

**MINISTERIAL DECREE OF ENVIRONMENT AND FORESTRY
OF THE REPUBLIC OF INDONESIA
Number: P.50/Menlhk/Setjen/Kum.1/6/2016**

CONCERNING

GUIDELINE OF BORROW-TO-USE AREA OF FOREST

**BY THE GRACE OF GOD ALMIGHTY
ENVIRONMENT AND FORESTRY MINISTER
OF THE REPUBLIC OF INDONESIA,**

Considering:

- a. that based on Government Regulation Number 24 Year 2010 on The Use of Area of Forest, as having been amended several times and the latest amendment by Government Regulation Number 105 Year 2015 on the second amendment of government regulation (PP) Number 24 Year 2010 on The Use of Area of Forest, there has been amendment concerning the regulation about the type of activity, obligation of the holder of the permit of borrow-to-use area of forest and the procedure of the use of area of forest;
- b. that based on the consideration as cited in letter a, it shall be necessary to enact a Ministerial Decree of Environment and Forestry on guideline of borrow-to-use area of forest;

Referring to in

1. Law Number 41 Year 1999 on Forestry (State Gazette of the Republic of Indonesia Year 1999 Number 167, Supplement to State Gazette of the Republic of Indonesia Number 3888), as having been amended by Law Number 19 Year 2004 on Enactment of Government Regulation in lieu of Law Number 1 Year 2004 on Amendment of Law Number 41 Year 1999 on Forestry, of which to become a law (State Gazette of the Republic of Indonesia Year 2004 Number 86, Supplement to State Gazette of the Republic of Indonesia Number 4412);
2. Law Number 21 Year 2001 on Special Autonomy for the Province of Papua (State Gazette of the Republic of Indonesia Year 2001 Number 135, Supplement to State Gazette of the Republic of Indonesia Number 4151);
3. Law Number 22 Year 2001 on Oil and Natural Gas (State Gazette of the Republic of Indonesia Year 2001 Number 136, Supplement to State Gazette of the Republic of Indonesia Number 4152);
4. Law Number 3 Year 2002 on State Defense (State Gazette of the Republic of Indonesia Year 2002 Number 3, Supplement to State Gazette of the Republic of Indonesia Number 4169);
5. Law Number 11 Year 2006 on Provincial Government of Aceh (State Gazette of the Republic of Indonesia Year 2006 Number 62,

Supplement to State Gazette of the Republic of Indonesia Number 4633);

6. Law Number 26 Year 2007 on Spatial Plan (State Gazette of the Republic of Indonesia Year 2007 Number 68, Supplement to State Gazette of the Republic of Indonesia Number 4725);
7. Law Number 4 Year 2009 on Mineral and Coal Mining (State Gazette of the Republic of Indonesia Year 2009 Number 4, Supplement to State Gazette of the Republic of Indonesia Number 4959);
8. Law Number 25 Year 2009 on Public Service (State Gazette of the Republic of Indonesia Year 2009 Number 112, Supplement to State Gazette of the Republic of Indonesia Number 5038);
9. Law Number 32 Year 2009 on Protection and Management of Environment (State Gazette of the Republic of Indonesia Year 2009 Number 140, Supplement to State Gazette of the Republic of Indonesia Number 5059);
10. Law Number 18 Year 2013 on Prevention and Evasion of Forest Destruction (State Gazette of the Republic of Indonesia Year 2013 Number 130, Supplement to State Gazette of the Republic of Indonesia Number 5432);
11. Law Number 23 Year 2014 on Regional Government (State Gazette of the Republic of Indonesia Year 2014 Number 244, Supplement to State Gazette of the Republic of Indonesia Number 5587), as having been amended by Law Number 9 Year 2015 on Amendment of Law Number 23 Year 2014 on Regional Government (State Gazette of the Republic of Indonesia Year 2015 Number 58, Supplement to State Gazette of the Republic of Indonesia Number 5679),
12. Government Regulation (PP) Number 35 Year 2014 on Upstream Activities of Oil and Gas Sector (State Gazette of the Republic of Indonesia Year 2004 Number 123, Supplement to State Gazette of the Republic of Indonesia Number 4435), as having been amended by government regulation (PP) Number 34 Year 2005 on Amendment of government regulation (PP) Number 35 Year 2004 on Upstream Activities of Oil and Gas Sector (State Gazette of the Republic of Indonesia Year 2005 Number 81, Supplement to State Gazette of the Republic of Indonesia Number 4530);
13. Government Regulation (PP) Number 44 Year 2004 on Forestry Planning (State Gazette of the Republic of Indonesia Year 2004 Number 146, Supplement to State Gazette of the Republic of Indonesia Number 4452);
14. Government Regulation (PP) Number 45 Year 2004 on Forest Protection (State Gazette of the Republic of Indonesia Year 2004 Number 147, Supplement to State Gazette of the Republic of Indonesia

Number 4453), as having been amended by government regulation (PP) Number 60 Year 2009 on Amendment of government regulation (PP) Number 45 Year 2004 on Forest Protection (State Gazette of the Republic of Indonesia Year 2009 Number 137, Supplement to State Gazette of the Republic of Indonesia Number 5056);

15. Government Regulation (PP) Number 6 Year 2007 on Forest Management and Preparation of Plan of Forest Management and Utilization (State Gazette of the Republic of Indonesia Year 2007 Number 22, Supplement to State Gazette of the Republic of Indonesia Number 4696), as having been amended by government regulation (PP) Number 3 Year 2008 on Amendment of government regulation (PP) Number 6 Year 2007 on Forest Management and Preparation of Plan of Forest Management and Utilization (State Gazette of the Republic of Indonesia Year 2008 Number 16, Supplement to State Gazette of the Republic of Indonesia Number 4814);
16. Government Regulation (PP) Number 26 Year 2008 on National Spatial Plan (RTRWN) (State Gazette of the Republic of Indonesia Year 2008 Number 48, Supplement to State Gazette of the Republic of Indonesia Number 4833);
17. Government Regulation (PP) Number 76 Year 2008 on Rehabilitation and Reclamation of Forest (State Gazette of the Republic of Indonesia Year 2008 Number 201, Supplement to State Gazette of the Republic of Indonesia Number 4947);
18. Government Regulation (PP) Number 15 Year 2010 on Implementation of Spatial Plan (State Gazette of the Republic of Indonesia Year 2010 Number 21, Supplement to State Gazette of the Republic of Indonesia Number 5103);
19. Government Regulation (PP) Number 22 Year 2010 on Mining Area (State Gazette of the Republic of Indonesia Year 2010 Number 28, Supplement to State Gazette of the Republic of Indonesia Number 5110);
20. Government Regulation (PP) Number 23 Year 2010 on Implementation of Activity of Mining Undertakings of Mineral and Coal (State Gazette of the Republic of Indonesia Year 2010 Number 29, Supplement to State Gazette of the Republic of Indonesia Number 5111), as having been amended several times and the latest amendment by government regulation (PP) Number 1 Year 2014 on the second amendment of government regulation (PP) Number 23 Year 2010 on Implementation of Activity of Mining Undertakings of Mineral and Coal (State Gazette of the Republic of Indonesia Year 2014 Number 1, Supplement to State Gazette of the Republic of Indonesia Number 5489);
21. Government Regulation (PP) Number 24 Year 2010 on Utilization of Forest Area (State Gazette of the Republic of Indonesia Year 2010 Number 30, Supplement to State Gazette of the Republic of Indonesia

Number 5112), as having been amended several times and the latest amendment by government regulation (PP) Number 105 Year 2015 on the second amendment of government regulation (PP) Number 24 Year 2010 on Utilization of Forest Area (State Gazette of the Republic of Indonesia Year 2015 Number 327, Supplement to State Gazette of the Republic of Indonesia Number 5795);

22. Government Regulation (PP) Number 72 Year 2010 on State's Public Company of Forestry (Perum Perhutani) (State Gazette of the Republic of Indonesia Year 2010 Number 142);
23. Government Regulation (PP) Number 27 Year 2012 on Environmental Permit (State Gazette of the Republic of Indonesia Year 2012 Number 48, Supplement to State Gazette of the Republic of Indonesia Number 5285);
24. Government Regulation (PP) Number 33 Year 2014 on Type and Tariff of State's Non-tax Revenues deriving from the Utilization of Forest Areas for the Sake of Development of Non-Forestry Activities under the Ministry of Forestry (State Gazette of the Republic of Indonesia Year 2014 Number 107, Supplement to State Gazette of the Republic of Indonesia Number 5538);
25. Presidential Decree Number 41 Year 2004 on Permit or Agreement of Mining Sector in Forest Area;
26. Presidential Decree Number 5 Year 2006 on National Policy of Energy;
27. Presidential Decree Number 28 Year 2011 on Utilization of Protected Forest for Underground Mining;
28. Presidential Decree Number 9 Year 2013 on Implementation of Management of Upstream Activities of Oil and Gas;
29. Presidential Decree Number 97 Year 2014 on Implementation of One-door Integrated Services;
30. Presidential Decree 121/P Year 2014 on Creation of Ministries and Assignment of Work Cabinet of Years 2014-2019 as having been amended by Presidential Decree Number 80/P Year 2015 on Creation and Assignment of Cabinet Secretary;
31. Presidential Decree Number 7 Year 2015 on Organization of State Ministry (State Gazette of the Republic of Indonesia Year 2015 Number 8);
32. Presidential Decree Number 16 Year 2015 on Ministry of Environment and Forestry (State Gazette of the Republic of Indonesia Year 2015 Number 17);

33. Presidential Decree Number 3 Year 2016 on Acceleration of Implementation of National Strategic Project (State Gazette of the Republic of Indonesia Year 2016 Number 4);
34. Ministerial Decree of Environment and Forestry Number P.97/ Menhut-II/2014 on Delegation of Authority in Providing Permit and Non-permit in the Sector of Environment and Forestry in regard of the Implementation of One-door Integrated Services to the Investment Coordinating Board (BKPM) (State Gazette of the Republic of Indonesia Year 2014 Number 1993), as having been amended by Ministerial Decree of Environment and Forestry Number P.1/Menhut-II/2015 (State Gazette of the Republic of Indonesia Year 2015 Number 141);
35. Ministerial Decree of Environment and Forestry Number P.7/ MenLHK-II/2015 on Technical Guideline in Providing Permit and Non-permit in the Sector of Environment and Forestry in regard of the Implementation of One-door Integrated Services (State Gazette of the Republic of Indonesia Year 2015 Number 355);
36. Ministerial Decree of Environment and Forestry Number P.18/ MenLHK-II/2015 on Organization and Work Procedure of Environment Ministry (State Gazette of the Republic of Indonesia Year 2015 Number 713);

In Regard of : Letter from Minister of Energy and Mineral Resources Number 4250/30/MEM.B/2010 dated 21 June 2010 on Preparation of Criteria of Significant Impacts in Wide Scope with Strategic Values;

DECIDES:

To Enact MINISTERIAL DECREE OF ENVIRONMENT AND FORESTRY ON GUIDELINE OF BORROW-TO-USE AREA OF FORESTS

**CHAPTER I
GENERAL PROVISION**

**Part One
Meaning**

Article 1

Under this Ministerial Decree what is meant by:

1. Forest shall be an integral ecosystem in form of land setting comprising natural bio-resources dominated by trees in integration with the natural environment, of which one with another shall be inseparable.
2. Area of forest shall be a certain area as determined by the Government, of which the existence shall be maintained as a permanent area of forest.

3. Productive Forest shall be an area of forest whose main function is to yield forest produces.
4. Protected Forest shall be an area of forest whose main function is as the protection of buffer system of life in regard of water management, flood prevention, erosion control, prevention of sea-water intrusion, and maintenance of soil fertility.
5. Small Island shall be an island with an area of less than or equal to 2,000 (two thousand) square kilometers including its integrity to ecosystem.
6. The Use or Utilization of Forest Area shall be the use of part of forest area for the sake of development of non-forestry activities without any intention to convert the function and purpose of the forest area.
7. Non-commercial Use of Forest Area shall be the use of forest area for non-profit purpose.
8. Commercial Use of Forest Area shall be the use of forest area for profit purpose.
9. Permit of Borrow-to-use Area of Forest shall be the permit for the use of forest area for the sake of development of non-forestry activities without any intention to convert the function and purpose of the forest area.
10. Activity with strategic purpose shall be the activity that is prioritized because of its very significant impact on a national basis for the sake of State Dignity, Security and Defense of State, as well as Economic, Social, Cultural and/or Environmental Development.
11. Compensation shall be one of the obligations of the holder of the permit of borrow-to-use area of forest to provide and handover a non-forest area or pay an amount of fund regarded as State's non-tax revenue (PNBP), of which is considered as the replacement of land area of compensation, as regulated under the laws and regulations, or to conduct planting for the sake of rehabilitation of the area of river watershed.
12. State's Non-tax Revenue from the Reduction of Forest area hereinafter referring to PNBP of Forest Use shall be the State's Non-tax Revenue from the use of forest area for the sake of development of non-forest activity under the authority of Ministry of Environment and Forestry, of which is considered as compensation of the area of forest, as in compliance with the prevailing laws and regulations.
13. The non-problematic condition of the would-be land area of compensation in the field on a *de-facto* and *de-jure* basis shall be the condition of the would-be land area of compensation with clear status of no conflict and of no unrightfully occupied condition by certain party, no liability upon it or part of it, and currently not managed by certain party.

14. Forest Reclamation shall be the effort to improve or rehabilitate the forest or area of land with vegetation in the damaged area of forest caused by the use of forest area and in that way it can eventually be re-functioning optimally based on its purpose.
15. Reforestation shall be an effort to plant species of forest trees in the damaged area of forest, in which is grown only by grasses (weeds) or bushes and the effort is to revitalize the function of the forest.
16. L1 shall be an area of the utilized area of forest in hectare of stripping for active mining activity, supporting facility and infrastructure on a permanent basis, and an area for the development and/or an area of buffering for the safety of activity as part of a design that is prepared in the baseline of the use of forest area.
17. L2 shall be an area of the utilized area of forest in hectare that on a temporary basis can technically be reclaimed, of which is part of a design that is prepared in the baseline of the use of forest area.
18. L3 shall be an area of the utilized area of forest in hectare that has permanently been damaged in certain part of it and after having conducted a reclamation the result has yet to be optimal, of which is part of a design that is prepared in the baseline of the use of forest area.
19. The baseline of the use of forest area shall be a description quantitatively and qualitatively of the preliminary condition of the ground coverage or the refill of the borrow-to-use area in every category of L1, L2, and L3, of which is used as the classification of area that can be re-vegetated or cannot be re-vegetated, and it is used as the basis of appraisal of the success of reclamation.
20. The effective area of permit in regard of the use of the forest area shall be an area of permit of the use of forest after having been subtracted by an area of facility and infrastructure and a protected area.
21. National Strategic Project shall be a project conducted by the Central Government, Regional Government, and/ or entity of undertakings with strategic characteristics in boosting and spreading the growth of development for the sake of the welfare of people and the progress of regions.
22. Minister shall be the Minister who is in charge of governmental affairs in environment and forestry.
23. Secretary General shall be the Secretary General of the Ministry of Environment and Forestry.
24. Director General shall be the Director General who is assigned and in charge of planning (plannology) and management of forest and

environment.

25. Director shall be the Director who is assigned and in charge of the permits on the use of forest areas.

CHAPTER II GENERAL

Article 2

In regard of the use of forest area there shall be an aim to regulate the use of part of the forest area for the sake of development of non-forestry activities.

Article 3

- (1) The use of forest area as cited in Article 2 shall be allowed only in:
 - a. Area of Productive Forest; and/ or
 - b. Area of Protected Forest
- (2) The use of forest area as cited in paragraph (1) shall be conducted without converting the main function of the forest area by considering the limit of area and certain period of time as well as the preservation of environment.

Article 4

- (1) The use of forest area for the sake of development of non-forestry activities shall be allowed for any activity with inevitably strategic goals.
- (2) The purpose of development of non-forestry activities as cited in paragraph (1) shall include as follows:
 - a. religious activity such as a place of worship, cemetery and spiritual tourism;
 - b. mining activity such as the mining of mineral, coal, oil and gas including the development of facility, infrastructure and smelter;
 - c. installation of power generation, transmission, distribution of power supplies, power station (GI), as well as those of technology of new and renewable energy sources including geothermal;
 - d. telecommunication network, radio and television relay stations and earth station for outer-space observation;
 - e. public road, toll road, and railways;

- f. transportation means that cannot be categorized as public transportation for the delivery of the result of production;
 - g. pond, water dam, irrigation, potable water drainage, sewage and sanitation, and other water constructions;
 - h. public facilities;
 - i. industries excluding primary industry of forestry;
 - j. defense and security, such as the facility and infrastructure of mock battle (battle drill), relay station, monitoring tower, and inter-Country check point (PLBN);
 - k. supporting infrastructure for public safety such as for the safety of sea traffic, air traffic and land traffic, quarantine, facilities of meteorology, climatology and geo-physics.
 - l. evacuation routes of natural disaster, shelters for the victims of natural disaster, and temporary area for certain undertakings;
 - m. certain agriculture for the sake of food resilience;
 - n. certain agriculture for the sake of energy resilience; or
 - o. development of airport or seaport
- (3) Transportation facility as cited in paragraph (2) letter f shall include the development of road, canal, port or others for the deliveries of the result of production of plantation, agriculture, fishery and others.
- (4) Airport and seaport as cited in paragraph (2) letter o shall be developed only in a province whose area of forest is more than 30 (thirty) percent of the area of river watershed, island, and/or province, and it shall be of a national strategic project.

Article 5

- (1) The use of forest area for the development of non-forestry activities as cited in Article 4 paragraph (2) shall be conducted based on the permit of borrow-to-use area of forest;
- (2) The permit of borrow-to-use area of forest as cited in paragraph (1) shall be applicable based on the requirements as follows:
- a. in a province whose area of forest is equal with or less than 30 (thirty) percent of the area of river watershed, island, and/ or province, it shall be subject to compensation:
 - 1. the land area for commercial use of forest area is in ratio of

1:2.

2. there has to be the activity of planting for the sake of rehabilitation of the area of river watershed especially in the area of forest for the use of forest area of non-commercial purpose in ratio of 1:1.
- b. in a province whose area of forest is more than 30 (thirty) percent of the area of river watershed, island, and/ or province, it is subject to providing a land area of compensation:
1. there have to be a payment of PNBP for the Use of Forest Area and the re-vegetation of the area for the sake of rehabilitation of the area of river watershed especially in an area of forest of commercial purpose in ratio of 1:1.
 2. there has to be the re-vegetation of area for the sake of rehabilitation of the area of river watershed especially in area of forest of non-commercial purpose in ratio of 1:1.
- c. The permit of borrow-to-use area of forest without providing a land area of compensation or without paying PNBP of the Use of Forest Area and without conducting re-vegetation of the area for the sake of rehabilitation of the area of river watershed, the requirements shall be as follows:
1. it shall be used for the facility and infrastructure of battle drill (mock battle), radar station, and monitoring tower.
 2. it shall be used for supporting infrastructure of public safety such as for the safety of sea traffic, air traffic, land traffic, quarantine, and facility of meteorology, climatology and geo-physics.
 3. it is for the activity of survey and exploration.
 4. it is for shelter of the victims of natural disaster, and the use of area is of temporary purpose.
 5. it is for religious activity such as a place of worship, cemetery, and spiritual tourism.
- (3) The implementation of re-vegetation of area for the sake of rehabilitation of the area of river watershed as cited in paragraph (2) letters a and b shall be regulated under a different Ministerial Decree.

Article 6

- (1) The activity of development of non-forestry activities, of which can directly or indirectly support the forestry management shall be carried out under a mechanism of cooperation.

(2) The type of activity that can be carried out based on cooperation as cited in paragraph (1), shall include as follows:

- a. burying/ installing cables along a route/ road;
- b. installation of electricity into villages (non SUTT/ SUTET);
- c. development of canal/ tertiary waterway, normalization of river/ irrigation, and development of dam to prevent floods;
- d. area of garbage disposal;
- e. development of rest area;
- f. improvement of road for public transport or for the deliveries of the result of production;
- g. development of “embung”, check dam, and “sabo”;
- h. development of water reservoir and drainage pipeline;
- i. construction of advertising board or billboard;
- j. planting by certain party of non-forestry sector for the sake of reclamation and rehabilitation of forest;
- k. area for battle drill without the construction of facility and infrastructure;
- l. activity of survey in a period of less than 3 (three) months by governmental institution.

(3) The request for the use of forest area under a mechanism of cooperation as cited in paragraph (1) shall be submitted by the applicant to:

- a. President Director of Perum Perhutani in the work area of Perum Perhutani;
- b. Head of Management Unit of Forestry in the work area of the Management Unit of Forestry;
- c. Head of the Management of Forest Area of Specific Purpose in the work area of the Management of Forest Area of Specific Purpose;
- d. Division Head of Province in charge of Forestry in case it is outside the work area of Perum Perhutani and there has yet to be any creation of organization unit of Forestry Management.

(4) In regard of a request for the use of forest area under the mechanism of

cooperation as cited in paragraph (3), President Director of Perum Perhutani, Head of Management of Forest Area or Division Head of Province in charge of forestry shall conduct an appraisal.

- (5) In case that the appraisal in regard of the request based on the cooperation as cited in paragraph (4) has met the requirement, President Director of Perum Perhutani Head of Management of Forest Area or Division Head of Province in charge of forestry shall submit a recommendation to Minister;
- (6) Of the request based on the cooperation as cited in paragraph (5), President Director of Perum Perhutani on behalf of Minister shall give approval or refusal.
- (7) Further provision concerning the procedure of cooperation as cited in paragraph (2) shall be regulated under a Policy (Regulation) of Director General.

Article 7

- (1) In regard of the Use of Forest Area, the facility and infrastructure that have been developed by the holder of permit of utilization of forest produces or by the holder of permit of borrow-to-use area of forest, or by another party, shall be subject to a scheme of sharing facility and infrastructure.
- (2) The sharing facility and infrastructure as cited in paragraph (1) shall be stated in the Agreement of Cooperation depicting about the rights and obligations as well as the scope of sharing of the facility and infrastructure.
- (3) The sharing facility and infrastructure as cited in paragraph (1) shall be obligatorily reported to Director General.

Article 8

- (1) The permit of borrow-to-use area of forest as cited in Article 5 paragraph (1) shall be granted by Minister as per request.
- (2) The authority to provide the permit of borrow-to-use area of forest as cited in paragraph (1) shall be delegated to Governor, especially for the activities as follows:
 - a. the development of public facility for non-commercial purpose in a size of area of maximal 5 (five) hectares.
 - b. the activity of people's mining as in compliance with the laws and regulations in mining sector as requested individually and/ or in group by the people and/ or by the community.
- (3) Further stipulation concerning the procedure and requirements as per

request for the borrow-to-use area of forest, of which the authority has been delegated to Governor as cited in paragraphs (2) and (3), shall be regulated under a Policy (regulation) of Director General.

Article 9

- (1) The use of forest area for mining with significant impact in wide scope with strategic value, the permit of borrow-to-use area of forest shall be granted with an approval from People's House of Representatives (DPR) of the Republic of Indonesia.
- (2) The criteria on the use of forest area for mining activity of significant impact in wide scope with strategic value as cited in paragraph (1) shall be as follows:
 - a. mining that is located within an Area of Special Mining Undertakings (WUPK) deriving from a State Reserve Area (WPN) as having been approved by the People's House of Representatives (DPR);
 - b. the approval from DPR as cited in letter a, shall be used as the basis of granting a permit of borrow-to-use area of forest in a whole area of WUPK, of which has already been converted into a WIUPK.
- (3) Mining activity as cited in paragraph (2) letter a shall need a strategic environmental review (KLHS) when a WPN is converted into a WIUPK as in compliance with the prevailing laws and regulations.

Article 10

- (1) The area of permit of borrow-to-use area of forest for the activity of mining within an area of Productive Forest, of which should also be equipped with a permit for utilization of forest, shall be considerably at 10 (ten) percent of the effective area of each permit for utilization of forest.
- (2) In case that the Area of Productive Forest as per request is not equipped with a permit for utilization of forest as cited in paragraph (1), the area of permit of borrow-to-use area of forest that will be considered, shall be maximal at 10 (ten) percent of the area of Productive Forest in regency/ municipality, of which is not required a permit for utilization of forest.
- (3) In case that the Area of Productive Forest as requested for mining activity is not equipped with a permit for utilization of forest as cited in paragraph (1) and there has been the creation of a Unit of Forest Management, the area of permit of borrow-to-use area of forest for mining activity that will be considered, shall be maximal at 10 (ten) percent of the area of forest within the area of the Unit of Forest Management.

- (4) The area of permit of borrow-to-use area of forest for mining activity in island including small island shall be maximal at 10 (ten) percent of the area of Productive Forest and Protected Forest in the island.
- (5) The area of permit of borrow-to-use area of forest for mining activity in the work area of Perum Perhutani shall be maximally considered at 10 (ten) percent of the area of the Unit of Forest Administration.
- (6) In case that the request for the use of forest area for mining activity is located in a Protected Forest, the area of permit of borrow-to-use area of forest that will be considered, shall be maximal at 10 (ten) percent of the area of Protected Forest.
- (7) The requirement at maximal 10 (ten) percent as cited in paragraphs (1) through (6) shall also consider as follows:
 - a. the control of the use of forest area; and
 - b. the continuation of undertakings under the permit of utilization of forest produces or the management of forest area.
- (8) The requirement at maximal 10 (ten) percent of forest area as cited in paragraphs (1) through (6) shall not be applicable for a request for permit of borrow-to-use area of forest with the activities as follows:
 - a. survey or exploration of mining;
 - b. operation and production of oil and natural gas;
 - c. a request for activity, of which has been equipped with a principal permit from Minister;
 - d. operation and production of mining of minerals for the need of raw material of smelter, of which has been approved by Minister of Energy and Mineral Resources and the permit had been issued prior to the issuance of this Ministerial Decree;
 - e. operation and production of mining of coal, of which all the production is intended to meet the need in the country for the sake of national energy resilience as approved by Minister of Energy and Mineral Resources;
 - f. strategic project of inter-governmental cooperation.

Article 11

- (1) The use of forest area for the activity of mining of mineral and coal as cited in Article 4 paragraph (2) letter b shall be as follows:
 - a. In the area of Productive Forest shall be allowed:

1. the mining of open-pit method; and
 2. the mining of underground method.
- b. in case that in the protected forest is allowed only underground method of mining, such things below shall be prohibited:
1. the collapse of the level of ground;
 2. the permanent change of the main function of forest; and
 3. the damage of ground water aquiver.
- c. for the 13 (thirteen) permits/ agreements of mining as approved under Presidential Decree Number 41 Year 2004 on Permit or Agreement of Mining Sector in Forest Area as in compliance with Law Number 41 Year 1999 on Forestry, as having been amended by Law Number 19 Year 2004, the mining activity shall be allowed with an open-pit mining method in Protected Forest.
- (2) The use of Protected Forest for mining activity with an underground method of mining as cited in paragraph (1) letter b shall be in compliance with the prevailing laws and regulations.

Article 12

- (1) The permit of borrow-to-use area of forest for mining activity shall not be applicable for the area of Productive Forest as follows:
- a. of which is equipped with a permit of utilization of forest produces of timber product resulted from the Restoration of Ecosystem in Nature Forest or from the reserve areas of People's Forest of Plants, Community Forest and Rural Forest,
 - b. of which is equipped with a permit of utilization of forest produces of timber product that has been certified for Sustainable Management of Productive Forest (PHPL) under a category of "good";
 - c. of which is assigned for buffer zone bordered with a Conservation Area of Forest in a distance of 500 (five hundred) meters;
 - d. of which is determined as protected zone within an area of permit for utilization of forest produces of timber product.
- (2) The provision as cited in paragraph (1) shall be exempted for:
- a. the activity of mining of oil and natural gas;
 - b. the request that has been equipped with an effective principal permit

from Minister;

- c. the extension or addition of area of permit of borrow-to-use area of forest that has been existing for a period of time of the existence of the undertakings;
 - d. the request that had been equipped with a permit of borrow-to-use area of forest for the activity of exploration prior to the issuance of this Ministerial Decree;
 - e. the mining road for transport or delivery;
 - f. the activity as cited in Article 10 paragraph (8) letters c, d, e and f;
 - g. the activity based on the result of appraisal will not perturb the sustainability and continuation of the undertakings of utilization of forest produces of timber product.
- (3) The appraisal as cited in paragraph (2) letter g shall be conducted by a team that is coordinated by the Agency of Research, Development and Innovation under the Ministry of Environment and Forestry and a university that has an academic discipline in forestry.
- (4) The procedure of appraisal as cited in paragraph (3) shall be regulated under a policy (regulation) of Director General who is assigned and in charge of the sustainable management of productive forest.

CHAPTER II PROCEDURE AND REQUIREMENT ON REQUEST FOR THE USE OF FOREST AREA

Part One Procedure of Request

Article 13

- (1) Request for the permit of borrow-to-use area of forest as cited in Article 8 paragraph (1) shall be submitted by:
- a. Minister or Government Official on the same level of Ministry or Head of Governmental Agency of Non-Ministry;
 - b. Provincial Governor;
 - c. Regent/ Mayor;
 - d. Leader of Legal Entity/ Entity of Undertakings; or
 - e. Individual, group of people and/ or the community.

- (2) The request for permit of borrow-to-use area of forest as submitted by individual, group of people and/ or the community shall be intended only for the activity of people's mining as in compliance with the prevailing laws and regulations in the mining sector.
- (3) The request for permit of borrow-to-use area of forest as cited in paragraph (1) shall be submitted to:
 - a. Minister through the Chairman of Investment Coordinating Board (BKPM) for a request for the use of commercial purpose;
 - b. Minister for a request in addition to the request as cited in letter a.
- (4) In regard of the request for permit of borrow-to-use area of forest as cited in paragraph (3) letter a, the applicant shall submit the document of request to the official of the Front Office (FO) of One-door Integrated Services of Investment Coordinating Board (FO PTSP BKPM).
- (5) The official of FO of PTSP BKPM shall receive the document of request and make sure the fulfillment of requirement of the request and forward the document of request to the Liaison Officer (LO) of the Ministry of Environment and Forestry who is in charge of PTSP BKPM.
- (6) The LO of the Ministry of Environment and Forestry in a period of no longer than 1 (one) work day after receiving the complete document of request as cited in paragraph (5) shall appraise the complete fulfillment of administrative and technical requirements, and in case that:
 - a. the document is not complete, the LO of the Ministry of Environment and Forestry shall return the document of request to the applicant;
 - b. the document is not correct, the LO of the Ministry of Environment and Forestry shall issue a letter of refusal and return the document of request through the Administrative Desk of BKPM;
 - c. the document is already correct, the LO of the Ministry of Environment and Forestry shall issue a letter of notice and forward the document of request to Director through the Administrative Desk of BKPM;

Article 14

- (1) The request for permit of borrow-to-use area of forest as cited in Article 8 paragraph (1) for commercial purpose shall obligatorily fulfill the requirements such as administrative and technical documents in original versions or copies of documents legalized by the agency as the issuer or notary in format of both hardcopies and soft copies.
- (2) The administrative requirements as cited in paragraph (1) shall include:

- a. permit/ agreement issued by the official in charge such as the permit of mining undertakings, the permit of power supplies, except the activity that is not obliged to obtain a permit/ agreement;
 - b. recommendation from Governor concerning the use of forest area;
 - c. Deed of Establishment including its amendment;
 - d. profile of legal entity;
 - e. Index of Taxpayer (NPWP) as validated by the official in charge;
 - f. the latest financial statement audited by the public accountant;
 - g. statement in notary document stating that:
 - 1. the ability to fulfill all the requirements and the ability to bear all the expenditures in regard of the request;
 - 2. all the documents as submitted in the request are legitimate, and
 - 3. not to carry out any activity in the field before the issuance of permit by Minister.
- (3) The requirements as cited in paragraph (2) letters c through f shall be exempted for the requests submitted by State's Owned Enterprise (BUMN), Region's Owned Enterprise (BUMD), and for the activities of oil and gas as well as geothermal.
- (4) Technical requirements as cited in paragraph (1) shall include:
- a. environmental permit, permit of environmental feasibility and documents of AMDAL or UKL-UPL as in compliance with the laws and regulations;
 - b. the work plan on the use of forest area and the map of location in the smallest scale of 1:50,000 or the largest scale of location by depicting the information about the area of forest as requested both in the formats of hardcopy and softcopy and the shape-file of coordinate system of UTM Datum WGS 84;
 - c. map of remote sensing image in resolution of minimal 5 (five) meters of the latest coverage of no longer than 1 (one) year with attachment of softcopy using the coordinate system of UTM Datum WGS 84 together with a statement citing that the remote sensing image and the interpretation as submitted are correct;
 - d. The technical consideration by Director General in charge of mineral and coal under Ministry of Energy and Mineral Resources (ESDM)

for the permit of activity of mining of mineral and coal as issued by Governor;

- e. Letter of Statement with seal (stamp) by the Leader of Legal Entity/ Entity of Undertakings citing that the entity has technical official(s) in forestry in regard of the mining activity for the operation and production;
 - f. Technical consideration by President Director of Perum Perhutani, in case that the request is for a location within the work area of Perum Perhutani.
- (5) For mining activity of mineral and coal in an area of maximal 10 (ten) hectares, the technical consideration as cited in paragraph (4) letter d shall be provided by Division Head of Province in charge of energy and mineral resources.
- (6) Environmental permit and documents of AMDAL or UKL-UPL for the activity that is obliged to prepare AMDAL or UKL-UPL as cited in paragraph (1) letter shall include:
- a. Environmental Permit that has been possessed when obtaining the permit of activity;
 - b. Environmental Permit for the activity/ undertakings in addition to what is cited in letter a;
- (7) The statement as cited in paragraph (4) letter c shall be exempted from the request for a permit of borrow-to-use area of forest for purposes as follows:
- a. installation of power generation, transmission, and distribution of power supplies as well as the technology of new and renewable energy sources;
 - b. network of telecommunications, radio relay station, and television relay station;
 - c. toll road and railways; and
 - d. survey or exploration.

Article 15

- (1) The request for permit of borrow-to-use area of forest as cited in Article 8 paragraph (1) for non-commercial purpose shall obligatorily fulfill the requirements such as administrative and technical requirements in form of documents of original versions or the copies of documents legalized by the institution/ agency as the issuer or the notary both in forms of hardcopy and softcopy (digital).

(2) administrative requirement as cited in paragraph (1) shall include:

- a. recommendation from Governor concerning the use of forest area;
- b. letter of statement signed by the applicant or official as assigned citing:
 1. ability to fulfill all the obligations and ability to bear all the expenditures in regard of the request.
 2. all documents attached to the request are legitimate, and
 3. not to carry out the activity in the field prior to the issuance of permit by Minister.

(3) technical requirement as cited in paragraph (1) shall include:

- a. environmental permit and documents of AMDAL or UKL-UPL for any activity that is obliged to prepare AMDAL or UKL-UPL as in compliance with the laws and regulations;
- b. the work plan on the use of forest area and the map of location in the smallest scale of 1:50,000 or the largest scale of location by depicting the information about the area of forest as requested both in the formats of hardcopy and softcopy and the shape-file of coordinate system of UTM Datum WGS 84;
- c. Technical consideration by President Director of Perum Perhutani, in case that the request is for a location within the work area of Perum Perhutani.

Article 16

(1) Recommendation from Governor as cited Article 14 paragraph (2) letter b and Article 15 paragraph (2) letter a shall include: approval on the use of forest area as requested based on the technical consideration from Division Head of Province in charge of forestry and Head of Center for Improvement of Forest Area in the region.

(2) Technical consideration as cited in paragraph (1) shall include:

- a. location, size of area and boundaries as requested based on the function of forest area as depicted in the map;
- b. the condition of forest area as requested, of which shall include information about:
 1. the function of forest area;
 2. the coverage of vegetation;

3. the permit of utilization, the use and/ or the management; and
 4. the social and economic condition of local people.
- (3) Recommendation from Governor as cited paragraph (1) shall be issued in a period of no longer than 30 (thirty) work days as of the receiving of the request for recommendation.
 - (4) In case that the Governor does not issue the recommendation in a period as cited in paragraph (3), the Governor is considered of having already provided a recommendation.
 - (5) Technical consideration from President Director of Perum Perhutani as cited in Article 14 paragraph (4) letter f and Article 15 paragraph (3) letter c shall be issued in a period of no later than 30 (thirty) work days as of the receiving of the request for technical consideration.
 - (6) In case that the President Director of Perum Perhutani does not issue the technical recommendation in a period as cited in paragraph (5), the President Director of Perum Perhutani is considered of having already provided a technical recommendation.

Article 17

The completion of the administrative and technical requirements for the permit of borrow-to-use area of forest as cited in Article 14 paragraph (1) shall be merely be in form of a letter of request and a work plan on the use of forest area for any applicant who will carry out the activity for:

- a. defense and security such as the hub of battle drill, relay (radar) station, and monitoring tower;
- b. supporting infrastructure of public safety such as for the safety of sea traffic, the safety of air traffic, the safety of land traffic, quarantine and infrastructure of meteorology, climatology and geo-physics; or
- c. shelter for victims of natural disaster and temporary site of certain undertakings.

Part Two Completion of Request

Article 18

- (1) Director General in a period of no later than 20 (twenty) work days after receiving the documents from LO of Ministry of Environment and Forestry as cited in Article 13 paragraph (6) letter c, shall conduct a technical review.

- (2) Based on the result of technical review as cited in paragraph (1)
 - a. in case of not fulfilling the technical requirement, Director General on behalf of Minister shall give a refusal to the applicant of the request for the use of forest area for non-commercial purpose;
 - b. in case of not fulfilling the technical requirement, Director General shall give a notice concerning the refusal based on the technical review to Secretary General in regard of the request for the use of forest area for commercial purpose;
 - c. in case of fulfilling the technical requirement, Director General shall provide an approval based on the result of technical review and map for the permit of use of forest area and submitted them to Secretary General;
- (3) Secretary General in a period of no later than 7 (seven) work days after receiving the result of technical review and the concept of map of the permit of borrow-to-use area of forest as cited in paragraph (2) letters b and c, shall conduct a legal review and prepare a letter of refusal or a concept of decision on the permit of borrow-to-use area of forest, for as follows:
 - a. a request for the permit of borrow-to-use area of forest of non-commercial purpose shall be submitted to Minister.
 - b. a request for the permit of borrow-to-use area of forest of commercial purpose shall be submitted to Minister for an approval.
- (4) Minister in a period of no later than 3 (three) work days after receiving the concept on the letter of refusal or the concept on the decision of permit of borrow-to-use area of forest and a map as attachment for the request of permit of borrow-to-use area of forest of non-commercial purpose as cited in paragraph (3) letter a, shall sign a letter of refusal or a decision of approval on the permit of borrow-to-use area of forest and a map as attachment.
- (5) Based on the approval from Minister as cited in paragraph (3) letter b, Secretary General shall forward the concept of letter of refusal or the concept of decision of approval on the permit of borrow-to-use area of forest and a map as attachment to the Head of Investment Coordinating Board (BKPM).
- (6) Head of Investment Coordinating Board (BKPM) in a period of no later than 3 (three) work days after receiving the concept of the letter of refusal or the concept of the decision of approval on the permit of borrow-to-use area of forest and a map as attachment as cited in paragraph (5), shall sign the letter of refusal or the decision of approval on the permit of borrow-to-use area of forest and a map as attachment.

Part Three
Obligation of the Holder of Permit of Borrow-to-use Area of Forest

Article 19

- (1) The holder of the permit of borrow-to-use area of forest in a period of no later than 1 (one) year after the issuance of the permit of borrow-to-use area of forest shall be obliged to:
 - a. conclude the determination of boundaries of the area of the permit of borrow-to-use area of forest as supervised by the Center of Improvement of Forest Area and there will be no extension of time.
 - b. handover the land area of compensation to Minister with ratio of 1:2 as depicted in the Official Report on the Handover of Land area of Compensation from the holder of the permit of borrow-to-use area of forest, of which is subject to providing such a land area of compensation.
 - c. submit a map of location of planting for the sake of rehabilitation of the area of river watershed and the holder of the permit of borrow-to-use area of forest shall have an obligation to conduct the planting in the area of river watershed;
 - d. submit a baseline on the use of forest area based on the result of plan on boundaries and the holder of the permit of borrow-to-use area of forest shall have an obligation to pay PNBP on the use of forest area.
 - e. submit a statement in form of notary document citing the willingness to pay for the cost of investment in the management/ utilization of forest to the operator/ the holder of the permit of the use of forest produces in case that the area of the permit of borrow-to-use area of forest is located in the work area of the management of forest/ the permit of undertakings of utilization of forest produces.
- (2) In case that the holder of the permit of borrow-to-use area of forest is a governmental institution, State-owned Enterprise (BUMN), local government's business entity (BUMD), the period of time of concluding the determining of boundaries as cited in paragraph (1) letter a shall be extendable for a period of no later than 1 (one) year.
- (3) The time to conclude the fulfillment of the obligation to provide a land area of compensation as cited in paragraph (1) letter a shall be extendable for a period of:
 - a. no later than 2 (two) years for a governmental institution, BUMN or BUMD;
 - b. no later than 1 (one) year for others in addition to what is cited in

letter a.

Article 20

- (1) The holder of the permit of borrow-to-use area of forest shall submit a request for the determination of work area based on the result of plan to determine the boundaries of the area of permit of borrow-to-use area of forest as cited in Article 19 paragraph (1) letter a to Director General.
- (2) Request for the determination of work area as cited in paragraph (1) shall be attached with an evidence of fulfillment of the obligation as cited in Article 19 paragraph (1).
- (3) In case that based on the result of appraisal on the request for the determination of work area all the obligations have been fulfilled as cited in Article 19 paragraph (1), Director General on behalf of Minister in a period of no later than 15 (fifteen) work days after receiving the request, shall determine the work area of the permit of borrow-to-use area of forest.
- (4) In case that based on the result of appraisal on the request for the determination of work area the obligations have not been fulfilled as cited in Article 19 paragraph (1), Director General on behalf of Minister in a period of no later than 15 (fifteen) work days after receiving the request, shall return such a request for the determination on work area of the permit of borrow-to-use area of forest.

Article 21

- (1) Based on the determination of the work area of the permit of borrow-to-use area of forest as cited in Article 20 paragraph (3), the holder of the permit of borrow-to-use area of forest shall be allowed to carry out the activity in the area of the permit of borrow-to-use area of forest.
- (2) The holder of the permit of borrow-to-use area of forest for the activity of national development of vital projects like geothermal for power generation, oil and natural gas, electricity, ponds, water dams, and the activity of national strategic project as determined by the Government, as well as the effort of handling natural disaster, shall be allowed to carry out the activity in the area of the permit of borrow-to-use area of forest prior to the completion of the fulfillment of the obligations as cited in Article 19.
- (3) The holder of the permit of borrow-to-use area of forest as cited in paragraph (2) with obligation to pay compensation in form of PNB of the Use of Forest Area, shall be subject to the payment of PNB of the Use of Forest Area as of the issuance of the permit of borrow-to-use area of forest.
- (4) For the holder of the permit of borrow-to-use area of forest in addition to

those as cited in paragraph (2) with obligation to pay compensation in form of PNBP of the Use of Forest Area, the implementation shall be conducted as of the issuance of the result of determination on the boundaries of the work area of the permit of borrow-to-use area of forest.

- (5) In case that the holder of the permit of borrow-to-use area of forest has yet to settle the obligations as cited in Article 19, the permit of borrow-to-use area of forest shall be declared ineffective.

Article 22

The holder of the permit of borrow-to-use area of forest after having obtained the result of determination on boundaries of the work area of the permit of borrow-to-use area of forest as cited in Article 20 paragraph (3), shall be obliged to:

- a. conclude a plan of determination on boundaries of the land area of compensation;
- b. conduct the reforestation of the land area of compensation;
- c. make a plan and conduct the reclamation and re-vegetation in the forest area that is no longer occupied without waiting for the expiration of time of the permit of borrow-to-use area of forest;
- d. carry out the activity of planting for the sake of rehabilitation of the area of river watershed, of which is implemented in no later than 1 (one) year before the expiration of the permit of borrow-to-use area of forest;
- e. pay PNBP of the Use of Forest Area as in compliance with the prevailing laws and regulations;
- f. conduct inventorying of standing stock based on the work plan of the use of forest area on an annual basis;
- g. pay the provision of forestry resources (PSDH) and Reforestation Fund (DR) as in compliance with the prevailing laws and regulations;
- h. pay compensation for the value of standing stock to the Government if the area of request is a forest of plants resulted from rehabilitation;
- i. pay the compensation for the investment in the management/ utilization of forest to the operator/ the holder of permit of utilization of forest produces, in regard that the area of permit of borrow-to-use area of forest is located in a work area of the forest operator/ the permit of utilization of forest produces;
- j. conduct the maintenance of area of boundaries of the permit of borrow-

to-use area of forest;

- k. conduct the protection of forest in the area of the permit of borrow-to-use area of forest as in compliance with the laws and regulations;
- l. secure the Conservation Area of Forest and Area of Protected Forest in regard that the area of borrow-to-use area of forest is bordered with the Conservation Area of Forest and Area of Protected Forest, and coordinate with:
 - 1) Chief Head of Center/ Head of Unit of Technical Implementation (UPT) in charge of the affairs of Conservation Area of Forest in the location of the Conservation Area of Forest.
 - 2) Division Head of Province in charge of forestry affairs or President Director of Perum Perhutani in a work area of Perum Perhutani within the Area of Protected Forest; or
 - 3) Head of Management Unit of Forest (KPH);
- m. give access to officials of environment and forestry either of the Central Government or Regional Government when conducting the monitoring and evaluation on the spot;
- n. coordinate the activities with the agency (institution) of environment and forestry in region and/ or with the holder of the permit of utilization of forest or the operator of forest;
- o. have a Policy Advisor in Forestry Sector for the operation and production of mining;
- p. empower the local people in the area of permit of borrow-to-use area of forest;
- q. prepare a report on a continual basis every 6 (six) months and submit the report to Minister concerning the utilization of the borrow-to-use area of forest with carbon copies to:
 - 1) Director General of Planning of Forestry and Environmental Management;
 - 2) Director General of Sustainable Management of Productive Forest;
 - 3) Director General of Conservation of Natural Resources and Ecosystem;
 - 4) Director General for the Control of Area of River Watershed and Protected Forest;
 - 5) Division Head of Province in charge of Forestry;

- 6) Head of Center for Improvement of Forest Areas; and
 - 7) Head of Center for the Control of Area of River Watershed and Protected Forest.
- r. The report as cited in letter q shall include:
- 1) the plan and the realization of the use of forest areas;
 - 2) the plan and the realization of reclamation and re-vegetation;
 - 3) the plan and the realization of reforestation of the land area of compensation;
 - 4) the fulfillment of obligation to pay PNBP of the Use of Forest Area;
 - 5) the plan and the realization of planting for the sake of rehabilitation of the area of river watershed; and
 - 6) the fulfillment of other obligations based on the permit of borrow-to-use area of forest.

Article 23

- (1) The compensation for the investment as cited in Article 22 letter I shall be determined by Director General in charge of Sustainable Management of Productive Forest based on the result of review by Agency of Research and Development of Innovation under the Ministry of Environment and Forestry.
- (2) The guideline on the calculation of compensation for the cost of investment as cited in paragraph (1) shall be regulated in a different regulation.

Article 24

The holder of the permit of borrow-to-use area of forest for the activity of survey and exploration shall be obliged to conduct only as follows:

- a. implement the reclamation in the forest area that is no longer occupied without waiting for the expiration of the period of time of the permit of borrow-to-use area of forest;
- b. conduct inventorying of standing stock in the area of plan for the clearance of land as the basis of payment of PSDH and/ or DR;
- c. pay compensation for the value of standing stock to the Government in regard that the area of request is part of the forest comprising plants resulted from the rehabilitation of area as in compliance with the

- prevailing laws and regulations;
- d. implement the protection of forest in the area of the permit of borrow-to-use area of forest and in the area around the permit as in compliance with the laws and regulations;
 - e. give access to the officials of environment and forestry either of the Central Government or Regional Government when conducting the monitoring and evaluation on the spot;
 - f. coordinate the activities with the agency (institution) of environment and forestry in the region and/ or with the holder of the permit of utilization of forest or with the operator of forest;
 - g. empower the local people in the area of permit of borrow-to-use area of forest;
 - h. prepare a report on a continual basis every 6 (six) months and submit the report to Minister concerning the utilization of the borrow-to-use area of forest with carbon copies to:
 - 1) Director General of Plannology of Forestry and Environmental Management;
 - 2) Director General of Sustainable Management of Productive Forest;
 - 3) Director General of Conservation of Natural Resources and Ecosystem;
 - 4) Director General for the Control of Area of River Watershed and Protected Forest;
 - 5) Division Head of Province in charge of Forestry;
 - 6) Head of Center for Improvement of Forest Areas; and
 - 7) Head of Center for the Control of Area of River Watershed and Protected Forest.

Part Four
Handover of Permit of Borrow-to-use Area of Forest

Article 25

- (1) The holder of borrow-to-use area of forest shall be allowed to handover the permit of borrow-to-use area of forest or to replace the name of the holder of the permit of borrow-to-use area of forest by way of submitting a request together with complete documents of permit to Minister or Head of Investment Coordinating Board (BKPM).

- (2) The documents of permit as cited in paragraph (1) shall include the Deed of Establishment including its amendment and the permit in the sector in original version or a copy that is legalized by the official of the agency (government institution) as the issuer of the permit or Notary together with the other supporting documents.
- (3) The procedure of request for the handover or replacement of the name of the permit of borrow-to-use area of forest as cited in paragraph (1) shall refer to in the provisions of Articles 13 and 18.

Part Five
Prohibition for the Holder of Permit of Borrow-to-use area of Forest

Article 26

The holder of permit of borrow-to-use area of forest shall be prohibited:

- a. to carry out the activity within the area of permit of borrow-to-use area of forest before obtaining the result of determination on boundaries of the work area of the permit of borrow-to-use area of forest, except:
 - 1) the activity of planning on the determination of boundaries;
 - 2) the activity of preparation such as the construction of direction kit (temporary base camp);
 - 3) the measurement of facilities and infrastructures;
 - 4) the preparation for cultivation of certain agriculture for the sake of the resilience of food or energy;
 - 5) the activity of national development of vital project like geothermal for power generation, oil and natural gas, electricity, ponds, water dam, and the activity of national strategic project as determined by the Government, and the activity of tackling natural disaster.
- b. to handover the permit of borrow-to-use area of forest to another party or to change the name of the holder of the permit of borrow-to-use area of forest without an approval from Minister; or
- c. to use the location of the permit of borrow-to-use area of forest as a guarantee or collateral to another party.

Part Six
Utilization of Timber

Article 27

- (1) The permit of borrow-to-use area of forest as cited in Article 18 paragraphs (4) and (6) shall also be applicable as a permit for the

utilization of timber as well as a permit for the entry and exit of equipment.

- (2) In regard of the land clearance for the implementation of the activity of the permit of borrow-to-use area of forest, the holder of permit of borrow-to-use area of forest shall be obliged to pay PSDH and/or DR.
- (3) The procedure of the payment of PSDH and DR as cited in paragraph (2) shall be in compliance with the prevailing laws and regulations.

Part Seven Land Area of Compensation

Article 28

- (1) The would-be land area of compensation as cited in Article 19 paragraph (1) letter b shall fulfill requirements as follows:
 - a. it can be managed and converted into part of the unit of forest management;
 - b. it is located in the same area of river watershed, island, and/ or province;
 - c. it can be reforested on a conventional basis;
 - d. it is not of a legal conflict and free from any liability and no imposition of collateral right on it; and
 - e. it is recommended by Regent/ Mayor.
- (2) The would-be land area of compensation provided by the applicant as cited in paragraph (1) shall be subject to inspection on the spot for technical and legal feasibilities by a team coordinated by Division Head of Province in charge of forestry.
- (3) The Team as cited in paragraph (2) shall comprise members from the Division of Province in charge of forestry, the Center of Management of Area of River Watershed, the Center of Improvement of Forest Areas, the Office of Land Affairs of Regency/ Municipality and Perum Perhutani based on its work area.
- (4) The result of appraisal of technical and legal feasibilities as cited in paragraph (2) shall be depicted in the Official Report attached with a report and a map of coordinates of location, size of area, and location of land area of compensation.
- (5) Official Report as cited in paragraph (4) shall be submitted by Division Head of Province in charge of forestry to Director General.
- (6) Based on the Official Report as cited in paragraph (5), the holder of the

permit of borrow-to-use area of forest shall submit a request for the approval of the feasibility of land area of compensation to Director General.

- (7) Director General on behalf of Minister in a period of no later than 5 (five) work days after receiving the Official Report as cited in paragraph (5), shall issue:
- a. a letter of refusal in case that the would-be land area of compensation does not fulfill the requirement; or
 - b. a letter of approval of the would-be land area of compensation in case that the would-be land area of compensation fulfills the requirement.

Article 29

- (1) In case that the would-be land area of compensation is approved by Director General on behalf of Minister as cited in Article 28 paragraph (7) letter b, the holder of the permit of borrow-to-use area of forest shall be obliged to:
- a. completely release the land rights and settle the payment of the release of land rights of the would-be land area of compensation, and for:
 1. the land area that has been registered at the Ministry of Agrarian Affairs and Land Spatial Plan/ National Agency of Land Affairs (BPN)/ Office of Land Affairs of Regency/ Municipality, the registration shall be annulled by crossing the Land Book and Certificate;
 2. the land area that has yet to be registered at the Ministry of Agrarian Affairs and Land Spatial Plan/ National Agency of Land Affairs (BPN)/ Office of Land Affairs of Regency/ Municipality, the ownership of land area shall be annulled by crossing any of the evidences of traditional rights of the land area, the book of land area and the position in the map of village;
 - b. submit a letter of notice from Ministry of Agrarian Affairs and Land Spatial Plan/ National Agency of Land Affairs (BPN)/ Office of Land Affairs of Regency/ Municipality, citing that the effectiveness of the right of business undertakings on the land area (HGU) has been expired and is no longer extended and the status becomes a State's Land Area and it is now free to be converted into an area of forest;
 - c. annul by crossing the status of taxpayer at the Office of Taxation over the land area following an approval of the designation of the land area to become the would-be land area of compensation.
 - d. submit the result of measurement of the would-be land area of

compensation, in so doing the exact size of area and boundaries can be determined.

- (2) In case that the holder of the permit of borrow-to-use area of forest has completely fulfilled the obligation as cited in paragraph (1), Director General together with the holder of the permit of borrow-to-use area of forest in a period of time of no later than 10 (ten) work days shall have signed an Official Report on the handover of the land area of compensation.
- (3) Based on the Official Report as cited in paragraph (2), Director General in a period of time of no later than 15 (fifteen) work days shall submit a recommendation for a ministerial decision concerning the designation of the Land Area of Compensation to be converted into an area of forest together with a map as attachment to Secretary General.
- (4) Secretary General in a period of time of no later than 5 (five) work days after receiving the recommendation for a ministerial decision on the designation of the Land Area of Compensation to be converted into the area of forest together with a map as attachment shall make a legal review and submit a concept on a ministerial decision on the designation of the Land Area of Compensation to be converted into the area of forest together with the map as attachment to Minister.
- (5) Minister in a period of time of no later than 5 (five) work days after receiving the concept as cited in paragraph (4) shall make a decision on the designation of Land Area of Compensation to be converted into an area of forest.

Article 30

- (1) Based on the decision made by the Minister on the designation of Land Area of Compensation to be converted into the area of forest as cited in Article 29 paragraph (5), the holder of the permit of borrow-to-use area of forest in a period of time of no later than 120 (one hundred twenty) work days shall be obliged to implement a plan on the determination of boundaries of the would-be area of forest as the result of the conversion of the land area of compensation.
- (2) The activity of plan on the determination of boundaries of the would-be forest area as cited in paragraph (1) shall be carried out in compliance with the prevailing laws and regulations.
- (3) Director General in a period of time of no later than 10 (ten) work days after receiving the Official Report on the Plan on Determination of Boundaries of Forest Area as cited in paragraph (2) shall conduct a review and submit a recommendation on Minister's decision for the determination on the would-be Forest Area deriving from the land area of compensation together with a map as attachment to Secretary General.

- (4) Secretary General in a period of time of no later than 5 (five) work days after receiving the recommendation as cited in paragraph (3) shall conduct a legal review and submit a concept of Minister's decision on the determination of Forest Area deriving from the land area of compensation together with the map as attachment to Minister.
- (5) Minister in a period of time of no later than 5 (five) work days after receiving the concept and the map as cited in paragraph (4) shall make a decision to determine the Forest Area deriving from the land area of compensation.

Article 31

- (1) Based on the Minister's decision on the designation of the Land Area of Compensation to be converted into an area of forest as cited in Article 29 paragraph (5), Director General on behalf of Minister shall instruct the holder of the permit of borrow-to-use area of forest to conduct reforestation in the would-be forest area deriving from the land area of compensation.
- (2) The implementation of reforestation as cited in paragraph (1) shall be conducted by the holder of the permit of borrow-to-use area of forest in cooperation with the operator of forest area.

Article 32

- (1) The implementation of reforestation in the land area of compensation as designed for the would-be forest area as cited in Article 31 shall refer to in the Ministerial Decree that regulates about the reforestation of forest area.
- (2) The implementation of reforestation in the land area of compensation located in the work area of Perum Perhutani, shall be adjusted to the plan on the management of forest by Perum Perhutani.
- (3) The handover of plants resulted from reforestation shall be depicted in the Official Report on the handover of plants of Reforestation from the holder of the permit of borrow-to-use area of forest to the Operator of Forest Area.
- (4) The handover of plants of reforestation as cited in paragraph (3) shall be conducted after the reforestation has been considered successful as in compliance with the laws and regulations.

CHAPTER III PERIOD OF TIME OF PERMIT OF BORROW-TO-USE AREA OF FOREST

Article 33

- (1) The permit of borrow-to-use area of forest shall be issued and it shall be effective for 2 (two) years for the activity of survey and exploration.

- (2) The permit of borrow-to-use area of forest shall be issued and it shall be effective maximal for an equal period of time of each permit of undertakings as per sector:
- a. the activity of operation and production of mining shall include the activity of mining of oil and natural gas, mineral and coal as well as the development of facility and infrastructure,
 - b. the development of installation of power generation, transmission, and distribution of power supplies as well as the technology of new and renewable energy sources such as geothermal can also be requested by any party in addition to Government/ BUMN/ BUMD, and
 - c. the development of network of telecommunications, radio relay station, and television relay station can also be requested by any party in addition to Government/ BUMN/ BUMD.
- (3) The permit of borrow-to-use area of forest shall be issued and it shall be effective for no later than 20 (twenty) years for:
- a. the development of infrastructure of transportation that is not categorized as the infrastructure of public transportation for the purpose of the delivery of the result of production;
 - b. the construction of shelter for the victims of natural disaster and the area of undertakings shall be on a temporary basis;
 - c. the industry except the primary industry of forestry;
 - d. the agriculture for the sake of food resilience; and
 - e. the agriculture for the sake of energy resilience;
- (4) The permit of borrow-to-use area of forest shall be issued and it shall be effective as long as it used for the activity such as :
- a. the activity of religion like the place of worship, cemetery, and spiritual tourism;
 - b. the activity of defense and security such as the development of facility and infrastructure of battle drill, radar station, monitoring tower and inter-country check point (PLBN);
 - c. the development of supporting infrastructure for public safety such as for the safety of sea traffic, air traffic, land traffic, quarantine and facilities of meteorology, Climatology and Geo-physics.
 - d. the development of pond, water dam, dyke, irrigation, potable water drain, water sewage and sanitation, and other water facilities.

- e. the development of public road, toll road, railways; and
- f. the development of public facilities; and
- g. the development of airport and seaport.

**CHAPTER IV
EXTENSION, REDUCTION AND RETURN OF
PERMIT OF BORROW-TO-USE AREA OF FOREST**

Part One

Extension of Permit of Borrow-to-Use Area of Forest

Article 34

- (1) The extension of the permit of borrow-to-use area of forest shall be granted based on the result of evaluation on the fulfillment of the obligations by the holder of the permit of borrow-to-use area of forest.
- (2) The extension of the permit of borrow-to-use area of forest for the activity of survey or exploration shall be granted without conducting any evaluation.
- (3) The extension of the permit of borrow-to-use area of forest for the activity of survey or exploration shall be granted only for 2 (two) times.
- (4) The request for the extension of the permit of borrow-to-use area of forest as cited in paragraph (1) shall be submitted in a period of no later than 2 (two) months prior to the expiration of the permit of borrow-to-use area of forest.
- (5) The procedure of request for the extension as cited in paragraphs (1) and (2) shall refer to in the provisions of Articles 13 and 18.

Article 35

- (1) In case that the permit of borrow-to-use area of forest has expired but the holder of permit has yet to fulfill the requirement for reclamation and re-vegetation in the borrow-to-use area of forest, Minister shall be allowed to grant the extension of the permit of borrow-to-use area of forest for a period of no later than 3 (three) years so that all the obligation can be completely fulfilled.
- (2) In regard of the extension for the permit of borrow-to-use area of forest as cited in paragraph (1), the permit of borrow-to-use area of forest shall remain subject to the payment of PNBP of the Use of Forest Area.

Part Two

Revoke or Reduction of Area of the Permit of Borrow-to-use Area of Forest

Article 36

- (1) In case there is a forest area of which the permit of borrow-to-use area of forest has been issued and either all or part of the area will be used for national strategic project as determined by the Government, the permit of borrow-to-use area of forest can be revoked or the area can be reduced.
- (2) The Letter of Notice concerning the revoke or the reduction as cited in paragraph (1) shall be issued by Director General on behalf of Minister.

Part Three **Return of Area of Permit of Borrow-to-use Area of Forest**

Article 37

- (1) In case that in the area of the permit of borrow-to-use area of forest as cited in Article 18 paragraphs (4) and (6) there will be a change such as the return of part or the return of part with addition, the holder of borrow-to-use area of forest shall submit a request to:
 - a. Minister through Investment Coordinating Board (BKPM) for a request of commercial purpose;
 - b. Minister for any request in addition to what is cited in letter a.
- (2) Request for the return of part of the area including the addition as cited in paragraph (1) shall be attached with:
 - a. the revision of AMDAL or UKL/UPL and the revision of the environmental permit;
 - b. the recommendation from Governor concerning the additional area; and
 - c. the remote sensing image in a very high resolution of the latest coverage of no later than 1 (one) year.
- (3) The request as cited in paragraph (1) shall be subject to evaluation.
- (4) The result of evaluation as cited in paragraph (3) shall include as follows:
 - a. the fulfillment of obligation by the holder of the permit of borrow-to-use area of forest;
 - b. the condition of the coverage of area that will be returned; and
 - c. the recommendation.
- (5) The procedure of the request for returning the area as cited in

paragraphs (1) and (2) shall refer to in the provisions of Articles 13 and 18.

- (6) The area of the permit of borrow-to-use area of forest that has been returned as cited in paragraph (1) shall not be requested anymore by the applicant.

Article 38

- (1) The holder of the permit of borrow-to-use area of forest shall be allowed to submit a request for the change of the baseline of the use of forest area to Minister c.q. Director General.
- (2) Based on the request as cited in paragraph (1) Director General on behalf of Minister shall give an approval or a refusal against such a change of baseline.
- (3) Further provision concerning the procedure of request for the change of baseline as cited in paragraphs (1) and (2) shall be regulated under a Policy (Regulation) of Director General.

CHAPTER V MONITORING AND EVALUATION

Article 39

- (1) Minister shall conduct the monitoring and evaluation of any permit of borrow-to-use area of forest.
- (2) The implementation of monitoring and evaluation of any permit of borrow-to-use area of forest as cited in paragraph (1) shall be delegated to Governor.

Article 40

- (1) The monitoring as cited in Article 39 shall be conducted for the purpose of guiding the holder of the permit of borrow-to-use area of forest to fulfill the obligations as determined.
- (2) The monitoring as cited in paragraph (1) shall be conducted for a period of no later than 1 (one) year.
- (3) The monitoring as cited in paragraph (1) shall be conducted by a team created by Division Head of Province in charge of forestry together with the members and officials of the Provincial Division in charge of forestry, the Center for Improvement of Forest Areas, the Center for the Management of Areas of River Watershed and Protected Forest, the Agency/ Division of Regency/ Municipality in charge of environment, Perum Perhutani within a work area of Perum Perhutani, and other related parties.

- (4) Division Head of Province in charge of forestry shall submit the result of monitoring as cited in paragraph (1) to Minister and Governor with carbon copy to Director General.
- (5) The expenditures of monitoring as cited in paragraph (1) shall be allocated to the budget of de-concentration of the Ministry of Environment and Forestry and other budget from unconditional sources of funds.

Article 41

- (1) The implementation of the evaluation as cited in Article 39 shall be conducted in order to appraise as follows:
 - a. The fulfillment of obligation as cited in the permit of borrow-to-use area of forest; and
 - b. the implementation of the use of the area of forest.
- (2) The evaluation of the permit of borrow-to-use area of forest as cited in paragraph (1) shall be conducted no more than 2 (two) times in 5 (five) years.
- (3) The implementation of evaluation can be conducted at any time in case there are indications of violation, a request for extension, a termination and a return of the permit of borrow-to-use area of forest, of which shall be used as the factors of making a decision by Minister.
- (4) The evaluation as cited in paragraph (1) shall be implemented by a team created by Division Head of Province in charge of forestry with the members from the Center for Improvement of Forest Areas, the Center for the Management of Areas of River Watershed and Protected Forest, the Center of Monitoring the Utilization of Productive Forest, the Agency/ Division of Regency/ Municipality in charge of environment, Perum Perhutani within a work area of Perum Perhutani, and other related parties.
- (5) Division Head of Province in charge of forestry shall submit the result of evaluation as cited in paragraph (1) to Minister and Governor with carbon copy to Director General.
- (6) The expenditures of the implementation of evaluation as cited in paragraph (1) shall be allocated to the budget of de-concentration of the Ministry of Environment and Forestry and other budgets from unconditional sources of funds.

Article 42

In case that from the result of evaluation the holder of the permit of borrow-to-use area of forest does not fulfill all the obligations as determined and cited in Article 22 or commits a crime in the sector of environment and

forestry, the request for extension, the termination and the return of part or all of the permit of borrow-to-use area of forest shall not be applicable for consideration.

Article 43

Further provision concerning the monitoring and evaluation as cited in Articles 39 through 42 shall be regulated under a Policy (regulation) of Director General.

CHAPTER VI NULL AND VOID PERMIT OF BORROW-TO-USE AREA OF FOREST

Article 44

- (1) The permit of borrow-to-use area of forest as cited in Article 18 paragraphs (4) and (6) shall be declared null and void in case that:
 - a. the period of time of the permit of borrow-to-use area of forest has expired;
 - b. it is revoked by Minister;
 - c. it is voluntarily returned in a written statement by the holder of the permit of borrow-to-use area of forest to Minister before the period of expiration of the permit.
 - d. The permit/ agreement issued by the Government Official based on the authority such as the Permit of Mining Undertakings or the Permit of Undertakings of Power Supplies is revoked by the Government Official based on the authority.
- (2) The voluntary return by the holder of the permit borrow-to-use area of forest as cited in paragraph (1) letter c shall be attached with a remote sensing image in a very high resolution of the latest coverage of no later than 1 (one) year and based on the result of evaluation.
- (3) The result of evaluation as cited in paragraph (2) shall include as follows:
 - a. the fulfillment of obligations by the holder of permit;
 - b. the condition of the coverage of area that will be returned;
 - c. the recommendation.
- (4) Based on the result of appraisal of the request as cited in paragraph (1) letter c, Minister through Chairman of Investment Coordinating Board (BKPM) for the request of commercial purpose and Minister for the request of non-commercial purpose shall give an approval or a refusal against such a request.

- (5) In case that the request for part or all of the area of the permit of borrow-to-use area of forest as cited in paragraph (1) letter c has been approved, Minister through Chairman of Investment Coordinating Board (BKPM) for the request of commercial purpose and Minister for the request of non-commercial purpose shall make a Decision on the revoke of the permit of borrow-to-use area of forest.

Article 45

- (1) The revoke of the permit of borrow-to-use area of forest as cited in Article 44 paragraph (5) shall not make the holder of the permit of borrow-to-use area of forest free from completely fulfilling the obligations as cited in the permit of borrow-to-use area of forest.
- (2) At the time the permit of borrow-to-use area of forest is declared null and void (revoked) as cited in Article 44 paragraph (5), the existing things such as:
- a. immovable goods/ things including the plants grown in the area of the permit borrow-to-use area of forest shall belong to the State; and
 - b. moveable goods/ things shall belong to the holder of the permit.
- (3) Moveable goods/ things as cited in paragraph (2) letter b shall be obligatorily removed from the area of forest by the holder of the permit, of which the permit of borrow-to-use area of forest has been revoked, in a period of time of no later than 6 (six) months as of the date of the revoke of the permit, or at the time the activity of reclamation has been considered successful.
- (4) In case that the moveable goods/ things as cited in paragraph (3) have yet to be removed from the forest area till the deadline, they shall be auctioned as in compliance with the prevailing laws and regulations.

Article 46

- (1) The null and void permit as cited in Article 44 paragraph (1) letters a, c and d shall be stated in a decision made by Minister.
- (2) Based on the Minister's decision as cited in paragraph (1), especially for the operation and production the handover of the borrow-to-use area of forest shall be as follows:
- a. in the work area of Perum Perhutani it is conducted between the President Director of Perum Perhutani and the holder of the permit of borrow-to-use area of forest;
 - b. in the forest area that is equipped with a permit of utilization of forest, or in the forest area with no operator and is not equipped with a permit of utilization of forest, it is between Division Head of

Province in charge of Forestry and the holder of the permit of borrow-to-use area of forest.

CHAPTER VII SANCTION

Article 47

- (1) Based on the result of evaluation as cited in Article 41, the permit of borrow-to-use area of forest can be revoked by Minister in case that the holder of the permit:
 - a. fails to fulfill part or all of the obligations;
 - b. violates the provisions of Article 11 paragraph (1) letter b and Article 26; and/ or
 - c. commits a crime in the sector of environment and forestry.
- (2) The obligations as cited in paragraph (1) letter a include as follows:
 - a. to conduct the reclamation and re-vegetation in the area of forest that is no longer occupied;
 - b. to conduct planting for the sake of rehabilitation of the area of river watershed;
 - c. to pay PNBP of the Use of Forest Area;
 - d. to pay PSDH and/ or DR
 - e. to pay the compensation for the value of standing stock to the government in regard that the area as requested is of the forest of plants resulted from rehabilitation;
 - f. to pay the compensation for the cost of investment in the management/ utilization of forest to the operator/ the holder of the permit of borrow-to-use area of forest, in regard that the area of the permit of borrow-to-use area of forest is located in a work area of forest management/ permit of undertakings for the utilization of forest produces;
 - g. to conduct the protection of forest in the area of the permit of borrow-to-use area of forest as in compliance with the prevailing laws and regulations;
 - h. to empower the local people around the area of the permit of borrow-to-use area of forest.
- (3) The revoke of the permit of borrow-to-use area of forest as cited in paragraph (1) shall be conducted by Director General after giving

warnings 3 (three) times in sequences in a period of time of 30 (thirty) work days.

CHAPTER VIII TRANSITIONAL PROVISION

Chapter 48

With the effectiveness of this Ministerial Decree:

- a. the request for the use of forest area, of which the requirements have been fulfilled, in its accomplishment it shall be processed to become a permit of borrow-to-use area of forest as referring to in this Ministerial Decree;
- b. the principal permit for the use of forest area that has been granted by Minister prior to the effectiveness of this Ministerial Decree and part or all of the obligations of the principal permit have not been fulfilled, the holder of permit shall be allowed to submit a request for a permit of borrow-to-use area of forest and shall be subject to the obligations under this Ministerial Decree.
- c. any request for the extension of principal permit for the use of forest area shall be processed to become a permit of borrow-to-use area of forest and shall be subject to the obligations under this Ministerial Decree.
- d. the principal permit for the use of forest area that has been granted by Minister prior to the effectiveness of this Ministerial Decree and it has been expired, the holder shall be allowed to submit a request for a permit of borrow-to-use area of forest and shall be subject to the requirements under this Ministerial Decree and the already-fulfilled requirements and obligations shall remain effectual and acceptable.
- e. the agreement on borrow-to-use area of forest that is still effective shall remain effectual until the expiration of the agreement and later on it shall be converted into a permit of borrow-to-use area of forest when it will be extended and the obligations shall be adjusted to those under this Ministerial Decree.
- f. any request for the extension of the permit of borrow-to-use area of forest, of which based on the result of evaluation has fulfilled the requirements, shall be approved and the permit of borrow-to-use area of forest shall be subject to the obligations under this Ministerial Decree;
- g. the permit or agreement on borrow-to-use area of forest that has expired and all the obligations have yet to be fulfilled, the permit of borrow-to-use area of forest shall be processed as per request and shall be subject to the obligations under this Ministerial Decree and the unsettled obligations shall also be completely fulfilled.

- h. The holder of the principal permit for the use of forest area of the activity of non-commercial purpose with obligation to provide land area of compensation, of which the land rights have been released with the payment of compensation for the would-be land area of compensation, the would-be land area of compensation shall be handed over to Ministry of Environment and Forestry;
- i. The holder of the principal permit for the use of forest area of the activity of non-commercial purpose with obligation to provide land area of compensation, of which the land rights have been released with the payment of compensation for part of the would-be land area of compensation, the would-be land area of compensation shall be handed over to Ministry of Environment and Forestry and the remaining part shall be compensated with the activity of planting vegetation for the sake of rehabilitation of the area of river watershed in ratio of 1:1;
- j. The holder of the principal permit for the use of forest area of the activity of non-commercial purpose with obligation to provide land area of compensation, of which the land rights have yet to be released with no payment of compensation of the would-be land area, in that regard the obligation of compensation shall be replaced with an obligation of planting vegetation for the sake of rehabilitation of the area of river watershed in ratio of 1:1;
- k. The holder of the principal permit on the swap of area of forest for the development of pond and water dam, shall be obliged to process the permit to become a permit of borrow-to-use area of forest and the area of replacement that has been made available and approved by Minister shall be handed over to Ministry of Environment and Forestry;
- l. The holder of the principal permit or the permit of borrow-to-use area of forest, of which the area is designated to be converted into an area of non forest, this area shall be excluded from the permit of borrow-to-use area of forest as per request.
- m. The activity of development of non forestry, of which used to be in an area of non forest but later on the area was converted into an area of forest with the function as a forest area, such an activity shall be continued with the issuance of a permit of borrow-to-use area of forest as per request, of which shall be equipped merely with a document of permit or any similar document issued by an authoritative agency (government institution) or a copy of document that has been legalized by an authoritative government institution;
- n Agreement/ permit of borrow-to-use area of forest for geothermal activity, of which the function of area has later on been changed to become a conservation area of forest prior to the issuance of this Ministerial Decree, the agreement/ permit of borrow-to-use area of forest shall be declared to remain effective until the issuance of a

permit as in compliance with the prevailing laws and regulations, of which shall regulate any activity in a conservation area of forest;

- o. In regard of a principal permit for the use of forest area issued by Ministry in an area of productive forest but a permit of undertakings for the utility of forest produces of timber product (IUPHHK) has yet to be issued, a permit of borrow-to-use area of forest can be issued for that reason and the holder of the would-be IUPHHK shall not be subject to the obligation to pay the compensation of cost of investment.

Chapter 49

- (1) For the activity of the use of forest area for public road, road of production, electricity, facility of telecommunications or the operation and production of oil and natural gas, geothermal, network of water installation, public facility and supporting facilities that have been developed prior to the effectiveness of Law Number 41 Year 1999 on Forestry, as having been amended by Law Number 19 Year 2004, there is a possibility of submitting a request for a permit of borrow-to-use area of forest;
- (2) The request for a permit of borrow-to-use area of forest as cited in paragraph (1) shall be completed with administrative and technical requirements such as:
 - a. a letter of request;
 - b. a map of location;
 - c. a document of permit or similar document that has been issued the authoritative government institution or a copy that is legalized by an authoritative government institution; and
 - d. a chronology of the existence of the activity and legitimate supporting documents;
- (3) The procedure of request for a permit of borrow-to-use area of forest as cited in paragraphs (2) and (3) shall refer to in the provisions of Articles 13 and 18.

CHAPTER IX CLOSING PROVISION

Article 50

At the time of the effectiveness of this Ministerial Decree, Ministerial Decree of Forestry Number P.16/ Menhut-II/ 2014 on Guideline of Borrow-to-use Area of Forest (State Gazette of the Republic of Indonesia Year 2014 Number 327), shall be revoked and declared null and void.

Article 51

This Ministerial Decree shall be effective as of the date of enactment.

That everybody shall be made aware of, and this Ministerial Decree shall be published in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
Dated June 8, 2016
MINISTER OF ENVIRONMENT AND FORESTRY
THE REPUBLIC OF INDONESIA,

Signed

SITI NURBAYA

Stipulated in Jakarta
dated June 14, 2016
DIRECTOR GENERAL OF LAWS AND REGULATIONS
MINISTRY OF LAWS AND HUMAN RIGHTS
THE REPUBLIC OF INDONESIA,

Signed.

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2016 NUMBER 881

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BUREAU HEAD OF LAWS

Signed.
KRISNA RYA