

Regulation Sets Fines of up to IDR3 Billion for Environmental Non-Compliance

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Amid concerns over environmental protection and sustainability, Indonesia has issued a new regulation that strengthens oversight and administrative penalties in the environmental sector. The new rules include a maximum fine of IDR3 billion for each violation, while violators failing to secure environmental permits may face fines equivalent to 5% of their investment value.

Minister of Environment and Forestry Regulation No. 14 of 2024 on the Implementation of Oversight and Administrative Sanctions in the Environmental Sector (“**New Regulation**”) came into effect on 26 September 2024. The New Regulation elaborates on the provisions of Government Regulation No. 22 of 2021 on the Implementation of Environmental Protection and Management (“**GR 22/2021**”).

The New Regulation defines the Minister of Environment and Forestry (“**Minister**”), provincial governors, and regional regents/mayors (collectively referred to as “**Authorized Officials**”) as the officials responsible for conducting oversight and imposing administrative sanctions on business activities related to environmental permits and/or approvals (“**Environmental Permits**”).[1] It also authorizes the Minister to act as a second-layer overseer and enforcer of Environmental Permits issued by regional authorities, provided that (i) a serious violation of environmental regulations has occurred and (ii) the regional authorities have failed to conduct appropriate oversight.[2]

Here are the key matters covered by the New Regulation:

Methods of Oversight

The New Regulation divides oversight methods into two categories: (i) regular oversight and (ii) incidental oversight.[3] Regular oversight is conducted either directly or indirectly.[4]

Direct regular oversight is conducted on businesses and/or activities that meet the following criteria:[5]

- a. Recognized as vital national objects or priority objects for regional government supervision;
- b. Are a source of public concern;
- c. Have significant impacts on the environment, threatening (i) ecosystems and life, and (ii) human health and well-being;
- d. Possess an Operational Worthiness Certificate (“**SLO**”) for more than one year from the date of issuance;
- e. Have been in operation for more than two years; and/or
- f. Have committed repeated violations of environmental regulations within a period of five years.

Direct regular oversight is conducted through either (i) field verification, (ii) installation of monitoring devices, and/or (iii) continuous information interoperability.[6]

In contrast, indirect regular oversight is conducted on businesses or activities that meet the following criteria:[7]

- a. Possess an SLO for one year or less; and/or
- b. Have been in operation for two years or less.

Indirect regular oversight involves analyzing the data and/or information submitted by the person responsible for the business or activity.[8]

Incidental supervision is conducted on businesses and/or activities that (i) are reported by the public to be violating environmental regulations and/or (ii) are experiencing an emergency situation reported by the relevant responsible person.[9] Furthermore, incidental supervision may occur in response to reports from the public regarding environmental violations without a clear source or culprit.[10]

Rights of Authorized Officials

In conducting oversight, Authorized Officials have the right to perform the following measures:[11]

- a. Monitoring;
- b. Inquiring about information;
- c. Copying documents and/or drafting relevant notes;
- d. Entering certain locations;
- e. Taking photographs;
- f. Creating audiovisual recordings;
- g. Acquiring samples;
- h. Inspecting tools;
- i. Inspecting installations and/or transportation devices; and/or
- j. Halting certain violations.

Types of Administrative Sanctions

The New Regulation states that Authorized Officials can impose the following administrative sanctions, based on their respective jurisdiction:[12]

- a. **Written warnings**, for minor violations. The person responsible for the business and/or activity must address the orders contained in the warning within 30 days of its issuance.[13]
- b. **Coercive measures**, which apply if the orders in the written warning are not heeded. However, these measures may be implemented without warning if (i) there is a serious threat to human health or the environment, (ii) the violation poses a massive and widespread impact if not immediately halted, or (iii) it could result in greater loss if not immediately halted. Such measures may include, but are not limited to: (i) temporary cessation of production, (ii) shutdown of the wastewater drainage system, or (iii) seizure of objects that may cause the violation of environmental regulations. Noncompliance with these measures may be subject to administrative fines.[14]
- c. **Administrative fines**, of up to IDR3 billion may imposed on businesses and/or activities for each violation. Such violations include, but are not limited to: (i) not possessing the relevant Environmental Permit, (ii) not having the relevant Environmental Permit and business license, (iii) preparing an Environmental Impact Analysis without the appropriate certificate of

competence, (iv) other related infractions. These fines may be imposed in conjunction with the abovementioned coercive measures.[15]

d. **Suspension of business permits** if (i) the coercive measures are not implemented, (ii) the administrative fine is not paid, or (iii) fines for the lateness of implementing coercive measures are not paid.[16]

e. **Revocation of business permits** may occur for the same reasons as suspension of business permits, as well as for additional reasons such as (i) not executing the responsibilities under the suspension of business licenses and/or (ii) a violation that results in irreversible damage to the environment.[17]

Conclusion

The New Regulation provides a comprehensive framework for environmental compliance, listing specific oversight measures and penalties to ensure adherence to Environmental Permits. Businesses should familiarize themselves with the new rules and implement strategies to reduce the risk of non-compliance and fines. If you require further guidance on the New Regulation, please do not hesitate to contact us for tailored advice.

[1]A Art. 2 Paragraph (1) of the New Regulation

[2] Art. 2 Paragraph (2) in conjunction with Art. 28 Paragraph (1) of the New Regulation

[3] Art. 8 Paragraph (1) of the New Regulation

[4] Art. 8 Paragraph (2) of the New Regulation

[5] Art. 9 Paragraph (1) of the New Regulation

[6] Art. 9 Paragraph (2) of the New Regulation

[7] Art. 10 Paragraph (1) of the New Regulation

[8] Art. 10 Paragraph (2) of the New Regulation

[9] Art. 11 Paragraph (1) letter a of the New Regulation

[10] Art. 11 Paragraph (1) letter a of the New Regulation

[11] Art. 21 Paragraph (2) of the New Regulation

[12] Art. 33 of the New Regulation

[13] Art. 34 Paragraph (1) of the New Regulation

[14] Art. 35 of the New Regulation

[15] Art. 39 of the New Regulation

[16] Art. 47 of the New Regulation

[17] Art. 48 of the New Regulation

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If you have any questions, please contact:

1. [Rahayu Ningsih Hoed](mailto:rahayu.hoed@makarim.com), Partner – rahayu.hoed@makarim.com
2. [Vincent Ariesta Lie](mailto:vincent.lie@makarim.com), Partner - vincent.lie@makarim.com
3. Dante Danisawara, Associate - dante.daniswara@makarim.com

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