

MINISTERIAL DECREE OF ENERGY AND MINERAL RESOURCES
OF THE REPUBLIC OF INDONESIA
Number: 43 Year 2015
ON PROCEDURE OF EVALUATION FOR THE ISSUANCE
OF PERMIT OF MINERAL AND COAL MINING UNDERTAKINGS

BY THE GRACE OF GOD ALMIGHTY
MINISTER OF ENERGY AND MINERAL RESOURCES
OF THE REPUBLIC OF INDONESIA,

- Considering
- a. that it is necessary to handover the document of permit as part of the policy to split the governmental affairs in mineral and coal mining and as in compliance with Indonesian Law Number 23 Year on Regional Government;
 - b. that in the realization of handover of documents of permit as part of the policy to split governmental affairs in mineral and coal mining, it is necessary to evaluate the issuance of permits of mining undertakings;
 - c. that in conducting the evaluation for the issuance of permit of mining undertakings it is necessary to regulate the procedure and criteria of evaluation for the issuance of permit of mining undertakings of mineral and coal;
 - d. that based on the consideration as cited in letters a, b, and c it is necessary to enact Ministerial Decree of Energy and Mineral Resources on Procedure of Evaluation for the Issuance of permit of mining undertakings of mineral and coal;
- Referring to in
1. Law Number 39 Year 2008 on State Ministry (State Gazette of the Republic of Indonesia Year 2008 Number 166, Supplement to State Gazette of the Republic of Indonesia Number 4916);
 2. Law Number 4 Year 2009 on Mineral and Coal Mining (State Gazette of the Republic of Indonesia Year 2009 Number 14, Supplement to State Gazette of the Republic of Indonesia Number 4959);
 3. Law Number 23 Year 2014 on Regional Government (State Gazette of the Republic of Indonesia Year 2014 Number 244, Supplement to State Gazette of the Republic of Indonesia Number 5587);
 4. Government regulation (PP) Number 23 Year 2010 on Implementation of Mining Undertakings of Mineral and Coal (State Gazette of the Republic of Indonesia Year 2010 Number 29, Supplement to State Gazette of the Republic of Indonesia Number 5111) as having been amended for several times and the latest amendment by government regulation (PP) Number 77 Year 2014 on Third Amendment of government regulation (PP) Number 23 Year 2010 on Implementation of Mining Undertakings of Mineral and Coal (State Gazette of the Republic of Indonesia Year 2014 Number 263, Supplement to State Gazette of the Republic of Indonesia Number 5597);
 5. Presidential Decree Number 68 Year 2015 on Ministry of Energy and Mineral Resources (State Gazette of the Republic of Indonesia Year 2015 Number 132);
 6. Ministerial Decree of Energy and Mineral Resources Number 18 Year 2010 on Organization and Work Procedure of Ministry of Energy and Mineral Resources (State Gazette of the Republic of Indonesia Year 2010 Number 552) as having been amended for several times and the latest amendment by Ministerial Decree of Energy and Mineral Resources Number 30 Year 2014 on Second Amendment of Ministerial Decree of Energy and Mineral Resources Number 18 Year 2010 on Organization and Work Procedure of Ministry of Energy and Mineral Resources (State Gazette of the Republic of Indonesia Year 2014 Number 1752);

DECIDES

To Enact

PROCEDURE OF EVALUATION FOR THE ISSUANCE OF PERMIT OF MINING UNDERTAKINGS OF MINERAL AND COAL

CHAPTER I GENERAL PROVISION

Article 1

In this Ministerial Decree what is meant by:

1. Mining is part or all of the stages of activity for research, management and undertakings of mineral or coal including general survey, exploration, feasibility study, construction, mining, processing and refining, delivery and sales, and post-mine activity.
2. Mineral is non-organic substance formed in nature, having specific nature of physical and chemical characteristic with regular crystal compounds or in mixture in form of rock, either of independence or dependence.
3. Coal is sediment of organic carbon that was naturally formed from the remains of plants.
4. Permit of Mining Undertaking (IUP) hereinafter referring to IUP is a permit to conduct mining undertakings.
5. IUP Exploration is a permit of undertakings to conduct a stage of activities of general survey, exploration and feasibility study.
6. IUP Operation Production is a permit of undertakings that is granted after completing the implementation of IUP Exploration in order to carry out a stage of activities of operation and production.
7. Area of Permit of Mining Undertakings (WIUP) hereinafter referring to WIUP is an area granted to the holder of IUP.
8. State's Reserve Area (WPN) hereinafter referring to WPN is part of the area of mining that is reserved for the sake of national strategic goal of Indonesia.
9. Mining Authorization (KP) hereinafter referring to KP is an authorization given to an entity or individual to conduct mining undertakings.
10. Contract of Work (KK) hereinafter referring to KK is an agreement between the Government of the Republic of Indonesia and an Indonesian Business Entity in regard of foreign investment in mining undertakings of mineral, not including oil, natural gas, geothermal, radio active, and coal.
11. Agreement on Authorization of Mining Undertakings of Coal (PKP2B) hereinafter referring to PKP2B is an agreement between the Government of the Republic of Indonesia and an Indonesian Business Entity in implementing mining undertakings of coal.
12. Exploration is a stage of activity of mining undertakings to collect detailed and accurate information on location, form, dimension, spread, quality and measurable resources of extractive materials, and information on social and living environment.
13. Feasibility Study is a stage of mining undertakings to collect detailed information of all related aspects in determining economic and technical feasibilities of mining undertakings, including analysis about environmental impact and plan on post-mine activity.
14. Announcement of IUP with Clear and Clean status is about information and grant

of status of IUP that has met administrative and territorial requirements by Director General as in compliance with Indonesian laws and regulations.

15. Clear and Clean Certificate is a certificate issued by Director General to the holder of IUP who has met administrative, territorial, technical, environmental and financial requirements (criteria).
16. Minister is the Minister who is in charge of governmental affairs in the sector of mineral and coal mining of Indonesia.
17. Director General is the Director General who is in charge of formulating and implementing the policy on guidance, control, and monitoring of activities of mineral and coal in Indonesia.

CHAPTER II EVALUATION OF ISSUANCE OF IUP

Part One General

Article 2

- (1) Regent/ Mayor shall be obliged to submit the documents of permit in the sector of mineral and coal in regard of domestic investment and WIUP in 1 (one) Province including related attachments to Provincial Governor as in compliance with Indonesian Law Number 23 Year 2014 on Regional Government.

Article 3

- (1) Provincial Governor shall be obliged to submit documents of permit in the sector of mineral and coal in regard of domestic investment and WIUP in inter-Provinces including related attachments to Minister via Director General as in compliance with Indonesian Law Number 23 Year 2014 on Regional Government.
- (2) Provincial Governor shall be obliged to submit documents of permit in the sector of mineral and coal in regard of foreign investment including related attachments to Minister via Director General as in compliance with Indonesian Law Number 23 Year 2014 on Regional Government.

Part Two Evaluation of Documents of Permit

Paragraph 1 General

Article 4

- (1) Minister or Provincial Governor based on authority shall evaluate the documents of permit in the sector of mineral and coal mining including related attachments as cited in Articles 2 and 3.
- (2) Evaluation as cited in paragraph (1) shall be conducted by appraising or evaluating the issuance of IUP.
- (3) The authority of Minister in appraising or evaluating the documents of permit in the sector of mineral and coal mining including related attachments as cited in paragraphs (1) and (2) shall be conducted by Director General.

Paragraph 2 Procedure of Evaluation for the Issuance of IUP

Article 5

- (1) Evaluation of the issuance of IUP as cited in Article 4 shall be intended for:

- a. IUP that is adjusted or upgraded from KP; and/ or
- b. KP that has yet to be expired and will be adjusted or upgraded to become IUP.

(2) The evaluation for the issuance of IUP as cited in paragraph (1) shall be based on criteria as follows:

a. administrative requirement (criteria) as follows:

1. the submission of application for extension/ upgrading of KP or IUP prior to the expiration of the KP or the IUP;
2. the allotment and application for KP as determined prior to the issuance of Law Number 4 Year 2009 on Mineral and Coal Mining;
3. KP Exploitation that shall be regarded as the next stage of KP Exploration;
4. the possession of no more than one KP or IUP for a non go-public business entity;
5. the term of effectiveness of IUP Exploration that shall not exceed the term of time as stipulated in Law number 4 Year 2009 on Mineral and Coal Mining;
6. Request for the allotment of areas that shall not be submitted for KK, PKP2B, KP, or IUP; which is still active or effective and of the same commodities;
7. The term of time of IUP Operation Production that shall not exceed the term of time of KP Exploitation;
8. KP that is still effective after the enactment of Law Number 4 Year 2009 on Mineral and Coal Mining;

b. Territorial (area) requirement shall be as follows:

1. WIUP does not overlap with other WIUP of the same commodities;
2. WIUP does not overlap with other WPN;
3. not overlapping with an administrative area of Regency/ Municipality or of other Province;
4. Coordinates of IUP Exploration that have to be in accordance with the coordinates of the allotted areas;
5. Coordinates of IUP Operation that have to be in the same coordinates of IUP Exploration; and/ or
6. Coordinates of IUP that must be in parallel with the longitude-latitude.

c. technical requirement shall include:

1. Report on Exploration, for the holder of IUP Exploration that has yet to enter a stage of activity of feasibility study; or
2. Report on Exploration and Feasibility Study, for the holder of IUP Exploration that has already entered a stage of activity of feasibility study; or the holder of IUP Operation Production;

d. environmental requirement shall include environmental documents that have been legitimized by authoritative agency as in compliance with Indonesian laws and regulations;

e. financial requirement shall include:

1. evidence of the full payment of dead rent up to the year of the latest submission, for the holder of IUP Exploration; or
2. evidences of the full payment of dead rent and production contribution (royalty) up to the year of the latest submission, for the holder of IUP Operation Production.

(3) Evaluation of the financial criteria as cited in paragraph (2) letter e shall be conducted by Director General.

Article 6

In case that the holder of IUP Operation Production has yet to carry out the activities of mining and/ or sales, the financial criteria as cited in Article 5 paragraph (2) letter e shall be in form of a letter of statement from local government in Indonesia and evidence of full payment of dead rent.

Article 7

In case that based on the result of evaluation of administrative criteria as conducted by Director General or Provincial Governor the following will later on be found that:

- a. the application (request) for extension or upgrading of KP or IUP was submitted after the expiration of the term of KP or IUP;
- b. the allotment and application for KP was determined after the enactment of Law number 4 Year 2009 on Mineral and Coal Mining;
- c. the application for the allotment of area is for the area of KK, PKP2B, or IUP that is still active and of the same commodities, then

Director General or Provincial Governor shall revoke the IUP.

Article 8

In case that based on the result of evaluation of administrative criteria as conducted by Director General or Provincial Governor is found that KP Exploitation is not the result of upgrading from KP Exploration, Director General or Provincial Governor shall revoke the IUP except for cooperative.

Article 9

In case that based on the result of evaluation of administrative criteria as conducted by Director General or Provincial Governor is found more than one IUP for non go-public business entity, Director General or Provincial Governor shall do as follows:

- a. to merge the WIUPs in case that the WIUPs overlap one with another, they have the same commodities, and at the same stage of activities, and later on a new IUP shall be issued based on the WIUP as resulted from the merging; or
- b. to instruct the holder of IUP to handover the IUP to a new business entity in condition that the holder of IUP will own at least 51 (fifty one) percent of the shares at the new business entity and there will also be the issuance of new IUP as resulted from the handover of the IUP to the new business entity.

Article 10

In case that based on the result of evaluation of administrative criteria as conducted by Director General or Provincial Governor is found that the term of IUP Exploration is longer than the term under Law Number 4 Year 2009 on Mineral and Coal Mining, Director General or Provincial Governor shall adjust the term of time of the IUP

Exploration to the term under the provisions of Law Number 4 Year 2009 on Mineral and Coal Mining.

Article 11

In case that based on the result of evaluation of administrative criteria as conducted by Director General or Provincial Governor is found that the term of IUP Operation Production is longer than the term of KP Exploitation, Director General or Provincial Governor shall adjust the term of time of the IUP Operation Production to the term under provisions of Law Number 4 Year 2009 on Mineral and Coal Mining.

Article 12

- (1) In case that based on the result of evaluation as conducted by Director General or Provincial Governor is found that the WIUP overlaps with another WIUP of the same commodities, Director General or Provincial Governor shall do as follows:
 - a. to relinquish WIUP, if part of the WIUP is overlapping; or
 - b. to apply a system on first come first served that the first applicant for the allotment of area who has fulfilled the requirements shall be prioritized in the first hand and will be granted IUP (first come first served), if the whole WIUP overlaps with another WIUP.
- (2) By taking into account the principles of utilization, transparency, fairness, and for the sake of national and/ or local interests of Indonesia, Director General or Provincial Governor shall be allowed to find another solution for the holder of IUP whose WIUP overlaps with another WIUP of the same commodities.

Article 13

In case that based on the result of evaluation as conducted by Director General or Provincial Governor is found that the WIUP overlaps with WPN, Director General or Provincial Governor shall do as follows:

- a. to relinquish the WIUP that is included in WPN, if part of the WIUP overlaps; or
- b. to revoke the IUP, if the whole WIUP overlaps with WPN

Article 14

In case that based on the result of evaluation as conducted by Director General or Provincial Governor is found that the coordinates of IUP Exploration are not similar to the coordinates of the allotted area, Director General or Provincial Governor shall do as follows:

- a. to change the coordinates as stated in the amendment of decision for the issuance of IUP Exploration, if the WIUP Exploration is included in the allotted area; or
- b. to revoke the IUP Exploration, if all the coordinates are outside the allotted area.

Article 15

In case that based on the result of evaluation as conducted by Director General or Provincial Governor is found that the coordinates of IUP Operation Production are not similar to the coordinates of IUP Exploration, Director General or Provincial Governor shall do as follows:

- a. to change the coordinates as stated in the amendment of decision for the issuance of IUP Operation Production, if the coordinates are outside the coordinates of WIUP Exploration; or

- b. to revoke the IUP, if all the coordinates are outside the coordinates of IUP Exploration.

Article 16

In case that based on the result of evaluation as conducted by Director General or Provincial Governor is found that the coordinates of IUP are not in parallel with the longitude-latitude, Director General or Provincial Governor shall change the coordinates to make them in parallel with the longitude-latitude as stated in the amendment of decision for the issuance of IUP.

Article 17

- (1) In case that based on the result of evaluation as conducted by Director General or Provincial Governor is found that the holder of IUP Exploration has yet to meet the technical, environmental and financial requirements as cited in Article 5 paragraph (2) letter c points 1 and 2, letter d, or letter e point 1 the holder shall be administratively sanctioned by Director General on behalf of Minister or by Provincial Governor based on authority.
- (2) In case that based on the result of evaluation as conducted by Director General or Provincial Governor is found that the holder of IUP Operation Production has yet to meet the financial requirements as cited in Article 5 paragraph (2) letter e point 2 the holder shall be administratively sanctioned by Director General on behalf of Minister or by Provincial Governor based on authority.
- (3) The administrative sanction as cited in paragraphs (1) and (2) shall be in form of:
 - a. written warning;
 - b. temporary termination of the activity of undertakings; or
 - c. revoke of IUP

Article 18

In case that based on the result of evaluation as conducted by Director General or Provincial Governor is found that the holder of IUP Operation Production has yet to meet the technical and environmental requirements as cited in Article 5 paragraph (2) letter c point 2 or letter d the holder shall be administratively sanctioned in form of the revoke of IUP by Director General on behalf of Minister or by Provincial Governor based on authority

Article 19

In case that the Provincial Governor does not give an administrative sanction in form of the revoke of IUP as cited in Article 18, Director General on behalf of Minister shall revoke the IUP that has yet to meet the environmental criteria as cited in Article 5 paragraph (2) letter d.

Article 20

- (1) In case that in the document of permit as submitted to Minister via Director General or Provincial Governor as cited in Articles 2 and 3 is found that certain KP is still effective after the enactment of Law number 4 Year 2009 on Mineral and Coal Mining, Director General or Provincial Governor shall make evaluation based on the criteria as cited in Article 5 paragraphs (2) and (3).
- (2) In case that based on the result of evaluation of the issuance of KP as cited in paragraph (1) the criteria have been met, Director General on behalf of Minister or Provincial Governor based on authority shall make adjustment by converting the KP into IUP as in compliance with Indonesian Law number 4 Year 2009 on Mineral and Coal Mining.
- (3) In case that based on the result of evaluation as cited in paragraph (1) the criteria have yet to be met, Director General on behalf of Minister or Provincial Governor based on authority shall resolve the case as cited in Articles 6 through 18.

CHAPTER III
ANNOUNCEMENT OF THE CLEAR AND CLEAN STATUS OF IUP AND
GRANTING CLEAR AND CLEAN CERTIFICATE

ARTICLE 21

(1) Provincial Governor shall be obliged to submit the result of evaluation for the sake of the issuance of IUP as cited in Articles 5 through 20 to Minister via Director General in no later than 90 (ninety) calendar days since the signing of Official Report on the handover of document of permit from Regent/ Mayor.

(2) The result of evaluation for the issuance of IUP as cited in paragraph (1) shall include:

- a. Recommendation of IUP that has met administrative and territorial criteria as cited in Article 5 paragraph (2) letters a and b and the result of evaluation as cited in Articles 6 through 16 to Minister via Director General, of which shall be put into the list of Clear and Clean status of IUP that will be announced;
- b. IUP or KP that is revoked because of not meeting the administrative and territorial criteria as cited in Article 5 paragraph (2) letters a and b and the result of evaluation as cited in Articles 6 through 16;
- c. the recommendation on IUP that has already met the technical and environmental criteria as cited in Article 5 paragraph (2) letters c and d for the sake of granting the certificate of Clear and Clean status of IUP;
- d. IUP that is administratively sanctioned as cited in Article 17; and/ or
- e. IUP Operation Production that is revoked as cited in Article 18; and/ or
- f. the result of evaluation for the issuance of KP as cited in Article 20.

(3) In case that the result of evaluation for the issuance of IUP as cited in paragraph (1) has yet to be submitted because:

- a. Provincial Governor is unavailable to do so;
- b. no official has been definitely dedicated to become a Provincial Governor;
- c. of other excuses that are officially acceptable,

the report of the result of evaluation for the issuance of IUP can be submitted by an official of Provincial Government who is in charge of energy and mineral resources.

Article 22

Director General on behalf of Minister shall announce the Clear and Clean Status of IUP based on:

- a. the result of evaluation for the issuance of IUP in regard of the aspect of administration and area (territory) as conducted by Director General as cited in Article 5 paragraph (2) letters a and b through Article 16 and the result of evaluation as cited in Article 18; and
- b. the result of evaluation as cited in Article 21 paragraph (2) letters a, f and Article (3).

Article 23

Director General on behalf of Minister shall announce the non-Clear and Clean Status of IUP, in case that Provincial Governor or the official as cited in Article 21 paragraph

(3) has yet to submit the result of evaluation for the issuance of IUP after the deadline as cited in Article 21 paragraph (1).

Article 24

Director General on behalf of Minister shall grant the certificate of Clear and Clean status of IUP based on:

- a. the result of evaluation for the issuance of IUP in regard of technical, environmental and financial aspects as conducted by Director General as cited in Article 5 paragraph (2) letters c, d, e and paragraph (3) and the result of evaluation as cited in Article 20; and
- b. the result of evaluation from Provincial Governor as cited in Article 21 paragraph (2) letters c and f and the result of evaluation in regard of financial criteria as cited in Article 5 paragraph (3).

CHAPTER IV CLOSING PROVISION

Article 25

The result of evaluation for the issuance of IUP and the recommendation on Clear and Clean Status of IUP as conducted by Provincial Governor prior to the effectiveness of this Ministerial Decree, shall remain effective and have to be submitted to Minister via Director General in no later than 90 (ninety) working days since the enactment of this Ministerial Decree.

Article 26

This Ministerial Decree shall be effective as of the date of enactment.

That everybody shall be made aware of, and this Ministerial Decree shall be published in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
Dated December 30, 2015
MINISTER OF ENERGY AND MINERAL RESOURCES
OF THE REPUBLIC OF INDONESIA.

Signed

SUDIRMAN SAID

Legislated in Jakarta
on December 30, 2015
DIRECTOR GENERAL OF LAWS AND REGULATIONS
MINISTRY OF JUSTICE AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

Signed

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2015 NUMBER 2014

Copy as of the original version
MINISTRY OF ENERGY AND MINERAL RESOURCES
Acting Head of Bureau of Laws

Head of Bureau of Employment and Organization

Signed

Yond Rizal