

## NEWSLETTER

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### NEW REGULATION IN GUIDANCE FOR BORROW TO USE FOREST AREA PERMITS

The Ministry of Environment and Forestry has issued the Regulation No. P.50/Menlhk/Setjen/Kum.1/6/2016 concerning the Guidance for Borrow to Use Forest Area Permits ("**Regulation No. 50**"). This updated regulation replaces and repeals the previous one, Ministry of Forestry Regulation No. P.16/Menhut-II/2014 concerning Guidance for Borrow to Use Forest Area Permits.

The Regulation No. 50 updates the provisions of borrow to use permits as mandated by the Government Regulation No. 105 of 2015 concerning the Second Amendment to Government Regulation No. 24 of 2010 concerning the Forest Area Utilization.

#### The Types of Non-Forestry Business Activities in the Forest Area

The Regulation No. 50 stipulates that the usages of non-forestry business activities in forest area can only be conducted for the following activities:

- a. Religious activities;
- b. Mining activities, including mineral, coal, oil and gas and smelter activities;
- c. Electricity power plant, installation, transmission, and electricity distribution and geothermal;
- d. Telecommunication networks, radio stations, television stations, space observation stations and earth stations for astronomical observations (*stasiun bumi pengamatan keantariksaan*);
- e. Public roads, highway roads and train railways;
- f. Transportation facilities which is not included as public transportation but for the purpose of transportation of production proceeds (*pengangkutan hasil produksi*);
- g. Reservoirs, dams, irrigations, drinking water supplies, drainages and sanitations, and other irrigation buildings;
- h. Public facilities;
- i. Industries other than industry for primary forestry products;
- j. Defenses and securities purpose i.e. military training facilities, radar station, watch tower (*menara pengintai*) and border checkpoint post (*pos lintas batas negara*);
- k. Public safety facilities i.e. sea traffic safety, air traffic safety, road traffic safety, quarantines, meteorology, climatology and geophysics facilities;
- l. Natural disaster evacuation routes (*jalur evakuasi bencana alam*), Natural disaster camp (*penampungan korban bencana alam*);
- m. Specific plantations for food security purpose (*ketahanan pangan*);
- n. Specific plantations for energy security purpose (*ketahanan energi*); and
- o. Airports and seaports constructions.

In the Regulation No. 50, the government has expanded the new activities for borrow to use forest areas, such as smelter activities, earth stations for astronomical observations, reservoirs and dams,

border checkpoint posts for defense and security purposes, evacuation routes for natural disasters and airport and seaport constructions.

## The Procedures and the Requirements of Applications for the Usages of Forestry Area Permits

A borrow to use permit may be requested by ministers or government officials with a similar level, heads of non-ministry institutions, governors, mayors/regents, private business, individuals, groups of people and/or communities (collectively shall be referred as “**Applicants**”).

The applications for borrow to use permits for commercial purposes shall be submitted to the Minister of Environment and Forestry (“**Minister**”) via the Head of the Investment Coordinating Board (*Badan Koordinasi Penanaman Modal/BKPM*). Meanwhile, the applications for borrow to use permits for non-commercial purpose (such as religious purpose, disaster camps and etc.) shall be submitted directly to the Minister.

The applications to the Minister shall fulfill the following administrative and technical requirements:

	Commercial Purposes	Non-Commercial Purposes
Administrative Requirements	1. Business licenses, such as mining business licenses, electricity procurement licenses, except for the activities which do not require licenses or agreements;	1. Recommendation letter from the relevant governor concerning the utilization of the forest area; and
	2. Recommendation letter from the relevant governor regarding the utilization of the forest area;	2. Statement letter which declares the following: a) a commitment to fulfill all of the obligations of the permit holder; b) the validity of all documents; and c) a commitment to not utilize the relevant forest area before a permit has been issued.
	3. Company’s deed of establishment and its amendment;	
	4. Company profile;	
	5. Taxpayer identification number (NPWP);	
	6. A recent audited financial	

	<p>statements;</p> <p>7. A statement in the form of a notarial deed which states the following:</p> <ol style="list-style-type: none"> <li>a. A commitment to fulfill all of the obligations of the permit holder;</li> <li>b. The validity of all the documents; and</li> <li>c. A commitment to not utilize the relevant forest areas before a permit has been issued by the authorities.</li> </ol> <p>Note: the state/regional owned enterprises, oil and gas companies and geothermal companies are exempted from the requirements number 3-6.</p>	
Technical Requirements	<ol style="list-style-type: none"> <li>1. The environmental permits, Environmental Impact Analysis (AMDAL), and/or Environmental Management Efforts Reports and Environmental Monitoring Efforts Reports (UKL-UPL);</li> <li>2. A working plan for forest utilization and a location map with a scale of at least 1:50,000;</li> <li>3. A remote sensing map with a resolution of at least five meters;</li> <li>4. A technical recommendation made by the Director General of Mineral and Coal (for minerals and coal business permits issued by a governor);</li> <li>5. A statement letter with duty stamped from the Company executive officers which confirm they employ the forestry technical staffs (for production operation mining activities); and</li> <li>6. A technical recommendation</li> </ol>	<ol style="list-style-type: none"> <li>1. The environmental permits, Environmental Impact Analysis (AMDAL), and/or Environmental Management Efforts Reports and Environmental Monitoring Efforts Reports (UKL-UPL);</li> <li>2. A working plan for forest utilization and a location map with a scale of at least 1:50,000; and</li> <li>3. Technical recommendation from the president director of Perum Perhutani (if the relevant forest area is currently under the authority of Perum Perhutani).</li> </ol>

	<p>from the president director of Perum Perhutani (if the relevant forest area is currently under the authority of Perum Perhutani).</p> <p>Note: electricity service activities, including installation, transmission, and electric distribution; telecommunication networks, radio stations, television station;</p> <p>public roads, and train railways; and survey and exploration activities are exempted from requirement number 4.</p>	
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After receiving the complete application from the applicant, the legal officers in the BKPM will check the completeness of the application and forward it to Liaison officer (*Pejabat Penghubung*) of the Ministry of Environment and Forestry in BKPM. The Liaison officer shall assess the completeness of application within one day after receiving the application. If the application is not complete, the said legal officer will return the application to the applicant or issue a rejection letter. However, if the application is complete, the said legal officer will forward it to the Director General of Forest Planning and Environmental System at the Ministry of Environment and Forestry (“**Director General**”).

Further, the Director General shall conduct the technical assessment of the application within 20 days and forward the application with the assessment result to the Minister via General Secretary (*Sekretaris Jenderal*) at Ministry of Environment and Forestry. Further, the Minister will issue a decree for the borrow to use forest area to the applicant (if the technical assessment is satisfactory) or issue a rejection letter to the applicant (if the technical assessment is unsatisfactory).

### The Time Period for Borrow to Use Forest Area Permits

Types of Activities	Time Period
Survey and exploration	2 years
Mining operation production, including mineral, coal, oil and gas and their facilities	In accordance with the relevant mining permits.
Electricity power plant, installation, transmission, and electricity distribution and geothermal	In accordance with the relevant electricity activity permits. (Time period does not apply to state/regional owned enterprises)
Telecommunication networks, radio stations, television stations	In accordance with the relevant telecommunications activity permits. (Time period does not apply to state/regional owned enterprises)
Transportation facilities which is not included as	Up to 20 years

public transportation but for the purpose of transportation of production proceeds	
Temporary Natural disaster camp ( <i>penampungan korban bencana alam</i> )	
Industries other than primary forestry products	
Plantations for food security purpose ( <i>ketahanan pangan</i> );	
Plantations for energy security purpose ( <i>ketahanan energi</i> );	
Religious activities	
Defenses and securities purpose i.e. military training facilities, radar station, watch tower ( <i>menara pengintai</i> ) and border checkpoint post ( <i>pos lintas batas negara</i> )	
Public safety facilities i.e. sea traffic safety, air traffic safety, road traffic safety, quarantines, meteorology, climatology and geophysics facilities	
Reservoirs, dams, irrigations, drinking water supplies, drainages and sanitations, and other irrigation buildings	
Public roads, highway roads and train railways	
Public facilities	
Airports and seaports constructions	

The time period is granted as long as the area is being used for such relevant activities

The borrow to use forest area permit is extendable based on the result of the evaluation to the implementation of the obligations of the said permits.

This Regulation No. 50 came into force as from 14 June 2016.