER XVI**TRANSITIONAL PROVISION****Article 121**

(1) In no later than 2 (two) years following the enforcement of this law, every business and/or

activity already having business and/or activity permit but not yet having amdal document shall be obliged to complete environmental audit.

(2) In no later than 2 (two) years following the enforcement of this law, every business and/or activity already having business and/or activity permit but not yet having UKL-UPL shall be obliged to make environmental management document.

Article 122

(1) In no later than one year following the enforcement of this law, every amdal formulator shall be obliged to have certificate of competence of amdal formulator.

(2) In no later than one year following the enforcement of this law, every environmental auditor shall be obliged to have certificate of competence of environmental auditor.

Article 123

All permits in the field of environmental management already issued by the Minister, governors or regents/mayors by virtue of their authority shall be integrated into environmental permit in no later than one year following the stipulation of this law.

CHAPTER XVII

CONCLUSION

Article 124

Following the enforcement of this law, all legislation that constitutes the implementing regulations of Law Number 23 Year 1997 on Environmental Management (Statute Book of the Republic of Indonesia Year 1997 Number 68, Supplement to Statute Book of the Republic of Indonesia Number 3699) shall be declared to remain effective in so far as they do not contravene or have not been replaced by the new ones on the basis of this law.

Article 125

With the enforcement of this law, Law Number 23 Year 1997 on Environmental Management (Statute Book of the Republic of Indonesia Year 1997 Number 68, Supplement to Statute Book of the Republic of Indonesia Number 3699) shall be shall be revoked and declared null and void.

Article 126

The implementing regulations mandated in this law shall be stipulated in no later than one year as from the date of enforcement of this law.

Article 127

This law shall come into force as from the date of promulgation.

For public cognizance, the law shall be published by placing it in Statute Book of the Republic of Indonesia.

Ratified in Jakarta

On October 3, 2009

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd.

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

On October 3, 2009

THE MINISTER OF LAW AND HUMAN RIGHTS OF THE

REPUBLIC OF INDONESIA,

sgd

ANDI MATTALATTA

STATUTE BOOK OF THE REPUBLIC OF INDONESIA

YEAR 2009 NUMBER 140

ELUCIDATION

ON

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 32 YEAR 2009

ABOUT

ENVIRONMENTAL PROTECTION

AND MANAGEMENT

I. GENERAL

1. The Constitution of 1945 states that proper and healthy environment constitutes a human

right and constitutional right of every Indonesian citizen. In relations thereto, the state, government and all stakeholders are obliged to protect and manage the environment in the implementation of sustainable development so that Indonesia's environment can continue to become a source and support of life for Indonesian people as well as other creatures.

2. The Unitary State of the Republic of Indonesia is situated on a diagonal position between two continents and oceans with tropical climate and weather as well as season resulting a highly valuable natural condition. In addition, Indonesia also has the second longest coastal line in the world with a huge population. Indonesia has wealth of biological diversity and abundant natural resources. The wealth needs to be protected and managed in an environmental protection and management system which is integral and integrated between sea, land and air environment on the basis of the Archipelago Concept.

Indonesia is also situation on a position extremely vulnerable to impacts of climate change. The impacts include the decreasing food production, affected supply of water, outbreak of pests and plant diseases as well as human diseases, rising sea surface, drowning isles, and extinction of biological diversity.

The availability of natural resources is not

equitable quantitatively and qualitatively while development activities need the rising natural resources. Development activities also contain risk of environmental pollution and damage. The condition may lower the carrying capability, support capability and productivity of the environment so as to become social burden I.

In relations thereto, Indonesia's environment must be protected and managed properly on the basis of the principles of state responsibility, sustainability, and justice. In addition, environmental management must be able to contribute economic, social and cultural benefits, which is executed on the basis of the principles of prudence, environmental democracy, decentralization, as well as recognition and appreciation of local and environmental wisdom.

Environmental protection and management demands the development of an integrated system in form of a national environmental protection and management policy which must be executed in accordance with the principles and consequently as from the central to region.

3. The use of natural resources must be in line, harmonious and balanced with the environmental functions. As a consequence, development plans and/or programs must

be inspired by the obligation to preserve the environment and realize goals of sustainable development.

This law requires the government and regional governments to make strategic environment assessment (KLHS) to ascertain that the principles of sustainable development have become a basis and been integrated into the development of a region and/or policies, plans and/or programs. In the other word, results of KLHS must be used as a basis for development policies, plans and/or programs of a region. In the case of results of KLHS certifying that the carrying capability and support capability have been surpassed, the development policies, plans and/or programs must be improved in accordance with recommendation of KLHS and all businesses and/or activities already surpassing the carrying capability and support capability are not permitted anymore.

4. Science and technology have enhanced the quality of life and change human lifestyle. The use of chemical-based products has increased the production of waste of hazardous and toxic materials. It demands the development of a safe disposal system with minimum risk on the environment, health, and sustainability of humans and other creatures.

Besides producing products beneficial to communities, industrialization also causes

impacts, such as the production of hazardous and toxic waste potential to threaten the environment, health and sustainability of humans and other creatures if they are dumped into the environmental media. Realizing it, hazardous and toxic materials along with the waste thereof need to be protected and managed properly. The territory of the Unitary State of the Republic of Indonesia must be free from the disposal of waste of hazardous and toxic materials from outside Indonesia.

Realizing the potential of negative impacts as consequences of development, early measures to control the impacts continues to be developed. Environmental impact analysis (amdal) is any of the preemptive instruments of environmental management, which must be strengthened continuously through the enhancement of accountability in the formulation of amdal by requiring the licensing for amdal appraisers and applying certification to formulators of amdal documents as well as clarifying legal saction against violators in the field of amdal.

Amdal also becomes one of the main requirements for securing environmental permit, which must be owned before the business license is obtained.

5. **Preemptive measures in the framework of controlling environmental impacts need to be executed by utilizing maximally supervisory and licensing instruments. In the case of environmental pollution and damage already occurring, it's necessary to take repressive measures in the form of enforcing law effectively, consequently and consistently for the occurring environmental pollution and damage.**

In relations thereto, it's necessary to develop a clear, firm and comprehensive environmental protection and management law system to assure legal certainty as a foundation for the protection and management of natural resources as well as other development activities.

This law also empower provisions of law, either administration law, civil law and criminal law. The provisions of civil law cover the settlement of environmental disputes outside and inside the court. The settlement of environmental disputes inside the court covers class actions, litigating right of environmental organizations or litigating right of the government. The method is expected to not only bring about curative effects but also generate awareness of all stakeholders with regards to the urgency of environmental protection and management for the life of the present and future generations.

6. **The enforcement of criminal law in this law introduces minimum penalty, besides the maximum one, expansion of evidences, offense against violation of quality standard, integration of criminal law enforcement and regulation of corporate crime. The enforcement of environmental criminal law continues to observe the principle of ultimum remedium requiring the application of crime law as the last lender resort after the application of administration law is deemed unsuccessful. The application of the ultimum remedium principle only applies to certain formal crime, namely offense against violation of the quality standard of waste water, emission and nuisance.**

7. **The fundamental difference between Law Number 23 Year 1997 on Environmental Management and this law resides on the fortification contained in this law with regards to the principles of environmental protection and management based on good governance because the formulation and application of every instrument to prevent environmental pollution and/or damage and as well as mitigation and law enforcement require the integration of aspects of transparency, participation, accountability and justice.**

8. **In addition, this law also governs:**

- a. **totality of environmental management substances;**

- b. clarity of central and regional authority;
- c. fortification of environmental controlling measures;
- d. fortification of instruments preventing environmental pollutions and/or damage, covering instruments of strategic environmental assessment, quality standard of the environment, standard criteria for environmental damage, amdal, environmental management and monitoring programs, licensing, economic instruments of the environment, environment-based legislation, environmental risk analysis, and other instruments in accordance with advancement of science and technology;
- e. empowerment of licensing as a controlling instrument;
- f. empowerment of ecosystem approach;
- g. certainty in responding and anticipating developments of global environment;
- h. fortification of environmental democracy through information access, participation access and justice access as well as fortification of rights of communities in the protection and management of environment;
- i. enforcement of civil law, administration law and criminal law more clearly;
- j. more effective and responsive fortification of environmental protection and management institutions; and
- k. fortification of authority of environmental supervisors and civil servant environmental investigators.

9. This law authorizes extensively the Minister to exercise the whole administration authority in the field of environmental protection and management as well as coordinate with other institutions. Through this law, the government also authorizes extensively regional governments to implement environmental protection and management in their respective regions, which is not regulated in Law No. 23/ 1997 on Environmental Management.

In relation thereto, the institution having work load on the basis of this law is not only sufficient one organization stipulating and coordinating the implementation of policies but an organization with portfolio stipulating, implementing, and supervising environmental protection and management policies is also needed. Apart from that, the institution is also expected to have a scope of authority to supervise natural resources in the interests of conservation. In order to assure that the basic tasks and functions of the institution can be executed, it needs adequate funding support from the state budget of revenue and expenditure for the government and adequate regional budget of revenue and expenditure for regional governments.

II. Article.....

(To be continued)

—==(R)==—

Business News 7936/3-29-2010

Business News



Business News

ENVIRONMENTAL PROTECTION AND MANAGEMENT

(Law No. 32/ 2009, dated October 3,2009)

[Continued from Business News No. 7936 pages 15A-36A]

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear

means environmental utilization must regard aspects, such as economic, social, cultural interests and protection as well as conservation of the ecosystem.

Article 2

Letter a

The principle of state responsibility means:

- a. the state assures that the utilization of natural resources would contribute optimal benefits to the people's welfare and the living standard of the people, either the present generation or future generation.
- b. the state assures the right of citizens to a proper and healthy environment.
- c. the state prevents the utilization of natural resources that causes environmental pollution and/or damage.

Letter d

The principle of integration means environmental protection and management are executed by integrating elements or synergizing related components.

Letter e

The principle of benefit means the whole executed development programs and/or activities are adjusted to potentials of natural resources and the environment for enhancing the people's welfare and human dignity in harmony with the environment thereof.

Letter b

The principle of conservation and sustainability means everybody bears obligation and responsibility for the future generation and their fellow generation by taking efforts to preserve the support capability of the ecosystem and improving the quality of the environment.

Letter f

The principle of prudence means uncertainty about impact of a business and/or activity due to limited mastery of science and technology is not a reason for delaying measures to minimize or avoid threat against environmental pollution and/or damage.

Letter c

The principle of harmony and equilibrium

Letter g

The principle of justice means environmental

management must reflect justice proportionally for every citizen, either inter-region, inter-generation or inter-gender.

Letter h

The principle of ecoregion means environmental protection and management must regard characteristics of local natural resources, ecosystem, socio culture and wisdom.

Letter i

The principle of biological diversity means environmental protection and management must observe integrated efforts to preserve the existence, diversity and sustainability of animal natural resources along with surrounding biological natural resources forming ecosystem totally.

Letter j

The principle polluter pays means every personnel in charge of business and/or activities polluting and/or damaging the environment is obliged to bear the cost of environmental restoration.

Letter k

The participatory principle means every community member is motivated to participate actively in decision making and implementing environmental protection and management directly and indirectly.

Letter l

The principle of local wisdom means noble values effective in social life of communities must

be observed in environmental protection and management.

Letter m

The principle of good governance means environmental protection and management are inspired by the principles of participation, transparency, accountability, efficiency and justice.

Letter n

The principle of regional autonomy means the government and regional governments rule and manage directly public administration affairs in the field of environmental protection and management by observing regional specialty and diversity in the context of the Unitary State of the Republic of Indonesia.

Article 3 up to Article 9

Sufficiently clear

Article 10

Paragraph (1)

Sufficiently clear

Paragraph (2)

Letter a up to Letter c

Sufficiently clear

Letter d

Local wisdom in this paragraph includes communal rights recognized by DPRD.

Letter e and Letter f

Sufficiently clear

Paragraph (3) up to Paragraph (5)

Sufficiently clear

Article 11 and Article 12

Sufficiently clear

Article 13

Paragraph (1)

Control over environmental pollution and/or damage covers, among others, control over:

- a. water, air and sea pollution; and
- b. ecosystem damage and damage attributed to climate change.

Paragraph (2) and Paragraph (3)

Sufficiently clear

Article 14

Sufficiently clear

Article 15

Paragraph (1)

Area means space constituting a geographic totality along with related elements whose borders and system are determined on the basis of administrative and/or functional aspects.

Paragraph (2)

Letter a

Sufficiently clear

Letter b

The environmental impacts and/or risks cover:

- a. climate change;
- b. damage, degradation and/or extinction of biological diversity;
- c. enhancement of intensity and coverage of disaster area of flooding, landslide, drought, and/or forest and land fire;
- d. degradation of the quality and abundance of natural resources;
- e. the rising trend of change in function of forest area and/or land;
- f. the rise in the poor or threat against sustainability of livelihoods of a group of communities; and/or
- g. rising risk of human health and safety.

Paragraph (3)

Sufficiently clear

Article 16 and Article 17

Sufficiently clear

Article 18

Paragraph (1)

The communities are involved through dialogue, discussion and public consultation.

Paragraph (2)

Sufficiently clear

Article 19

Sufficiently clear

Article 20

Paragraph (1)

Sufficiently clear

Paragraph (2)

Letter a

The quality standard of water means the limit or content of creature, substance, energy or component which exist or must exist and/or pollutants having content tolerable in water.

Letter b

The quality standard of waste water is the tolerable limit or content of pollutants which may be inserted into water media.

Letter c

The quality standard of sea water is the limit or content of creature, substance, energy or component which exist or must exist and/or pollutants having content tolerable in sea water.

Letter d

The quality standard of ambient air is the limit or content of creature, substance, energy or

component which exist or must exist and/or pollutants having content tolerable in ambient air.

Letter e

The quality standard of emission is the tolerable limit or content of pollutants which may be inserted into air media.

Letter f

The quality standard of nuisance is the tolerable limit of pollutants, such as vibration, noisiness and smelt.

Letter g

Sufficiently clear

Paragraph (3) up to Paragraph (5)

Sufficiently clear

Article 21.....

(To be continued)

—==(R)==—



ENVIRONMENTAL PROTECTION AND MANAGEMENT

(Law No. 32/ 2009, dated October 3,2009)

[Continued from Business News No. 7940 pages 33A-36A]

Article 21

Paragraph (1) dan Paragraph (2)

Sufficiently clear

Paragraph (3)

Letter a

Biomass production means models of utilization of soil resources to produce biomass.

The quality standard of soil damage for biomass production is the tolerable limit of change in basic characteristics of soil in connection with biomass production.

The quality standard of soil damage for biomass production covers agriculture land or cultivation land and forest.

Letter b

The quality standard of coral reef damage is the tolerable limit of physical and/or biological change in coral reef.

Letter c

The environmental damage related to forest and/or land fire means the influence of change in environment, in the form of environmental damage and/or pollution related to forest and/or land fire attributed to a business and/or activity.

Letter d up to Letter h

Sufficiently clear

Paragraph (4) and Paragraph (5)

Sufficiently clear

Article 22

Sufficiently clear

Article 23

Paragraph (1)

Letter a up to Letter e

Sufficiently clear

Letter f

Micro organism means products of genetically engineering.

Letter g up to Letter i

Sufficiently clear

Paragraph (2)

Sufficiently clear

Article 24

Sufficiently clear

Article 25

Letter a up to Letter e

Sufficiently clear

Letter f

The environmental management and monitoring plans are intended to avoid, minimize, mitigate and/or compensate impacts of a business and/or activity.

Article 26

Paragraph (1)

Communities are involved in the announcement and public consultation in the framework of collecting recommendations and responses.

Paragraph (2) up to Paragraph (4)

Sufficiently clear

Article 27

The other parties are, among others, amdal formulating institutions or consultants.

Article 28 up to Article 35

Sufficiently clear

Article 36

Paragraph (1)

Sufficiently clear

Paragraph (2)

UKL-UPL recommendations are judged by a technical team of the environmental institution.

Paragraph (3) and Paragraph (4)

Sufficiently clear

Article 37 dan Article 38

Sufficiently clear

Article 39

Paragraph (1)

The announcement in this article constitutes the implementation of information transparency. The announcement enables participation of communities, particularly communities not yet using opportunities in raising objection, hearing and others in decision making process.

Paragraph (2)

Sufficiently clear

Article 40

Paragraph (1)

The business license and/or activity license include license called in other names, such as operating license and construction license.

Paragraph (2)

Sufficiently clear

Paragraph (3)

The change in this paragraph is attributable to, among others, the change in ownership, technology, addition or reduction of production capacity and/or change in location of business and/or activity.

Article 41

Sufficiently clear

Article 42**Paragraph (1)**

Sufficiently clear

Paragraph (2)**Letter a**

Economic instrument in development planning means efforts to internalize environmental aspects into the planning and implementation of development and economic activities.

Letter b

Environmental funding is a system and mechanism of accumulation and management of funds used for financing environmental protection and management programs. The environmental funding results from sources, such as levies, grants and others.

Letter c

Incentive constitutes an effort to provide monetary and/or non-monetary impetus or attractiveness for everybody or government and regional government to undertake activities bringing about positive impact to reserves of natural resources and the quality of environmental function.

Disincentive constitutes the imposition of monetary and/or non-monetary burden or threat on everybody or the government and regional governments to reduce activities bringing about negative impact to reserves of natural resources and the quality of environmental function.

Article 43**Paragraph (1)****Letter a**

Balance of natural resources is a description of reserves of natural resource and change thereof, either in physical unit or monetary value.

Letter b

Gross Domestic Product means the value of the whole goods and services produced by a country in a specified period.

Gross Regional Domestic Product means the value of the whole goods and services produced by a region in a specified period.

Letter c

Mechanism of inter-regional environmental service compensation/exchange means compensation/exchange methods adopted by regional people, communities and/or governments as users of environmental service for providers of environmental services.

Letter d

Internalization of environment cost means the inclusion of costs of environmental pollution and/or damage into the calculation of production cost or cost of a business and/or activity.

Paragraph (2)**Letter a**

Guarantee funds of environmental restoration mean a certain amount of funds prepared

by a business and/or activity to restore the quality of damaging environment attributed to the activity.

Letter b

Mitigation funds mean a certain amount of funds used for mitigating environmental pollution and/or damage arising from a business and/or activity.

Letter c

Trustee/assistance funds mean funds resulting from sources of grants and donations in the interest of environmental conservation.

Paragraph (3)

Letter a

Procurement of environmentally sound goods and services means the procurement prioritizing to goods and services having environmentally sound label.

Letter b

Environmental tax means a levy imposed by the government and regional governments on everybody utilizing natural resources, such as underground-water intake tax, fuel tax and swallow nest tax.

Environmental levy means a levy imposed by regional governments on everybody utilizing facilities prepared by the regional governments, such as levy on waste water treatment.

Environmental subsidy means facility or reduction of burden imposed on everybody having impact which has impact on the improvement of environmental function.

Letter c

Environmentally sound financial system means a system of financial institution applying requirements for environmental protection and management in the financing policies and practices of bank and non-bank financial institution system.

Environmentally sound capital market means capital market applying requirements for environmental protection and management to companies listing shares at the capital market or listed companies, such as requirements for environmental audit for companies planning to sell their shares at the capital market.

Letter d

Trade in license to dispose waste and/or emission is the transaction of waste and/or emission quota which may be disposed into environmental media between personnel in charge of businesses and/or activities.

Letter e

Payment of environmental service means the payment/compensation granted by users of environmental service to providers of environmental service.

6A.

Letter f

Environmental insurance means insurance providing protection upon the occurrence of environmental pollution and/or damage.

Letter g

Environmental-sound label system means the granting of mark or label to environmentally sound products.

Letter h

Sufficiently clear

Paragraph (4)

Sufficiently clear

Article 44

Sufficiently clear

Article 45

Paragraph (1)

Sufficiently clear

Paragraph (2)

Criteria for environmental protection and management performance cover, among others performance to preserve conservation area and downgrade environmental pollution and/or damage.

Article 46

Sufficiently clear

Article 47

Paragraph (1)

Environmental risk analysis is a procedure, which is used for, among others, assessing the release and distribution of genetically engineered products and the clean up of B3 waste.

Paragraph (2)

Letter a

In this provision, risk analysis covers the whole processes, starting from identification of danger, estimation of consequence or impact, prediction of the unexpected impacts on both human security and health and environment.

Letter b

In this provision, risk management covers evaluation of risks or selection of risks requiring management, identification of choices of risk management, selection of management measures and implementation of the selected measures.

Letter c

Risk communications mean an interactive process of exchange of information and opinions between individuals, groups, and institutions with respects to risks.

Paragraph (3)

Sufficiently clear

Article 48

Sufficiently clear

Article 49

Paragraph (1)

Letter a

Certain highly risky businesses and/or activities are businesses and/or activities potential to cause serious impact on human health and environment if accident and/or emergency condition occur, such as petrochemical, oil and natural gas plant as well as nuclear power plant.

Environmental audit document contains:

- a. information covering goal and process of audit;
- b. audit finding;
- c. audit conclusion; and
- d. supporting data and information.

Letter b

Sufficiently clear

Paragraph dan Paragraph (3)

Sufficiently clear

Article 50 up to Article 53

Sufficiently clear

Article 54

Paragraph (1)

Sufficiently clear

Paragraph (2)

Letter a

Sufficiently clear

Letter b

Remediation is efforts to restore environmental pollution to improve the quality of environment.

Letter c

Rehabilitation is restoration efforts to return the value, function and benefit of the environment, including efforts to prevent land damage, provide protection and improve ecosystem.

Letter d

Restoration means efforts to enable the environment or parts thereof to resume the original function.

Letter e

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 55 dan Article 56

Sufficiently clear

Article 57

Paragraph (1)

Environmental preservation means efforts taken to preserve the functions of the environment and prevent human actions from downgrading the environment or environmental damage.

Letter a

Conservation of natural resources covers, among others, conservation of water resources, forest ecosystem, coastal and sea conservation, energy, peat land ecosystem and karst ecosystem.

Letter b

Reservation of natural resources covers natural resources which may be managed in a long term and a specified period in accordance with the need.

In order to execute the reservation of natural resources, the government, provincial governments or regental/municipal governments and individuals may build:

- a. biological diversity park outside forest area;**
- b. green open area (RTH) minimally accounting for 30% of the total size of island/archipelago; and/or**
- c. planting and preserving trees outside forest area, particularly rare plants.**

Letter c

Sufficiently clear

Paragraph (2)

Letter a

Sufficiently clear

Letter b

Preservation of natural resources means efforts to preserve the totality and genuiness of natural resources along with ecosystem thereof.

Letter c

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Letter a

Mitigation of climate change is a series of activities which are taken to lower green house emission as a model of efforts to mitigate impacts of climate change.

Adaptation to climate change is an efforts which are taken to enhance adaptability to climate change, including climate diversity and extreme climate so as to reduce potential of damage attributed to climate change, utilize opportunities arising from climate change and overcome consequences arising from climate change.

Letter b and Letter c

Sufficiently clear

Paragraph (5)

Sufficiently clear

Article 58

Paragraph (1)

The obligation to manage B3 constitutes efforts to reduce the possible risks on the environment, such as environmental pollution and/or damage, given that B3 is very potential to cause negative impacts.

Paragraph (2)
Sufficiently clear

Article 59

Paragraph (1)
Management of B3 waste constitutes a series of activities covering the reduction, storage, collection, transportation, utilization and/or processing, including the hoarding of B3 waste.

Paragraph (2)
Sufficiently clear

Paragraph (3)
Other parties mean business entities managing B3 waste and already securing license.

Paragraph (4) up to Paragraph (7)
Sufficiently clear

Article 60 dan Article 61
Sufficiently clear

Article 62

Paragraph (1)
The environmental information system contains, among others, diversity of ecologic characters, distribution of population, distribution of natural resources and local wisdom.

Paragraph (2) up to Paragraph (4)
Sufficiently clear

Article 63 and Article 64
Sufficiently clear

Article 65

Paragraph (1)
Sufficiently clear

Paragraph (2)

The right to environmental information constitutes a logic consequence of the right to participate in environment management on the basis of the principle of transparency. The right to environmental information will enhance the value and effectiveness of participation in environmental management, besides opening opportunities for communities to actualize their rights to a proper and healthy environment.

The environmental information as referred to in this paragraph may be in the form of data, information or other information related to environmental protection and management, which is opened for the public according to the characteristic and objectives thereof, such as environmental impact analysis documents, reports and documents of results of evaluation of environmental monitoring, either the monitoring of compliance or monitoring of change in the quality of environment and spatial plan.

Paragraph (3) up to Paragraph (6)
Sufficiently clear

Article 66

The provision is intended to protect victims and/or the reporting parties adopting legal settlement for environmental pollution and/or damage.

The protection is intended to prevent act of revenge from the reported parties through criminal and/or civil offense by observing the independence of legal judicature.

Article 67 and Article 68

Sufficiently clear

Article 69

Paragraph (1)

Letter a

Sufficiently clear

Letter b

The prohibited B3 are, among others, DDT, PCBs, and dieldrin.

Letter c

The prohibition in this provision is in exception for the issues governed in legislation.

Letter d

The prohibited in this letter includes import.

Letter e up to Letter j

Sufficiently clear

Paragraph (2)

The local wisdom as referred to in this provision means the burning of land with the maximum size two hectares per head of family to be planted by plants belonging to local variety and surrounded by burning separator to prevent flame from spreading to surrounding area.

Article 70

Paragraph (1)

Sufficiently clear

Paragraph (2)

Letter a

Sufficiently clear

Letter b

The granting of recommendations and opinions in this provision includes in the formulation of KLHS and amdal.

Letter c

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 71 dan Article 72

Sufficiently clear

Article 73

Serious violation means legal violation causing serious environmental pollution and/or damage and triggering social unrest.

Article 74 up to Article 79

Sufficiently clear

Article 80

Paragraph (1)

Sufficiently clear

Paragraph (2)**Letter a**

The extremely serious threat means a condition potential to endanger safety and health of many people so that the settlement thereof may not be delayed.

Letter b and Letter c

Sufficiently clear

Article 81 up to Article 83

Sufficiently clear

Article 84**Paragraph (1)**

The provision in this paragraph is intended to protect civil rights of parties in dispute.

Paragraph (2)

Sufficiently clear

Paragraph (3)

The provision in this paragraph is intended to prevent the birth of different decisions about one environmental dispute in a bid to guarantee legal certainty.

Article 85 and Article 86

Sufficiently clear

Article 87**Paragraph (1)**

The provision in this paragraph constitutes

the realization of a principle in the environmental law, which is called the principle "polluter pays". Besides paying compensation, the environmental polluter and/or destroyer may also be charged by judge to undertake certain legal measures, such as order to:

- a. install or improve waste treatment unit so that the waste meets the stipulated quality standard of the environment;
- b. restore the environmental functions; and/or
- c. eliminate or destroy causes of environmental pollution and/or destruction.

Paragraph (2)

Sufficiently clear

Paragraph (3)

The imposition of coercive money on everyday of lateness in the execution of court order to undertake certain measures is in the interest of environmental functions.

Paragraph (4)

Sufficiently clear

Article 88

Strict liability means plaintiff is not necessary to prove substance of mistake as a basis for paying compensation. The provision in this paragraph constitutes *lex specialis* in lawsuit against legal violation in general. Pursuant to this article, the amount of compensation which may be charged with environmental polluters or destroyers may be stipulated up to certain limit.

Up to certain limit means there is an obligation according to stipulation of legislation to provide insurance for the said business and/or activity or the environmental funds have been available.

Article 89

Sufficiently clear

Article 90

Paragraph (1)

Environmental loss is a loss arising from the pollution and/or damage of the environment which does not belong to private proprietary.

Certain measures constitute actions to prevent and mitigate pollution and/or damage as well as restore environmental functions in a bid to ensure that negative impacts on the environment won't occur or repeat.

Paragraph (2)

Sufficiently clear

Article 91 up to Article 93

Sufficiently clear

Article 94

Paragraph (1) dan Paragraph (2)

Sufficiently clear

Paragraph (3)

Coordination is an action of consultation to obtain personnel, facility and infrastructure assistance needed in the investigation.

Paragraph (4)

The notification in this article does not constitute notification about the commencement of investigation, but affirms the shape of coordination between civil servant investigators and investigators of the Indonesian Police.

Paragraph (5) dan Paragraph (6)

Sufficiently clear

Article 95

Sufficiently clear

Article 96

Letter a up to Letter e

Sufficiently clear

Letter f

Other evidences include information disclosed, sent, received or saved electronically, magnetically, optically and/or the similar, and/or data, records, or information which is readable, visible and can be heard that can be taken out with and/of without assistance of a facility, written down on paper, non-paper physical materials, or recorded electronically, not limited to writings, voice or picture, map, design, photo or the like, letter, sign, figure, symbol, or meaningful or understandable or readable perforation.

Article 97 up to Article 100

Sufficiently clear

Article 101

Releasing genetically engineered products means statement of recognition to a result of rejuvenation of genetically engineered products to become superior variety and may be disseminated after complying with the requirements on the basis of legislation.

Distributing genetically engineering products means every activity or a series of activities in the framework of the distribution of commodities being genetically engineered products to communities, for trading or not.

Article 102 up to Article 112

Sufficiently clear

Article 113

The fake information as meant in this article may be in the form of documents or verbal information not matching the actual facts or untrue information.

Article 114 up to Article 117

Sufficiently clear

Article 118

The functional executor as referred to in this article is business entity and legal entity.

Criminal offense charged with executives of business entities and legal entities for crime committed by business entities or legal entities is functional crime so that the penalty is imposed and sanction is imposed on those having authority to the physical executor and receiving action of the physical executor.

Receiving action as meant in this article includes approving, letting or supervising inadequately actions of physical executors and/or having policies making the crime possible.

Article 119 up to Article 122

Sufficiently clear

Article 123

The license in this provision is, for example, license to manage B3 waste, license to dispose waste water into sea, and license to dispose waste water into water intake.

Article 124 up to Article 127

Sufficiently clear

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