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ENERGY TRANSITION PROJECT FROM FORESTRY SECTOR

THE EXCLUSIVITY OF THE ENERGY TRANSITION PROJECT FROM FORESTRY SECTOR

Authors:
Anggi Putra Prayoga

Data analyst :
Isnenti Apriani, Ogy Dwi Aulia, Andi Juanda Dan Rosima Wati Dewi

Cover Ilustration :
Alvin Alviransyah

Publisher :
Forest Watch Indonesia
Sempur Kaler Street No. 62, Bogor 16129, Indonesia
Telp +622518333308
E-Mail : fwibogor@fwi.or.id, Website : Fwi.or.id

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As stated in Government Regulation Number 79 of 2014 on National Energy Policy, to achieve their energy transition goals, Indonesia targets to increase their portion of new renewable energy mix to 23% by 2025 and at least 31% by 2050. To meet this goal, exploring resources of potential and/or proven reserves of new and renewable energy (EBT) must be done. The regulation also stated that going forward, the priority of national energy development is to be based on maximizing the utility of renewable energy.

The strategy for accelerating New and Renewable Energy is carried out through:[1]

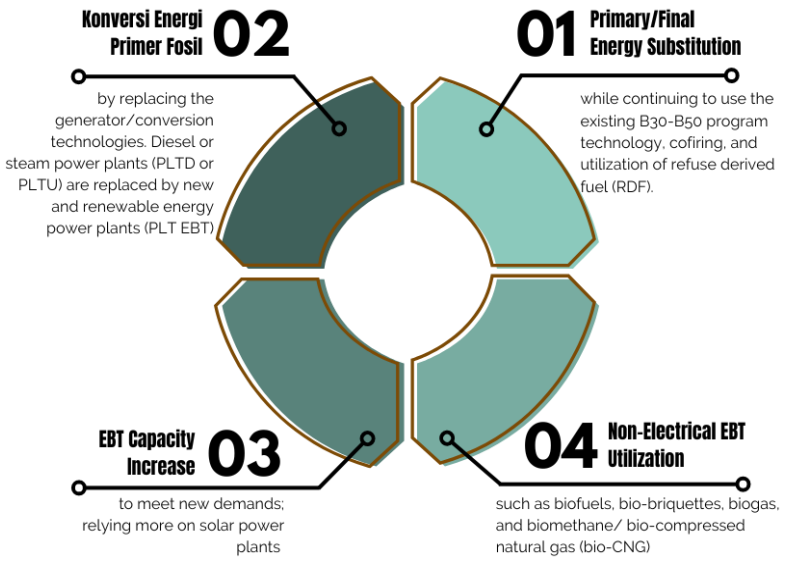

Figure 1. The strategy for accelerating New and Renewable Energy

1. Delivered by Director of Bioenergy Ministry of Energy and Mineral Resources in Takshow held by BPDLH

This paper limits discussion to energy sources that are classified as Bioenergy, namely in the form of wood biomass and biofuels (BBN/Biofuel/Biodiesel). Both are closely related to the demands and availability of forest and land area resources. We will discuss the non-electric biodiesel program, cofiring biomass at 52 PLTU PLN, and full-firing biomass for Biomass Power Plants (PLTBm) which are targeted to be operated in every province. We will also explore wood biomass, which is derived from energy plantation forests, and biodiesel which sourced from energy plantations ie. oil palm plantations.

For the wood biomass cofiring program, to obtain a production capacity of at least 2.7 GigaWatt as targeted, wood biomass of up to 14 million tons per year is required. Meanwhile, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency[2] was asked to provide 4 million hectares of land in stages specifically for energy plantations during 2016 to 2025, to fulfill the B30-B50 program of non-electric bioenergy. In other words, the program to increase bioenergy in the national energy mix is highly dependent on forest and land area resources.

Of course, issues of deforestation, space, land, and function will be in the spotlight going forward, which so far have been seen as hindering the running of energy projects which incidentally require large areas of land but are still being hampered by existing policies. Regional and land resources are one of the determining factors for the success of increasing the proportion of the bioenergy mix in the implementation of the National Energy Policy[3]. Various strategies were launched by the Ministry of Energy and Mineral Resources[4], including:

a. Developing a scheme of land use to ensure the supply of energy on land that overlaps with other needs

b. Facilitating the process of issuing forest area utilization permits (borrowing, cooperation, utilization of environmental services, or forest area release) for facilities and infrastructure, and installation of power plants, transmission and distribution of electricity.

c. Forming separate new electricity business areas outside Java, Madura, and Bali.

2. Agrarian and Spatial Planning/National Land Agency
3. Mentioned in RUEN document
4. Energy and Mineral Resources

The Job Creation Law and its derivatives were designed to increase licensing and facilitate investment which include the issues of deforestation, space, land, and the function of future energy projects. As in the forestry sector, the issuance of Government Regulation Number 23 of 2021 on Forestry Administration, which regulates the designation and function of forest areas, use of forest areas, and utilization of forests, to accommodate various national program interests related to forest areas.

Forest area is one of the national assets that will be targeted by many investors under the pretext of meeting the target needs for biomass production and biodiesel needs. The Government Regulation on Forestry Implementation is part of the control tool as well as the investment mechanism that is implemented in utilizing the national forest areas, in order to meet the target of biomass and biodiesel production.

Other policies derived from the Job Creation Law also support this, as in the main policy of Government Regulation Number 5 of 2021 on the Implementation of Risk-Based Business Licensing, which stated that business activities from the energy sector can use forest utilization (protected and production) schemes, in order to fulfill national energy mix goals. Another scheme is to use forest areas for business activities other than forestry. In other words, if the proposed business activity is energy plantation forest, it may the forest utilization permit route. However, if the proposed business activity is not forestry-related, such as plantations/agriculture in the framework of energy security with the main plant for producing biofuels, it may use the forest utilization route. Government Regulation No. 5 of 2021 also summarizes licensing for investors through Online Single Submission (OSS).

Other policies derived from the regulation also emphasizes that forest areas will be utilized to meet the needs for wood biomass production and biodiesel needs as in Government Regulation Number 43 of 2021 on Settlement of Inconsistencies in Spatial Planning, Forest Areas, Permits, and or Land Rights, which regulates energy business activities originating from permits/concessions in progress. The continuation of the permit/concession that has been controlled and utilized in the Forest Area, before the area was designated as a Forest Area, allows for changes to the designation of Forest Areas, changes in the function of Forest Areas, and/or use of Forest Areas.

Based Government Regulation Number 23 of 2021 on Forestry Operations, the fulfillment of land or land acquisition to meet the target of wood biomass and biodiesel production, may come from:

1. Procurement of land for energy originating from changes in allotment of forest areas and changes in the function of forest areas

In Article 58 paragraph (4), land acquisition activities for energy purposes can originate from the partial release of forest areas. Relinquishment of forest areas is carried out in forest areas with convertible production functions (HPK)[5]. However, for business actors or permit/concession holders who have been established and had permits prior to the entry into force of the Job Creation Law, the release of forest areas can be carried out in permanent production functions and/or convertible production forest areas. In the case of oil palm plantations[6], the approval for the Release of Forest Areas for oil palm plantation business activities that have been established and have Business Permits in Forest Areas before the enactment of Law Number 11 Year 2O20 on Job Creation, is issued in Production Forest Areas in accordance with the provisions of laws and regulations.

"The Ministry of Environment and Forestry continues to encourage the development of Industrial Plantation Forests (HTI) for bioenergy or in short, Energy Plantation Forests (HTE). Forest area of 6.91 million hectares (Ha), which 78.39 percent is oil palm plantation and has the potential to become a source of bioenergy was released. Moreover, 0.44 million hectares of forest area was granted the permit to rent and use as HTI for the energy sector." Siti Nurbaya, Minister of Environment and Forestry in Press Release Number: SP.017/HUMAS/PP/HMS.3/01/2021.[7]

2. Procurement of land for energy originating from the use of forest areas

Use of Forest Areas aims to regulate the use of some Forest Areas for development purposes other than Forestry activities. Article 91 paragraph (2) states that the use of forest areas can only be carried out by activities that have unavoidable strategic objectives, including:

a. religion;

b. mining;

c. installation of generator, transmission and distribution of electricity, as well as new and renewable energy technologies;

d. construction of telecommunications networks, radio transmitter stations, television relay stations, and space observation earth stations;

5. After the Minister of Environment and Forestry received a recommendation from the Integrated Research Team
6. Oil palm plantations as a producer of biofuel (biofuel) and biomass for bioenergy (waste). Presented by Dir. Bioenergy Ministry of Energy and Mineral Resources in Dana Terra seminar held by BPDLH
7. Press Release Number: SP.017/HUMAS/PP/HMS.3/01/2021

e. public roads, highways and railroads;

f. means of transportation that are not categorized as public transportation for the purpose of transporting products;

g. reservoirs, dams, weirs, irrigation, drinking water channels, water drainage and sanitation, and other irrigation structures;

h. public facilities;

i. industries other than Forest Product Processing;

j. defense and security;

k. public safety infrastructure;

l. accommodation for victims of natural disasters and temporary business land or certain agriculture in the framework of food and energy security; or

m. waste final processing sites, waste treatment facilities, or environmental restoration activities.

The use of forest areas that can be carried out in protected forest areas and production forest areas is to meet the needs of land resources for energy security agriculture[8]. The use of the forest area by entities/investors requires approval from the Minister to business.

3. Land Procurement for Energy which Derived From Forest Utilization

Figure 2. Boundary illustration

Forest utilization is intended to obtain optimal, fair and sustainable benefits of forest products and services for the welfare of the community. Forest utilization can be done through the following activities/businesses:

a) Area Utilization;

b) Environmental Service Utilization;

c) Utilization of Timber and Non-Timber Forest Products; and

d) Collection of Timber and Non-Timber Forest Products.

8. Including electricity for new and renewable energy technologies. Article 367 letter (c)

Forest Utilization Activities are carried out based on Forest Utilization Business Permits (PBPH), which may also be implemented in Social Forestry Management activities. Forest Utilization can be done in Protection Forest, Production Forest or Conservation Forest. Forest utilization for biomass and biodiesel production can be carried out through Forest Utilization in Production Forests through business activities for the utilization of Areas and Business Activities for Utilization of Timber Forest Products in Production Forests.

The business activities for Utilization of Areas in Production Forests as referred to in Article 141 paragraph (2) letter a, may include:

a) medicinal plant cultivation;
b) ornamental plant cultivation;
c) mushroom cultivation;
d) beekeeping;
e) wildlife sanctuary;
f) swallow's nest cultivation;
g) animal rehabilitation;
h) forage cultivation;
i) fruits and grains cultivation;
j) essential (oil) plant cultivation;
k) (nira) sap cultivation;
l) fiber cultivation;
m) silvofishery;
n) silvopasture;
o) agroforestry;
p) agrosilvopasture;
q) cultivation of plants producing biomass or bioenergy; and/or
r) cultivation of food crops for food security.

The target for wood biomass production and biodiesel demand can be achieved through business activities for utilizing Areas in Production Forests by cultivating biomass or Bioenergy-producing plants including biofuels. Business activities refer to permits for forest utilization and can be accessed through the OSS mechanism in the function of production forest areas. Either by issuing new permits or by utilizing forestry multi-business schemes.

While the business activities of Utilization of Timber Forest Products in Production Forests are carried out through:

a. Utilization of natural Timber Forest Products; and/or
b. Utilization of cultivated Timber Forest Products.

Utilization of Timber Forest Products that grew naturally was previously known as Forest Concession Rights (HPH), while the Utilization of Timber Forest Products for plantation cultivation was previously known as Industrial Plantation Forest (HTI). Wood biomass may come from business activities for utilizing natural and/ or cultivated timber forest products. It is noteworthy that through a multi-business scheme both can be done in one concession. The cultivation of energy crops is currently known as Energy Plantation Forest. The Ministry of Environment and Forestry has allocated 1.29 million hectares of Energy Plantation Forest in the concessions of companies holding IUPHHK-HT or Industrial Plantation Forests.

Exclusivity of the Energy Sector in the Regulation of the Minister of Environment and Forestry Number 7 of 2021 on Forestry Planning, Changes in Allocation of Forest Areas and Changes in Functions of Forest Areas, and Use of Forest Areas

In order to meet the national energy mix target, namely by increasing the portion of the new renewable energy mix to 23% in 2025 and 31% in 2050, the energy sector will receive a preferential treatment or exclusivity from the forestry sector. Forest areas are considered as one of the sources of land or land acquisition areas to meet the target of wood biomass production. Energy exclusivity from the forestry sector is answered by examining the articles in the Minister of Environment and Forestry Regulation No. 7 of 2021 as follows:

Figure 3. Boundary illustration

Forest Area Boundary Arrangement

Article 50 paragraph (2), the implementation of the Forest Area Boundary Arrangement[9] no longer requires these following steps:

1. temporary boundary stakes;
2. announcement of the results of the erection of temporary boundary stakes
3. inventory, identification and settlement of Third Party Rights along the Forest Area Boundary Route;
4. preparation of Minutes of Temporary Boundary Markings accompanied by a Map of Temporary Boundary Markings;

The delineation of working area boundaries[10] (forest utilization and forest area use) can be carried out simultaneously with the delineation of forest area boundaries. Furtherly, article 50 paragraph (5) states that Forest Area Boundaries can be determined using Virtual Boundaries.

Stipulation of Forest Area Functions

The function of Forest Areas which are spatially reserved for energy development use, will be stipulated as Convertible Production Forests[11]. In other words, if the RTRWP/RTRWK allocates space for energy interests, the stipulation of forest areas will follow the allocation in the RTRWP/RTRWK to stipulate forest areas with the function of convertible production forest.

Partial Allocation of Forest Areas for Development Interests Activities other than Forestry

Article 273 paragraph (3) states that approval for the release of forest areas for land acquisition activities for energy sector (business or non-business activities)[12] is included in those that get an exception, because it may be in HPK areas and/or permanent production forest areas. Release of forest areas formerly comes from convertible production forest areas only.

9. strategic areas including PSN, TORA, Food Security, and Energy.
10. In the event that there are activities within the Forest Area, national strategic project, national economic recovery, Food Security (Food Estate) and energy, as well as TORA. Article 106 paragraph (3)
11. Article 213 paragraph (3) point d.HMS.3/01/2021
12. Article 274 letter (ee), including for the construction of supporting facilities.

Size of Approval of Releasing Forest Areas for Development Interests Activities other than Forestry

In Article 275 letter (d), the area for release of forest areas for energy security[13] is given a maximum of 60,000 Ha for one application in one province and a maximum of 300,000 Ha nationally, provided that it is given in stages with a maximum area of 30,000 Ha, and the next release process is carried out after evaluating the utilization of the previously released Forest Area. Approval of forest area release for energy activities is also exempted from paying non-tax revenue (PNBP) for forest area release[14].

Technical Requirements for Approval of Forest Area Release

Article 282 paragraph (5) states that application for approval to release forest areas for the development of energy security are not obliged to fulfill the technical requirements, namely:

1. governor's recommendation; and
2. Integrated Team report for areas that are on Non-productive HPK Reserve Map.

The governor's consideration that has been omitted is in the form of support or rejection of part or all of the area requested for the Release of Forest Areas to become non-Forest Areas. In this case, any objection when the requested area has natural forest cover for more than 30% in HPK can be dismissed.

Non-tax Revenue Approval for Use of Forest Areas and Obligation to Rehabilitate Watershed

Article 369 paragraph (2) states that for non-commercial energy security activities carried out by the Government, may get Approval for the Use of Forest Areas without being obliged to pay national non-tax revenue (PNBP) for Use of Forest Areas, PNBP Compensation, and plant to rehabilitate watershed.

13. The contents of the article also mention food and energy security..
14. Article 281 paragraph (3)

Procedures for Application of Approval for the Use of Forest Areas

Agricultural activities that are in the framework of energy security are exempted from technical requirements for constructing remote sensing image maps with a resolution of at least 5 (five) meters for coverage in the last 1 (one) year, accompanied by a softcopy with the coordinates of the UTM Datum WGS 84 system [15].

Reimbursement of Investment Costs for Approval for Forest Area Use

For energy security activities, the period for completing the obligation to reimburse investment costs is no longer than 2 (two) years[16] since the appointment of the Director General who is in charge of Sustainable Forest Management. Investment costs is reimbursed by Use of Forest Area Approval Holders to the forest managers or Forest Utilization Permit Holders.

Prohibitions for Use of Forest Area Approval Holders

In article 404 letter (g), the holder of an Approval for the Use of Forest Areas is stated to be prohibited from carrying out activities in the area of Forest Area Use before determining the boundaries of the Working Area for Use of Forest Areas, but is exempted from making nurseries for certain agriculture in the context of energy security.

National forest area with an area of 125 millions hectares with an area of production function that has not been burdened with permits of up to 27.7 million hectares will become corporate “congratulatory feast” in the future. At least the exclusivity has the potential to increase the threat status of natural forests which cover an area of 17.2 million hectares in the function of the production forest area from the imposition of new permits. Forestry policies provide a “red carpet” for large companies such as HPH, HTI, and oil palm plantations in the form of exclusivity to cultivate energy crops in the form of wood biomass and biofuels/biodiesel. Procurement of land or land for the energy sector can come from Changes in Allotment of Forest Areas and Changes in the Function of Forest Areas, Use of Forest Areas and Forest Utilization. Exclusivity for the energy sector is considered to worsen the status of forest and land governance in Indonesia by expanding forest control by corporations, damage and loss of functions of forests and the environment, as well as the potential for prolonged tenurial conflicts.

15. Article 381 paragraph (2) letter (f)
16. Article 400 paragraph (5)

2023