

Indonesia

EIA profile

Updated to: 14 December 2023

Please note:

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This profile was last updated in 2023. The 2020 Omnibus Law has modified the 2012 governmental regulation on Environmental Permits to create the *Environmental Approval*, which consolidates all environmental management permits. However, it is currently unclear how it will impact the E(S)IA *) procedure and the types of projects it applies to. Since the Omnibus Law has not been officially adopted yet, the existing implementing rules (such as ministerial regulations or decrees) for revoked regulations will remain in effect until they are replaced by new rules. Full endorsement is expected by the end of 2023. Until then, the existing procedures for E(S)IA will continue to be followed as outlined in the profile below.

*) Since the last decade most countries have included the assessment of social impacts in EIA, and therefore the acronym EIA has been converted to ESIA (Environmental and Social Impact Analysis). The latter is used here.

Overview ESIA procedure

ESIA in Indonesia

Key features of the Indonesian ESIA system are the ESIA Committees throughout the country, at different levels, that oversee each ESIA. The ESIA Committee approves the Terms of Reference for an ESIA, reviews the ESIA report, and organises stakeholder consultation. These committees have representation of all relevant authorities, but NGOs or other stakeholder representatives may also be invited to take seat. Another feature of the ESIA system are the environmental monitoring and management plans that have to be submitted as part of an ESIA.

Overview ESIA procedure

The mandatory screening process determines if an ESIA has to be conducted for an activity. It is then decided whether a full ESIA is required to obtain an environmental permit; if an Environmental Management/Monitoring Effort (UKL-UPL) is needed to disclose possible environmental impacts; or if no adverse impacts are expected leading to no further action (and therefore no issuance of environmental permits). For activities that do require a full ESIA, a scoping process including the formulation of the Terms of Reference (ToR) follows. Based on this ToR, an Environmental and Social Impact Assessment is carried out, consisting of an ESIA appraisal (i.e. review of the ESIA documents) as an integral part of the environmental permit application and issuance process. It results in a decision on the environmental feasibility of the project, which leads to the decision on the issuance of the environmental permit. Finally,

compliance monitoring is conducted.

Important documents of the ESIA process in Indonesia are: Terms of Reference (scoping), Environmental Impact Statement (AMDAL), the Environmental Management Plan and Environmental Monitoring Plan (RKL-RPL), ESIA Report, Decision on Environmental Feasibility, Environmental Permit and Monitoring Reports.

A special form for activities that require an UKL-UPL, has to be submitted to the respective authority, after which an examination follows resulting in a recommendation on refusal or approval of the UKL-UPL. Finally, the decision on the issuance of the environmental permit is made, and follow-up on the permit takes place.

Screening

Screening process

There is a screening requirement in place. At the central level the Minister of Environment and Forestry is responsible for the screening decision. At the regional level this responsibility falls on the Governor, and at the district level it is the Mayor's responsibility. The Environmental Protection and Management Act of 2009 determines that activities with significant impacts require an ESIA. In Articles 22 and 23 criteria are given for determining impacts that are significant and for identifying which activities thus require an ESIA. For activities with lesser or insignificant impacts on the environment, a statement of their environmental management efforts and environmental monitoring efforts (respectively *Upaya Pengelolaan Lingkungan* (UKL) and *Upaya Pemantauan Lingkungan*) is required. This is approved with a government-endorsed statement on the environmental management commitment. Activities that do not require an AMDAL or UKL-UPL must provide a statement of their ability to manage and monitor the environment (*Surat Pernyataan Kesanggupan Pengelolaan dan Pemantauan Lingkungan Hidup*; SPPL).

Timeline Screening

To be checked

Scoping

Scoping process

Scoping is a required step in the ESIA process. A distinct review process of the Terms of Reference (ToR) is defined in the Environmental Permit Regulations (2012; to be changed into Environmental Approval Regulations by the end of 2023). The proponent first prepares the ToR and submits them to the appropriate licensing authority. The authority then forwards it to the relevant ESIA Appraisal Commission, which reviews the ToR with assistance from a technical team. Initially, the Commission provides a written statement regarding the administrative completeness of the ToR. Once the ToR are declared to be complete, the technical team reviews the them. They may require a revision of the ToR. Once the appraisal of the Technical Team reveals that the ToR are acceptable, the ESIA Appraisal Committee will issue an approval of the ToR.

Contents of the scoping document

The Terms of Reference has to address:

- scope of the study
- type of activities of the project that may cause impact on the environment
- environmental parameters likely to be affected by the project
- method of data collection and analysis
- identification of potential and important impacts
- methods of impact prediction and evaluation

Timeline scoping

The Environmental Permit / Environmental Approval Regulations require that after the ToR have been submitted and declared to be complete, the appraisal period of the ToR shall not exceed 30 working days.

Assessment

Assessment process

For the preparation of ESIA documents, three different types of study approaches are distinguished: a single study, an integrated study, or a study based on the area. The initiator can prepare the ESIA themselves or with the help of ESIA consultants.

The regulation does require the assessment to be comprehensive, taking into account biological, geo-physical/chemical, socio-economic, cultural, and public health aspects.

source

The AMDAL Process and the Equator Principles, Common themes and apparent differences, by Dr. Karlheinz Spitz and Dr. Yahya Husin, 2009.

Environmental Permit Regulation 2012

Contents of the EIA report

According to Article 25 of the Environmental Protection and Management Act (2009), the ESIA report should contain a(n):

- study on the impact of the planned undertaking and / or activity
- an evaluation of the activities at or around the location of the planned activity
- suggestions and inputs from the affected communities
- estimated amount and significance of the potential impact, if the planned activity is carried out
- holistic evaluation of the impacts to determine the environmental feasibility of the activity
- Environmental Management Plan (EMP) and monitoring plan.

If an UKL-UPL is prepared, a form with the following information is required:

- Identity of the initiator
- Business and/or activity plans
- Environmental impacts that would occur
- Environmental management and monitoring plan

Review

Review process

The ESIA documents / UKL-UPL are reviewed by the respective ESIA Appraisal Commission. Firstly, the Commission checks the documents for administrative completeness. Then, a technical team is commissioned to appraise the documents and present its results to the ESIA Appraisal Commission. This Commission convenes a meeting and provides recommendations on the ESIA and UKL-UPL appraisal results. This may be a recommendation of environmental feasibility or environmental unfeasibility. The final advice is then sent to the respective authority (the Minister, Governor or Mayor), which takes the final decision regarding the environmental feasibility of the activity.

source

Environmental Permit Regulations 2012

Review expertise

The review mechanism includes establishing a Technical Advisory Commission and allows the involvement of various (independent) experts. The regulations do not require that the advice of the ESIA Appraisal Commission is followed by the Competent Authority.

Timeline Review

Review of the ESIA report can take a maximum of 75 working days.

Decision making

Integration of ESIA into decision-making

After the ESIA appraisal process has been finalised, the Competent Authority determines on the basis of recommendations by the ESIA Appraisal Commission if the activity is environmentally feasible or not. Simultaneously, the initiator submits an application for an environmental permit to the Authority. The ESIA documents have to be added to this application. The Competent Authority then issues the Environmental Permit in conjunction with the decision on environmental feasibility. An environmental permit is a prerequisite for obtaining a business or activity licence.

Depending on the project, the Competent Authority for the decision on the environmental acceptability is the Minister (central level), the Governor (regional level) or the Mayor or Chief of the District (district level). The Competent Authority takes the decision on environmental feasibility as well as the decision on

issuance of the Environmental Permit.

According to Article 32 of the Environmental Permit / Environmental Approval Regulations, the decision on the environmental feasibility of an activity contains the following elements:

- basic consideration of the issuance of the decision
- statement of environmental feasibility
- requirements and obligations of the initiator
- obligations that stakeholders shall perform

An environmental permit contains the requirements and obligations specified in the environmental feasibility decision, requirements set by the Minister, Governor or Mayor, and an expiration date of the Environmental Permit (Article 48).

source

Environmental Permit Regulation 2012

Decision justification

Although the decision on issuing an environmental permit may not have to rely on actual ESIA information, the Competent Authority is highly advised to take the recommendations of the ESIA Appraisal Commission into account when taking a decision on the environmental feasibility of the activity. Any decision taken has to be justified.

Article 39 of the Environmental Protection and Management Law (2009) determines that the decision on an environmental licence has to be publicly announced.

Timeline decision-making

Review of the ESIA report and the decision on environmental acceptability can take a maximum of 75 working days.

Possibilities for appeal

The new Environment Law when adopted, curtails previous expanded appeal process established under the 2009 Environmental Protection and Management Law. Once approved under the new law the public's right to file objections against ESIA assessments is no longer possible. Additionally, the environmental approval process replacing environmental permits abolishes the mechanism for repeal and eliminates the opportunity to challenge environmental permits in court.

Follow-up

Compliance monitoring

The Environmental Law requires the competent authorities to conduct compliance monitoring. Hence, the Minister (central level), Governor (regional level) or the Mayor or District Chief (district level) supervise compliance of the proponent with the environmental permit conditions. According to the Environmental Permit / Environmental Approval Regulations, the proponent must submit a report on the implementation of the environmental permit requirements every 6 months (Section 53). The monitoring reports are submitted to the respective authority. Furthermore, the proponent has to submit a monitoring plan as part of the ESIA report.

Adding to the Environmental Protection and Management Law (2009), the Omnibus Law prescribes an environmental audit as evaluation of business' compliance with all legal requirements regarding the environment.

Non-compliance penalties

With the adoption of the Environmental Protection and Management Law in 2009 and amendments made through the Omnibus Law, the penalties associated with infringement of the ESIA regulation have increased. Transgressors can be fined, but also risk jail sentences. For example, any business or individual conducting a (business) activity without an environmental permit and causing death, injury or damage to the environment, or has engaged in preparing an ESIA document without the required certification, can serve a jail sentence of 1 to 3 years and can be fined between 1 to 3 billion IDR. Similar jail terms can be given for carrying out a project without the required environmental acceptability approval.

If a violation of the Environmental Permit takes place, administrative sanctions will be imposed by the Minister, Governor, or Mayor or District Chief. These sanctions may include written warnings, enforcement actions by the government, freezing or revocation of the environmental permit, or suspension or revocation of the business licence. An environmental permit may be cancelled if:

- the required documents submitted in the application for the permit contain legal flaws, errors, misuse and untruthfulness and/or falsification of data, documents and information
- requirements as determined through the decision on the environmental feasibility or the recommendation on the Environmental Management/Monitoring Efforts are not met
- obligations set out in the ESIA or Environmental Management/Monitoring Efforts documents are not fulfilled

Article 40 of the Law further determines that an environmental licence needs to be renewed if the licence for the undertaking is cancelled.

source

Environmental Protection and Management Law 2009

Stakeholder engagement

Public participation requirements for ESIA process stages

At the start of the ESIA process, the Competent Authority is required to inform the public about their

business and/or activity plans, and to provide the opportunity for public feedback and comments. An activity plan must be prepared and announced publicly, as part of the AMDAL preparation and application. The public is given ten business days to provide comments and feedback for the plan. Public consultation is required prior to the preparation of the Terms of Reference and during the preparation of the ESIA document. Representatives of affected communities are involved in the review process of the ToR and the ESIA report as members of the ESIA Appraisal Commission. The public can also provide feedback on the decision-making process when the Competent Authority announces the application for an environmental permit requested by the initiator. The decision on issuance of the Environmental Permit is publicly announced.

Public comments have to be submitted to the Competent Authority in writing or verbally presented to the ESIA Appraisal Commission.

The Competent Authority must explain how the results of consultation were taken into account, in the justification for the decision on environmental acceptability,

Guidelines for public announcement and public involvement in ESIA were issued in 2000 by the central Environment Agency Bapedal (No. KepDal 08/2000), and further updated through a ministerial decree in 2012 (Minister of Environment Decree No 17/2012 on Public Participation in AMDAL and Environmental License (PP5)).

source

Environmental Permit Regulations (2012)

Timeline for public comments

Before the preparation of the Terms of Reference, the public has 10 working days after the public announcement of the planned activity to provide comments and their opinion. After the announcement of an environmental permit application, the public has also 10 working days to provide advice and opinions to the respective authority.

Access to information

The Environmental Permit regulations (2012) stipulate that applications for environmental permits shall be announced through multimedia and/or a bulletin board at the activity site. Successively, decisions on environmental permits shall be announced through mass media or multimedia.

In accordance with the Environmental Law, both central and local authorities are required to develop an information system that supports the implementation of environmental protection policies. This information system must be integrated, coordinated, and made available to the community/public. At a minimum, Environmental information systems should include information about the environmental status, maps of vulnerable environments, and other relevant environmental information.

source

To facilitate online registration on ESIA, KLHK has designed an online digital platform (Sistem Informasi Dokumen Lingkungan Hidup -amdalnet). This platform was officially launched in February 2023 and can be accessed at amdalnet.menlhk.go.id.

ESIA practice

Annual no. of ESIA's

To be checked.

Professional bodies

- [Asian Environmental Compliance and Enforcement Network \(AECEN\)](#)

Relevant links

- [Asia Pacific Centre for Environmental Law](#)
- [The Importance of Regulatory Compliance for Foreign Companies in Indonesia](#)

Background information

History of ESIA

ESIA (then EIA) was officially introduced under the Basic Environmental Law No. 4 of 1982. Government Regulations No. 29 (1986) provided the implementing regulation, and established the ESIA system in Indonesia. Since then, the ESIA regulation has been regularly revised to reflect institutional changes, and increased understanding of ESIA.

In the nineties, reforms of the regulation shifted responsibilities for ESIA review, and provided more inclusive provisions for public involvement. After adoption of regional autonomy laws, the Ministry for Environment (now the Ministry of Environment and Forestry – KLHK) issued decrees to clarify regional mandates for ESIA. In 2006 the Ministry of Environment issues two decrees (No. 8 and No 11) to further detail ESIA procedures and revise the list of projects subject to ESIA. In 2009, the Environmental Protection and Management Law (Article 22) replaced the original framework law for ESIA. In 2012, Environmental Permit regulations were issued under the Environmental Protection and Management Law, which now contain the procedural requirements for ESIA. In 2020 the Job Creation (Omnibus) Law was passed to create more jobs and raise foreign and domestic investments by simplifying ESIA procedures. At present, the Supreme Court is assessing if all recommended revisions have been incorporated, including new implementing regulations such as the government regulation of 2012 on Environmental Permits. After full endorsement, the Omnibus Law will be fully integrated into the new Environment Law.

Legal framework

Enabling law

The Basic Environmental Law No. 4 of 1982 introduced E(S)IA into the legal system.

National detailed regulation

The Government Regulations No. 29 (1986) established the E(S)IA system.

Guidelines

- Some of the decrees that have been issued are also called guidelines.
- In addition, the Ministry for Environment and Forestry provides [guidance on EIA](#) on its website, including examples of ESIAAs (to be checked).

Scope of application

There was previously a distinction between ESIA requirements for private and public projects, but that was removed in 1999, and ESIA applies equally to both.

Exemptions from application

An activity can be exempted from the obligation to conduct an ESIA if:

- the location of the activity is within an area that has had an ESIA already
- the location of the activity is within a district/city that has already a detailed spatial plan and/or a district/city strategic area spatial plan
- the activity is conducted within the framework of a disaster emergency response

For activities exempted from ESIA, an UKL-UPL (environmental management and monitoring effort) study shall be prepared.

Institutional setting

Central ESIA authority

KLHK, the Ministry for Environment and Forestry, is responsible for overseeing the ESIA system. It issues the overriding of ESIA regulation. At the provincial and district level, more stringent ESIA regulation can be developed to complement national legislation.

Other key (governmental) parties

At each level of ESIA implementation, an ESIA Appraisal Committee is set up to advise on the ESIAAs. This Committee approves the Terms of Reference for the ESIA, reviews the ESIA once finalised, and organises stakeholder consultations.

At the central level, the Minister of Environment and Forestry establishes a Central ESIA Appraisal Committee. At the regional level these tasks are carried out by a Provincial ESIA Appraisal Commission and a Provincial Technical Team. District/city ESIA Appraisal Commissions can also be established at the district level. Each ESIA Appraisal Committee has a secretariat and technical teams of independent experts that assist the Committee with the reviewing process. Generally, an ESIA Appraisal Committee consists of representatives from the following institutions:

- environmental agencies;
- related technical agencies;
- scientific experts of the field of the studied activity;

- representatives from affected communities;
- environmental organisations.

Chapter V of the Environmental Permit Regulations contains more detailed provisions on the ESIA Appraisal Committees, including which types of ESIA should be reviewed by which commission. For example, the Central ESIA Committee reviews ESIA for activities located in more than one province.

(De)centralisation of mandates

Decision-making on individual ESIA takes place at different levels. Districts are responsible for ESIA within their administrative boundaries. The Mayor or the Chief of the District then takes consent decisions. Provinces are responsible for ESIA for activities covering more than one district. In such a case, the Governor approves the ESIA. The Ministry for Environment and Forestry decides on ESIA for activities that cover multiple provinces and for activities that have broad social impacts or security implications.

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