

NATIONAL VITAL OBJECT ON ENERGY AND MINERAL RESOURCES

(Regulation Minister Energy and Mineral Resources of the Republic of Indonesia Number 4 Year 2017, dated January 11, 2017)
[Continued from Business News No. 8997-8998 page 44-48]

Article 3

The specific criteria referred to in Article 2 paragraph (3) letter a shall comply with:

a. for Natural Oil and Gas Sub-Division:

1. has strategic role in securing Natural Oil and Gas supply nationwide; and/or
2. has strategic role in securing supply of oil fuel, gas fuel, liquefied petroleum gas, liquefied natural gas, compressed natural gas, or Natural Oil and Gas processed product;

b. for Electric Power Sub-Division:

1. serve consumers within at least Provincial level;
2. has electric power installation to supply industrial zone;
3. has electric power generating installation connected to transmission network system with tension of minimum 150 kV (one hundred fifty kiloVolt);
4. has electric power transmission system with tension of at least 150 kV (one hundred fifty kiloVolt);
5. has mastergardu ;
6. has transmission system controlling center or electric power distribution; and/or
7. serve Administration Center, transportation, or telecommunication system nationwide or internationally;

c. for Mineral and Coal Sub-Division:

1. has strategic role in securing supply of domestic need and has joint operation with local user or fulfill

- supply to processing facilities and/or mineral or coal refinery;
- 2. is located within national strategic zone;
- 3. is employing at least 5.000 (five thousand) persons.;
- 4. total investment is minimum Rp.5.000.000. 000.000,00 (five trillion Rupiahs); and/or
- 5. contributes to State Non-Tax Income from mineral or coal minimum Rp.300.000.000.000,00 (three hundred billion Rupiahs) per annum; and
- d. for New Energy, Renewable Energy, and Preserved Energy:
 - 1. uses as prime source of energy for electric power generator for public interest and/or
 - 2. investment value minimum Rp.100.000.000.000,00 (one hundred billion Rupiahs) at submission of application for Obviṭnas on ESDM.

Article 4

- (1) Administrative requirement as referred to in Article 2 paragraph(3) letter b covers:
 - a. public requirement;and
 - b. specific requirement.
- (2) Public requirement referred to in paragraph (1) letter a covers;
 - a. business entity or permanent business, that at least consist of management structure in line with the provisions in the statutory regulation, total number workers, total value of investment, and total production;
 - b. copy of Deed of Establishment of business entity or permanent business operating on Energy and Mineral Resources, and Deed of Amendment that is ratified by the competent authority;
 - c. Obligatory Taxpayer Identification Number:

- 1) business entity or permanent business ;
- 2) President Director;
- 3) Directors;
- 4) Commissioners; and
- 5) Shareholders.

- d. proof of settlement payment of obligatory taxes and/or State Non-Tax Income for the last three (3) years in line with the provisions in the statutory regulation on State Finance;
- e. proof of implementation of development program and empowerment of the community and/or social and environmental responsibility; and
- f. copy of permits, such as permits on land, living environment, and utilization of forest zone.

(3) After fulfilling public needs as referred to in paragraph (2), permanent business shall be obliged to provide Statement Letter of Appointment from the Head Office.

(4) The specific requirement referred to in paragraph (1) letter b covers:

a. Natural Oil and Gas Sub-Division, supported by copy of:

1. Joint Operation Contract;
2. Business License for:
 - a) processing;
 - b) transportation;
 - c) storage; or
 - d) commercial; and
3. Financial report of business entity or permanent business entity during the last three (3) years that has been audited by Public Accountant;

b. Electric Power Sub-Division, supported by copy of:

1. business license for electric power supply and certificate of operability and/or stipulation of business area for those controlling business area; and
 2. Financial report on business entity or permanent business during the last three (3) years that has been audited by Public Accountant;
- c. Mineral and Coal Sub-Division supported by copy of:
1. business license for mining production operation, business license for specific production operation, work contract, or work contract on Coal mining exploitation, work contract, or Coal mining.
 2. document on living environment;
 3. document on approved reclamation plan and reclamation security plan;
 4. document and approval of the latest feasibility study;
 5. document on approved post-mining plan and post-mining security;
 6. document on the result of internal audit on mineral and coal mining safety management system;
 7. implementation of reclamation based on reclamation plan as proven in the reclamation security; and
 8. financial report of business entity or permanent business entity during the last three (3) years that has been audited by Public Auditor; beside compliance with the specific requirement as referred to in letter c, the holder of business license for mining production operation or business license for mining specific production operation with supporting Note of Commitment of domestic user; and
- d. new energy, renewable energy, and preserved energy supported by:
1. License for Geothermal, Joint Operation Contract, Authority to exploitation or License for exploitation;
 2. steam and electric power production plan; and
 3. financial report of business entity or permanent business during the last one (1) year for new company, or during the last three (3) years for old company that has been audited by Public Accountant.

Article 5

The technical requirement referred to in Article 2 paragraph (3) letter c covers:

- a. brief description of activity and facilities possessed;
- b. zone / location;
- c. border coordinate point;
- d. plot plan of construction / installation;
- e. map of field location;
- f. business on Energy and Mineral Resources;
- g. site plan to be proposed as Obvitnas on ESDM;
- h. potential threat and disturbance, either originating either from internal or external environment covering:
 - 1) crimes, such as, fire, destruction, environmental pollution, border conflict, terrorism, and other type of crime; and
 - 2) non-crime, such as, occupational strike, occupational accident, riot, or natural disaster; and
- i. safeguarding system, organization structure, safeguarding organization, duty and function of safeguarding personnel, standard qualification, and capacity of safeguarding personnel, safeguarding facilities and standard safeguarding operation activity of business entity or permanent business .

CHAPTER III

PROCEDURE FOR STIPULATION OF

OBVITNAS ON ESDM

Article 6

Business entity or permanent business based on its business sub-division as referred to in Article 2 paragraph (1) shall be obliged to submit application for stipulation as Obvitnas on ESDM to the through the relevant Director General, supported by administration requirement and technical requirement as referred to in Article 4 and Article 5.

Article 7

- (1) Directorate Generalterkait melakukan verifikasi terhadap permohonan penetapan Obvitnas Bidang ESDM as referred to in Article 6.

- (2) Result of verification on the application for stipulation Obvitnas on ESDM as referred to in paragraph (1) shall be set forth in Sheet of Verification of Stipulation as Obvitnas on ESDM based on the format as set forth in Attachment-IIA constituting inseparable part of this Regulation of Minister.

Article 8

If the result of verification of the application for stipulation of Obvitnas on ESDM is declared:

- a. fails to comply with the provision referred to in Article 2 paragraph (2) and paragraph (3), the relevant Director General shall notify the rejection to application in writing to business entity or permanent business;
or
- b. comply with the provision referred to in Article 2 paragraph (2) and paragraph (3), the relevant Director General shall forward the application for stipulation of Obvitnas on ESDM to the Minister through the Secretary General, supported by Sheet on Result of Verification to the application for stipulation of Obvitnas on ESDM.

Article 9

- (1) The Secretary General shall assign the Head of State-Owned Property Management Center to survey the field against the application for stipulation of Obvitnas on ESDM.
- (2) The field survey referred to in paragraph (1) is intended to identify any potential threat and disturbance in preparing means of security and safeguarding of Obvitnas on ESDM.
- (3) The Head of State-Owned Property Management Center shall involve a Team of Obvitnas on ESDM to survey the field as referred to in paragraph (1).
- (4) In potential threat and disturbance are found out during field survey, the Team on Obvitnas on ESDM shall record the existing issue in Minutes of Field Audit in the application for stipulation of Obvitnas on ESDM.

- (5) Business entity or permanent business shall be obliged to settle the issue referred to in paragraph (4) according to the term stipulated in the Minutes of Field Audit on the application for stipulation of Obvitnas on ESDM.

Article 10

- (1) The Team of Obvitnas on ESDM referred to in Article 9 paragraph (3) shall be established by the Minister.
- (2) The Team of Obvitnas on ESDM shall be assigned duty to:
- a. coordinate with the Ministry / Institution / Regional Institution in the context of stipulation of Obvitnas on ESDM;
 - b. conduct field survey based on the result of verification of the application for stipulation of Obvitnas on ESDM;
 - c. submit Report on the Result of Field Survey on the application for stipulation of Obvitnas on ESDM and Minutes of Field Audit on the application for stipulation of Obvitnas on ESDM to the Chairman of Team of Obvitnas on ESDM through the Head of State-Owned Property Management Center according to the format set forth in Attachment-IB and Attachment-IC constituting inseparable part of this Regulation of Minister;
 - d. conduct evaluation on Obvitnas on ESDM;
 - e. conduct monitoring in the context of management, supervision, and control in the implementation of safeguarding conducted by the Management of Obvitnas on ESDM; and
 - f. submit report in writing on the result of exercising the duty to the Minister through the Secretary General within one (1) month as of expiry of the service year of the Team or at any time as required.

(3) The Team of Obvitnas on ESDM referred to in paragraph (1) consists of:

- a. Director General and Deputy at the Ministry of Coordinator on Politic, Law and Security in charge of National Vital Object, as Responsible Party;**
- b. Secretary General, as Chairman;**
- c. Director of Safeguarding Vital Object, Security Preservance Agency, Police Force of the State of the Republic of Indonesia, as Vice President;**
- d. Head of State-Owned Property Management Center, Ministry of Energy and Mineral Resources, as Secretary; and**
- e. Members comprise Representative of:**
 - 1. Secretariate Generall, Ministry of Energy and Mineral Resources;**
 - 2. Directorate General;**
 - 3. Ministry of Politics, Law and Security**
 - 4. Police Force of the State of the Republic of Indonesia;**
 - 5. State Intelligent Agency; and/or**
 - 6. Other party considered necessary.**

Article 11

- (1) Based on the result of field survey as referred to in Article 9, the Head of State-Owned Property Management Center shall prepare a plan on Decision of Minister on stipulation of Obvitnas on ESDM for further submission to the Minister through the Secretary General, supported by Minutes of Field Audit on the application for stipulation of Obvitnas on ESDM.**
- (2) The Minister shall stipulate Obvitnas on ESDM under Decision of Minister.**
- (3) Notification on stipulation of Obvitnas on ESDM as referred to in paragraph (2) must be submitted in writing**

by the Head of State-Owned Property Management Center to the business entity or permanent business concerned.

CHAPTER IV

TERM OF OBVITNAS ON ESDM

Article 12

- (1) Stipulation of Obvitnas on ESDM referred to in Article 11 paragraph (2) is valid for five (5) years.
- (2) Management of Obvitnas on ESDM shall be responsible for the management of security of Obvitnas on ESDM during the term referred to in paragraph (1), in coordination with the Police Force of the State of the Republic of Indonesia.

Article 13

The Team of Obvitnas on ESDM shall conduct evaluation on Obvitnas on ESDM that has been stipulated as referred to in Article 11 paragraph (2) once in every two (2) years or at any time as required.

Article 14

- (1) Management of Obvitnas on ESDM may submit application for re-stipulation of Obvitnas on ESDM prior to expiry of the term referred to in Article 12 paragraph (1), within six (6) months or at the latest two (2) months prior to expiry of the term of Obvitnas on ESDM.
- (2) The application for re-stipulation of Obvitnas on ESDM as referred to in paragraph (1) shall comply with the procedure for application for stipulation of Obvitnas on ESDM.

CHAPTER V

OBLIGATORY MANAGEMENT OF

OBVITNAS ON ESDM

Article 15

- (1) During the term of Obvitnas on ESDM, Management of Obvitnas on ESDM shall be obliged to:

- a. exercise safeguarding over Obvitnas on ESDM in line with the provisions in the statutory regulation on safeguarding management system;
- b. comply with the specific characteristic and criteria as referred to in Article 2 paragraph (2) and Article 3;
- c. settle any dispute on land / plot of land occurring after the stipulation of Obvitnas on ESDM within one (1) year as of the occurrence of dispute on land / plot of land;
- d. report any threat and disturbance to the safeguarding of Obvitnas on ESDM to the Minister through the Team of Obvitnas on ESDM; and
- e. submit written report once every six (6) months or at any time as required to the Minister through the Secretary General with copy to the Director General.

(2) The report referred to in paragraph (1) letter e shall at least state the:

- a. name of Management of Obvitnas on ESDM;
- b. organizational structure;
- c. activity, facilities, construction / installation and/or business;
- d. activity on safeguarding conducted based on Safeguarding Management System on Obvitnas on ESDM; and
- e. threat / disturbance to security occurring and handling thereof.

Article 16

- (1) In the event of any change to the name of Management of Obvitnas on ESDM, organizational structure, activity, facilities, construction / installation, and/or business, Management of Obvitnas on ESDM shall be obliged to report the change made to the Minister supported by application for adjustment to stipulation on Obvitnas on ESDM within three (3) months as of the date such change takes place.

- (2) The adjustment to stipulation of Obvitnas on ESDM as referred to in paragraph (1) shall be issued by the Minister.

CHAPTER VI

ADMINISTRATIVE PENALTY

Article 17

- (1) Management of Obvitnas on ESDM that violates the obligation referred to in Article 15 paragraph (1) and Article 16 paragraph (1) is subject to administrative penalty.
- (2) The administrative penalty referred to in paragraph (1) shall be in the form of:
- written reminder; or
 - revocation of the status of Obvitnas on ESDM.

Article 18

- (1) Administrative penalty in the form of written reminder will be charged on the Management of Obvitnas on ESDM that violates the obligations referred to in Article 15 paragraph (1) letter a, letter c, letter d, and letter e.
- (2) The Secretary General shall impose administrative penalty in the form of written reminder on the Management of Obvitnas Bidang ESDM.
- (3) The Management of Obvitnas on ESDM that is charged written reminder as referred to in paragraph (1) shall be obliged to comply with the obligation that has been violated within two (2) months as of the written reminder is received.
- (4) During the term of Obvitnas on ESDM only three times written administrative penalty at maximum may be made.

Article 19

- (1) Administrative penalty in the form of revocation of status of Obvitnas on ESDM will be charged on the

Management of Obvitnas on ESDM that;

- a. violates the obligation referred to in Article 15 paragraph (1) letter b; or
- b. has been charged three (3) times administrative penalty in the form of written reminders the term of Obvitnas on ESDM.

(2) The Minister shall stipulate administrative penalty in the form of revocation of status of Obvitnas on ESDM.

(3) Management of Obvitnas on ESDM being charged the penalty referred to in paragraph (1) may submit application for re-stipulation of Obvitnas on ESDM, within one (1) year at the earliest as of revocation of the status.

CHAPTER VII

TRANSITIONAL PROVISION

Article 20

By the time this Regulation of Minister takes force:

- a. Obvitnas on ESDM stipulated prior to enactment of this Regulation of Minister survives, on the provision that the Management of Obvitnas on ESDM shall be obliged to submit application for adjustment based on the provisions in the statutory regulation within two (2) years at the latest effective as of the date this Regulation Minister is enacted.
- b. in the event that Management of Obvitnas on ESDM fails to submit application for adjustment as referred to in letter a, the status of Obvitnas on ESDM shall revoke; and
- c. the application for stipulation of Obvitnas on ESDM submitted prior to this Regulation Minister, business entity or permanent business shall be obliged to make adjustment to the provisions in this Regulation of Minister.

CHAPTER VIII

CLOSING PROVISION

Article 21

This Regulation of Minister takes effect on the date it is enacted.

For public recognition, this Regulation of Minister shall be announced by placing it in the State Gazette of the Republic of Indonesia.

Stipulated di Jakarta

pada tanggal 11 Januari 2017

MINISTER ENERGY AND MINERAL RESOURCE

REPUBLIC OF INDONESIA,

sgd.

IGNASIUS JONAN

Enacted di Jakarta

pada tanggal 11 Januari 2017

DIRECTOR GENERAL OF

REGULATION PERLAWAN

MINISTRY OF LAW AND HUMAN RIGHTS

REPUBLIC OF INDONESIA,

sgd.

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA

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Note from Editor:

- Due to technical reason no Attachment is provided herein.

(MA)