

GUIDELINE FOR GRANTING PERMIT FOR DEVELOPMENT OF DRINKING WATER SUPPLY SYSTEM TO BE CONDUCTED BY BUSINESS ENTITY TOGETHER WITH THE COMMUNITY FOR FULFILLMENT OF OWN REQUIREMENT (Regulation of the Minister of Public Works of the Republic of Indonesia Number 07/PRT/M/2013, dated August 19, 2013)

WITH THE BLESSING OF THE ONE AND ONLY GOD
MINISTER OF PUBLIC WORKS OF
THE REPUBLIC OF INDONESIA,

Considering:

To implement the provision in Article 65, paragraph (5), Government Regulation Number 16 Year 2005, concerning Development of Drinking Water Supply System, it is necessary to stipulate Regulation of the Minister of Public Works for Granting Permit for Development of Drinking Water Supply System to be conducted by Business Entity for Own Requirement;

In view of:

1. Government Regulation Number 16 Year 2005, concerning Development of Drinking Water Supply System (Statute Book of the Republic of Indonesia Year 2005 Number 33, Supplement to Statute Book of the Republic of Indonesia Number 4490);
2. Government Regulation Number 38 Year 2007 (BN 7576 pgs. 1B-6B), concerning Distribution of Administration Affairs between Central Government, Regional Administration of Province, and Regional Administration of Regency/Municipality (Statute Book of the Republic of Indonesia Year 2007 Number 82, Supplement to Statute Book of the Republic of Indonesia Number 4737);
3. Government Regulation Number 42 Year 2008, concerning Management of Water Resource (Statute Book of the Republic of Indonesia Year 2008 Number 82, Supplement to Statute Book of the Republic of Indonesia Number 4858);
4. Government Regulation Number 45 Year 2008, concerning Guideline for Granting Incentive and Capital Investment Facilities in the Region (Statute Book of the Republic of Indonesia Year 2008 Number 88, Supplement to Statute Book of the Republic of Indonesia Number 4861);

5. Government Regulation Number 27 Year 2012, concerning Environmental Permit (Statute Book of the Republic of Indonesia Year 2012 Number 48, Supplement to Statute Book of the Republic of Indonesia Number 5285;
6. Presidential Regulation Number 47 Year 2009, concerning Establishment and Organization of the State Ministry as amended several times and lately amended by Presidential Regulation Number 91 Year 2011;
7. Presidential Regulation Number 24 Year 2010, concerning Capacity, Duty and Function of State Ministry and Organizational Structure, Duty and Function of Echelon I of State Ministry as amended several times and lately amended by Presidential Regulation Number 38 Year 2013;
8. Regulation of the Minister of Public Works Number 18/PRT/M/2007, concerning Development of Drinking Water Supply System;
9. Regulation of the Minister of Home Affairs Number 23 Year 2007, concerning Guideline on Procedure for Supervision Implementation of Regional Administration;
10. Regulation of the Minister of Public Works Number 01/PRT/M/2009, concerning Development of Drinking Water Non-Pipeline Supply System;
11. Regulation of the Minister of Health Number 492 Year 2010, concerning Quality Requirement on Drinking Water;
12. Regulation of the Minister of Public Works Number 08/PRT/M/2010, concerning Organization and Working Procedure of the Ministry of Public Works;
13. Regulation of State Minister of Living Environment Number 05 Year 2012, concerning Type of Business and/or Activity That is Obligated to Possess Analysis on Impact of Living Environment;

D E C I D E S:

To stipulate:

REGULATION OF THE MINISTER OF PUBLIC WORKS
CONCERNING GUIDELINE FOR GRANTING PERMIT
FOR DEVELOPMENT OF DRINKING WATER SUPPLY
SYSTEM BY BUSINESS ENTITY AND THE COMMUNITY
FOR FULFILLMENT OF OWN REQUIREMENT.

CHAPTER I

GENERAL PROVISION

Part One

Interpretation

Article 1

What is meant in the Regulation of the Minister by:

1. Business Entity for Own Requirement shall be ful-

fillment of drinking water requirement to support business not constituting as drinking water supply business, that only exists within its business area, but not cooperating with other business entity, and not serving public society.

2. Community own requirement shall be fulfillment of the need for drinking water by the community concerned.
3. Standard quality of Drinking Water for Household, hereinafter referred to as standard quality of water, shall be water originating from surface water resource, ground water reservoir, and/or rain water that comply with particular standard quality that is standard quality of drinking water.
4. Drinking water shall be drinking water for household obtained through processing or without processing that complies with the requirements of health and ready for drink instantly.
5. Drinking Water Supply shall be activity in supplying drinking water to fulfill the need of the community for the purpose of obtaining healthy, hygienic and productive life.
6. Drinking Water Supply System hereinafter referred to as SPAM shall be a physical system unit (technical) and non-physical system unit of drink-

ing water infrastructure and facilities.

7. SPAM development shall be activities intending to construct, expand and/or improve physical system (technical) and non-physical system (institutional, management, finance, role of the community, and the law) in solid unit for the supply of drinking water to the community towards better life.
8. SPAM development shall be activities in planning, constructing, managing, maintaining, rehabilitating, monitoring, and/or evaluating physical system (technical) and non-physical supply on drinking water.
9. SPAM development hereinafter referred to as Operator shall be State-owned Business Entity/Regional-owned Business Entity, Technical Operator Service / Regional Public Service Agency, Cooperatives, private business entity, and/or group of community, Rural-owned Business Entity implementing SPAM development.
10. Business Entity shall be private business entity in the form of Limited Liability, State-owned Business Entity (BUMN), Regional-owned Business Entity (BUMD), and Cooperatives which core of business is not in the form of SPAM development.

11. State-owned Business Entity hereinafter referred to as BUMN shall be business entity which the entire or majority capital thereof belongs to the State in the form of direct participation originating from State's asset allotted and specifically established to act Operator.
12. Regional-owned Business Entity hereinafter referred to as BUMD shall be business entity which establishment is initiated by Regional Administration and which the entire or majority part of capital thereof belongs to the Region in the form of direct participation originating from the Region's asset allotted and specifically established to act as Operator.
13. Cooperatives shall be group of people having the same need in the form of economy or social culture based on the principle of democracy of its members and specifically established to act as Operator.
14. Private Business Entity shall be legal entity belonging to private specifically established to act as Operator in accordance with the statutory regulation.
15. Community shall be individual person or group of persons having the same interest and residing in the same area with the same jurisdiction.
16. Regional Technical Operating Unit hereinafter referred to as UPTD shall be element carrying out technical duty at the service section and agency of the region.
17. Regional Public Service Agency hereinafter referred to as BLUD shall be Regional Instrument Working Unit or Working Unit at Regional Instrument Working Unit within Regional Administration duly established to provide service to the community in the form of goods and/or services sold without profit, and in carrying out its activity is based on the principle of efficiency and productivity.
18. Drinking Water Retribution shall be service fee for drinking water payable by the customer for the drinking water provided by the Business Entity or the SPAM development operator for fulfillment of own need.
19. Central Government hereinafter referred to as Central Government, shall be President of the Republic of Indonesia that holds the power of administration of the State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia Year 1945.
20. Regional Administration shall be Governor, Regent, or Mayor, and regional instrument constituting elements of regional administration.

21. Minister shall be minister exercising administration affairs on Public Works.

Part Two

Purposes and Objectives

Article 2

- (1) This Regulation of the Minister constitutes as guideline for the Central Government, Regional Administration, Operator, business entity, and the community to exercise SPAM development for fulfillment of their own need.

- (2) This Regulation of the Minister governs SPAM development for orderly fulfillment of own need.

Part Three

Scope

Article 3

The scope of this Regulation of the Minister covers:

- a. permits for SPAM development;
- b. procedure to obtain permit;
- c. rights and obligation of the holder of permit;
- d. expiry of permit; and
- e. retribution and agreement of customer.

CHAPTER II

PERMITS FOR SPAM DEVELOPMENT

Article 4

- (1) The Minister, Governor, Regent or Mayor based on their respective authority may grant permit for

SPAM development for fulfillment of own need to the community or business entity.

- (2) The permit for SPA development referred to in paragraph (1) may be granted if service of BUMN/ BUMD SPAM Development Operator is still incapable or will not cover the area or residential area of the community or business entity concerned.

CHAPTER III

PROCEDURE TO OBTAIN PERMIT

Part One

Business Entity

Article 5

- (1) Permit for SPAM development for fulfillment of own need will be obtained by first obtaining provisional permit.
- (2) The business entity shall submit written application to the Minister, Governor, Regent or Mayor to obtain provisional permit by submitting the following:
- a. SPAM development plan for own need;
 - b. copy of deed of establishment of company;
 - c. copy of core business entity supported by SPAM development for own need;
 - d. information on availability of standard quality of water from the competent authority.

- (3) The Minister, Governor, Regent or Mayor will issue provisional permit if the area concerned cannot be

served yet by BUMD operator based on technical recommendation from the BUMD operator.

(4) The provisional permit referred to in paragraph (3), must not contravene the master plan of SPAM development.

(5) The provisional permit referred to in paragraph (1), is needed to ensure that SPAM development may be conducted, thereby the business entity may proceed with the activities on::

- a. technical planning;
- b. conducting analysis study on environmental impact or UKL/UPL ;
- c. processing permit for building construction;
- d. calculating retribution to be charged; and
- e. processing other permit as required by the statutory regulation.

(6) Business entity may submit written application to the Minister, Governor, Regent or Mayor to obtain permit for SPAM development by submitting the result of analysis, estimated retribution, and the permits referred to in paragraph (5).

(7) The Minister, Governor, Regent or Mayor will issue permit for SPAM development for fulfillment of own need after having complied with all the requirements.

(8) The permit for SPAM development for fulfillment

of own need referred to in paragraph (7) contains, among other things,:

- a. capacity of SPAM;
- b. area of core business to be served by SPAM;
- c. term of permit;
- d. initial retribution charged on householder customer and mechanism for retribution adjustment; and
- e. obligations of business entity.

(9) Business Entity may exercise SPAM development after obtaining permit for SPAM development.

Part Two

Community

Article 6

(1) The community shall submit written application to the Regent or Mayor through the Village Chief to obtain permit for SPAM development for fulfillment of own need.

(2) The application referred to in paragraph (1) must be supported by:

- a. copy of deed of establishment of company (if the community possesses legal business entity);
- b. technical document and fee justification;
- c. technical planning document;
- d. information on availability of standard water from the competent authority; and

e. estimation of retribution to be charged.

(3) In granting permit for SPAM development for fulfillment of own need, the Regent or Mayor will ask for recommendation from the BUMD Operator.

(4) If the Regent or Mayor issues permit for SPAM development for fulfillment of own need, the community is obliged to obtain other permits as required by the statutory regulation.

(5) The community may exercise SPAM development after obtaining all the required permits referred to in paragraph (4).

(6) The permit for SPAM development for fulfillment of own need contains, among other things,:

- a. capacity of SPAM;
- b. area of SPAM service;
- c. term of permit;
- d. initial retribution charged on the customer and mechanism for retribution adjustment; and
- e. obligation of the community.

CHAPTER IV

RIGHTS AND OBLIGATIONS OF PERMIT HOLDER

Article 7

(1) The business entity and the community as permit holders have the rights to obtain technical and

non-technical guidance and protection of the asset from the Government.

(2) The business entity and the community as permit holders are obliged to:

- a. be guided by the procedure for planning, construction, management, maintenance, rehabilitation, and monitoring of evaluation based on the applicable standard;
- b. secure the service over drinking water that complies with the standard stipulated, either on quality, quantity, and continuity;
- c. provide information and report on the SPAM development to the Regent or Mayor according to their respective authority;
- d. in the occurrence of natural disaster, must give access to the surrounding community in the fulfillment of minimum need for water as requested by Government / Regional Administration; and
- e. is obliged to participate in the effort of protecting and preserving water resource in the context of environmental preservation.

Article 8

(1) In the event of dry season or limited water supply or natural disaster, the Regent or Mayor shall

request the business entity and the community to give access to the surrounding community in fulfilling their daily principal need for water.

- (2) Such provision of access referred to in paragraph (1) shall be based on approval of the business entity and the community..

CHAPTER V

PERMIT EXPIRY

Article 9

- (1) The permit for SPAM development by business entity for fulfillment of their own need shall expire due to the reasons below:
- a. the permit of the core business expires; or
 - b. the permit is revoked by the Minister, Governor, Regent or Mayor based on their respective authority.
- (2) The permit for SPAM development by the community for fulfillment of their own need is revoked by the Regent of Mayor based on their respective authority.

Article 10

- (1) The Minister, Governor, Regent, or Mayor may revoke the permit for SPAM development for fulfillment of own need as referred to in Article 9, paragraph (1), letter b, and Article 9, paragraph (2), if the business entity and the community fail to comply with the provisions stipulated in the permit for SPAM development for fulfillment of their own need.
- (2) The Minister, Governor, Regent, or Mayor shall revoke the permit referred to in paragraph (1), if no follow-up action is taken by the business entity and the community following the two (2) written reminders.

Article 11

to be continued

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**(Regulation of the Minister of Public Works of
the Republic of Indonesia Number 07/PRT/M/2013,
dated August 19, 2013)**

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Article 11

(1) If the permit for SPAM development for fulfillment of own need expires as referred to in Article 9, in the context of SPAM development for fulfillment of own need, the Minister, Governor, Regent, or Mayor based on their respective authority may take over the SPAM service operation from:

- a. the business entity selling water to household customer within its core business area; and
- b. the community selling water to household customer.

(2) The taking over of SPAM service operation referred to in paragraph (1) will be followed by hand-over of the SPAM asset constituting public facilities, from the business entity or the community to Minister, Governor, Regent or Mayor.

(3) The asset referred to in paragraph (2) will be hand-

ed-over in accordance with statutory regulation.

CHAPTER VI

CUSTOMER RETRIBUTION AND AGREEMENT

Part One

General

Article 12

(1) Calculation and determination of the amount of retribution for drinking water must be based on the principles:

- a. accessibility and justice;
- b. service quality;
- c. cost recovery;
- d. efficient use of water;
- e. transparency and accountability; and
- f. protection of standard water.

(2) Cost component calculated in calculating retribution covers:

- a. operation and maintenance costs, covering personnel cost, electricity cost / fuel cost, chemical substance cost, standard water retribution cost, environmental preservation cost, purchase cost of water in bulk, maintenance cost, insurance cost, administration and general costs.
- b. depreciation / amortization cost over the asset operated;
- c. loan interest cost(if any); and
- d. other costs, such as, cost that may arise resulting from supply of drinking water such as change in exchange (if any).

Part Two

Business Entity

Article 13

- (1) Business entity conducting SPAM development for fulfillment of own need is obliged to submit retribution amount and mechanism for adjustment of the retribution amount at a later date to potential customer.
- (2) Retribution amount and mechanism for retribution adjustment forthcoming shall be stipulated in agreement between potential customer and business entity exercising SPAM development for fulfillment of own need..

- (3) Amount of adjustment to retribution must comply with calculation principle and determination of retribution as referred to in Article 12 paragraph (1), with cost component calculated in the retribution estimate as referred to in Article 12 paragraph (2).
- (4) Mechanism for retribution adjust at a later date referred to in paragraph (2) may be applied by consultation with the customer representative until a quorum is reached.. dapat melalui konsultasi dengan perwakilan pelanggan hingga memenuhi kuorum.
- (5) The retribution charged must be able to support continuity of the SPAM development.
- (6) Business entity exercising SPAM development for fulfillment of own need selling water to non-household customer within its core business area, the non-household customer subject to retribution shall be determined as agreed upon by the parties.
- (7) The retribution amount shall be adjusted using mechanism that has been initially agreed upon as referred to in paragraph (2).
- (8) If no agreement is reached in determining retribution adjustment amount as referred to in paragraph (7), both parties agree to appoint third party to exercise mediation.

- (9) The decision of third party resulting from mediation as referred to in paragraph (8) constitutes final decision and having binding legal power and must be complied with and obeyed by both parties.

- (10) The decision of third party referred to in paragraph (9) must be exercised in order to prevent continuous conflict of interest that may cause discontinuation of drinking water supply to the customer.

Article 14

- (1) If within the context of SPAM development for fulfillment of own need of business entity sells the water to household customers or non-household customers, such business entity is obliged to enter into service agreement with the customer.
- (2) The customer agreement referred to in paragraph (1) will be entered into at installing new connection and provision of account to be charged periodically.

Part Three

Community

Article 15

- (1) The retribution charged on customers and its adjustment must be stipulated based on mutual agreement with the customers.

- (2) The retribution referred to in paragraph (1) must be able to support continuity of SPAM development operation.

CHAPTER VII

OTHER PROVISIONS

Article 16

- (1) Any Regional Regulation governing grant of permit for SPAM development by business entity and the community for fulfillment of own need, must refer to the provisions in this Regulation of the Minister.
- (2) If any area possesses no Regional Regulation yet as referred to in paragraph (1), then granting of permit for SPAM development by business entity for fulfillment of own need, the provisions in this Regulation of the Minister apply.
- (3) For business entity or the community exercising SPAM development for fulfillment of own need but still not possessing permit of SPAM development is obliged to process permit as governed in this Regulation of the Minister.

CHAPTER VIII

CLOSING PROVISION

Article 17

This Regulation of the Minister comes to force on the date it is enacted.

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

Stipulated in Jakarta

Dated August 19, 2013

MINISTER OF PUBLIC WORKS OF
THE REPUBLIC OF INDONESIA,

sgd.

DJOKO KIRMANTO

Enacted in Jakarta

Dated August 27, 2013

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

sgd.

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
YEAR 2013, NUMBER 1059

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