

RECENT DEVELOPMENTS

Indonesia to develop downstream coal industry

Jakarta (ANTARA News) - The government will launch a program to develop the downstream coal industry to increase coal added value, an official said

Mineral and coal director general R Sukhyar said the government is revising government regulation (PP) No 23 of 2010 on the downstream coal industry.

"A revision of the PP will be issued soon," Sukhyar said.

Under the draft regulation of PP No 23/2010, there are four forms of downstream coal products.

There are coal products with higher calorific value, coal gas, liquid coal and coal in the form of slurry used for small power plants.

The revision of the PP will be strengthened with a business regulation in the form of a regulation on energy and mineral resources (ESDM) that will set coal prices.

"The ministerial regulation will be issued this year," Sukhyar said.

He said the program to increase the added value of coal will need more favorable fiscal policy support.

"Without a change in fiscal policy, it will be difficult for business players to invest in the downstream coal industry," he said.

He said coal should be used as a basic material instead of as a source of energy.

He said if coal is processed into oil, the price would be higher at around US\$110 per barrel, much higher than the coal price in the world market.

The program to increase the added value of coal has been regulated in Law No. 4 of 2009 on minerals and coal mining.



Key points in the New Geothermal Law

by Ferdinand Jullaga

The following are the key points to know about the new features in the New Geothermal Law:

1. Removal of the term “mining” from Geothermal activities

The New Geothermal Law removes the term “mining” for geothermal activities to enable them to be conducted in forest areas. The current Forestry Law prohibits mining activities from being carried out in protected forest areas (open-pit mining) and conservation forest areas. The removal of the term “mining” is intended to allow geothermal activities to be conducted in those areas although it is still necessary to obtain the relevant forestry permit.

The New Geothermal Law also specifically provides the licenses to be obtained in order to conduct geothermal activities within a forest area. It stipulates that the Geothermal Business Permit (*Izin Usaha Panas Bumi* or “IUP”) holder shall obtain (i) the Lend-Use Permit to conduct geothermal activities within production or protected forest area; or (ii) a Utilization permit to conduct such activity within conservation forest areas.

2. Transfer of Authority to the Central Government for Indirect Utilization

As is the case with Law 4/2009, the Old Geothermal Law shares licensing authority depending on the scope of the geothermal working area, whether it be cross regency or provincial. The New Geothermal Law provides the same scheme for Direct Utilization Purposes, e.g. for tourism, agribusiness, industry, etc.

As to the Indirect Utilization purpose, i.e. power generation for public purposes, the New Geothermal Law provides that licensing authority shall rest with the Central Government. Some opine that this is intended to simplify procedures for the private sector to invest in the geothermal industry.

The transitional provision of the New Geothermal Law states that the Regent/Governor shall transfer the licensing documents it had issued before the New Geothermal Law to the Minister not later than 6 months as of the issuance date of the New Geothermal Law.

3. IPO of the IUP Holder

The New Geothermal Law provides that the IUP Holder may only conduct an Initial Public Offering after the completion of the exploration phase. This would also require prior approval from the Minister to do so.

4. New Financial Obligation: Production Bonus

The New Geothermal Law provides a new financial obligation for the IUP Holder which is a Production Bonus. The Production Bonus is in addition to the other financial obligations that were also applied during the Old Geothermal Law regime, e.g. royalty, dead rent, etc. The Production Bonus shall be paid to the relevant Regency in which the Work Area is located by giving up a certain percentage of gross revenue starting from the commencement of commercial operations of the first geothermal power unit.

The New Geothermal Law has yet to provide a clear tariff and payment procedures for this Production Bonus and mandates the Government to issue the implementing regulation to stipulate the tariff, payment procedures, sharing and the calculation of the production bonus.

The Government provides a Geothermal Facility Fund through the issuance of Minister of Finance Regulation No. 3 of 2012 on Procedures for Management and Responsibility of the Geothermal Facility Fund (“**MoF 3/2012**”) for the purpose of exploration risk mitigation and to enhance the feasibility of geothermal power plant projects. The Geothermal Facility Fund is provided to increase data adequacy in preliminary surveys as well as to provide supporting data in the preparation of tendering the work area.

Assistance is thus provided in the form of data and a loan to the government or private entity. We understand that in practice, the Geothermal Facility Fund has rarely been granted. In practice, the government agency, in this case Government Investment Center (*Pusat Investasi Pemerintah*), is hesitant to grant the Geothermal Facility Fund for the reason that should the exploration activity fail (or if no economic resources are available), it can be deemed to be a government loss (*kerugian negara*). A government loss is one of the criteria for the occurrence of an act of corruption. Government officials are thus concerned that they could expose themselves to claims of allegedly being involved in acts of corruption. As a result, funds have rarely been allocated.

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