

Highlights of Compliance and Green Industry Standardization for Petrochemical Industry in Indonesia

Prepared by:

Giovanni Mofsol Muhammad (Partner), Monica Elizabeth Dina (Senior Associate), Fremi Rovi Raturandang (Associate), and Shevanya Raina Kinanti (Associate)

The sustainability of the earth's environmental ecosystem has become a global concern. In Indonesia, the Government of the Republic of Indonesia (“GOI”) has set a Net Zero Emission target for 2060. As one of the industries that serves as a backbone for Indonesia's domestic industry, the petrochemical industry is a foundation of the national industry, equivalent to the agro industry or the base metal and non-metallic minerals industries, as mandated in Government Regulation Number 14 of 2015 concerning the Master Plan for National Industrial Development (*Rencana Induk Pembangunan Industri Nasional* or RIPIN). In this matter, the petrochemical industry will play a significant role in efforts to achieve zero carbon emissions as a determinant of success in achieving the zero carbon emissions target stated in the Paris Climate Agreement.

One of the industries highlighted to help reduce emissions is the petrochemical industry. The petrochemical industry is an industry in the upstream sector that provides almost all of the raw materials for downstream industries such as the plastic, textile, paint, cosmetic, and pharmaceutical industries, through a production process that utilizes energy.

The Ministry of Industry (“MOI”) has also included this industry as a green industry whereby the production process should make efforts towards an efficient and effective use of resources in a sustainable manner, with sustainable consumption, and in accordance with Sustainable Development Goals (SDGs).

As a part of the upstream industry derived from oil and gas, condensate, and other non-renewable and renewable sources, the upstream petrochemical industry is expected to be a flagship industry and the GOI (through the MOI) has targetted the petrochemical industry in Indonesia to be the largest petrochemical producer in the Association of Southeast Asian Nations (ASEAN).

Suitable Indonesia Standard Industrial Classifications (“ISIC”)

As referred to in Head of Central Statistics Agency Regulation No. 2 of 2020 concerning ISIC, the following are the general business classifications for the petrochemical industry in Indonesia:

Business Classification	Description
A. Upstream	
ISIC No. 20117 (Basic Organic Chemical Manufacturing Sourced from Petroleum, Natural Gas And Coal)	This group includes the basic organic chemical industry that produces chemicals, such as ethylene, propylene, benzene, toluene, caprolactam, the raw materials for which come from oil and natural gas and coal, including coal tar processing.
ISIC No. 19291 (Manufacture of Products from Oil Refineries)	This group includes the business of processing asphalt/tar, bitumen and wax (can be used for road coverings, roofing, wood, paper, etc.) as well as Petroleum Coke. Including the manufacturing of products for the petrochemical industry, the manufacturing of various products, such as white spirit, vaseline, paraffin wax, petroleum jelly, the manufacturing of petroleum briquettes and blending of biofuels, such as mixing alcohols with petroleum (e.g., gasohol).
ISIC No. 20118 (Basic Organic Chemical Manufacturing That Produces Special Chemicals)	This group includes basic organic chemical manufacturing businesses that produce special chemicals, such as special chemicals for oil and gas, water treatment, rubber, paper, construction, automotive, food additives, textiles, leather, electronics, catalysts, brake fluid, as well as other special chemicals.
B. Downstream (Depending on Products)	
ISIC No. 22220 (Manufacture of Plastic Goods for Packaging)	This group includes the business of making plastic packaging, such as bags or plastic bags, plastic sacks or packs, cosmetic packaging, film packaging, medicine packaging, food packaging and other plastic packaging (containers, bottles, boxes, shelves etc.).

Business Classification	Description
ISIC No. 22292 (Manufacture of Household Equipment and Appliances (excluding Furniture))	This group includes the business of making plastic household goods and equipment, such as mats, carpets, buckets, toothbrushes, vases, and other household appliances. It includes the manufacturing of tableware, kitchen equipment and plastic toilet items as well as plastic floor coverings, such as vinyl, linoleum and so on.
ISIC No. 22220 (Manufacture of Plastic Goods for Packaging)	This group includes the business of making plastic packaging, such as bags or plastic bags, plastic sacks or packs, cosmetic packaging, film packaging, medicine packaging, food packaging and other plastic packaging (containers, bottles, boxes, shelves and others).
ISIC No. 20221 (Paint and Printing Ink Manufacturing)	This group includes the business of making various paints, such as base paints, metal paints, wood paints, wall paints, ship paints, epoxy and enamel paints and lacquers. This includes the manufacture of pigments and dyes, dyes and opacifiers, the manufacturing of enamel polishes and coatings and similar preparations, printing inks and paints for painting.
ISIC 13111-13113, 13121-13123, 13131-1314, 13911-13913, 13921-13930, 13941, 13942, 13991-13999 (Textile Manufacturing)	Depends on the type of Textile Product
ISIC No. 13994 (Tire Cloth Manufacturing)	This group includes the manufacture of tire cords from high tenacity synthetic yarns, such as nylon tire cords and polyester tire cords.
ISIC No. 20119 (Other Basic Organic Chemical Manufacturing)	This group includes the business of Basic Organic Chemical manufacturing which is not included in the Basic Organic Chemical Manufacturing class, such as plasticizers, ingredients for pesticide raw materials, surface active substances, preservatives.
ISIC No. 22230 (Industrial Plastic Pipes And Fittings)	This group includes the business of making plastic pipes and hoses, such as PVC/PE/PP pipes and PVC/PE/PP plastic hoses. It includes plastic tubing and plumbing fittings.

Aside from the foregoing, the relevant more detailed ISIC numbers can be identified by investors depending on the petrochemical products produced by the company.

Domain of Government Authority

For petrochemical manufacturing from oil and gas based materials, Article 25 of Government Regulation No. 36 of 2004 concerning Downstream Oil and Gas Activities (“GR 36/2004”) as amended by Government Regulation No. 30 of 2009 specifically mentions the following with regard to processing to produce petrochemical products:

Processing of Crude Oil, Natural Gas and/or Processed Products to produce lubricant products and petrochemical products, the provisions on which shall be determined and implemented jointly by the Minister and the minister in charge of industry.

Although petrochemical manufacturing involves the processing of oil and gas derived from oil and gas, condensate, and other non-renewable and renewable sources and materials, it should be noted that the petrochemical manufacturing business comes under the authority of the MOI. However, to date, there are no statutory regulations in the industrial sector that specifically regulate licensing for petrochemical manufacturing. Therefore, compliance refers to the general compliance of manufacturing businesses.

General Compliance

The following are the business and environmental licenses and reporting obligations that apply to petrochemical manufacturing companies under Indonesian laws and regulations:

BUSINESS LICENSES & REPORTING OBLIGATION

Business Identification Number

(Articles 12, 13, 14 and 15 of Government Regulation No. 5 of 2021 concerning Implementation of Risk-Based Business Licensing (“GR No. 5/2021”))

Standard Certificate OR Industrial Business License

(Articles 13 and 14 of GR No. 5/2021, Article 562 letter b of GR 5/2021 and Article 562 letter a of GR 5/2021 *jo.* Article 38 of the Regulation of the Minister of Industry No. 15 of 2019 concerning Issuance of Industrial Business Permits and Expansion Permits in the Framework of Electronically Integrated Business Licensing Services as amended by Regulation of the Minister of Industry Number 30 of 2019)

Periodic Investment Activity Report

(Article 32 Paragraph (1) of Regulation of the Investment Coordinating Board No. 5 of 2021 concerning Guidelines and Procedures for Supervision of Risk-Based Business Licensing and Investment Facilities)

ENVIRONMENTAL LICENSES & REPORTING OBLIGATION

Environmental Approval through Environmental Management and Monitoring Endeavour Reporting (UKL-UPL) Recommendation/ Environmental Impact Analysis (AMDAL)

(Article 3 in conjunction with Article 4 of Government Regulation No. 22 of 2021 concerning the Implementation of Environmental Protection and Management (“GR No. 22/2021”))

Periodic Environmental Reporting

(Article 63 point f.4 of GR No. 22/2021)

Hazardous Waste Management Permit

(Article 59 paragraph (4) of Law No. 32 of 2009 concerning Environmental Protection and Management as amended by Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation (“Job Creation Act”))

Realisation of Periodic Import of Hazardous and Toxic Materials Reporting

(Article 31 Government Regulation No. 74 of 2001 concerning Hazardous and Toxic Material Management)

Liquid Waste Disposal Permit

(Article 391 of GR No. 22/2021)

It is worth noting that:

- a. as for the environmental approval, business actors can find out what environmental documents are required for certain business activities by selecting in the Online Single Submission (OSS) system the relevant ISIC number, the type of business and/or activity, as well as environmental parameters that are in accordance with their business activities; and
- b. if the Company was established prior to the enactment of the Job Creation Act, then (i) if the Company obtained an Industrial Business License prior to the enactment of the Job Creation Act but it had not yet become effective, the company must apply for a Standards Certificate or (ii) if the Company obtained an Industrial Business License prior to the enactment of the Job Creation Act that had already become effective, the company is not required to obtain a Standards Certificate.

Aside from the above, a petrochemical manufacturing company must also obtain any permits related to factory buildings including but not limited to Building Construction Permits, Fitness for Function Certificates, and/or any other related permits depending on the provisions of the regional regulations of each location.

Green Industry Standardization

In an effort to use sustainable resources and achieve SDGs, the MOI has developed a circular economy concept in the form of a green industry policy to maintain products' value so that they can be used repeatedly through recycling, reusing, or remanufacturing without generating waste. This circular economy concept is governed by Law No. 3 of 2014 concerning Manufacturing as amended by the Job Creation Act ("**Law 3/2014**").

One of the purposes of industrial affairs as referred to in Article 3 point c in conjunction with Law 3/2014 is to realize an independent, competitive and advanced industry and particularly green industry by policy formulation, strengthening of institutional capacities (including research and development, testing, standardization, and promotion activities to disseminate information to the industrial community and consumers to increase awareness and knowledge about the benefits of green industry, as well as to participate in the implementation of green industry and encourage the use of environmentally friendly products (eco products), including making awards), standardization, and granting of facilities by the GOI through the MOI.

This formulation of policies for industrial development towards a green industry is intended for new industrial companies, while industrial development towards green industry is intended for industrial companies that have begun production and/or which are going to expand.

In implementing the green industry standardization, the MOI will prepare green industry standards for each industrial classification which will at least include provisions with regard to raw materials, auxiliary materials and energy, production process, products, exploitation management, and waste management.

As referred to in Article 80 of Law 3/2014, the application of the green industry standards may be gradually enforced on a mandatory basis. Any industrial company which does not fulfil the green industry standards will be subject to administrative sanctions in the form of:

- a. written warnings;
- b. administrative fines;
- c. temporary closing;
- d. suspension of Industrial business permit; and/or
- e. revocation of Industrial business permit.

Any industrial company can be classified as green industry if it fulfils the green industry standards, whereupon it will be granted a green industry certificate issued by the accredited green industry certification institution appointed by the MOI.

As mandated by Government Regulation No. 29 of 2018 concerning Industrial Empowerment, the GOI will provide industrial business actors who have implemented this green industry standardization with fiscal and non-fiscal facilities. At present, the GOI is still discussing the specific fiscal facilities that will be granted for such industry players.

Further, it should be noted that as to date there is no specific regulation for green industry standardization of the petrochemical industry other than MOI Regulation No. 27 of 2018 concerning Green Industry Certification for the Manufacturing of Urea Fertilizer, SP-36, and Ammonium Sulfate and MOI Regulation No. 50 of 2020 concerning Green Industry Certification for the Manufacturing of Solid Nitrogen, Phosphorus and Potassium Fertilizer (NPK), which apply to the fertilizer industry.

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The article above was prepared by Dentons HPRP's lawyers

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