

Government ready to auction sixteen mining areas

Jakarta: The Ministry of Energy and Mineral Resources (ESDM) stated that in the near future they would auction sixteen mining areas of former Contract of Work (COW), Coal Mining Concession Working Agreement (PKP2B), and Mining Business License (IUP). Deputy Minister of Energy and Mineral Resources, Arcandra Tahar, claimed to be preparing the mechanism or the rules of the auction. He targeted publication for this January. "We are preparing PerMen (Ministerial Regulation) for the auction scheme," said Arcandra, when met at the Office of the ESDM Ministry, Jakarta, Wednesday, January 3, 2018. Head of Communications and Public Service Cooperation Bureau of the Ministry of ESDM Agung Pribadi, added that there were about sixteen mining areas prepared for auction. The mining areas are former Contract of Work (COW), Coal Mining Concession Working Agreement (PKP2B), and Mining Business License (IUP). "When the price is set, sixteen mining areas will be auctioned off from former KK and PKP2B and IUP," said Agung.

Of the sixteen mining areas to be tendered, Agung specifies, five mining areas are former Contract of Work, one former PKP2B, while the rest are former IUPs. The sixteen mining areas will be auctioned off when the guidelines to do so become available.

The Government is preparing a draft revision of Regulation of Minister of Energy and Mineral Resources Number 28 of 2013, regarding Procedures to Auction Mining Business Licenses and Mining Business License Area for Mining Business Activity. As for the auction scheme, Agung stated that this will be done directly by the central government although some will be auctioned by the provincial government. "The ex-KK and PKP2B centers are auctioned but for ex-IUP areas, provincial auctions will be held. But the reference is from the Minister Regulation prepared by the Minister of Energy and Mineral Resources", he concluded.

Source: <https://www.medcom.id/ekonomi/energi/GKdQ9DEN-pemerintah-siap-lelang-16-wilayah-pertambangan-di-2018>

Legal News

New MoF reg on Geothermal production bonus

(MKK geothermal team with research by Adit Muchtar Putera)

The Ministry of Finance recently issued Regulation No. 201/PMK.02/02/2017, regarding Mechanism for Reimbursement of Production Bonus Payments by Geothermal Businesses, This regulation has several important points that are of interest to the geothermal industry.

The payment of a Production Bonus is a financial obligation legally binding upon a geothermal permit holder, holder of a geothermal resource exploit, holder of a joint operation contract of resource exploitation geothermal, and resource exploitation holder that purchases power, geothermal steam and/or geothermal power.

Geothermal companies shall first pay the Production Bonuses to the Regional Government where the geothermal project is based. Subsequently, the company will then be reimbursed by the central government according to the procedure stipulated in this Regulation.

In the event of any excess or shortfall, such amount will be set off in the following production period.

This Regulation came into force on January 22, 2018.

Mine Closure

(MKK mining team with research by Adit Muchtar Putera)

When the minerals in a mine are exhausted or, for whatever reason, a decision is made to wind down mining activities, the company is obliged to carry out reclamation and re-vegetation activities. Implementation of the mine closure program must take into account ecological and socio-economic factors. Ecological considerations are efforts to minimize the adverse impact of mining activities, ideally by returning the mining area to its original state. Socio-economic considerations entail fostering a sustainable economy for the local community whose way of life was impacted by the onset and by the cessation of mining activities.

Mine closure involves reclamation of the former mining site (filling void areas with overburden) and re-vegetation (planting local crops on the reclaimed land). The ultimate goal is preservation of resources to sustain the economic outlook of the community.

Reclamation in a nutshell

Reclamation activity is one of the requirements of the law, specifically Law No. 11 of 1967 on the Minimum Provisions of Article 30, which specifies the obligation to conduct post-mining reclamation activities. In the provisions, it is stipulated that reclamation of the mine area must be done as soon as possible in accordance with the initial reclamation plan; reclamation shall be deemed to be complete upon approval by the Director General, and the mining company shall fill in void areas and re-vegetate the former mining area, including the area surrounding the project area.

The main purpose of reclamation of former mining land is to minimize any adverse impact on the surrounding environment. Reclamation plans and rehabilitation of former mining areas with open-pit mining at the post operational stage include demolition, stockpiling, land re-vegetation and maintenance. Former mining infrastructure that will be rehabilitated at the mine closure stage includes the mining area, mining roads and the sediment pond.

Legal Basis

Mining operations undertaken by mining companies must comply with the prevailing laws and regulations, namely Government Regulations, Ministerial Regulations and contractual instruments in the form of a Contract of Work (CoW) and Coal Mining Concession Working Agreement (PKP2B).

Legal News

The relevant legislation includes, among others:

- Law no. 4/2009 on Minerals and Coal Mining,
- Government Regulation No 23/2010, regarding Implementation of Mining and Mineral Mining Activities Jo PP.
- Law 24/2012 , regarding Implementation of Mineral and Coal Mining Activities,
- Government Regulation No. 55/2010, regarding Supervision of Mineral and Coal Mining, Government Regulation no. 9/2012, regarding Types and Rates of PNBK Applicable at KESDM,
- Presidential Decree no. 75/1996, regarding the Basic Provisions of PKP2B,
- Regulation of the Minister of Energy and Mineral Resources No. 17/2010, regarding Procedures for the Determination of Minerals and Coal Sales Price,
- CoW and Coal Mining Concession Working Agreement (PKP2B).

Conclusion

Based on Regulation of the Minister of Energy and Mineral Resources Number 7 of 2014, a mining company can reclaim its security deposit if it has obtained approval from the ministry. Based on the ministerial regulation, the authorities will evaluate the post-mining area and the security deposit will be reimbursed according to the success of the company's reclamation and re-vegetation program.

Failure to successfully carry out a reclamation and re-vegetation program could lead to financial losses in the form of non-refund of the security deposit as well as other sanctions which could include hiring a third party at the company's expense to complete the reclamation and re-vegetation program and/or suspension of the company's IUP, meaning that it would no longer be able to engage in mining operations.

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