

Long-Awaited Government Regulation on Specific Garbage Management

Law No. 18 Year 2008 on the Management of Garbage (“**Law 18/2008**”) mandated an implementing regulation to provide further details on specific garbage management. This implementing regulation, i.e. Government Regulation No. 27 Year 2020 on the Management of Specific Garbage (“**GR 27/2020**”), came into force on 9 June 2020.

GR 27/2020 recognizes six types of specific garbage, namely:

1. Garbage containing hazardous and toxic substances (*bahan berbahaya dan beracun*/"**B3**")
2. Garbage containing B3 waste
3. Garbage from disasters
4. Debris from the demolition of construction
5. Garbage that cannot be processed through the use of current technologies
6. Garbage that is not regularly produced

For the purpose of this Legal Alert, we are focusing our discussion on specific garbage types number 1 and 2 above (“**B3 Garbage**”) in connection with issues faced by business actors generating B3 Garbage.



I. Distinction of B3 Garbage and B3 Waste

As specific garbage was scarcely regulated for more than a decade, the unclear categorization of specific garbage resulted in a “tendency” (from the relevant authority) to deem B3 Garbage as B3 waste. It is an ongoing concern of business actors, since the distinction between garbage and B3 waste will determine their position as the liable party (to conduct the management of the object) or not. Once an object is deemed as B3 waste, the party that generated such object shall follow the regulations in B3 waste management, which in general requires the party to: (i) obtain a relevant license, (ii) dispose the B3 waste to a B3 waste vendor (which is often very costly) and (iii) report the B3 waste disposal to the relevant authority. On the other hand, the management of specific garbage is solely the liability of the government. Thus, no requirements on certain license and management shall be fulfilled by the business actor.

GR 27/2020 brings a redefining legal certainty for business actors, as it set out the (a) criteria of a specific garbage and (b) the management of it.

II. Criteria of B3 Garbage

B3 Garbage is determined by the source and form. We have highlighted the important elements for (i) garbage containing B3 and (ii) garbage containing B3 waste, as follows:

Garbage Containing B3

- i. The source of garbage containing B3 is among others from: (i) commercial estate, (ii) industrial estate, and (iii) specific estate.
- ii. The form of garbage containing B3 shall be in the form of (i) used packaging of B3 product/product containing B3, and (ii) product and/or other packaging containing B3 that is no longer used.

Please be advised, the above criteria of garbage containing B3 does not cover the garbage derived from the remainder of business and/or activities containing B3.

Garbage Containing B3 Waste

- i. The source of garbage containing B3 waste is among others from (i) commercial estate, (ii) industrial estate, and (iii) specific estate.

- ii. The forms of garbage containing B3 waste are (i) used packaging of product containing B3 waste and is no longer used, (ii) B3 that is going to be disposed due to expiration, spillage, or off-spec product, and (iii) product and/or other packaging that is not derived from the remainder of business and/or activities.

III. Management of B3 Garbage

In general, GR 27/2020 splits the management of B3 Garbage into: (i) non-producer (*setiap orang*), and (ii) producer,¹ which are conducted by way of reduction (*pengurangan*) and/or handling (*penanganan*). The reduction of B3 Garbage includes:



Reduction of B3 Garbage

i. For non-producer

- a. Limit garbage production by choosing a product that is:
 - (i) labeled as using environmental-friendly chemicals;
 - (ii) have instruction for usage, storage and post-usage; and/or
 - (iii) could be recycled
- b. Recycle of garbage: by utilizing (*memanfaatkan*) the treated garbage as a raw material and/or useful product
- c. Reuse of garbage: by partially or fully reusing it

The non-producer shall dispose² the garbage containing B3 to a government facility called “specific garbage management”, in the event the non-producer is unable to recycle and/or reuse the garbage containing B3.³

ii. For producer

- a. Limit garbage production by:
 - (i) preparing plans and/or programs to limit the produced garbage;

¹ Business entities that produce, import, distribute and/or sell product with packaging that contain B3

² Sort, collect, and deliver

³ The recycle and reuse of the garbage shall be conducted in accordance with regulations on B3 waste management

- (ii) produce, import, distribute and/or sell product and/or packaging not containing B3; and/or
- (iii) implement other methods following technological development
- b. Recall the produced garbage: through a collecting facility, which in principle is similar with B3 waste temporary storage⁴.
- c. Further process the garbage collected in the collecting facility in accordance with regulations on B3 waste management.

For handling of B3 Garbage, there are five sequences:

Handling of B3 Garbage

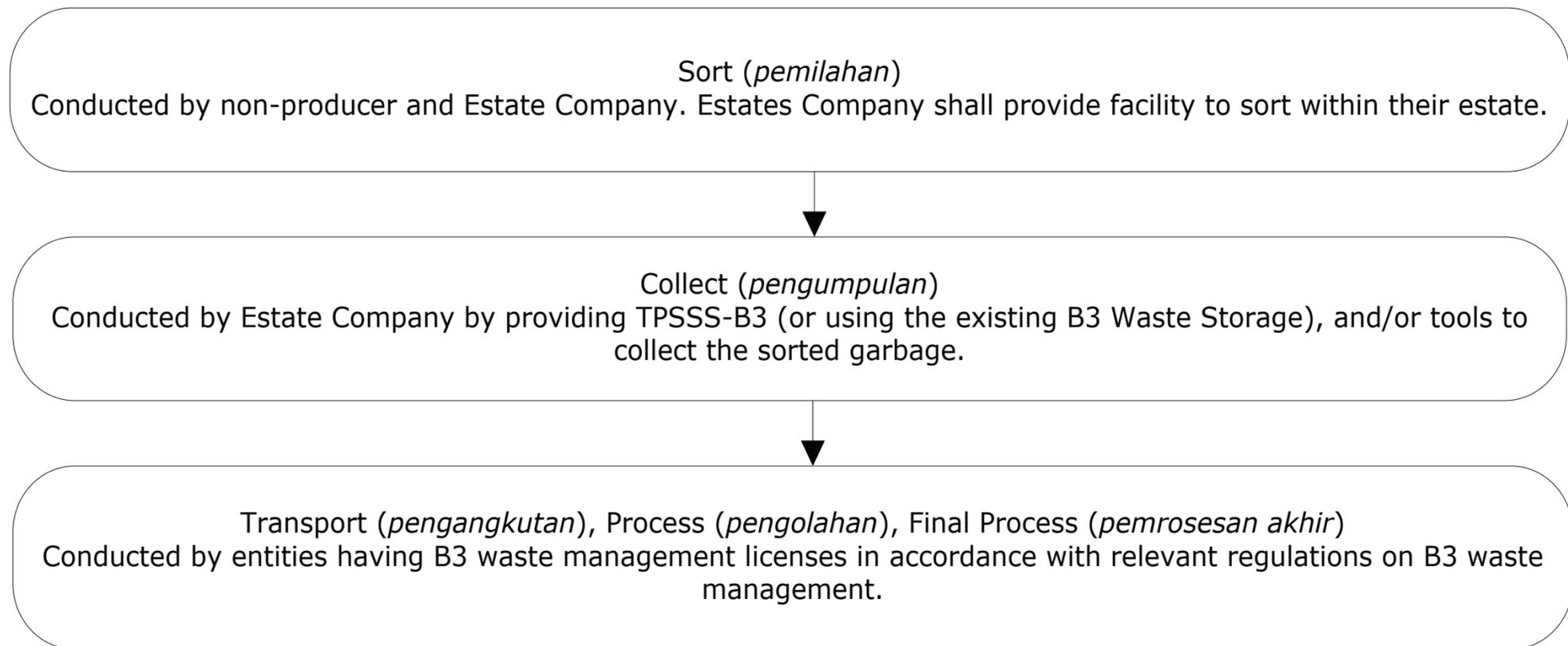
1. Sort (*pemilahan*): grouping and separating the garbage in groups in accordance with their type.
2. Collect (*pengumpulan*): taking and moving the garbage from its source to Temporary Storage for Garbage (*Tempat Pembuangan Sampah Sementara*/"**TPS**") or Temporary Storage for B3 Garbage (*Tempat Penampungan Sementara Sampah Spesifik B3*/"**TPSSS-B3**").

TPSSS-B3 shall be provided by the company who develop and manage the estate ("**Estate Company**"). Estate Company can also coordinate with a third party that (i) posses the license of B3 Waste management or (ii) government facility of Specific Garbage Management. But if the estate already has B3 Waste Storage (*Tempat Penyimpanan Limbah B3*), the Estate Company could use it to collect B3 Garbage.

3. Transport (*pengangkutan*): taking the garbage from its source or TPS to Integrated Storage for Processing of Garbage (*Tempat Pengolahan Sampah Terpadu*/"**TPST**") or Final Disposal Site (*Tempat Pembuangan Akhir*/"**TPA**") using a vehicle that is designed to transport garbage.
4. Process (*pengolahan*): changing the characteristic, composition and/or amount of garbage.
5. Final process (*pemrosesan akhir*): (i) returning the garbage and/or residue from a previous processing step to the environment safely or (ii) stockpiling it in accordance with B3 waste management.

⁴shall be protected from rain and heat, have waterproof floors, and in the size of the volumes of the collected specific garbage

The above sequences are to be conducted with the following scheme:



Further implementing regulations relating to the (i) government facility of Specific Garbage Management, and (ii) TPSSS-B3 are expected to be issued by Minister of Environment and Forestry.

IV. Conclusion

Based on the implementing regulation on specific garbage management, it is now clear that a business actor conducting business inside a (i) commercial estate, (ii) industrial estate, and (iii) specific estate may dispose their B3 Garbage into the TPSSS-B3 or B3 Waste Temporary Storage provided by Estate Company, which located inside the estate. However, GR 27/2020 does not provide a list of types of garbage categorized as specific garbage (unlike regulations on B3 waste management). Taking this into consideration and to avoid being accused of committing an environmental crime, it is important for the business actor to seek clarification from the Minister of Environment and Forestry on objects for disposal that are classified as B3 Garbage.



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