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Legal Memo
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Ministry of Energy and Mineral Resources Regulating New Procedures for Mining Area, Business License and Reporting

A. The Issuance of Ministry of Energy and Mineral Resources Regulation Number 7 of 2020 on the Procedures for Area Granting, Licensing, And Reporting on Mineral and Coal Mining Business Activities

The Ministry has issued new regulations related to licensing of mineral and coal business activities. Ministerial Regulation Number 7 of 2020 on Procedures for Area Granting, Licensing, and Reporting on Mineral and Coal Mining Business Activities ("MR 7/2020") principally sets out provisions to prepare and establish mining areas – along with their Mining Area Information Systems; to grant the mining area; to grant mineral and coal business licenses along with the obligations and prohibitions; and to submit the annual work plan & budget (*Rencana Kerja dan Anggaran Biaya/ 'RKAB'*) and reports.

The provisions were previously set out under Ministerial Regulation Number 11 of 2018, as amended twice lastly by Ministerial Regulation Number 51 of 2018. There are several main issues that are changed under MR 7/2020. Under the new regulation, there are further provisions on how to convert local companies into foreign investment companies ('*Penanaman Modal Asing*'). The Minister or Governor can also revoke the IUP Exploration if the exploration activities have not reached the minimum expenditure according to the work plan.

The new regulation also widens the scope of authority of Ministers or Governors to reject the application to change shareholder composition if the evaluation result has shown a bad performance. There are also several changes due to licensing and approval, such as change of platform and removal of some licenses.

In terms of reporting, MR 7/2020 allows force majeure conditions as a reason for RKAB submission. The new regulation also introduces a new information system in order to submit the RKAB and the report.

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B. Comparison

The following is the comparison table between the new regulation (MR 7/2020) and MR 11/2018:

	MR 11/18	MR 7/20
Guidelines of Mining Area (WIUP/WIUPK): - to prepare and determine; - to codify; - to grant Area of Non-metal Mineral and/or Rock; - mining area tender committee; - mining area tender procedure; - to grant the priority mining area	Established by Director General on behalf of the Minister	Established through Ministerial Decree
Guidelines on the adjustment of local IUP (PMDN) to PMA.	-	Established by Ministerial Decree
Guidelines of License: - to apply, evaluate, and issue IUP Exploration, IUPK Exploration, and IUP Operation Production for Selling; - to apply, evaluate, issue, and extend IUP Operation Production, IUPK Operation Production, IUP Operation Production for Processing and/or Refining, IUP Operation Production for Transportation and Sales, and IUJP; - to apply, evaluate, and approve the partnership program	Established by Director General on behalf of the Minister	Established through Ministerial Decree

Guidelines to prepare, submit, evaluate, and approve: - Annual RKAB; - Periodic Report; - Final Report; - Revisions of Annual RKAB and reports	Established by Director General on behalf of the Minister	Established through Ministerial Decree
Guidelines to apply, evaluate, and approve IUPK Operation Production resulting from the conversion of Contract of Work of Metal-based Mineral Mining	Established by Director General on behalf of the Minister	Established through Ministerial Decree
Guidelines to apply, evaluate, and approve the extension of IUPK Operation Production	Established by Director General on behalf of the Minister	Established through Ministerial Decree
The amount of compensation for WIUP and WIUPK information data	Established by Director General on behalf of the Minister	Established through Ministerial Decree
Exploration Deposit (*'Jaminan Kesungguhan'*)	The deposit shall belong to Central Government if: - The IUP holder does not carry out any exploration activities - The license is revoked	<u>Adding one condition</u>: If the IUP holder does not reach the minimum total expenditure in accordance with the exploration activity plan.
The limit for applying an upgrade	1 month before the end of a period of IUP Exploration of Metal-Mineral Exploration, IUP Exploration of Non-Metal Mineral with Certain Types, IUPK	- <u>6 months</u> before the end of a period of IUP Exploration of Metal-Mineral Exploration, IUP Exploration of Non-Metal Mineral with Certain Types, IUPK Exploration of Metal-

	Exploration of Metal-Mineral, IUP Exploration of Coal, or IUPK Exploration of Coal, IUP Exploration Non-Metal Mineral or IUP Exploration of Rock.	Mineral, IUP Exploration of Coal, or IUPK Exploration of Coal - 3 months before the end of a period of IUP Exploration Non-Metal Mineral or IUP Exploration of Rock
License of Rock Processing	-	The processing can be more than 1 type of rock
Adjustment of PMA status	The Governor is obliged to assign the converted licenses (from PMDN to PMA) to Minister	- The licenses holder is obligated to apply for the adjustment application to the Minister - The Minister then adjusts the status from PMDN to PMA after the terms and conditions are fulfilled.
Change of Shareholder	-	- The Minister or Governor can reject the application for change of the shareholder composition if the evaluation result has not shown a good mining business performance - The IUP or IUPK holders who have changed the directors and/or commissioners are required to submit reports to the Minister or Governor no later than 14 days after obtaining authorization from the Ministry of Law and Human Rights.

Approval of change for IUP Operation Production of Processing and Refining	Approval by the Minister/Governor is required for change of shareholder composition and change of directors and/or commissioners.	approval by Minister/Governor for change of shareholder composition is required.
Obligations of IUJP	-	Added obligations: - Submit the mining service contract to the Minister or Governor; - Use equipment that has been eligibly tested; - Comply with the provisions in the mining service business; - Compile and submit the activity report to Minister or Governor as well as the IUP/IUPK holder.
Obligations of IUP Operation Production of Transportation and/or Selling	Only required to submit a copy of the agreement/contract with the license holder.	- Required to submit reports on the sale planning document each time adding the cooperation. Approval from Director General is no more needed. - Required to submit the report through the Sales Verification Module periodically through https://mvp.esdm.go.id
Force Majeure in the revision of RKAB and Report	-	In the event of a force majeure, an obstacle, or environment carrying capacity – the change or revision of Annual RKAB may be submitted more than 1 time by the holder of IUP Operation Production, IUPK

		Operation Production, or IUP Operation Production for Processing and/or Refining.
Annual RKAB and Reports Information System	-	Required to submit work plans and reports using information system technology as long as it is available.

C. The Implementation during the Covid-19 Period

The provisions under MR 7/2020 allow RKAB revision submission in the first quarter period, no later than July 31 of the current year. Whereas in the previous regulation (MR 11/2018), the revised RKAB can be submitted once in the current year if there are any changes in the level of production capacity. The submitted and revised RKAB under MR 7/2020 is no longer limited to production capacity.

This is partly in response to the potential slowdown in production performance due to the falling mining commodity prices since the demand condition is at the moment estimated to decrease even further amid the Covid-19 outbreak. When demand falls, the level of production will also decrease. Therefore, any companies may submit revisions to the RKAB this year, especially regarding production targets.

The provisions regarding the RKAB submission are still referring to the existing provisions, namely Decree of the Minister of Energy and Mineral Resources Number 1806 K/30/MEM/2018 on Guidelines for Implementation of Preparation, Evaluation, Approval of Work Plan and Budget Costs ('*RKAB*'), and Reporting on Mineral and Coal Mining Business Activities ("**Decree 1806/2018**"). Please note that in order to anticipate the spread of Covid-19, any licensing services, information/consulting services, fulfillment of non-tax revenue ('*Penerimaan Negara Bukan Pajak*'), printed maps, and complaints during the Covid-19 period shall remain to continue online through licensingminerba@esdm.go.id.

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