

**GUIDE TO PLANTING TREES FOR THE HOLDERS OF
BORROW-AND-USE FOREST PERMITS WITHIN
THE FRAMEWORK OF REHABILITATING RIVER BASIN AREAS
(Regulation of the Forestry Minister
No. P.63/Menhut-II/2011, dated September 5, 2011)**

BY THE GRACE OF GOD ALMIGHTY
THE FORESTRY MINISTER OF
THE REPUBLIC OF INDONESIA,

Considering :

That to implement provisions in Article 6 para (4) of Government Regulation No. 24/2010 on the Use of Forest Areas and provisions in Article 7 para (4) and Article 26 para (1) letter b of Regulation of the Forestry Minister No. P.18/Menhut-II/2011 on Guide To Borrow and Use Forest Areas, it is necessary to stipulate Regulation of the Forestry Minister on Guide To Planting Trees for the Holders of Borrow-and-Use Forest Permits Within the Framework of Rehabilitating River Basin Areas.

In view of :

1. Law No. 41/1999 on Forestry (Statute Book of 1999 No. 167, Supplement to Statute Book No. 3888) as already amended by Law No. 19/2004 on Government Regulation in lieu of Law No. 1/2004 on Amendment to Law No. 41/1999 on Forestry into Law (Statute Book of 2004 No. 86, Supplement to Statute Book No. 4412);
2. Law No. 32/2004 on Regional Governments

(Statute Book of 2004 No. 125, Supplement to Statute Book No. 4437) as already several times amended the latest by Law No. 12/2008 (Statute Book of 2008 No. 59, Supplement to Statute Book No. 4844);

3. Government Regulation No. 38/2007 on the Sharing of Government Affairs Among the Government, Provincial Governments and Regency/Municipal Governments (Statute Book of 2007 No. 82, Supplement to Statute Book No. 4737);
4. Government Regulation No. 76/2008 on Forest Rehabilitation and Reclamation (Statute Book of 2008 No. 201, Supplement to Statute Book No. 4947);
5. Government Regulation No. 2/2008 on the Types and Tariffs of Non-Tax State Revenues Originating from the Use of Forest Areas for Non-Forestry Development at the Forestry Ministry (Statute Book of 2008 No. 15, Supplement to Statute Book No. 4813);
6. Government Regulation No. 24/2010 on the Use of Forest Areas (Statute Book of 2010 No. 30, Supplement to Statute Book No. 5112);
7. Presidential Regulation No. 24/2010 on the Position, Task and Function of State Ministry and

the Organizational Structure, Task and Function of the First Echelon Officials of State Ministry;

8. Presidential Decree No. 84/P/2009 on the Formation of United Indonesia Cabinet II;
9. Presidential Regulation No. 47/2009 on the Formation and Organization of State Ministries;
10. Regulation of the Forestry Minister No. P.40/Men-hut-II/2010 on the Organizational Structure and Work Mechanism of the Forestry Ministry (State Gazette of 2010 No. 405).
11. Regulation of the Forestry Minister No. P.18/Men-hut-II/2011 on Guide for Borrowing and Using Forest Areas (State Gazette of 2010 No. 191).

DECIDES :

To stipulate :

REGULATION OF THE FORESTRY MINISTER ON GUIDE TO PLANTING TREES FOR THE HOLDERS OF BORROW-AND-USE FOREST PERMITS WITHIN THE FRAMEWORK OF REHABILITATING RIVER BASIN AREAS.

CHAPTER I

DEFINITION

Article 1

Referred to in this Regulation of the Forestry Minister as :

1. Borrow-and-use forest permit is a permit issued to use forest area for non-forestry development

activities without altering the function and appropriation of the forest area.

2. The use of forest area is the use of part of forest area by other party for non-forestry development activities without altering the status, appropriation and function of the area.
3. River basin area, hereinafter called DAS, is a land area which is an integral part of a river and its tributaries and functions as a means to accommodate, keep and channel rain water into lake or sea naturally, with land borders functioning as topography divider, and sea border reaching waters still influenced by activities on land.
4. Planting trees within the framework of rehabilitating river basin area is an effort to restore, preserve and improve the function of river basin area so that the supporting capacity, productivity and role of the river basin area in supporting life buffer system will be well preserved.
5. Forest area is a certain area designated and/or declared by the government to be maintained as permanent forest.
6. Protected forest is a forest area which has the main function as a protector of life buffer system to control water flows, prevent floods, control erosion, prevent sea water intrusion and preserve land fertility.
7. Conservation forest is a forest area with certain typical characteristics which has main functions to preserve a variety of plants and animals as well as their ecosystem.

8. Critical land is land which is categorized as very critical and critical and is located inside and outside a forest area whose function as production element and DAS waterflow regulating media has declined.
9. Technical Plan for Forest and River Basin Area Rehabilitation (RTk RHL-DAS) is an indicative plan of RHL activities which is drawn up based upon the physical, socio-economic and cultural conditions of the local people within a unit of DAS/Sub DAS ecosystem or DAS area.
10. Plan for Forest and Land Management (RP RHL) is a management plan to implement RHL based upon the authority of the government, provincial governments, and regency/municipal governments according to the law and regulation in force.
11. Annual Plan for Forest and Land Rehabilitation (RTn RHL) is RHL plan which is drawn up in the year before operational activities (T-1) and contains the definitive location of RHL activities, volume of activities, material needs and wages as well as supporting activities.
12. Reforestation is an effort to plant types of forest trees on damaged forest areas in the form of idle land, coarse grass, or bushes to restore forest function.
13. Smallholder forest is a forest which grows on an area of land which carries proprietary right or other rights outside forest area on condition it covers a minimum area of 0.25 ha and wood plant and other plant canopy covering reach more than 50%.
14. Urban forest is a spread out area of land in an urban area where trees grow in a compact, dense way, either on state or privately-owned land decided by the authorized official.
15. Mangrove is a community of typically tropical coastal vegetation which grows and develops in a tidal region particularly lagoon, estuary and coast protected by mud substrate or sandy mud.
16. Coastal forest is a community of vegetation which grows on coast demarcation.
17. Plant care is the treatment of plants and their environment to allow the plants to grow in a healthy or normal way by means of hoeing, weed clearing, plant replacing, fertilizing, and pest and disease eradication.
18. L1 is the same as that referred to in Government Regulation No. 2/2008, namely an area of land which is disturbed due to the permanent use of forest area as supporting infrastructure facilities during the period of time to use forest area, other than active mining, and is later subject to levies as much as the tariff of non-tax state revenues on the use of forest area.
19. L2 is the same as that referred to in Government Regulation No. 2/2008, namely an area of land which is disturbed due to the temporary use of forest area but technically can be reclaimed soon and is later subject to levies four times as much as the tariff of non-tax state revenues on the use

of forest area.

20. L3 is the same as that referred to in Government Regulation No. 2/2008, namely an area of land which is disturbed due to the permanent use of land area and cannot technically be reclaimed and is later subject to levies twice as much as the tariff of non-tax state revenues on the use of forest area.

21. Chock-full sampling is a mining exploration activity to take mineral and coal samples.

22. Minister is the minister assigned in and responsible for the forestry field.

23. Director General is the Director General of River Basin Area Management and Social Forestry Development at the Forestry Ministry.

CHAPTER II

PURPOSE AND AIM

Part One

General

Article 2

- (1) The holders of borrow-and-use forest area permits for commercial purposes and exploration activities through chock-full sampling as a mining test case in the interests of economic feasibility shall be subject to provisions on the planting of trees within the framework of DAS rehabilitation under a 1:1 ratio, plus a planned area of disturbed land under the L3 category.
- (2) The holders of borrow-and use forest area permits for non-commercial activities such as state

defense, sea or air traffic safety facility, check dam, water reservoir, sabo, and meteorology, climatology and geophysics facilities as well as survey and exploration activities, shall not be subject to provisions on the planting of trees within the framework of DAS rehabilitation.

- (3) The holders of borrow-and-use forest area permits for non-commercial use other than those referred to in para (2) shall be subject to provisions on the planting of trees within the framework of DAS rehabilitation under a 1:1 ratio.

Part Two

Purpose and Aim

Article 3

- (1) The purpose of drawing up this guide is to give references to:
 - a. the holders of borrow-and-use forest area permits in provinces whose forests cover an area of more than 30% of DAS, island and/or province;
 - b. the government;
 - c. provincial governments;
 - d. regency/municipal governments; and
 - e. other relevant parties;
 in planting trees to rehabilitate DAS;
- (2) The aim of drawing up this guide is to realize the planting of trees by the holders of borrow-and-use forest area permits within the framework of DAS rehabilitation outside the area of the borrow-and-use forest area permits as part of efforts to

meet the obligations of the holders of borrow-and-use forest area permits so that the results of tree planting activities can function well according to the rules.

CHAPTER III

LOCATION FOR THE PLANTING OF TREES

Article 4

- (1) The target location for the planting of trees to rehabilitate DAS is the same as the location of DAS in the borrow-and-use forest permits in the upper, middle and/or lower reaches.
- (2) If the target location for the planting of trees as referred to in para (1) is not found in the location of the same DAS, the target location for the planting of trees may be the location of other DAS in the same regency/province or in the nearby regency/province.
- (3) The target location for the planting of trees in the location of DAS which is the same as the lower reach as referred to in para (1) shall particularly be conducted in the area of mangrove/coastal forests.

Article 5

- (1) The location for the planting of trees as referred to in Article 4 para (1) shall be critical land either inside or outside forest areas;
- (2) The location for the planting of trees either inside or outside forest area shall preferably be a compact area free of tenurial conflict area;

- (3) The location for the planting of trees on critical land in forest area as referred to in para (1) shall preferably be protected forest and conservation forest, except nature preserve and national park core zone;
- (4) The location for the planting of trees outside forest area as referred to in para (1) shall be :
 - a. green open space, urban forest, social facility and public facility;
 - b. land with proprietary right which has protective function according to the provincial/regency/municipal spatial layout plan.

Article 6

- (1) Critical land in the location for the planting of trees as referred to in Article 5 para (1) shall refer to a Management Plan for Forest and Land Rehabilitation (RP RHL);
- (2) If RP RHL has not been drawn up a Technical Plan for Forest and River Basin Area Rehabilitation (RTk RHL DAS) can be used;
- (3) The target location for the planting of trees in mangrove/coastal forest as referred to in Article 4 para (3) uses Rtk RHL DAS on the mangrove ecosystem and coastal demarcation.

CHAPTER IV

PLANTING

Article 7

Planting within the framework of rehabilitating DAS shall cover:

- a. Planting in conservation forest in the form of reforestation or enrichment planting shall preferably use endemic wood species/typical tree species and multi-purpose tree species (MPTS);
- b. Planting in protected forest in the form of reforestation or enrichment planting shall use wood tree species and multi-purpose tree species (MPTS) whose wood is not used for production purpose;
- c. Planting outside forest done in green open space, urban forest, proprietary land with protective function, social facility and public facility shall use wood tree species and multi-purpose tree species (MPTS) whose wood is not used for production purpose.

CHAPTER V

SIZE OF PLANTING AREA

Article 8

- (1) The size of planting area within the framework of rehabilitating DAS for the holders of borrow-and-use forest area permits for commercial purpose shall be at least the size of planting area set in the borrow-and-use forest area permits concerned (at least under 1:1 ratio), plus the planned area of disturbed area under the L3 category.
- (2) The size of planting area within the framework of rehabilitating DAS for the holders of borrow-and-use forest area permits for non-commercial purpose shall be the size of planting area set in the borrow-and-use forest area permits concerned (1:1 ratio).

CHAPTER VI

PROCEDURE OF PROPOSING AND APPROVING LOCATION FOR THE PLANTING OF TREES

Article 9

- (1) The holders of borrow-and-use forest area permits shall file applications for would-be location for the planting of trees on condition:
 - a. the applications shall be filed no later than 60 (sixty) working days since the Minister issued the borrow-and-use forest area permits;
 - b. If permits have been issued before this Regulation comes into force, the holders of the permits shall file applications for would-be location for the planting of trees no later than 60 (sixty) working days since this Regulation was issued.
- (2) The holders of borrow-and-use forest area permits shall file applications for would-be location for the planting of trees to the Director General, with copies addressed to the Director General of Forest Planning and the Head of the River Basin Area Management Board (BPDAS) concerned and other relevant agencies;
- (3) The applications for would-be location for the planting of trees as referred to in para (2) shall be accompanied with a copy of borrow-and-use forest area permit issued by the Minister.

Article 10

- (1) The Director General shall assign the Head of BP

DAS concerned to verify would-be location for the planting of trees as referred to in Article 9 para (2) no later than 30 (thirty) working days after the applications have been received from the holders of borrow-and-use forest area permits;

- (2) The results of the verification of would-be location for the planting of trees by the Head of BP-DAS shall be conveyed to the Director of Forest and Land Rehabilitation Development, complete with :

- a. digital map, with a minimum scale of 1 : 10,000;
- b. description of would-be location for the planting of trees including bio-physical and economic conditions;

- (3) The Director of Forest and Land Rehabilitation Development shall prepare a draft decision of the Director General on the designation of location for the planting of trees within the framework of rehabilitating DAS, along with a map with a minimum scale of 1 : 10,000.

- (4) The Director General on behalf of the Minister shall decide location for the planting of trees within the framework of rehabilitating DAS no later than 15 (fifteen) working days after the results of verification as referred to in para (2) have been received.

CHAPTER VII

PLANNING

Article 11

- (1) The holders of borrow-and-use forest area per-

mits shall make an annual plan for planting trees on the location decided by the Director General as referred to in Article 10 para (4);

- (2) The annual plan for planting trees shall carry description of location, size, tree species and quantities, facility/infrastructure, cost, timeline, implementation and reporting, along with a map with a minimum scale of 1: 10,000;

- (3) The annual plan as referred to in para (1) shall be completed no later than 15 (fifteen) working days after the Director General has decided the location for the planting of trees;

- (4) The holders of borrow-and-use forest area permits shall draw up a draft technical planting for each site/block of planting area based upon the annual plan for planting trees as referred to in para (1).

Article 12

- (1) The draft technical planting as referred to in Article 11 para (4) shall carry detailed size of planting area, land control status, area function, tree species and quantities, planting pattern, facility/infrastructure, labor force, cost, timeline, situation map with a minimum scale of 1:10,000 and a planting map for each block with a minimum scale of 1 : 5,000;

- (2) Draft technical planting in protected forest and outside forest shall be assessed by the Head of BPDAS/Head of the Mangrove Management Board and endorsed by the Head of regency/municipal office overseeing forestry.

(3) Draft technical planting in conservation forest shall be assessed by the Head of BPDAS/Head of Mangrove Management Board and endorsed by the Head of Natural Resources Conservation/National Park Center.

CHAPTER VIII INSTITUTION

Article 13

- (1) The holders of borrow-and-use forest area permits shall have a working unit to handle the planting of trees within the framework of rehabilitating DAS.
- (2) The working unit as referred to in para (1) shall employ technical workers graduating from forestry/agriculture faculty during the period of time to plant trees within the framework of rehabilitating DAS on condition:
- an area covering up to 600 (six hundred) hectares, a minimum of 1 (one) technical worker.
 - an area covering more than 600 (six hundred) hectares, a minimum of 2 (two) technical workers.

CHAPTER IX REALIZATION

Article 14

- (1) The planting of trees within the framework of rehabilitating DAS can be done by the holders of borrow-and-use forest permits under a self-management scheme and/or through a third party.

- (2) The planting of trees as referred to in para (1) shall be started no later than 30 (thirty) working days after the technical draft of planting has been approved.

Article 15

The techniques of planting, maintenance, and evaluation of planting within the framework of rehabilitating DAS shall refer to Regulation of the Forestry Minister No. P.70/Menhut-II/2008 on Technical Guide To Forest and Land Rehabilitation as already amended by Regulation of the Forestry Minister No. P.26/Menhut-II/2010.

CHAPTER X EVALUATION OF PLANTING AND MANAGEMENT OF PLANTING RESULTS

Article 16

- (1) The holders of borrow-and-use forest area permits shall be responsible for the success of planting within the framework of rehabilitating DAS.
- (2) The success of planting within the framework of rehabilitating DAS is one of the qualifications to return borrow-and-use forest area permits.
- (3) The evaluation of the success of planting shall be done by an integrated team set up by the Director of Forest and Land Rehabilitation Development on behalf of the Director General, with the following lineup:

Chairman : Third echelon official of
the provincial office overseeing
forest and land rehabilitation.

Secretary : Head of the Evaluation Section at
BPDAS

Members : a. Fourth echelon official of
the provincial office overseeing
forest and land rehabilitation
b. Fourth echelon official of
regency/municipal office
overseeing forest and land
rehabilitation
c. Fourth echelon official of
the relevant technical executive
unit of the Forestry Ministry
d. Other relevant elements
considered necessary

(4) Planting within the framework of rehabilitating
DAS declared successful shall be put in an official
report, along with a map signed by the chief
of the integrated team as referred to in para (3)
and reported to the Director General, with a copy
addressed to the holder of borrow-and-use forest
permit.

(5) Based on the report on the results of evaluation
as referred to in para (4) the holder of borrow-
and-use forest permit shall hand the results of
planting within the framework of rehabilitating
DAS to the Director General of DAS Manage-
ment and Social Forestry on behalf of the Minis-
ter through an official report of handover signed
by the holder of borrow-and-use forest permit
and all members of the integrated team as re-
ferred to in para (3) .

Article 17

The Director of Forest and Land Rehabilita-

tion Development on behalf of the Director General
shall notify in writing the further management of the
results of planting within the framework of rehabili-
tating DAS as referred to in Article 16 para (5) to the
agency/institute responsible for overseeing:

a. Head of the Natural Resources/National Park Con-
servation Center; or
b. Heads of the provincial offices overseeing forest-
ry, for botanical garden; or
c. Heads of regency/municipal offices overseeing
forestry, for botanical garden, production forest,
protected forest and outside forest area; or
d. Heads of Conservation Forest Management Units,
Protected Forest Management Units and Produc-
tion Forest Management Units.

CHAPTER XI

MONITORING AND TECHNICAL GUIDANCE

Article 18

(1) Monitoring and technical guidance shall be done
by the Director General, Heads of Provincial Of-
fices overseeing forestry, Heads of Regency/Mu-
nicipal Offices overseeing forestry according to
their respective authority.
(2) Monitoring and technical guidance shall be done
once a year.
(3) The holders of borrow-and-use forest area per-
mits shall give easy access to central and regional
forestry apparatuses while conducting monitoring
and technical guidance in the field.

Article 19

(1) The holders of borrow-and-use forest area

permits as the executors of planting activities within the framework of rehabilitating DAS shall make quarterly and annual reports.

- (2) The reports shall be conveyed to the Director General, with copies to the Director General of Forestry Planning, Heads of Provincial Offices overseeing forestry, Heads of Regency/Municipal Offices overseeing forestry, Heads of BPDAS and relevant agencies.

CHAPTER XII

FINANCING

Article 20

Planting expenses within the framework of rehabilitating DAS shall be borne by the holders of borrow-and-use forest area permits.

CHAPTER XIII

SANCTIONS

Article 21

- (1) The holders of borrow-and-use forest area permits who do not conduct planting or conduct planting without fulfilling the specified provisions shall be liable to administrative sanctions.
- (2) The administrative sanctions as referred to in paragraph (1) shall be given in the form of 3 (three) consecutive warnings with a time span of 30 (thirty) days by the Director General.

Article 22

If the holders of borrow-and-use forest area permits do not meet the administrative sanctions as referred to in Article 21, they shall have their borrow-and-use forest permits revoked.

CHAPTER XIV

TRANSITIONAL PROVISIONS

Article 23

The holders of borrow-and-use forest area permits whose permits have been issued before this Regulation is stipulated shall conduct planting within the framework of rehabilitating DAS according to this Regulation.

CHAPTER XV

CONCLUSION

Article 24

This Regulation of the Forestry Minister shall come into force as from the date of promulgation.

For public cognizance, this Regulation of the Forestry Minister shall be promulgated by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On September 5, 2011

THE FORESTRY MINISTER OF
THE REPUBLIC OF INDONESIA,

sgd.

ZULKIFLI HASAN

Promulgated in Jakarta

On September 6, 2011

THE LAW AND HUMAN RIGHTS MINISTER OF
THE REPUBLIC OF INDONESIA,

sgd.

PATRIALIS AKBAR

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
OF 2011 NO. 556

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