

INDONESIAN GOVERNMENT REGULATION

NUMBER 10 YEAR 2010

ABOUT

CHANGES IN PROCEDURES AND FUNCTIONS OF FOREST AREA designation

With the grace of GOD ALMIGHTY

PRESIDENT OF THE REPUBLIC OF INDONESIA,

CONSIDERING: that in order to implement Article 19 of Act No. 41 Year 1999 on Forestry, as amended by Act No. 19 of 2004 on Stipulation of Government Regulation in Lieu of Act No. 1 of 2004 on the Amendment of Law Number 41 Year 1999 concerning Forestry Act, to establish a Government Regulation on Procedures and Functions Appropriation Changes in Forest Area;

Given: 1. Article 5 paragraph (2) of the Constitution of Republic of Indonesia Year 1945;

2. Law Number 41 Year 1999 on Forestry (State Gazette of the Republic of Indonesia Year 1999 Number 167, Additional State Gazette of the Republic of Indonesia Number 3888) as amended by Act No. 19 of 2004 on Stipulation of Government Regulation in Lieu of Law Number 1 Year 2004 on the Amendment of Law Number 41 Year 1999 concerning Forestry Act (State Gazette of the Republic of Indonesia Year 2004 Number 86, Supplementary State Gazette of the Republic of Indonesia Number 4412);

DECIDES:

To stipulate: GOVERNMENT REGULATION ON PROCEDURES AND FUNCTION CHANGES IN FOREST AREA designation.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Government Regulation the meaning of:

1. Forest ecosystems is a unitary form of lands comprising of biological resources, dominated by trees in their natural environment, the one with the other can not be separated.
2. The forest area is designated a specific area and / or specified by the Government to maintain its existence as a permanent forest.
3. Forest conservation is a forest area with certain characteristics, which has the principal function of preserving the diversity of plants and animals and ecosystems.
4. Nature reserve forest area is forest with a particular characteristic, which has the main function as an area of preservation of diversity of flora and fauna and ecosystems that also serves as the life support system.
5. Conservation of forest area is forest with certain distinctive characteristics, which has the principal function of life support systems of protection and preservation of diversity of flora and fauna, and sustainable use of biological resources and ecosystems.
6. Park hunt is a forest area defined as place of tourist hunting.
7. Protected forests are forest areas that have a principal function as protection for the life support system regulates the water, prevent flooding, control erosion, prevent sea water intrusion, and maintain soil fertility.
8. Production forests are forest areas that have a principal function of producing forest products.
9. Permanent Production Forest is a forest area with class factors slope, soil type, and intensity of rain after each digit is multiplied by weight have a total score below 125, outside the protected forest area, forest nature reserve, forest conservation, and parks hurry.
10. Limited Production Forest is a forest area with class factors slope, soil type, and intensity of rain after each digit is multiplied by weight have a total value of between 125-174, outside the protected forest area, forest nature reserve, forest conservation, and hunting park.
11. Convertible production forest is forest area in the space reserved for use for development outside the forestry activities.
12. Permanent forest is forest area will be protected as forest area, consisting of conservation forest, protection forest, limited production, and production forests remain.
13. Changes in forest area is the change in the allotment of forest land to non forest area.
14. Changes in forest area is a function of changes in some or all functions of the forest in one or several groups of forest to other forest functions.
15. Exchange of forest area is the change in permanent production forest areas and / or limited production forest to non forest area is balanced by including the replacement land is not forest land into forest areas.
16. The release of forest area is the change in the allotment of forest production that can be converted to non forest area.
17. Watershed is an area of land that is an integral part of the river and its tributaries, which serve to accommodate, store, and stream water originating

from rainfall to the lake or the sea naturally, which is the dividing line on land and sea boundary topographical to areas still affected waters inland activities.

18. Changes that affect important and broad scope and strategic value are changes that affect the biophysical conditions such as climate change, ecosystems, and disruption of water governance, economic and social impact of the community for the life of present and future generations.
19. Integrated research is research conducted by the Institute of Government who are competent and have the scientific authority (*scientific authority*) together with other relevant parties.
20. Minister is the minister of government affairs in the field of forestry.

Article 2

Changes in forest area designation and functions undertaken to meet the dynamic demands of national development and people's aspirations to remain based on the optimization of the distribution function, the benefits of sustainable forests and sustainable, as well as the existence of forest areas with sufficient area and the proportional distribution.

Article 3

Arrangements within the scope of government regulation include:

- a. changes in the allotment of forest areas; and
- b. changes in forest function.

Article 4

1. Forest area as referred to in Article 3 covers the forest contains basic functions as conservation forests, protection forests and production forests.
2. Conservation of forest area as referred to in paragraph (1) includes:
 - a. nature reserves, consisting of:
 1. nature reserve; and
 2. wildlife reserves.
 - b. nature conservation area, consisting of:
 1. national parks;
 2. nature tourism park; and
 3. great forest park.

- c. hunting park.
- 3. Production forest area as referred to in paragraph (1), consisting of:
 - a. limited production forest;
 - b. permanent production forest; and
 - c. convertible production forest.

Article 5

Changes in designation and functions of the forest area as referred to in Article 2 stipulated by the Minister to be based on the results of integrated research.

CHAPTER II

CHANGES IN FOREST AREA designation

Part One

General

Article 6

Changes in forest area designation can be made:

- a. partially; or
- b. for the province.

Part Two

Appropriation Changes in Forest Area By Partial

Paragraph 1

General

Article 7

Changes in forest area by partial designation as referred to in Article 6 letter a is done through:

- a. exchange of forest area; or

- b. release of forest area.

Article 8

1. Changes in forest area by partial designation as referred to in Article 7 is based on the petition.
2. Application as referred to in paragraph (1) can be submitted by:
 - a. ministers or ministerial-level officials;
 - b. governors or regents / mayors;
 - c. corporate leadership; or
 - d. chairman of the foundation.

Article 9

1. Application as referred to in Article 8 must meet the requirements of administrative and technical.
2. Further provisions concerning administrative and technical requirements referred to in paragraph (1) shall be governed by regulation of the Minister.

Paragraph 2

Forest Area swap

Article 10

Designation changes made through exchange of forest area as referred to in Article 7 letter a can only be done at:

- a. permanent production forest; and / or
- b. limited production forest.

Article 11

1. Exchange of forest area as referred to in Article 10 is to:
 - a. development outside of a permanent forestry activities;
 - b. eliminate the enclave in order to facilitate the management of forest areas; or
 - c. improve the forest boundary.

2. Types of development outside of a permanent forestry activities referred to in paragraph (1) letter a set by the Minister after coordinating with the relevant Ministers.

Article 12

1. Exchange of forest area as referred to in Article 11 paragraph (1) made the following provisions:
 - a. ensuring permanent forest area of at least 30% (thirty percent) of the flow area of the river, islands, and / or provinces with a proportional distribution; and
 - b. maintain the carrying capacity of the forest area remains decent governance.
2. In terms of forest area as referred to in paragraph (1) letter a is less than 30% (thirty percent) of the flow area of the river, islands, and / or provinces with a proportional distribution, exchange with the forest area which is not a substitute land area performed with the ratio of forest of at least 1:2, except exchange forest area to accommodate victims of natural disasters and for limited public interest can be done with a minimum ratio of 1:1.
3. In terms of forest area as referred to in paragraph (1) letter a above 30% (thirty percent) of the flow area of the river, islands, and / or provinces with a proportional distribution, exchange with the forest area which is not a substitute land area forests by at least 1:1 ratio.
4. Replacement land as referred to in paragraph (2) and paragraph (3) must meet the following requirements:
 - a. location, size, and boundaries clear replacement land;
 - b. situated directly adjacent to the forest area;
 - c. located in the watershed, island, and / or the same province;
 - d. can be reforested with conventional means;
 - e. not in dispute and free from all types of loading and rights; and
 - f. recommendation of the governors and regents / mayors.
5. Limited public interest referred to in paragraph (2) and the exchange ratio of forest area as referred to in paragraph (2) and paragraph (3) is determined by the Minister.

Article 13

1. Application for exchange of forest area as referred to in Article 8 paragraph (1) shall be submitted by the applicant to the Minister.

2. If the application is in compliance with administrative and technical requirements referred to in Article 9, the Minister formed the Integrated Team.
3. Integrated Team referred to in paragraph (2) present the results of research and recommendations to the Minister.
4. Integrated Team Membership and duties referred to in paragraph (2) shall be further regulated by regulation after coordination with the Ministry of related ministers.
5. In the case of exchange of the forest area at most 2 (two) hectares and for limited public interest undertaken by governments or local governments, the Ministry formed a team with members from the ministries in charge of forestry affairs.
6. Based on the findings and recommendations of the Integrated Team referred to in paragraph (3) or team referred to in subsection (5), the Minister issued the approval of the principle of exchange of forest area or a letter of rejection.

Article 14

In terms of research results and recommendations based on the Integrated Team referred to in Article 13 paragraph (3), a plan designation change activities that affect critical forest areas and a broad scope and strategic value, the Minister before issuing the approval of the principle of exchange of the forest area, should seek prior approval formerly of the Council of Representatives of the Republic of Indonesia.

Article 15

1. Exchange principle approval given forest area for the longest period of 2 (two) years from the issuance of approval by the Minister and the principle can be extended at most 2 (two) times each for a maximum of 1 (one) year.
2. Approval of the principles referred to in paragraph (1), includes an obligation for the applicant for at least:
 - a. complete the land *clear and clean* replacement candidate;
 - b. signed the minutes of exchange of forest area;
 - c. bear the cost of the boundaries of forest areas is sought and the proposed replacement land; and
 - d. bear the cost of reforestation to land a replacement.
3. Further provisions regarding the obligation for the applicant referred to in paragraph (2) shall be governed by regulation of the Minister.
4. Applicant prohibited transfer principle approval exchange of forest area to other parties without the approval of the Minister.

Article 16

1. In case the holder of the approval of the principle of exchange of the forest area has completed the obligation referred to in Article 15 paragraph (2), the Minister and the applicant signed the minutes of exchange of the forest area.
2. Based on the minutes of exchange of forest area as referred to in paragraph (1), the Minister issued a decree appointing a substitute land as forest area.

Article 17

1. Once issued a decision appointing as forest area as referred to in Article 16 paragraph (2), an applicant for a period exceeding one (one) year, shall:
 - a. afforestation or reforestation implement the replacement land; and
 - b. carry out land boundaries and forest replacement is sought.
2. The results of the boundary referred to in paragraph (1) letter b of each set forth in the record and map the boundaries of the committee signed by the forest boundary in accordance with statutory regulations.
3. Based on the results of events and map boundaries as referred to in paragraph (2), the Minister issued a decree stipulating a substitute land as forest area and forest area of the release decision is sought.
4. Further provisions regarding the implementation of the afforestation or reforestation and boundaries as referred to in paragraph (1) shall be governed by regulation of the Minister.

Article 18

1. Before issuing a decision stipulating substitute land as forest area and forest land disposal decisions referred to in Article 17 paragraph (3), applicants are prohibited from conducting activities within the forest area that is sought.
2. Activities in the forest area which is sought can only be done after obtaining a dispensation from the minister.
3. Dispensation as referred to in paragraph (2) can only be given a limited basis in preparation for the exchange of forest area.
4. Further provisions regarding the grant of exemption as referred to in paragraph (2) shall be governed by regulation of the Minister.

Paragraph 3

Disposal of Forest Area

Article 19

1. The release of forest area as referred to in Article 7 letter b can only be done on convertible production forests as referred to in Article 4 paragraph (3) letter c.
2. Production forests can be converted as referred to in paragraph (1) can not be processed at the disposal of the provincial forest area of less than 30% (thirty percent), except by way of exchange of the forest area.
3. Convertible production forests as referred to in paragraph (1), either in a state of forested or not forested.
4. The release of forest area as referred to in paragraph (1) performed outside of development for forestry activities.
5. Type of development interests outside of forestry activities referred to in paragraph (4) is determined by the Minister.

Article 20

1. Application for release of forest area as referred to in Article 8 paragraph (1) shall be submitted by the applicant to the Minister.
2. Application as referred to in paragraph (1) must meet the requirements referred to in Article 9.

Article 21

Minister after receiving the petition and examine the completeness of the requirements referred to in Article 20, may issue a letter of rejection or approval of the release issued forest.

Article 22

1. Principle approval of disposal of forest area as referred to in Article 21 shall be granted for a period of 1 (one) year from the issuance of approval by the Minister and the principle can be extended at most 2 (two) times each for a maximum of 6 (six) months .
2. Holder approval of the release of forest area required:
 - a. complete the forest boundary is sought; and
 - b. safeguard the forest area which is sought.

3. Boundaries referred to in paragraph (2) letter a results set forth in the record and map the results of boundaries which was signed by the committee of good forest boundary in accordance with statutory regulations.
4. Petitioner's transfer principle approval prohibited the release of forest land to other parties without the approval of the Minister.
5. Further provisions concerning the implementation of good forest boundary which will be released as stipulated in paragraph (3) shall be governed by regulations of the Minister.

Article 23

1. In principle approval of the period referred to in Article 22 paragraph (1), applicants are prohibited from engaging in activities in forest areas, except for obtaining a dispensation from the Minister.
2. Dispensation as referred to in paragraph (1) can only be given to the applicant within the framework of the implementation of preparatory activities such as breeding, nursery, and / or infrastructure with a very limited extent.
3. Further provisions on granting dispensations by regulation of the Minister.

Article 24

Based on the results of events and map boundaries as referred to in Article 22 paragraph (3), the Minister issued a decree that sought the release of forest area.

Article 25

Based on the Minister's decision regarding the release of forest area and fulfillment of other requirements in accordance with statutory regulations, the relevant authorities in land certificates issued for land.

Article 26

Utilization of wood on the forest area that has been granted a dispensation as referred to in Article 23 paragraph (2) and released as referred to in Article 24, shall be further regulated by regulation of the Minister.

Article 27

Any change in the allotment of forest land is obtained by partial release of the decision of the Minister of the forest area as referred to in Article 17 paragraph (3) and Article 24 can perform the activities according to laws and regulations.

Article 28

Further provisions on procedures for the release of the application of forest production that can be converted as referred to in Article 20 shall be governed by regulations of the Minister.

Part Three

Appropriation Changes in Forest Area For Provincial Areas

Paragraph 1

General

Article 29

Changes in forest area designation for the province referred to in Article 6 letter b can be done at:

- a. forest conservation;
- b. protected forests; or
- c. production forests.

Article 30

1. Changes in forest area designation for the province is based on proposals from the governor to the Minister.
2. Proposed changes in forest area allotment for provinces referred to in paragraph (a) integrated by the governor in the revised provincial spatial plans.
3. Governor to propose changes in the allotment of forest area required to conduct technical consultations with the Minister.
4. Further provisions on procedures for technical consultation as referred to in paragraph (3) shall be governed by regulations of the Minister.

Paragraph 2

Procedure for allotment of Forest Area Change

For Provincial Areas

Article 31

1. Minister after receiving the proposed changes in the allotment of forest land to the province of the governor, doing technical review.
2. Based on the results of the technical review as referred to in paragraph (1), the Minister formed the Integrated Team.
3. Integrated Team Membership and duties referred to in paragraph (2) appointed by the Minister after coordinating with the relevant Ministers.
4. Integrated Team referred to in paragraph (2) present the results of research and recommendations on changes in forest land allotment to the Minister.
5. In terms of research results referred to in paragraph (4), the proposed change in the allotment of forest area potentially impact and / or environmental risks, shall carry out strategic environmental assessment.
6. Minister the results of the research team to the Board of Integrated Indonesian House of Representatives for approval, either for part or all of the proposed forest area.
7. In the case of Indonesian House of Representatives approved the research results of the Integrated Team, the Minister issued a decision regarding the allotment of forest area changes in provincial areas.
8. In the case of Indonesian House of Representatives rejected the results of research, the Integrated Team, the Minister issued a letter rejecting the proposed change in the allotment of forest area of the province.

Article 32

Decree of the Minister about changes in forest land allotment to the province referred to in Article 31 paragraph (7) is integrated by the governor in the revision of the provincial spatial plan which is to set out in provincial legislation.

CHAPTER III

FUNCTION CHANGES IN FOREST AREA

Part One

General

Article 33

1. Changes in the function of forest area as referred to in Article 3 letter b made to strengthen and optimize the function of forest area.
2. Changes in the function of forest area as referred to in paragraph (1) conducted in the forest with the principal functions:
 - a. forest conservation;

- b. protected forests; and
 - c. production forests.
3. Changes in the function of forest area as referred to in paragraph (1) shall be made:
- a. partially; or
 - b. for the province.

Article 34

Changes in the function of forest area into forest production can be converted can not be done at the provincial forest area of less than 30% (thirty percent).

Part Two

Changes in Forest Area By Partial Function

Paragraph 1

General

Article 35

Changes in forest area is partially a function referred to in Article 33 paragraph (3) letter a is done through changes in the functions:

- a. among the principal functions of the forest area; or
- b. the principal functions of forests.

Paragraph 2

Main Function Function Changes Among Forest Area

Article 36

Changes in functions between the principal functions of the forest area as referred to in Article 35 letter a, including changes in the functions of:

- a. conservation of forest areas into protected forest areas and / or production forests;

- b. protected forest area into forest conservation and / or production forests; and
- c. production forest areas into forest conservation and / or protected forest areas.

Article 37

Changes in the function of conservation forest areas into protected forest areas and / or production forest area as referred to in Article 36 letter a, shall meet the following conditions:

- a. do not meet all the criteria as appropriate forest conservation legislation; and
- b. meet the criteria for protected forests or production forests according to statutory regulations.

Article 38

Changes in the function of protected forest land into forest conservation and / or production forest area as referred to in Article 36 letter b shall satisfy the following conditions:

- a. not qualify as a protected forest area suitable legislation in this case to be converted into production forest;
- b. meet the criteria of conservation forests or production forests according to statutory regulations.

Article 39

Change the function production forest area into forest conservation and / or protected forest area as referred to in Article 36 letter c shall meet the criteria as forest conservation or protected forests according to statutory regulations.

Paragraph 3

Principal Function Function Changes In Forest Area

Article 40

Changes in the function of the principal functions of the forest area as referred to in Article 35 letter b, done in the area:

- a. forest conservation; or
- b. production forests.

Article 41

1. Changes in the function of the principal functions of the conservation forest area as referred to in Article 40 letter a, including a change from:
 - a. natural reserve areas into wildlife reserves, national park, great forest park, nature tourism park, or park your time;
 - b. wildlife refuge area to area nature reserves, national parks, forest parks highway, nature tourism park, or park your time;
 - c. national park region to become nature reserves, wildlife reserves, forest parks highway, nature tourism park, or park your time;
 - d. great forest park region to become nature reserves, wildlife reserves, national parks, nature tourism park, or park your time;
 - e. nature tourism park region to become nature reserves, wildlife reserves, national parks, forest parks highway, or park your time; or
 - f. hunting park region to become nature reserves, wildlife reserves, national parks, forest parks highway, or nature tourism parks.
2. Changes in the function of the principal functions of the conservation forest area as referred to in paragraph (1), can only be done in terms of:
 - a. had a change of forest area due to the biophysical conditions of natural phenomena, environment, or humans;
 - b. bench term required for the optimization of functions and benefits of forest area; or
 - c. coverage area is very small and surrounded by social and economic environment due to development outside the forestry activities that do not support the continuity of natural ecological processes.

Article 42

1. Changes in the function of the principal functions of the production forest area as referred to in Article 40 letter b, include changes of:
 - a. limited production forest to production forest remains and / or convertible production forest;
 - b. production forests remains limited production forests and / or convertible production forests; and

- c. production forests can be converted into limited production forests and / or permanent production forests.
2. Changes in the function of the principal functions of the production forest area as referred to in paragraph (1), in addition to not fulfilling the criteria of forest area function according to laws and regulations, can only be done in terms of:
 - a. to meet the needs of the forest area to support the stability of the optimal production of raw material availability for the wood processing industry; or
 - b. bench term forest function.

Fourth paragraph

Changes Procedures for Partial Functions In Forest Area

Article 43

1. Changes in forest area is partially a function referred to in Article 33 paragraph (3) letter a stipulated by the Decree of the Minister.
2. Decree of the Minister as referred to in paragraph (a) issued based on proposals submitted by:
 - a. regents / mayors, for forested areas within one district / city; or
 - b. governor, for the forest area across districts / cities.
3. Terms of the proposed changes in the function of forest area as referred to in paragraph (2) shall be governed by regulation of the Minister.

Article 44

1. Minister after receiving the proposed changes in the function of forest area as referred to in Article 43 paragraph (2) forming the Integrated Team.
2. Integrated Team Membership and duties referred to in paragraph (1) shall be governed by regulation after coordination with the Ministry of related ministers.
3. Integrated Team referred to in paragraph (2) present the results of research and recommendations to the Minister.
4. Minister based on research results and recommendations of the Integrated Team referred to in paragraph (3), issued a decision regarding the change of forest area function or rejection letter.

Part Three

Changes in Forest Area Functions For Provincial Areas

Article 45

Changes in forest area function for the province referred to in Article 33 paragraph (3) letter b shall be the principal function of forests:

- a. forest conservation;
- b. protected forests; and
- c. production forests.

Article 46

1. Criteria changes for forest functions of provinces shall apply mutatis mutandis the provisions of Article 37, Article 38, Article 39, Article 41 and Article 42.
2. Procedures for changing the function of forest area for the province shall apply mutatis mutandis the provisions of Article 31 and Article 32.

Article 47

Any change in forest area is partially a function that changes the function of obtaining a decision from the Minister of the forest area as referred to in Article 44 paragraph (4) can perform management and / or activities according to its function according to statutory regulations.

CHAPTER IV

CHANGES IN FOREST AREA designation

IMPORTANT AND which affects a wide range

STRATEGIC VALUE AND

Article 48

1. Changes affecting the allotment of forest area and a wide range of important and strategic value represents a change in the allotment of forest areas that cause impact on:

- a. biophysical conditions; or
 - b. social and economic conditions of society.
- 2. Changes that create impact on the biophysical conditions referred to in paragraph (1) letter a is a change that resulted in a decrease or increase the quality of the climate or ecosystem and / or water management.
 - 3. Changes that create impact on the social and economic conditions referred to in paragraph (1) letter b represents the changes that resulted in a decrease or increase the social and economic life of the community for generations to come.
 - 4. Changes that create impact on the biophysical conditions and social and economic impacts as referred to in paragraph (1) consists of two (two) categories, namely:
 - a. influential; or
 - b. no effect.
 - 5. Changes that create impact on the biophysical conditions and social and economic impacts are based on the guidance and criteria.
 - 6. Further provisions concerning the guidelines and criteria for the classification categories referred to in paragraph (4) and subsection (5) shall be governed by regulation of the Minister.

CHAPTER V

SANCTIONS

Article 49

- 1. Exchange principle approval of forest area can be canceled by the Minister if:
 - a. do not meet the obligation within the grace period granted as referred to in Article 15 paragraph (1), subsection (2) and (3); and / or
 - b. violation of the provisions referred to in Article 15 paragraph (4).
- 2. Revocation of approval of the principle of exchange of the forest area as referred to in paragraph (1) shall be subject after being given a written warning by the Ministry of 3 (three) times each within 30 (thirty) working days for each time a warning.

Article 50

1. Principle approval of disposal of forest area can be canceled by the Minister if:
 - a. does not fulfill the obligation within the grace period granted as referred to in Article 22 paragraph (1) and paragraph (2);
 - b. violation of the provisions referred to in Article 22 paragraph (4); or
 - c. shareholder approval of the release of open forest area forest area before getting a dispensation from the Minister as referred to in Article 23 paragraph (1).
 2. Revocation of approval of the release of forest area sebagaimana principles referred to in paragraph (1) shall be subject after being given a written warning by the Ministry of 3 (three) times each within 30 (thirty) working days for each time a warning.

CHAPTER VI

TRANSITIONAL PROVISIONS

Article 51

With the enactment of this Government Regulation the applicant will:

- a. exchange of fixed production forest and limited production forests that have not obtained the consent principle, the solution is processed in accordance with Government Regulations.
- b. exchange of forest area which has received Ministerial Decree regarding the release of forest area and decree on setting the substitute land as forest areas have been established prior to enactment of this Government Regulation remain effective.
- c. release of forest area that has not obtained approval for the principle, the solution is processed in accordance with the provisions of this Government Regulation.
- d. exchange or disposal of forest area forest area that has been approved by the principle but not yet received a decision from the Minister for release of forest area, shall comply with the provisions of this Government Regulation.
- e. release of forest area which has received Ministerial Decree regarding the release of forest area that was established prior to the enactment of this Government Regulation remain effective.
- f. changes in the function of forest area that has not obtained a decree of the Minister, be processed in accordance with this government regulation.
- g. changes in the function of forest area which had received Ministerial Decree on the change of forest area function was established prior to the enactment of this Government Regulation remain effective.

- h. changes in provincial areas the allotment of forest land or forest functional changes in provincial areas, which have not obtained a decree of the Minister processed in accordance with this government regulation.
- i. changes in provincial areas the allotment of forest land or forest functional changes of the province, which has obtained a decree of the Minister before the enactment of this Government Regulation remain effective.

Article 52

1. Production forests that have been granted approval for the principle of disposal of forest plantation to the business entity prior to the enactment of Law Number 41 Year 1999 on Forestry, then:
 - a. business entity shall submit a replacement land with 1:1 ratio and meet the requirements referred to in Article 12 paragraph (4) except the letter c.
 - b. penyerahan lahan pengganti sebagaimana dimaksud pada huruf a dilakukan paling lama 12 (dua belas) tahun sejak berlakunya Peraturan Pemerintah ini.
2. Lahan pengganti sebagaimana dimaksud pada ayat (1) harus terletak di dalam wilayah daerah aliran sungai yang sama, pada wilayah daerah aliran sungai lain dalam provinsi yang sama, atau provinsi yang lain dalam pulau yang sama.
3. Penyerahan lahan pengganti sebagaimana dimaksud pada ayat (1) merupakan dasar pelepasan kawasan hutan dari Menteri.

Article 53

Semua peraturan pelaksanaan dari peraturan perundang-undangan di bidang kehutanan yang telah ada, sepanjang tidak bertentangan dengan Peraturan Pemerintah ini, tetap berlaku sampai dengan dikeluarkannya peraturan pelaksanaan berdasarkan Peraturan Pemerintah ini.

CHAPTER VII

FINAL PROVISIONS

Article 54

This Government Regulation shall come into force on the date of promulgation.

Agar setiap orang dapat mengetahuinya, memerintahkan pengundangan Peraturan Pemerintah ini dengan penempatan dalam Lembaran Negara Republik Indonesia.

Stipulated in Jakarta

pada tanggal 22 Januari 2010

**PRESIDENT OF THE REPUBLIC OF
INDONESIA,**

Signed.

DR. H. Susilo Bambang Yudhoyono

Promulgated in Jakarta

pada tanggal 22 Januari 2010

MENTERI HUKUM DAN HAK ASASI MANUSIA

REPUBLIK INDONESIA,

Signed.

PATRIALIS AKBAR

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN 2010 NOMOR 15

EXPLANATION

THE

INDONESIAN GOVERNMENT REGULATION

NOMOR 10 TAHUN 2010

ABOUT

TATA CARA PERUBAHAN PERUNTUKAN DAN FUNGSI KAWASAN HUTAN

I. GENERAL

Hutan sebagai karunia dan amanah Tuhan Yang Maha Esa, merupakan sumber daya alam yang memiliki aneka ragam kandungan kekayaan alam yang bermanfaat bagi

manusia, baik manfaat ekologi, sosial budaya, maupun ekonomi. Sebagai bentuk perwujudan rasa syukur terhadap karunia-Nya, maka hutan harus diurus dan dimanfaatkan secara optimal dengan mempertimbangkan kecukupan luas kawasan hutan dalam daerah aliran sungai, pulau, dan/atau provinsi serta keserasian manfaat secara proporsional sesuai sifat, karakteristik dan kerentanan peranannya sebagai penyerasi keseimbangan lingkungan lokal, nasional, dan global.

Sesuai dengan sifat, karakteristik dan kerentanannya sebagai penyerasi keseimbangan lingkungan, hutan dibagi dalam 3 (tiga) fungsi pokok yaitu hutan konservasi, hutan lindung, dan hutan produksi. Selanjutnya masing-masing fungsi pokok hutan diatur pengelolaannya dalam rangka mewujudkan prinsip-prinsip pengelolaan hutan lestari.

Dalam rangka optimalisasi fungsi dan manfaat hutan dan kawasan hutan sesuai dengan amanat Pasal 19 Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan sebagaimana telah diubah dengan Undang-Undang Nomor 19 Tahun 2004 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2004 tentang Perubahan atas Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan Menjadi Undang-Undang, dan sesuai dengan dinamika pembangunan nasional serta aspirasi masyarakat, pada prinsipnya kawasan hutan dapat diubah peruntukan atau fungsinya. Untuk menjaga terpenuhinya keseimbangan manfaat lingkungan, manfaat sosial budaya, dan manfaat ekonomi, maka perubahan peruntukan dan fungsi kawasan hutan harus berasaskan optimalisasi distribusi fungsi dan manfaat kawasan hutan secara lestari dan berkelanjutan dengan memperhatikan keberadaan kawasan hutan dengan luasan yang cukup dan sebaran yang proposional.

Indonesia merupakan negara tropis yang sebagian besar mempunyai curah dan intensitas hujan yang tinggi, terdiri dari pulau-pulau besar, menengah dan kecil serta mempunyai konfigurasi daratan yang bergelombang, berbukit dan bergunung, maka Menteri menetapkan luas kawasan hutan dalam daerah aliran sungai atau pulau paling sedikit 30% (tiga puluh perseratus) dari luas daratan. Dengan penetapan luas kawasan hutan dan luas minimal kawasan hutan untuk setiap daerah aliran sungai atau pulau, Menteri menetapkan luas kawasan hutan untuk setiap provinsi berdasarkan kondisi biofisik, iklim, penduduk dan keadaan sosial, serta ekonomi masyarakat setempat.

Perubahan peruntukan dan fungsi kawasan hutan dilakukan melalui mekanisme perubahan parsial atau perubahan untuk wilayah provinsi.

Perubahan peruntukan kawasan hutan secara parsial dilakukan melalui tukar menukar atau pelepasan kawasan hutan produksi yang dapat dikonversi. Tukar menukar kawasan hutan dilakukan pada hutan produksi terbatas dan hutan produksi tetap.

Tukar menukar kawasan hutan dilakukan untuk kepentingan pembangunan di luar kegiatan kehutanan yang bersifat permanen yang harus menggunakan kawasan hutan, menghilangkan enclave dalam rangka memudahkan pengelolaan kawasan hutan, dan memperbaiki batas kawasan hutan. Tukar menukar kawasan hutan dilakukan dengan kewajiban menyediakan lahan pengganti.

Kawasan hutan merupakan bagian integral yang tidak terpisahkan dengan penataan ruang, sehingga perubahan penataan ruang secara berkala sebagai amanat Undang-Undang Nomor 26 Tahun 2007 tentang Penataan Ruang, perubahan peruntukan dan fungsi kawasan hutan atau perubahan peruntukan kawasan hutan dalam revisi tata ruang wilayah provinsi dilakukan dalam rangka pemantapan dan optimalisasi fungsi kawasan hutan.

Setiap perubahan peruntukan atau perubahan fungsi kawasan hutan, terlebih dahulu wajib didahului dengan penelitian terpadu yang diselenggarakan oleh lembaga pemerintah yang kompeten dan memiliki otoritas ilmiah bersama-sama dengan pihak lain yang terkait.

Untuk hal-hal tertentu yang berdampak penting dan cakupan yang luas serta bernilai strategis, perubahan peruntukan kawasan hutan yang dilakukan oleh Pemerintah harus memperhatikan aspirasi rakyat melalui persetujuan Dewan Perwakilan Rakyat Republik Indonesia.

Perubahan fungsi kawasan hutan dilakukan melalui perubahan fungsi antar fungsi pokok kawasan hutan atau perubahan fungsi dalam fungsi pokok kawasan hutan.

Dalam rangka optimalisasi fungsi kawasan hutan, mengingat adanya keterbatasan data dan informasi yang tersedia pada saat penunjukan kawasan hutan, dinamika pembangunan, faktor alam, maupun factor masyarakat, maka perlu dilakukan evaluasi fungsi kawasan hutan.

II. PASAL DEMI PASAL

Article 1

Self-explanatory.

Article 2

Self-explanatory.

Article 3

Self-explanatory.

Article 4

Self-explanatory.

Article 5

Self-explanatory.

Article 6

Self-explanatory.

Article 7

Self-explanatory.

Article 8

Paragraph (1)

Self-explanatory.

Paragraph (2)

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Yang dimaksud dengan "badan usaha" adalah:

1. badan usaha milik negara;
2. badan usaha milik daerah;
3. badan usaha milik swasta yang berbadan hukum Indonesia; dan
4. cooperatives.

Letter d

Yayasan dalam ketentuan ini adalah yayasan yang berbadan hukum Indonesia.

Article 9

Self-explanatory.

Article 10

Self-explanatory.

Article 11

Paragraph (1)

Letter a

Yang dimaksud dengan "pembangunan di luar kegiatan kehutanan" yang bersifat permanen antara lain waduk, bendungan, fasilitas pemakaman, kantor pemerintah, fasilitas pendidikan, fasilitas keselamatan umum, penempatan korban bencana alam, permukiman, bangunan industri, pelabuhan, dan bandar udara.

Letter b

Yang dimaksud dengan "enclave" adalah lahan yang dimiliki oleh perorangan atau badan hukum di dalam kawasan hutan berdasarkan bukti-bukti yang sah sesuai dengan ketentuan peraturan perundang-undangan.

Letter c

Yang dimaksud dengan "memperbaiki batas kawasan hutan" adalah agar diperoleh kawasan hutan yang kompak.

Paragraph (2)

Yang dimaksud dengan menteri terkait antara lain menteri yang membidangi urusan dalam negeri, perencanaan pembangunan, penataan ruang, lingkungan hidup, pertanian, dan/atau transmigrasi.

Article 12

Paragraph (1)

Self-explanatory.

Paragraph (2)

Yang dimaksud dengan "ratio 1:2" adalah luas lahan pengganti 2 (dua) kali luas kawasan hutan yang ditukar, dengan tujuan agar luas kawasan hutan yang kurang dari 30% (tiga puluh perseratus) dari luas daerah aliran sungai, pulau, dan/atau provinsi dengan sebaran yang proporsional bertambah sampai dengan 30% (tiga puluh perseratus) atau lebih dari luas kawasan hutan yang ada.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Menteri antara lain menetapkan batasan paling sedikit ratio tukar menukar kawasan hutan, baik terhadap kawasan hutan yang berada di atas 30% (tiga puluh perseratus) maupun terhadap kawasan hutan yang berada di bawah 30% (tiga puluh perseratus) dari luas daerah aliran sungai, pulau, dan/atau provinsi dengan sebaran yang proporsional.

Article 13

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Penelitian oleh Tim Terpadu dilakukan terhadap kawasan hutan yang dimohon dan lahan pengganti yang diusulkan.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Article 14

Yang dimaksud dengan "berdampak penting dan cakupan yang luas serta bernilai strategis" adalah perubahan yang berpengaruh terhadap kondisi biofisik seperti perubahan iklim, ekosistem, dan gangguan tata air, serta dampak

sosial dan ekonomi masyarakat bagi kehidupan generasi sekarang dan generasi yang akan datang.

Article 15

Paragraph (1)

Self-explanatory.

Paragraph (2)

Letter a

Yang dimaksud dengan *“clear and clean”* adalah:

1. terhadap tanah-tanah hak untuk calon lahan pengganti, baik yang terdaftar maupun yang belum terdaftar, dilakukan pelepasan hak dengan memberikan ganti rugi;
2. terhadap tanah-tanah hak untuk calon lahan pengganti yang sudah terdaftar dilakukan pencoretan di buku tanah dan sertifikatnya; dan
3. terhadap tanah-tanah hak calon lahan pengganti yang belum terdaftar (leter c/girik) dilakukan pencoretan di buku dan peta desa, serta harus ada keterangan dari instansi pertanahan kabupaten/kota yang menyatakan bahwa lahan tersebut belum terdaftar.

Letter b

Self-explanatory.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 16

Self-explanatory.

Article 17

Paragraph (1)

Letter a

Pemohon dalam melaksanakan reboisasi atau penghutan atas lahan pengganti dapat bekerja sama dengan badan usaha yang mempunyai kompetensi di bidang reboisasi antara lain badan usaha milik negara di bidang kehutanan.

Letter b

Pelaksanaan tata batas atas lahan pengganti dan kawasan hutan yang dimohon dilakukan oleh panitia tata batas.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 18

Self-explanatory.

Article 19

Paragraph (1)

Pelepasan kawasan hutan produksi yang dapat dikonversi dilaksanakan tanpa melalui penelitian Tim Terpadu karena kawasan hutan produksi yang dapat dikonversi merupakan kawasan hutan yang secara ruang dicadangkan untuk kepentingan pembangunan di luar kegiatan kehutanan, yang ditetapkan berdasarkan hasil penelitian tim pusat dan daerah serta lintas sektoral, pada saat paduserasi kawasan hutan dan rencana tata ruang wilayah provinsi.

Paragraph (2)

Tata cara tukar menukar kawasan hutan pada kawasan hutan produksi yang dapat dikonversi sesuai atau mengikuti tata cara tukar menukar kawasan hutan produksi.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Article 20

Self-explanatory.

Article 21

Self-explanatory.

Article 22

Self-explanatory.

Article 23

Self-explanatory.

Article 24

Self-explanatory.

Article 25

Self-explanatory.

Article 26

Self-explanatory.

Article 27

Yang dimaksud dengan peraturan perundang-undangan dalam ketentuan ini adalah peraturan perundang-undangan di bidang kehutanan.

Article 28

Self-explanatory.

Article 29

Self-explanatory.

Article 30

Self-explanatory.

Article 31

Self-explanatory.

Article 32

Self-explanatory.

Article 33

Self-explanatory.

Article 34

Self-explanatory.

Article 35

Self-explanatory.

Article 36

Self-explanatory.

Article 37

Self-explanatory.

Article 38

Self-explanatory.

Article 39

Self-explanatory.

Article 40

Self-explanatory.

Article 41

Paragraph (1)

Self-explanatory.

Paragraph (2)

Letter a

Perubahan kondisi biofisik akibat fenomena alam antara lain akibat bencana alam.

Perubahan kondisi biofisik akibat lingkungan atau manusia antara lain akibat tekanan pembangunan dan pertumbuhan penduduk.

Letter b

Yang dimaksud dengan "waktu pemulihan" adalah waktu yang dibutuhkan untuk pemulihan pada arahan fungsi pokok yang ditetapkan.

Letter c

Penetapan cakupan luas yang sangat kecil didasarkan atas hasil kajian Tim Terpadu.

Article 42

Paragraph (1)

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Perubahan fungsi hutan produksi yang dapat dikonversi menjadi hutan produksi terbatas dan/atau hutan produksi tetap dalam rangka proses pemberian Izin Usaha Pemanfaatan Hasil Hutan Kayu (IUPHHK) Alam maupun Tanaman setelah memperoleh rekomendasi bupati/walikota, dan gubernur, serta dilakukan penelitian oleh Tim Internal yang anggotanya dari kementerian yang menyelenggarakan urusan pemerintahan di bidang kehutanan.

Paragraph (2)

Letter a

Penetapan luas hutan produksi optimal didasarkan atas hasil analisis kebutuhan kayu nasional, regional, atau lokal.

Letter b

Self-explanatory.

Article 43

Self-explanatory.

Article 44

Self-explanatory.

Article 45

Self-explanatory.

Article 46

Self-explanatory.

Article 47

Yang dimaksud dengan peraturan perundang-undangan dalam ketentuan ini adalah peraturan perundang-undangan di bidang kehutanan.

Article 48

Paragraph (1)

Yang dimaksud dengan "berdampak penting dan cakupan yang luas serta bernilai strategis" adalah dampak penting (eksternalitas) negatif maupun positif.

Letter a

Self-explanatory.

Letter b

Kondisi sosial ekonomi masyarakat meliputi antara lain kearifan lokal dan modal sosial dari masyarakat setempat dalam pengelolaan lingkungan.

Paragraph (2)

Yang dimaksud dengan "penurunan atau peningkatan kualitas iklim" adalah penurunan atau peningkatan kualitas unsure-unsur iklim mikro antara lain suhu udara, kelembaban relative udara, intensitas cahaya, dan kecepatan angin.

Yang dimaksud dengan "penurunan atau peningkatan kualitas ekosistem" antara lain penurunan atau peningkatan kualitas keanekaragaman hayati dan habitat flora dan fauna serta keindahan bentang alam.

Yang dimaksud dengan "penurunan atau peningkatan kualitas tata air" mencakup penurunan atau peningkatan kuantitas dan/atau kualitas air yang dimulai dari proses penerimaan, penyimpanan, pengisian, pelepasan, dan kehilangan air.

Paragraph (3)

Yang dimaksud "penurunan atau peningkatan kualitas social ekonomi masyarakat" adalah penurunan atau peningkatan yang terkait dengan tingkat pendapatan, kesehatan, dan pendidikan.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Paragraph (6)

Self-explanatory.

Article 49

Self-explanatory.

Article 50

Self-explanatory.

Article 51

Self-explanatory.

Article 52

Self-explanatory.

Article 53

Self-explanatory.

Article 54

Self-explanatory.

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