

Mining in Thailand

An Investment Guide



Department of Primary Industries and Mines
Ministry of Industry



Preface

The Thai government recognizes the important contributions of foreign investment to the domestic economy. Various measures have been initiated in order to attract foreign investment and to provide competitive and attractive investment environments. Mining is one of the main targets for the government in encouraging investment from abroad. Under this policy, legal and regulation frameworks as well as infrastructure and facilities have been constantly developed and improved to suit cross-border investments. Under Thai legislation, the conduct of mineral exploration, mine production, and mineral transactions is administered by:

- 1) the Minerals Act B.E. 2510 and its related Ministerial Regulations, and
- 2) the Mineral Royalty Rates Act B.E. 2509 and its related Ministerial Regulations.

The Department of Primary Industries and Mines in the Ministry of Industry is the government's body responsible for supervision and promotion of the mining industry and mineral trades as well as providing safety and pollution-control requirements in compliance with the Minerals Act. According to the laws, the applications for permissions concerning minerals can be separated into six categories according to the operational stages:

- prospecting and exploration,
- mining,
- mineral processing and metallurgical processing,
- mineral possession, transport, and royalty payment,
- purchase, sale, and storage of minerals,
- mineral import and export.

Normally an exploration contract, or Atchayabat, and a mining concession, or Prathanabat, can be granted only to people or companies that have a domicile or residence in the kingdom. The foreign registered corporation may apply for a Special Atchayabat for prospecting, and a Prathanabat for mining only for gold ores within the area specified by the Ministry of Industry. Also, the persons or corporations that have a domicile or residence in the Thai kingdom can apply for a Mineral Purchase Licence, Mineral Storage Licence, Mineral Processing Licence, Metallurgical Processing Licence, Mineral Import Licence and Mineral Export

Licence. Under the Foreign Business Act B.E. 2542, operating a mining business, including rock quarrying and an aggregate crushing plant, is generally not allowed for foreign investment. However, foreigners may operate the mining business only if Thai person or Thai juristic person holds the shares of not less than 40% of the capital of that partner of foreign juristic person. Unless there is a reasonable cause, the Minister of Commerce, with the approval of the Cabinet, may reduce the proportion requirement, but it must not be less than 25% and the number of Thai directors must not be less than two-fifths of the total number of directors.

Before investing in Thailand, foreign investors need to understand a number of regulatory and legal topics as well as surrounding environments. These are corporate registration, legislation, work permits, industrial licensing, taxation, investment promotion and privileges, the availability of infrastructure and facilities such as airports, ports, highways, and the availability of power, water and telecommunications. This handbook outlines the regulatory and legal framework for foreign investment in Thailand's mining industry and mineral businesses. The information in this book is based on legislation, regulations, and administrative practices that are in effect as of June 2004. The serious investor is required to seek more details and the amendment thereafter.

**Department of Primary Industries and Mines
Ministry of Industry, Thailand
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Nomenclatures and Abbreviation

ALRO	Agricultural Land Reform Office
Artisanal Mining	Operation undertaken to obtain minerals by using individual labourer
Atchayabat	Document of rights or contract granted for mineral prospecting
BOI	The Board of Investment of Thailand
Director-General	The director general of the DPIM
DPIM	Department of Primary Industries and Mines
EIA	Report on environmental impact assessment
EPA	Exclusive Prospecting Atchayabat, a document of rights granted for exclusive mineral prospecting and exploration.
LAO	Local Administrative Organization, Tambon council organization
LMIO	Local Mineral Industry Official, the competent official appointed for execution of the Minerals Act and related applications in the locality
Minister	Minister of Industry
ONEP	Office of Natural Resources and Environmental Policy and Planning
PA	Prospecting Atchayabat, a document of rights granted for mineral prospecting within a designated area
PP	Provisional Prathanabat, a document of rights granted for temporary mining while waiting for approval of Prathanabat
Prathanabat	Document of rights granted for mining within a designated area or mining concession
SA	Special Atchayabat, a document of rights granted for exclusive prospecting and exploration with a special case
SET	Stock Exchange of Thailand



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1. Establishing a Business in Thailand

Before investing in Thailand, foreign investors need to understand various topics such as corporate registration, legislation, work permits, industrial licensing, taxation, investment promotion and privileges. Also the availability of infrastructure and facilities such as airports, ports, highways, and the availability of power, water and telecommunications must be studied beforehand.

1.1 Setting up a Limited Company

There are three kinds of legal business organizations in Thailand: sole proprietorship, partnership, and limited company. The most favourite form of business corporations among foreign investors is the private limited company, which requires a minimum of 7 promoters who must file a memorandum of association, convene a statutory meeting, and register the company at the Department of Business Development in the Ministry of Commerce.

Firms must also apply for a tax identification card from the Revenue Department and follow accounting procedures specified in the Civil and Commercial code, the Revenue Code and the Accounts Act. A balance sheet must be prepared once a year and filed with the Department of Revenue and Business Development. In addition, companies are required to withhold income tax from the salary of all regular employees.

1.2 Taxation

The Revenue Code outlines regulations for the imposition of taxes on income, which separate income tax into three categories as follows:

- Corporate Income Tax
- Value Added Tax and Special Business taxes
- Personal Income Tax

Thailand also has treaty agreements to eliminate double taxation with many countries.

Corporate Income Tax

All companies registered under Thai law are subject to taxation as stipulated in the Revenue Code and are subject to income tax on income earned from sources within and outside Thailand. Foreign companies not registered or not residing in Thailand are subject to tax only on income derived from sources within Thailand.



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A corporate operating in Thailand pays income tax at a rate of 30% of net profits. Net losses can be carried forward for up to 5 consecutive years. Taxes are due on a semi-annual basis within 150 days of the close of a six-month accounting period.

Normal business expenses and depreciation allowances, at rates ranging from 5% to 100%, depending on the item, or at rates under any other acceptable depreciation method, are allowed as deductions from gross income. Inventory must be valued at cost or at market price, whichever is lower. No deduction is permitted for any expenditure that is determined on the basis of net profit. Depreciation of assets is based on cost and its depreciating period may generally vary from 5 to 20 years. The law permits the use of varying annual depreciation rates depending on the types of assets, however, the same rates must be used in the books and income tax return.

Inter-corporate dividends are exempt from tax on 50% of dividends received. For holding companies and companies listed on the Stock Exchange of Thailand (SET), dividends are completely exempt, provided the shares are held three months prior to and after the receipt of dividends.

Recently, the corporate income tax rate has been cut for existing and newly listed companies registered with either the SET or Market for Alternative Investment (MAI). The lowered rates can be applied for 5 accounting periods. Only newly listed companies listed within three years of 6 September 2001 qualify for the lowered rates.

Value Added Tax

Under the new tax regime, value added at every stage of the production process is subject to a 7% value added tax (VAT) rate. Those who are affected by this tax are: producers, providers of services, wholesalers, retailers, exporters and importers.

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The VAT is calculated by the difference of an output tax and input tax, where output tax is the VAT which the operator collects from the purchaser when a sale is made, and input tax is the VAT which an operator pays to the seller of goods or service which is then used in the operator's business. If the result of this calculation is a positive figure, the operator must submit the remaining tax to the Revenue Department not later than 15 days after the end of each month. However, for a negative balance, the operator is entitled to a refund in the form of cash or a tax credit, which will be paid in the following month.



Special Business Taxes

A specific business tax of approximately 3% of the monthly gross receipts is levied in lieu of VAT on some types of businesses.

Remittance tax applies only to profits transferred from a Thailand branch to its head office overseas. It is imposed at the rate of 10% of the amount to be remitted before tax, and must be paid by the remitting office of the offshore company within 7 days of the date of notice.

Personal Income Tax

Every person, resident or non-resident, who derives assessable income from employment or business in Thailand, or has assets located in Thailand, is subject to personal income tax, whether such income is paid in or outside of Thailand. Other types of taxable income include: interest, dividends, capital gains on the sale of securities, and professional fees. Personal income tax is applied on a graduated scale starting from 5% to 37%.

Personal income taxes and tax returns must be filed prior to the end of March of the year following the year in which the income was earned. A standard deduction of 40%, but not in excess of 60,000 baht, is permitted against income from employment or services rendered or income from copyrights. For other categories of income, standard deductions ranging from 10% to 85% are allowed.

Other Taxes

Excise tax is levied on the sale of some products, such as petroleum, cement, electrical appliances, tobacco, liquor, and automobiles. Owners of land or buildings in the designated areas are subject to annual taxes imposed by the local administration.

1.3 Customs Duties

There are certain regulations governing the import and export of goods into and out of Thailand. However, trade in certain items is restricted through outright prohibition, the imposition of duties or licensing requirements.

Tariff duties on goods are levied on an ad valorem or a specific rate basis. The majority of goods imported by businesses are subject to rates ranging from 5% to 60%. The majority of imported articles are subject to two different taxes: Tariff duty and VAT. Tariff duty is computed by multiplying the CIF value of the goods by the duty



rate. The duty thus determined is added to the value of the goods determined with reference to the CIF price. VAT is then levied on the total sum of the CIF value, duty, and excise tax, if any. Goods imported for re-export are generally exempt from import duty and VAT.

Two exceptions to the obligation to pay customs duties apply to the importation of machinery, equipment, and materials for the use by oil and gas concessionaires and their contractors and certain companies promoted by the Board of Investment (BOI). As a part of the BOI's promotional program, the promoted companies are eligible to receive exemptions or reductions from import duties on raw and essential materials as well as machinery.

Export duties are imposed on only a few items, including rice, hides, skins and leathers, scrap iron or steel, rubber, teak and other kinds of wood.

1.4 Importation and Repatriation of Investment Funds

The Exchange Control Law governs all matters involving foreign exchange. As a general rule, all matters involving foreign currency are regulated by, and require the permission of, the Bank of Thailand. However, foreign exchange control has been considerably relaxed by the Bank of Thailand. At present, certain transactions in Thai baht or foreign currency can be performed virtually without restriction, and only a few require approval from the Bank of Thailand.

There is no restriction on the import of foreign currency such as investment funds, offshore loans, etc. Such foreign currency, however, must be sold or exchanged into Thai baht, or deposited in a foreign currency account with an authorized bank, within 7 days from the date of receipt or entry into the country.

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Repatriation of investment funds, dividends and profits as well as loan repayments and interest payments thereon, after settlements of all applicable taxes, may be made freely. Similarly, promissory notes and bills of exchange may be sent abroad without restriction.

1.5 Foreign Business Act and Work Permits

In general, foreigners in Thailand may enjoy the same basic rights as Thais, and can derive their legal rights primarily from the domestic laws. Restrictions on foreign ownership in commercial banks, insurance companies, commercial fishing, aviation



businesses, commercial transportation, commodity export, mining and other enterprises exist under various laws. In addition, Thai participation will frequently be required in those activities seeking permission from the government.

Under the Foreign Business Act B.E. 2542, a foreigner is defined as:

1. A natural person who does not have Thai nationality.
2. A juristic person does not registered in Thailand.
3. A juristic person registered in Thailand with half or more than half of the capital shares held by the person in 1 or 2 above, or limited partnerships or registered ordinary partnerships whose managing partner or manager is the person in 1.
4. A juristic person registered in Thailand having half of the capital shares held by the person in 1, 2, or 3.

Lists of Prohibited Businesses for Foreigners

List One: The businesses not permitted for foreigners to operate due to special reasons.

List Two: The businesses do not permitted for foreigners except having permission from the Minister of Commerce, with the approval of the Cabinet. List Two comprises 3 groups as follows:

- Group 1** The businesses related to national safety or security;
- Group 2** The businesses affecting arts and culture, traditional and folk handicraft;
- Group 3** The businesses affecting natural resources or environment, including mining, rock blasting, rock crushing, and rock salt mining.

List Three: The businesses do not permitted for foreigners because Thai nationals are not ready to compete in such businesses, except having the permission from the Director-General of the Department of Business Development with the approval of the Foreign Business Committee.

The Foreign Business Committee will review the business categories under the lists at least once a year.



Regulations and Exemptions of the Foreign Businesses

- 1) The foreign business classified in the lists under a treaty, by which Thailand is a party or is obligated to abide, will be exempt from the application of some sections in compliance with the provisions of the treaty. The foreigners wishing to operate the business under the lists must notify the Director-General in order to obtain a certificate. The issuing of certificates will not exceed 30 days.
- 2) In case where the business of a foreigner is promoted under the investment promotion law, or permitted in writing to operate the industry, or trade for export under the law governing the Industrial Estate Authority of Thailand, or other laws, which are classified in **List Two** or **List Three**, the foreigner must notify the Director-General in order to obtain a certificate. The issuing of certificates will not exceed 30 days.
- 3) The minimum capital used for the commencement of the business operation must not be less than that prescribed by ministerial regulations and in no case be less than 2 million baht. In case the businesses require the licences under the lists, the minimum capital must in no case be less than 3 million baht.
- 4) The foreigners may operate the business under **List Two** only if Thai nationals or juristic persons that are not foreigners hold the shares of not less than 40% of the capital of those foreign juristic persons. Unless there is a reasonable cause, the Minister, with the approval of the Cabinet, may reduce the proportion requirement, but it must not be less than 25% and the number of Thai directors must not be less than two-fifths of the total number of directors.

Foreigner's Qualifications for Obtaining a Business Licence

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Foreigners applying for a licence must have the following qualifications, and do not have the prohibited characteristics as follows:

1. Not being under 20 years of age
2. Having residency or being permitted to temporarily enter into Thailand under the immigration law.
3. Being neither incompetent nor quasi-incompetent.
4. Not being a bankrupt.
5. Never having been punished by a court judgment or fined for an offense under the Act unless they have been released at least 5 years prior to the date of the licence application.



6. Never having been imprisoned for fraudulent acts, debtor cheating, embezzlement, offenses connected with trade under the Criminal Code or for offenses relating to fraudulent loans to the public or for offenses under the immigration law unless they have been released at least 5 years prior to the date of application.
7. Never having a licence issued under the Act revoked during the 5-year period prior to the date of the licence application.

The following foreigners are prohibited from operating any business in Thailand:

- ⇒ Foreigners deported or pending deportation.
- ⇒ Foreigners staying in Thailand without permission under the law governing immigrants or other laws.

Procedures for Applying for Permission to Operate Businesses

- 1) Foreigners must submit applications to the Minister of Commerce in case of the business under **List Two** or Director-General of the Department of Business Development in case of the business under **List Three**.
- 2) The Cabinet or the Director-General will approve or give permission within 60 days of the date of the application. In case, there is a cause for the Cabinet to be unable to give the approval within the period, it will be extended as necessary but will not exceed 60 days from the lapse of the period.
- 3) The Minister or the Director-General will issue the licence within 15 days of the date of the Cabinet's approval or the date of the Director-General's permission in accordance with the conditions that the foreigners must comply with.

Applying for the permission at

- ◆ Department of Business Development, Ministry of Commerce, Bangkok, or
- ◆ Local Business Development Office in every province.

Work Permits

The Alien Occupation Law requires all aliens working in Thailand to obtain a Work Permit prior to starting work in the Kingdom. The law also describes the procedures for issuance and maintenance of Work Permits and lists certain occupations from which aliens may be excluded.



To assist foreign investors, the BOI initiated the establishment of a One-Stop Service center for Visas and Work Permits, through joint cooperation with the Immigration Bureau and the Ministry of labor, the center can help processing applications or renewals of visas and work permits. Foreigners may also apply for permanent residence permits under certain conditions such as investment in a business.

1.6 Investment Promotion and Privileges

The provision, determining the privileges to promote the investment of important businesses, has been prescribed under the Investment Promotion Act B.E. 2520, by authorizing the Board of Investment (BOI) to be responsible for providing incentives to stimulate investments. This section will describe only the parts related to the mining industry.

Classification of Privileges

Promotional privileges will be different depending upon the investment zones of mining activities and can be classified as follows:

1. exemption or reduction of import duty on imported machinery;
2. exemption of import duty on imported raw or essential materials used in the manufacturing of export products for 1 or 5 years;
3. exemption of corporate income tax for 3 or 5 or 8 years provided that a project with capital investment of 10 million baht or more (excluding cost of land and working capital) obtains ISO 9000 or similar international standard certification within 2 years, otherwise the exemption of corporate income tax will be reduced by 1 year;
4. reduction of corporate income tax by 50% for 5 years after the exemption period;
5. double deduction from taxable income of transportation, electricity and utility costs for 10 years from the date of first revenue derived from promoted activities;
6. deduction can be made from net profit of 25% of the project's infrastructure installation or construction cost for 10 years from the date of first sales, and net profit for one or more years of any year can be chosen for such deduction. The deduction is in addition to depreciation.

Investment Promotion and Privileges by Investment Zones

The mining project eligible for investment promotion must be located in zone 2 and 3. Details of promotional privileges in each zone are as follows:



Zone 1: Bangkok, Nakorn Pathom, Nonthaburi, Pathum Thani, Samut Prakan and Samut Sakhon, will be granted the privileges as follows:

1. 50% reduction of import duty on the machinery that is subject to import duty of not less than 10%,
2. An exemption of import duty for 1 year on raw or essential materials used in the manufacturing of export products,
3. An exemption of corporate income tax for 3 years for the project located within an industrial estate or promoted industrial zone.

Zone 2: Kanchanaburi, Chachoengsao, Chon Buri, Nakhon Nayok, Ayutthaya, Phuket, Rayong, Ratchaburi, Samut Songkhram, Saraburi, Suphanburi and Ang Thong (12 provinces), will be granted the following privileges:

1. 50% reduction of import duty on machinery that is subject to import duty of not less than 10%,
2. An exemption of import duty for 1 year on raw or essential materials used in the manufacturing of export products,
3. An exemption of corporate income tax for 3 years, increased to 5 years for the projects located within industrial estates or promoted industrial zones.

Zone 3: The remaining 58 provinces, will be granted basic privileges as:

1. exemption of import duty on machinery,
2. exemption of import duty for 5 years on raw or essential materials used in the manufacturing of export products,
3. exemption of corporate income tax for 8 years,
4. additional privileges, such as
 - a. the investment in 18 provinces, Kalasin, Nakhon Phanom, Narathiwat, Nan, Buri Ram, Pattani, Phayao, Phrae, Maha Sarakham, Yasothon, Yala, Roi Et, Si Sa Ket, Sakhon Nakhon, Sathun, Surin, Nong Bualamphu, and Amnat Charoen will be granted the additional privileges of category 4, 5, and 6. (see details under the classification of privileges' section),
 - b. the remaining 40 provinces in zone 3 will be granted the additional privileges depending on the location:
 - ◆ The project located in an industrial estate or promoted industrial zone will be granted the additional privileges of category 4 and 5.



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- ◆ The project located outside an industrial estate or promoted industrial zone will be granted the additional privilege of category 6 only.

Steps and Procedures for Obtaining Investment Promotion

- 1) An investor can obtain an application form from the Investment Service Center at the Board of Investment of Thailand.
- 2) An investor can submit an application form and discusses the specifics of a project with the BOI official within 15 days after being notified. The feasibility study of a project must be submitted for the project investment cost exceeding 500 million baht (excluding cost of land and working capital).
- 3) The BOI reviews the application within 60 or 90 working days and notifies the investor within 15 days after reviewing whether the project has been approved, declined, or returned for additional documents.
- 4) The investor accepts the promoted status within 30 days, but the time is extendable.
- 5) The investor submits documents for issuing the Promotion Certificate within 180 days after accepting the status approval.
- 6) The investor receives the Promotion Certificate within 10 days after submitting the documents.

Criteria for Project Approval

In determining the suitability of a project, the following criteria are applied:

- The value added is not less than 20% of sales revenue.
- Ratio of liability to registered capital should not exceed 3 to 1.
- Modern production processes and new machinery are used.
- Adequate environmental protection systems are installed.

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Criteria for the Foreign Shareholding

For mining activities, the following criteria are applied:

- For a project in mineral exploration and mining under **List Two** of the Foreign Business Act B.E. 2542, Thai nationals shall hold the total shares not less than 51% of the registered capital;
- The Board of Investment may specifically fix the share holding of foreign investors on some promoted projects when it is deemed appropriate.



2. The Minerals Act B.E. 2510

Under the Minerals Acts, “*minerals*” means natural resources of inorganic matters, having fixed or slightly varied chemical and physical properties, whether or not smelting or refining is processed. Minerals shall include coal, oil shale, marble, metals and slags obtained from metallurgical process, underground brine, rock which is prescribed by a Ministerial Regulation as decorative or industrial rock, and clay or sand which is prescribed by a Ministerial Regulation as industrial clay or industrial sand, but does not include water, salt efflorescence, laterite, clay or sand of general property.

2.1 The Essence of the Minerals Act

The Minerals Act B.E. 2510 highlights the basic features as follows:

- 1) The Act imposes regulations on mineral exploration, mining, processing, mineral purchase or sale, and possession of mineral, for the benefit of national economic development and stability, and exists for the purposes of the prevention and suppression of illegal mining or illegal export of minerals.
- 2) The Act stipulates qualifications of applicants, rules, procedures, and conditions in the applications for mineral exploration contract, mining concession, and licences including the applications for renewal of such licences under this Act shall be prescribed in a Ministerial Regulation.
- 3) The provisions in the Act provide the measures to protect public safety and health and to mitigate impacts on ecosystems or preserve the quality of the environments, of which any damage or nuisance to a person, property or environment may be originated from mineral exploration, mining, mineral or metallurgical processing, and underground brine drilling.
- 4) Within a prospecting area, mining area, or tailings storage area demarcated by the competent official, no other person other than the holder of the licence can take over, occupy, destroy or deteriorate the land or resources therein.

The Minerals Act also stipulates conditional fundamentals such as:

- For the purpose of conducting research in connection with minerals, the Minister of Natural Resources and Environment shall, with the approval of the cabinet, have the power to designate any area to be the area for prospecting, studying, or research. Within such an area mineral prospecting



or mining concession cannot be applied unless there is no further requirement to use the area.

- For the benefit of the national economy, the Minister of Natural Resources and Environment, with the approval of the cabinet, shall have the power to demarcate any area which is known to have a mineral deposit of high economic value, except a watershed area, to be a mineral area for the purpose of issuing a mining concession, or *Prathanabat*, at the first priority provided due consideration is given to its effect on the environmental quality.
- While prospecting or mining, if discovery is made of ancient objects, fossils, or special minerals of value to the study of geology, apart from complying with the laws pertaining to discovery of such materials, the holder of a prospecting contract, or *Atchayabat*, or a *Prathanabat* must immediately report such discovery to the concerned Official.

2.2 The Concerned Authorities

The Minister of Industry takes charge and control of the execution of the Minerals Act, and has the power to appoint competent officials and issue Ministerial Regulations prescribing:

1. administrative fees and charges;
2. forms of Atchayabat, Prathanabat and licences;
3. rules and procedures concerning mineral prospecting and mining;
4. rules and procedures concerning the issuance of a licence to sublease the mining rights and cancellation thereof;
5. rules, procedures, and conditions in obtaining underground brine by underground brine drilling, including salt product from underground brine;
6. rules and procedures concerning purchase, sale, storage, possession and transport of minerals;
7. rules and procedure concerning mineral processing, metallurgy, import and export of minerals;
8. protective measures for workers and safety measures for third persons;
9. other matters for the execution of this act.

The main governmental office that directly controls and supervises practices according to the Minerals Act is the *Department of Primary Industries and Mines* (DPIM) in the Ministry of Industry. The DPIM's administrative structure is shown in Figure 1.



The competent official appointed by the Minister for execution of this Act in the locality is the *Local Mineral Industry Official* (LMIO), and in case of an absence of a LMIO in any province, the person entrusted by the Director-General of DPIM will take charge of the works. The LMIO manages his duties and can be contacted at the provincial industry office, where the applications under the Minerals Act will be submitted and processed. The LMIO is also designated under the Minerals Act to be the person who functions in connection with the criminal offences, and is regarded as an administrative official or policeman under the Criminal Code.

The Committee under the Minerals Act

The Act requires a committee that consists of the Permanent Secretary of the Ministry of Industry as the chairman; Director-General of the Royal Irrigation Department, Director-General of the Department of Mineral Resources, Director-General of the Land Department, Director-General of the Royal Forestry Department, Director-General of the Department of Primary Industries and Mines, or the appointees, and other persons not exceeding three in number whom the Minister of Industry may appoint as members; and the Director of the Bureau of Mines and Concession of the Department of Primary Industries and Mines is a member as well as the secretary. The committee has a duty to render consultation, advice and opinion to the Minister of Industry in the matters concerning:

- (1) The issuance of the Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat and Prathanabat in the national reserved forest or officially declared restricted areas.
- (2) The renewal of the Special Atchayabat and Prathanabat.
- (3) The approval on the transferring of Prathanabat.
- (4) The revocation of Atchayabat and Prathanabat.
- (5) The imposition of conditions on the Prathanabat for underground mining.
- (6) Other matters entrusted by the Minister, or specified by the Minerals Act.

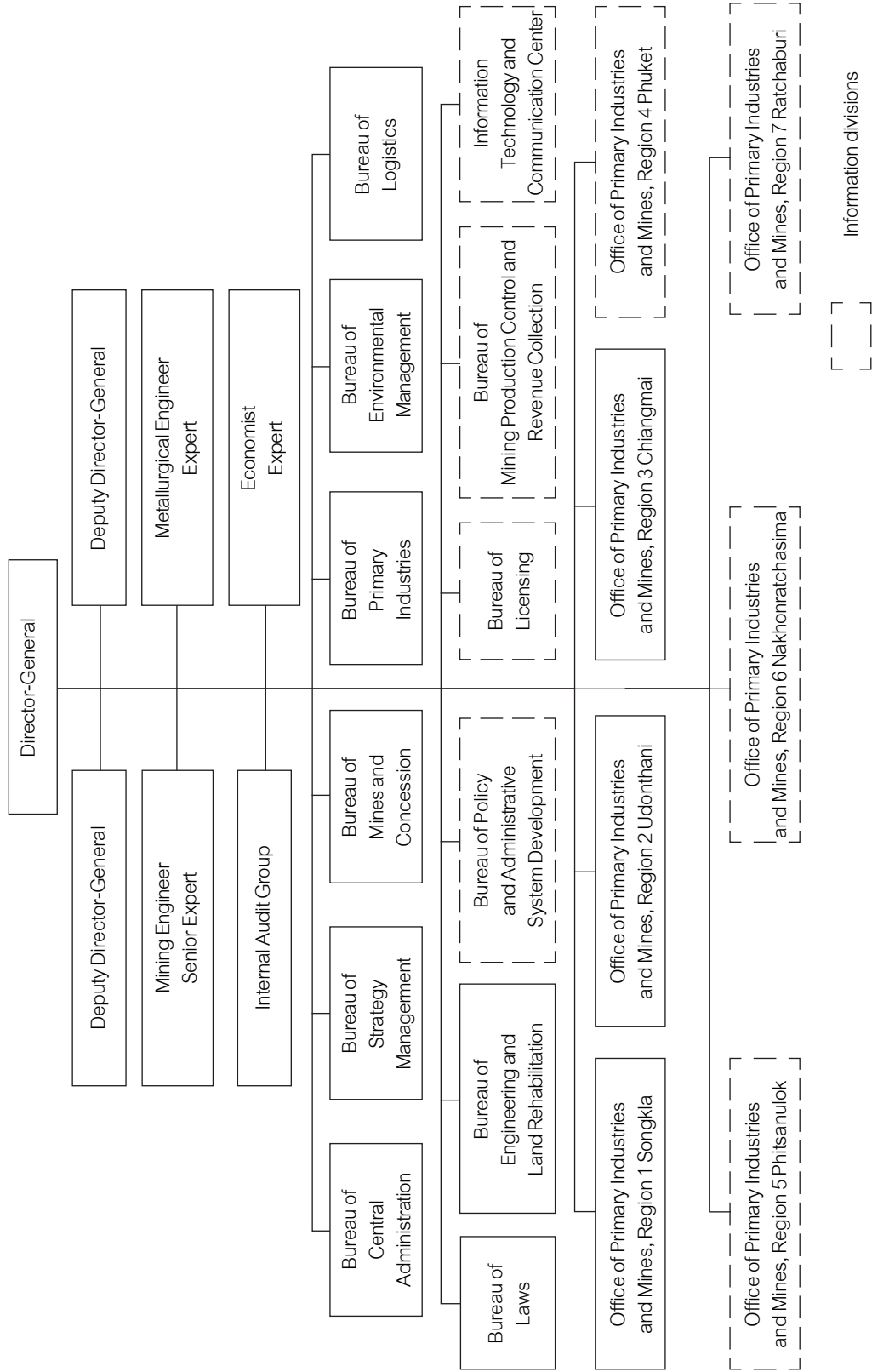


Figure 1. The Administrative Structure of the Department of Primary Industries and Mines



2.3 Types of Licences and Permits under the Minerals Act

In performing a business relating to mineral transaction or mining under the Minerals Act, the entrepreneur must apply for the following official permissions, as the case may be:

- Applications for mineral prospecting and exploration permissions the types of which are Prospecting Atchayabat, Exclusive Prospecting Atchayabat, and Special Atchayabat.
- Applications for mining concession the types of which are Provisional Prathanabat and Prathanabat, including application for its renewal or transfer, and subleasing the mining rights.
- Applications for related mining operations, such as Licence for a Joint Mining Plan, Licence for Suspension of Mining Operation, Licence for Damming up or Diverting Water, etc.
- Applications for mineral processing and metallurgical processing.
- Applications for mineral transactions, such as Mineral Purchase Licence, Mineral Storage Licence, Mineral Possession Licence, Mineral Transport Licence, Mineral Import Licence, and Mineral Export Licence.
- Other licences, such as Artisanal Mining Licence and Ore Panning Licence.

The Ministerial Regulation issued under the Minerals Act B.E. 2510 prescribes qualifications of the applicant for Atchayabat, Prathanabat, and licences. For the submission of an application, the applicant must provide the evidence indicating the specified qualifications and characters together with the application form.

Qualifications of the Applicant for Atchayabat and Prathanabat for Minerals other than Gold

In case a natural person applies for an Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat, or Prathanabat, the applicant must have the following qualifications and characters:

- (1) Not under 20 years of age.
- (2) Having a domicile or residence in the Kingdom.
- (3) Being a member of the Mining Council (not apply to the governmental body or state enterprise).
- (4) Not being a person of unsound mind, mental infirmity, incompetence, or quasi-incompetence.
- (5) Not being a bankrupt person.
- (6) Having never received a revocation of the application or a cancellation of the Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat or Prathanabat with the exception that more than 12



months has elapsed since the last issuance of the revocation or cancellation, or with the exception that the reason for the revocation or cancellation was not a result of the applicant's or the revoked person's fault.

- (7) Having never been punished for the violation of Section 25 or Section 43 of the Minerals Act B.E. 2510, with the exception that more than 12 months has elapsed since the punishment was over.

In case the applicant is a corporation or a juristic person, they must have the qualifications and characters as specified in (2), (3), (6), and (7).

Qualifications of the Applicant for Special Atchayabat and Prathanabat for Gold

In case of an application for a Special Atchayabat, Provisional Prathanabat, or Prathanabat for the gold mine outside the area specified by the Ministry of Industry, the applicant shall have not only the same qualifications defined for the case of application for general minerals, as stated in the previous heading, but also the sufficient tools, machinery, equipment, and specialists to be able to prospect for the reserves as well as to operate a gold mine.

In case of an application for a Special Atchayabat, Provisional Prathanabat, or Prathanabat for prospecting and mining for the gold ore within the area specified by Ministry of Industry the applicant must have the following qualifications and characters:

- (1) Being a company that has the registered capital not less than 50 million baht, or registered capital plus the assets as capital altogether not less than 50 million baht.
- (2) Having sufficient tools, machinery, equipment, and specialists to be able to prospect for the reserves as well as to operate a gold mine.
- (3) Being a member of the Mining Council (not apply to the governmental body or state enterprise).
- (4) Having never received a revocation of the application or a cancellation of the Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat or Prathanabat with the exception that more than 12 months has elapsed since the last issuance of the revocation or cancellation, or with the exception that the reason for the revocation or cancellation was not a result of the applicant's or the revoked person's fault.
- (5) Having never been punished for the violation of Section 25 or Section 43 of the Minerals Act B.E. 2510, with the exception that more than 12 months has elapsed since the punishment was over.



Qualifications of the Applicant for Licences

The following qualifications are required for the applicant for a Mineral Purchase Licence, Mineral Storage Licence, Mineral Processing Licence, Metallurgical Processing Licence, Mineral Import Licence and Mineral Export Licence:

- (1) Not being less than 20 years of age.
- (2) Having a domicile or residence in the Kingdom.
- (3) Being a member of the Mining Council (not apply to the governmental body or state enterprise).
- (4) Not being the person of unsound mind, mental infirmity, incompetence, or quasi-incompetence.
- (5) Not being a bankrupt person.
- (6) Having never received a revocation of the application or cancellation of the licence, with the exception that more than 12 months has elapsed since the last issuance of the revocation or cancellation, or with the exception that the reason for the revocation or cancellation was not a result of the applicant's or the revoked person's fault.

The applicant who is a juristic person or a corporation must have the qualifications and characters as specified in (2), (3), (5), and (6).

In case of an application for any other licence that is not stated above, the applicant must have the same qualifications, except that being a member of the Mining Council is not required.

General Documents Attached to the Application

1. A copy of house registration (for natural person)
2. A copy of memorandum of association and statutory regulations, and a copy of registration of company (for juristic person)
3. A copy of certificate of company registrar showing a list of directors and authorized person (for juristic person, and the issuing date of the certificate is not older than 6 months)
4. A copy of shareholder list certified by the company registrar (for juristic person, and the issuing date of the certificate is not older than 6 months)
5. Power of attorney for the person who is making the application or who will represent the company.

Additional and relevant documents may also be required depending on the types of applications.



3. Mineral Prospecting and Exploration

According to the provision stated in the Minerals Act, mineral prospecting and exploration cover geological or geochemical or geophysical surveying, drilling, pitting or trenching, or any distinct method or combined methods to appraise for the quantity of minerals. The prospecting or exploration in any area is not allowed, regardless of any person's rights, unless a Prospecting Atchayabat, an Exclusive Prospecting Atchayabat, or a Special Atchayabat is granted.

3.1 A Prospecting Atchayabat (PA)

A Prospecting Atchayabat (PA) is a document of rights granted for mineral prospecting and exploration within a designated area of an administrative district, or a province. A Prospecting Atchayabat is issued by the LMIO and is valid for one year.

Qualifications of the Applicant

The applicant for a PA must be a natural person or a juristic person who wishes to prospect for minerals.

Steps and Procedures of the Application

- 1) A prescribed application form, accompanied by general required documents (see chapter 2.), is filled and filed with the LMIO.
- 2) The official examines the completeness of the application form, relevant documents, and also examines the petitioned area where it must not be in a prohibited area.
- 3) The applicant pays the application fee of 20 baht and fee for the issue of PA of 100 baht.
- 4) The official registers the application, and issues a PA.

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Regulations Concerned Prospecting under the PA

- The holder must comply with the conditions specified in the PA.
- Mineral prospecting can be conducted only by geological, geochemical, or geophysical surveys. The prospecting methods that directly collect mineral samplings, such as pitting, trenching, and drilling are not allowed.
- A report of the prospecting result is not required.



3.2 An Exclusive Prospecting Atchayabat (EPA)

An Exclusive Prospecting Atchayabat (EPA) is a document granted for an applicant to have a sole mineral prospecting and exploration rights within a designated area. An EPA is issued by the Minister of Industry and is valid for one year. There are two types of EPA:

1. *EPA for Inland Prospecting.* Each application is limited to an area not exceeding 2,500 rai¹. However, according to its policy the Ministry of Industry will grant the area not exceeding 1,250 rai, except when an investment promotion certificate is granted for prospecting and mining of mineral that will further be used as raw material for a metallurgical process or in a factory. This type of EPA is valid for one year.
2. *EPA for Offshore Prospecting.* Each application is limited to an area not exceeding 500,000 rai. However, the Ministry of Industry's policy will grant the area not exceeding 20,000 rai, unless applying for a Special Atchayabat. The EPA under this case is valid for 2 years.

The Ministry of Industry also has not a policy to issue an EPA for industrial rocks, dimensional stones, marble, and dolomite to any person since information of country survey on such minerals has already been compiled and mapped.

Qualifications of the Applicant

The applicant for an EPA must be a natural person or a juristic person having qualifications stipulated in the 19th Ministerial Regulation as already mentioned in chapter 2.

Steps and Procedures of the Application

- 1) A prescribed application form, together with relevant documents, is filled and filed with the LMIO.
- 2) The officials examine the completeness of the application form, relevant documents, applicant's qualifications, a map showing prospecting area, a mineral prospecting plan, and examine the area where it must not be a prohibited area.
- 3) The applicant pays the application fee of 20 baht and fee for issuance of the EPA of 500 baht, and also pays in advance the land utilization fee at 5 baht per rai per year.

¹ 1 rai = 1600 sq. meters or 1914 sq. yards. or 1 acre = 2.5 rai (approx.)



- 4) The official registers the application and submits it to the Governor for consideration, then forwards the matter to the DPIM.
- 5) The DPIM reviews the application and submits it to DPIM's committee and finally to the committee under the Minerals Act before the Minister of Industry issues an EPA to the applicant.

Relevant Documents Required for EPA Application

1. A map of the prospecting area can be requested and provided by the DPIM, the boundary of which must have all sides superimposed on the grid lines of the military map with a scale of 1:50,000 or 1:25,000, and also provide the U.T.M. coordinates.
2. A prospecting work plan and methods certified by an approved geologist or a mining engineer.
3. A list of any other application for, or any existing EPA, SA, or Prathanabat that belongs to the applicant at the date of submission.
4. An approved bank guarantee which indicates sufficient funds for prospecting (this evidence will be submitted at the time of receiving the EPA). The total amount of fund required is subject to the proposed prospecting methods:
 - ◆ Drilling method requires funding of at least 60 baht per rai.
 - ◆ Trenching method requires funding of at least 40 baht per rai.
 - ◆ Pitting method requires funding of at least 30 baht per rai.

Prospecting Work Plan and Methods

The working plan and prospecting methods must include the following details:

- (1) Topographic map with a scale of 1:25,000 or larger.
- (2) Area for each plot of land.
- (3) Type of ores and prospecting methods.
- (4) Type, size, and number of machinery and equipment for prospecting.
- (5) Capital investment and financial obligation for each prospecting year.
- (6) Number of workers.

Prospecting and Reporting

The prospecting must be conducted according to the approved working plan and methods under supervision and responsibility of a certified geologist or mining engineer. The holder has to commence prospecting within 60 days from the date of receiving the EPA, and report the results of the first operations and prospecting



works undertaken after 180 days from the receiving date, in the prescribed forms to the LMIO within 30 days from the end of the period, and must report the final results of operations and prospecting works undertaken thereafter within 30 days before the expiration of the EPA.

The Minister of Industry, or the person entrusted by him, has the power to revoke an EPA when the holder fails to comply with the conditions specified therein.

3.3 A Special Atchayabat (SA)

A Special Atchayabat (SA) is a document of rights granted for exclusive prospecting and exploration with a special case within a designated area. The applicant must:

- Specify his prospecting obligations by stating the amount of each year's prospecting works and expenditure throughout the duration of the SA, and
- Offer special benefits to the interest of the state in accordance with the rules imposed by the Minister. This offer will further bind the holder of the SA upon receiving a Provisional Prathanabat or Prathanabat for mining in the area for which the SA has been granted.

Each application for a SA can be made for an area that the prospecting works can be completed within 5 years, but not exceeding 10,000 rai. A SA is issued by the Minister of Industry, and is valid for 5 years, thereafter cannot be extended.

Qualifications of the Applicant

The applicant for a SA for minerals other than gold ore must be a natural person or a juristic person having qualifications as mentioned in chapter 2.

In case of an application for a SA for gold ore, the qualifications of the applicant are separated in two categories depending on the prospecting area inside or outside of the area specified by the Ministry of Industry. The qualification and characteristics of an applicant for both cases are already stated in chapter 2.

Steps and Procedures of the Application

- 1) A prescribed application form, accompanied by general documents and relevant documents, is filled and filed with the LMIO.
- 2) The official examines the completeness of application form, relevant documents, applicant's qualifications, a map of the prospecting area, and examine the area where it must not be a prohibited area (a SA must not be issued to include any part of the area covered by EPA, SA, Provisional Prathanabat or Prathanabat of any person).



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- 3) The applicant pays the application fee of 20 baht, fee for issuing the SA of 1,000 baht, and also pays in advance the area utilization fee at 5 baht per rai per year.
- 4) The official registers the application and submits it to the governor for consideration, then forwards the matter to the DPIM.
- 5) The DPIM reviews the application and the offer of special benefits to the interest of the state, thereafter submits the matter to the DPIM's committee and the committee under the Minerals Act for making approval respectively before the Minister of Industry issues a SA to the applicant.

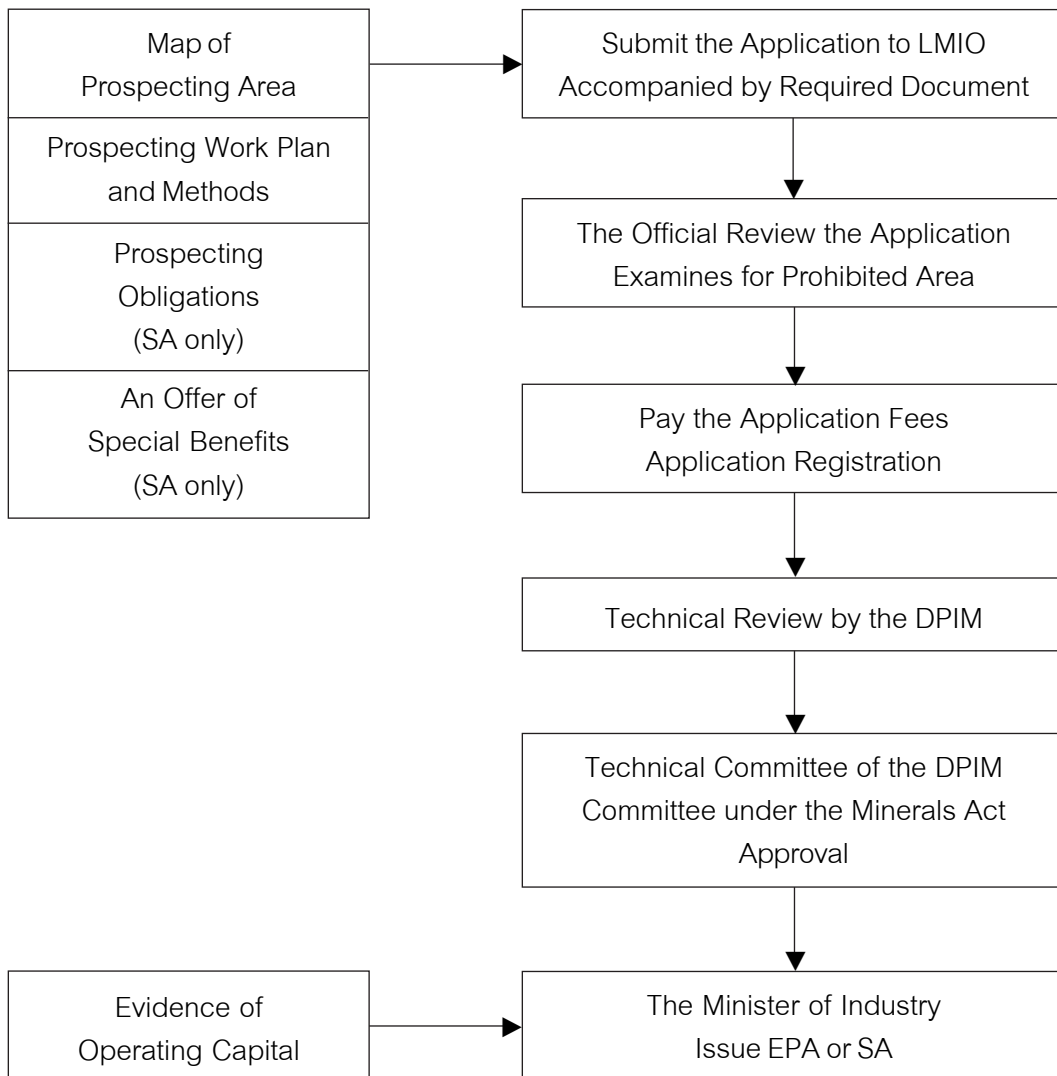


Figure 2. Application Steps for EPA and SA



Relevant Documents Required for SA Application

1. A prospecting work plan and methods, the same details as for EPA.
2. A list of any other application for, or any existing EPA, SA, or Prathanabat that belongs to the applicant at the date of submission.
3. The prospecting obligations that state the amount of each year's prospecting expenditure throughout the duration of the SA.
4. The special benefits wish to offer to the government, once the SA is granted.
5. Evidence of prospecting funds according to proposed methods (30-60 baht per rai). This evidence will be submitted by the time of receiving the SA.

Criteria for an Offer of Special Benefits

The applicant for a SA must offer special benefits to the interest of the state at the rate of 183 baht per rai for coal and 28 baht per rai for other minerals.

Prospecting and Reporting

The prospecting for mineral must be conducted according to the approved working plan and methods under the supervision and the responsibility of a certified geologist or mining engineer. The holder must commence prospecting within 90 days from the date of receiving the SA and must report the results of the operations and prospecting works to the DPIM every 120 day period.

Schedule of the Prospecting Obligation

The prospecting obligation is the proposed amount of each year's prospecting work and expenditure throughout the duration of the SA. At the end of each obligation year, if the holder has not fully complied with the prospecting obligation, a sum of money equal to the amount of expenses not yet incurred in such an obligation year must be paid to the DPIM within 30 days after the end of that obligation year.

If the holder of the SA has made prospecting expenses in any obligation year in excess of the amount proposed for such an obligation year, he will be entitled to have the excess deducted from the obligations of the subsequent obligation year.

Revocation or Surrender of the SA

The Minister of Industry has the power to revoke a SA when the holder fails to comply with regulations provided under the Minerals Act, or the conditions and prospecting obligations.



If the holder of the SA has already complied with the conditions and obligations, and the results indicate that the whole area or parts of the area has no targeted mineral or has insufficient values to mine, the holder may surrender the SA or parts of the area thereof by submitting an application to the LMIO. The revocation or the surrender will be effective on the submission date and the obligations for the remaining years or for the surrendered parts of the area can be terminated.

3.4 Demarcation of the Area and Application Rejection

Upon receipt of an application, the competent official will demarcate the area for an EPA or SA according to criteria and procedures stipulated in the 20th Ministerial Regulation by:

1. The standard surveying method, when there is a dispute or an error about the boundary of the area or the official deems expedient.
2. Demarcating the boundary of the area in the military map of the scale 1:50,000 or 1:25,000.
3. Demarcating the boundary of the area by establishing benchmarks and computing its Universal Traverse Mercator coordinates and its grid azimuth.

In case the demarcation of an area is made by surveying, the applicant must pay all incurred expenses. Upon receipt a letter concerning an appointment from the official, the applicant must authorize a representative to accompany official surveyors.

The Director-General has the power to reject an application for an EPA or SA when the applicant:

- neglects to accompany the official surveyors to make a survey without reasonable cause,
- ignores instructions of the official in the process of issuing the EPA or SA, or
- violates or fails to comply with provisions of the Minerals Act relating to prospecting and mining.



4. Mining

Under Thai law, “*mining*” means the operations undertaken inland or underwater, surface or underground to obtain minerals by a method or combined methods, but do not include underground brine drilling and Artisanal Mining or Ore Panning for minerals. The Minerals Act states that no person can mine in any area regardless of any person’s rights over that area unless he receives a Provisional Prathanabat or Prathanabat.

4.1 A Prathanabat

A Prathanabat is a document of rights granted for mining within a designated area. An application for a Prathanabat can be submitted to the LMIO together with reliable evidence that proves the discovery or existence of the mineral in the area, and an offer of special benefits to the interest of the state that will bind the applicant when obtaining a Prathanabat. A Prathanabat is issued by the Minister of Industry, and may prescribe any condition for the holder to follow.

A Prathanabat is valid for at most 25 years from the date of issue. When a Prathanabat provides for a validity period of less than 25 years, the holder may apply for its extension provided that the combined period of its validity does not exceed 25 years.

Demarcation of the Mining Concession Area

The “mining concession area” means the area specified in a Prathanabat. The Minister of Industry is empowered to demarcate a mining concession area into 3 different types:

1. An application for a Prathanabat for surface mining, which is limited to an area not exceeding 300 rai.
2. An application for a Prathanabat for underground mining, which is limited to an area not exceeding 10,000 rai.
3. An application for a Prathanabat for offshore mining, which is limited to an area not exceeding 50,000 rai.

For the interest of the state, the Minister, with the approval of the cabinet may demarcate the mining concession area for underground mining or offshore mining Prathanabat in excess of the area specified above. In addition, the Minerals Act



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prescribes that the demarcation of the mining concession area is subject to the following conditions:

- 1) If the application for a Prathanabat has followed the discovery of minerals under the SA conditions, the Minister of Industry must demarcate the mining concession area according to the mineral deposit and the area applied by the applicant.
- 2) In other case, the Minister may demarcate the mining area according to the recommendation of the Committee under the Minerals Act.
- 3) A Prathanabat cannot be applied to include an area of other's EPA or SA unless an applicant has ownership or possession in such an area under the Land Code.
- 4) For the purpose of safety, the issuance of a surface or underground Prathanabat is prohibited in the case that it may cause the mining concession area to entirely or partly overlap in different levels.

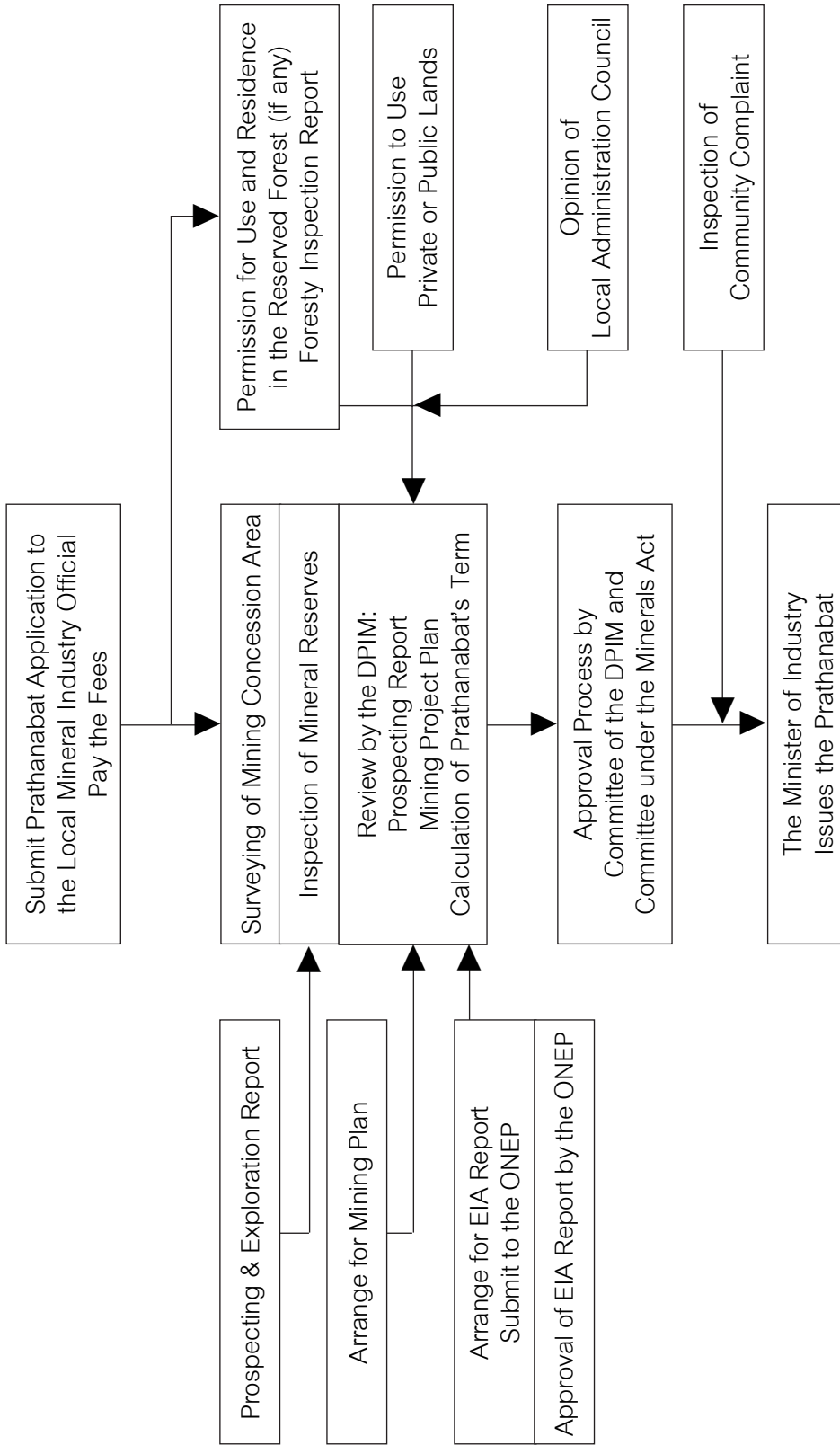


Figure 3. Application Process for Prathanabat



Qualifications of the Applicant

The applicant for a Prathanabat for minerals other than gold ore must be a natural person or a juristic person having the qualifications as mentioned in chapter 2.

In case of an application for a Prathanabat for gold ore, the qualifications of the applicant are separated into two categories depending on the petitioned area which is located inside or outside those specified by the Ministry of Industry. The qualifications and characteristics of an applicant for both cases are already stated in chapter 2.

Steps and Procedures of the Application

The application process can be separated into 3 main stages:

1. **Submission Stage.**

- 1) A prescribed application form, accompanied by general documents and relevant documents, is filled and filed with the LMIO.
- 2) The officials examine the completeness of the application form, relevant documents, applicant's qualifications, the petitioned area that is not prohibited by the Minerals Act and other laws, and evidence that proves the discovery or existence of the mineral to be mined.
- 3) The applicant pays the application fee of 20 baht, fee for issuance of the Prathanabat of 1,000 baht, land utilization fee in advance at 5 baht per rai per year for tin mine and 20 baht per rai per year for other minerals, the surveying costs at 10 baht per 40 meters of measured length, investigation fee of 100 baht, and the costs of demarcation posts at 100 baht each.
- 4) The officials register the application.
- 5) In case of application for the mining area in the national reserved forest, the applicant must apply for a licence to utilize and reside in a national reserved forest.

2. **Processing Stage.**

- 1) The applicant or his representative accompanies the official surveyor to demarcate the area. Surveying results and map will be submitted to the DPIM.
- 2) The official submits the application for a Prathanabat to the Local Administrative Council and the provincial authority for making public announcement in the local area. If no objection is raised within 20 days,



the official may proceed the application by requesting a letter of consent from the Governor.

- 3) The applicant prepares and submits the mining plan, a report on the appraisal of mineral reserves and value, including a document on calculation of Prathanabat's term, then accompanies the official to investigate the area in order to approve the mining plan.
- 4) The applicant arranges the report on environmental impact assessment (EIA) in accordance with rules and procedures imposed by the Office of Natural Resources and Environmental Policy and Planning (ONEP).
- 5) In case the applied area is partly or wholly designated as the class 2 watershed area, the mineral deposit must be certified by the concerned official according to the Cabinet resolutions. The official will examine the background of the application, the importance of such a mineral, the occurrence of the mineral deposit, and its mineral reserves and values.
- 6) In case the applied area is in the reserved forest, the applicant must inform of the values of mineral resources in the area, and request the forestry official to investigate the forest condition.
- 7) In case the applied area is within 50 meters to a main roadway or public watercourse, the applicant must apply for permission from the related governmental offices.
- 8) In case the applied area is in the estate of other persons' property, or on the public domain or reserved land of the state, a written consent must be obtained.

3. Approval Stage.

- 1) The LMIO sends the application and attached documents to the DPIM after receiving a copy of the Governor's letter informing of the result of forest investigation to the Royal Forestry Department (there is no need to wait for the approval from the department).
- 2) The DPIM technically reviews the application, mining plan, and document on calculation of Prathanabat's term.
- 3) After the DPIM is informed of the consent on EIA report from the ONEP and the approval from the Royal Forestry Department, the matter is submitted to the DPIM's committee and the Committee under the Minerals Act respectively.
- 4) After the Committee approves the application, the Minister of Industry issues and grants the Prathanabat.



Additional Documents Required for the Application

To apply for a Prathanabat, the applicant needs to enclose general documents as described in chapter 2, as well as to provide the following:

1. The map showing the mining concession area, the details of which include a map scale, map direction, and the indicated distance of all sides, together with the U.T.M. coordinates. This map can be petitioned for and made by the DPIM.
2. Evidence that proves the discovery or existence of the mineral for mining in the area.
3. Lists of other PA, EPA, Prathanabat or the applications that belongs to the applicant at the date of submission.
4. Evidence on having sufficient capital for mining operations, such as a bank guarantee. This evidence will be submitted by the time of receiving the Prathanabat.

Relevant Documents Required for the Issuance of Prathanabat

1. The application accompanied by the comments of the LMIO
2. The letter sending the application to the Local Administrative Council, a copy of the public announcement, and a letter of consent from the Governor.
3. A copy of the Governor's letter informing of the result of forest investigation to the Royal Forestry Department, in case of an application for mining in the reserved forest.
4. A copy of permission letter from the related governmental offices, in case of mining within 50 meters close to a main roadway or public watercourse.
5. A copy of certificate of land title, or a letter of consent from the landowner allowing the applicant to mine in the area.
6. A copy of permission letter from the related governmental offices, in case of mining on the public domain or reserved land of the state.
7. The mining plan accompanied by a map showing the petitioned area and the surrounding Prathanabats, including the official's comment on the mining plan.
8. The document on calculation of the Prathanabat's term accompanied by the official's comment.
9. The evidence proving the discovery of mineral for mining accompanied by the official report of investigation on such evidence.
10. An offer of special benefits to the interest of the state in accordance with the rules specified by the DPIM (The applicant must give a consideration



at 0.1% of the appraised amount of the mineral deposit value that is greater than 50 million baht. For Prathanabat of rock quarry, progressive rates starting from 0.1% of the appraised amount are applied to the mineral deposit value that is greater than 2,500 million baht).

Evidence Proving the Discovery or Existence of Minerals for Mining

- A prospecting report under the EPA or SA that verifies the discovery or existence of minerals in the area, or
- A letter of acknowledgement on the discovery or existence of minerals in the area from the previous applicant, or
- The information on government's prospecting performed in that area that has never been issued an Atchayabat.

Evidence on Having Sufficient Capital for Mining

After the Prathanabat is approved, the applicant must present evidence on having sufficient capital for mining operations. According to the rules laid down by the DPIM, a bank guarantee must be provided as fulfillment on having sufficient funds, the amount of which is specified in the following table.

Table 4.1 Minimum Operating Capital to Be Guaranteed for Mining

Type	Mining Methods	Minimum Guaranteed Amount (baht)
1	Gravel Pumping, Water-Jetting	150,000
2	Ground Sluicing	40,000
3	Open-Pit Mining	200,000
4	Bucket Dredging	1,000,000
5	Suction Dredging/Suction Boat	200,000
6	Underground Mining	200,000
7	Small Vein Mining/Gophering	30,000
8	Solution Mining	100,000

Demarcation Survey of the Prathanabat

Upon receiving an application, the competent official will demarcate the area of the Prathanabat by a standard surveying method. The applicant or his appointee must accompany the governmental surveyors to make a survey on a written appointment date and time. For the purpose of surveying:



- The officials are empowered to enter, during the daytime, the land where other person has rights or possession. But they must notify the landowner or the occupier beforehand.
- The officials have the rights to erect demarcation posts or benchmarks on the land of any person as necessary.
- In case of an application for underground mining, the officials will erect demarcation posts or benchmarks that are clearly visible on the surface of the land.

If any demarcation post or benchmark is lost, the holder of the Prathanabat is liable to pay all expenses for re-surveying and establishing a new post.

Mining Plan

The proposed mining plan must include the following:

- (1) The topographical conditions of the area, including location and access.
- (2) The characteristics of geological conditions and mineral deposits, and the amount of mineable reserves.
- (3) Mining methods, mine planning and design, production schedule.
- (4) Mineral processing methods, flowchart and procedures.
- (5) Maps with correct scale showing location of all buildings in the mine, direction and orientation of the ore veins, the starting location of mining, mining sequence of the working faces, storage area for tailings and slime from mining and mineral processing, dams and the dewatering gates.
- (6) Mine dewatering method accompanied by drawings to scale of the dams and the dewatering gates.
- (7) In case of underground mining, explain and illustrate the methods to support the shafts and adits, ventilation, and illumination methods.
- (8) The type, size and number of machinery and equipment, together with the number of workers that are employed in mining and mineral processing.
- (9) Method of drawing in water for mining, or other sources of water.
- (10) Method of storage of slime or waste tailings.
- (11) A plan for relocating water courses, highways or other public roads (if any), which must be illustrated in the map specified above.
- (12) The design of waste dump, indicating storage area and method.
- (13) The design and control measures on slope stability, including drawings.
- (14) Protective measures on working safety and health.
- (15) The procedures on explosive use and storage, and a plan map showing the location and design of explosive magazine.



- (16) Mine reclamation and rehabilitation plan.
- (17) Environmental protection or mitigation measures.

The Prathanabat holder must conduct mining operation and mineral processing according to the approved mining methods and mining plan, and conditions prescribed when issuing the Prathanabat, under the supervision by the licenced engineer who certifies documents in the plan. In case there is a requirement to replace the engineer, the LMIO must be informed with a written consent from the substitute.

In case there is any addition to the kinds of minerals to be mined, or any alteration in the mining method, mining plan, or prescribed condition, the holder must receive a prior written permission from the Director-General.

Criteria on Calculation of Prathanabat's Term

The DPIM reviews the calculation of Prathanabat's term according to the area proposed in the mining plan, mineable reserves, capacity of mining equipment, and available area excluding tailing storage, ore stockpile, waste dump and the clearance distance from public roadways and water courses.

The rules specified by the DPIM for the calculation of the Prathanabat's term are:

1. Prathanabat's term = Calculated term + Time allowance
2. Calculated term =
$$\frac{\text{Total amount of mineable reserves}}{\text{Annual mine production rate}}$$
3. The mineable reserves are computed from present characteristics of topography, mineral deposits, and mining condition.
4. The annual production rate must be at the economic rate the minimum of which is defined by the DPIM.
5. The annual production rate technically specifies size and type of suitable mining equipment.
6. The time allowance will be 1 year for surface mine development and will depend on case by case basis for underground mining.

The DPIM also prescribes a rule specifying the term for a Prathanabat to be 10 years with the maximum of 25 years. Also, when applying for an extension, the combined term must not exceed 25 years. In case of an application for a new Prathanabat



or extension of Prathanabat in the area of the public domain of the state, the Prathanabat's term will be issued at 10 years, except:

- ◆ Prathanabat for a mineral to be used in cement production and the applicant must be a cement producer.
- ◆ Prathanabat for a mineral utilised in producing public utilities and petitioned by a government body.
- ◆ Prathanabat for a mineral to be used in a large factory that has working lifetime more than 10 years, and the DPIM certifies for use such a mineral as a raw material.
- ◆ Prathanabat for a mineral of which its production is promoted by the DPIM by the method of bidding for a mineral reserve or tendering contract on a large mining project.
- ◆ Prathanabat for a mineral that is a result of success prospecting according to the SA.

Application Rejection

The Director-General has the power to reject the application when the applicant:

- neglects to accompany the official surveyors to make a demarcation survey without justification, or
- ignores the instructions of the competent official in the process of issuing the Prathanabat, or
- violates or fails to comply with any provisions on prospecting and mining, or is involved in such act, or
- foresees that the area has insufficient reserve for mining.

Area Utilization Fee and Special Subscription

In addition to the fee for the issuance of a Prathanabat, the holder is required to pay in advance on a yearly basis a mining area utilization fee, and to pay a special subscription at a rate not exceeding 10% of the royalty paid for minerals produced from the areas under the Prathanabat. This special subscription is kept by the DPIM as expenses for:

- rehabilitation of the mined area,
- prevention and suppression of offences prohibited under the Minerals Act, and
- local development funds in the province where the mining area is located.



Termination of a Prathanabat

Other than normal expiration causes, the Prathanabat will expire when:

- the holder who is an ordinary person is adjudged bankrupt, or
- the juristic status of the holder who is a juristic person has terminated, or
- the holder surrenders the Prathanabat, or
- the Minister of Industry has ordered revocation of the Prathanabat, or
- the holder dies or is adjudged incompetent and his heir does not submit an application to the LMIO for a transfer of the Prathanabat by way of succession within 90 days.

Surrender of a Prathanabat

The holder may surrender his Prathanabat by submitting an application and delivering the Prathanabat to the LMIO, in this case the Prathanabat will expire within 180 days from the application date, unless the holder and the LMIO agree to its expiration within a lesser period of time.

In surrender of a Prathanabat, the holder must discharge all debts or obligations under the Minerals Act, such as mine rehabilitation.

Prathanabat Revocation

The Minister of Industry is empowered to revoke a Prathanabat in the event that:

- It appears later that a Prathanabat is issued as a result of a prominent mistake or misunderstanding of material facts.
- The holder departs from the place of domicile or address and the LMIO is unable to communicate with him.
- The holder does not discharge all debts obligated under the Minerals Act within 90 days after receiving a written notice of payment from the LMIO.
- The holder violates or commits the offence according to provisions under the Minerals Act, or fails to comply with the order of the LMIO or the conditions prescribed in the Prathanabat or related licences.

Rights of Prathanabat Holder

The holder of a Prathanabat has the rights within the mining concession area to:

- (1) Mine and sell minerals as specified in the Prathanabat. Other by-product minerals from the mining operation may be sold upon receiving a licence from the Director-General.



- (2) Construct buildings or undertake other works in connection with the mining operation including mineral processing and retaining slime or tailings.
- (3) Use the land which has been mined out or does not contain sufficient minerals for mining, for agricultural purpose during the term of the Prathanabat.
- (4) Take legal action to the court in the event of a dispute or obstruction of the rights to mine.

The provisions in (2) and (3) above do not apply to the holder of the Prathanabat for underground mining, except that he has the ownership or possession.

4.2 A Provisional Prathanabat (PP)

A Provisional Prathanabat (PP) is a document of rights granted for temporary mining within a designated area while waiting for a Prathanabat approval. The Minerals Act prescribes that after the area has been demarcated, the applicant for a Prathanabat who wishes to commence mining before the Prathanabat is granted can submit an application for a Provisional Prathanabat to the LMIO. A Provisional Prathanabat is issued by the Minister or the person entrusted by him, and is valid for 1 year from the date of issue.

Qualifications of the Applicant

An applicant for a PP must be the applicant for Prathanabat who wishes to commence mining in the intended area before the Prathanabat is granted and must have the same qualifications.

Steps and Procedure of the Application

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- 1) A prescribed application form is filled and filed with the LMIO.
- 2) The official examines the completeness of application form, accompanied documents, and applicant's qualifications.
- 3) The applicant pays the application fee of 20 baht, fee for issue of the PP of 1,000 baht, and also pays in advance the land utilization fee at 5 baht per rai per year.
- 4) The official registers the application.
- 5) The official forwards the matter to the DPIM.
- 6) The DPIM reviews the application and submits the matter to the DPIM's committee on prospecting and mining permission for approval.



7) The Minister of Industry issues a PP to the applicant.

Rights of PP Holder and Connection with Prathanabat

- The holder of a PP has the same rights, duties and liabilities as the holder of a Prathanabat.
- A PP may not be transferred, except when the holder dies or is adjudged incompetent, his heir or guardian will become the holder of the PP. Thereafter, when the Prathanabat is to be issued, it shall be issued to the heir or guardian.
- In case a PP is issued beforehand, the validity term of the Prathanabat will begin from the date of issue of the first PP. If the combined term of the PP is more than the validity term of a Prathanabat to be issued, the Prathanabat will not be issued.
- The Minister, or the person entrusted by him, has the power to revoke a PP upon the occurrence of any cause provided by the Minerals Act. When any PP is revoked, the application for the related Prathanabat will be automatically rejected.
- In case the application for a Prathanabat is rejected, the PP will expire on the date of rejection.

4.3 Extension of a Prathanabat

A Prathanabat that can be extended must have a validity period less than 25 years and the holder thereof must apply for an extension to the LMIO at the time not less than 180 days before the expiry. The Minister will extend the term of the Prathanabat provided that the combined period of the validity does not exceed 25 years. The calculation of extended validity is the same as an application for a new Prathanabat.

According to the policy of the Ministry of Industry, a Prathanabat that can be extended must have been in operation before and strictly followed the mining plan and the protection measures on environmental impacts.

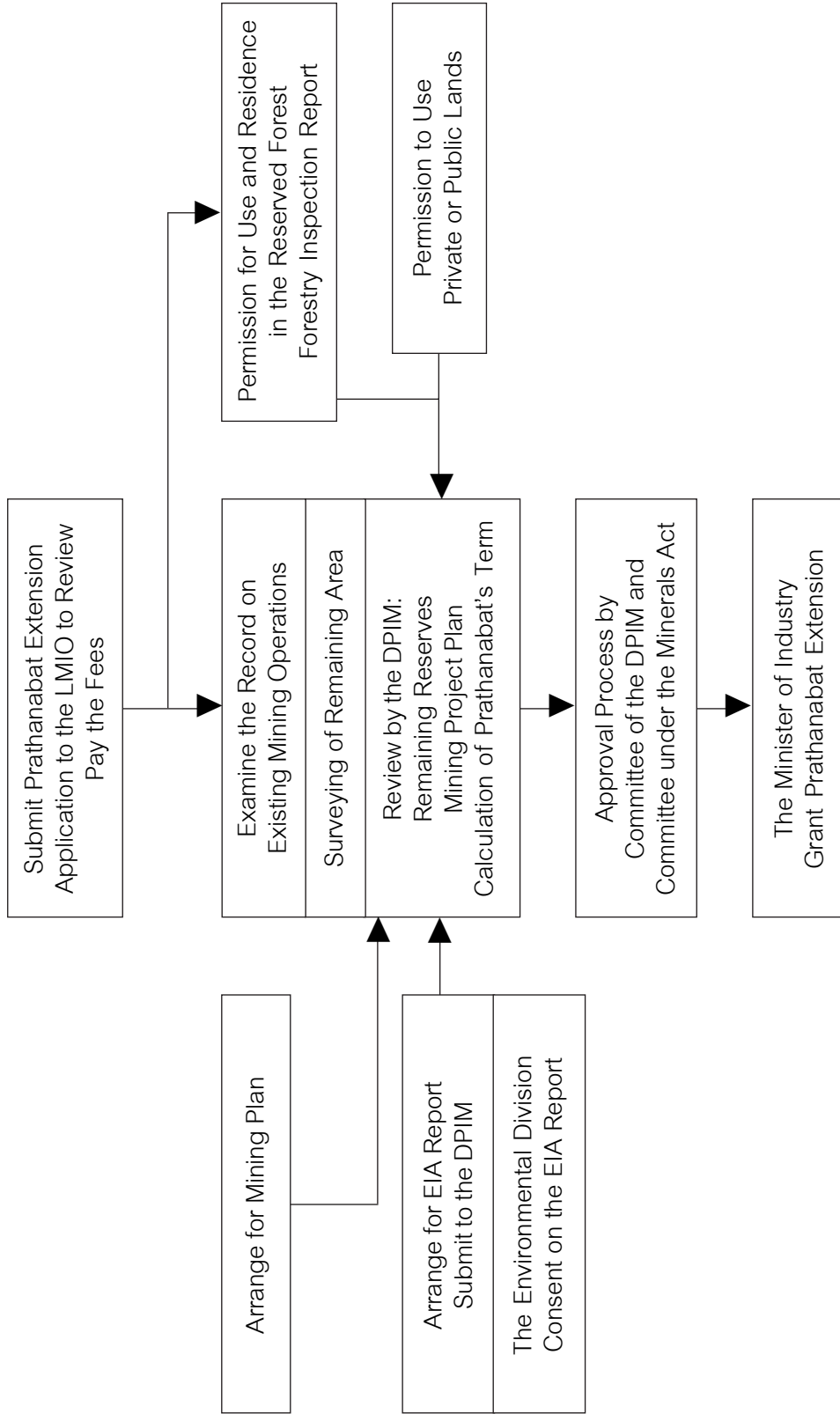


Figure 4. Application Process for Prathanabat Extension



Steps and Procedure of the Application

The procedures for Prathanabat extension are almost the same as an application for Prathanabat:

1. *Submission Stage.*

- 1) A prescribed application form, accompanied by required documents, is filled and filed with the LMIO.
- 2) The official examines the completeness of application form, accompanied documents, applicant's qualifications.
- 3) The applicant pays the application fee of 20 baht, fee for extension of a Prathanabat of 1,000 baht, and discharges all debts or obligations under the Minerals Act (if any).
- 4) The official registers the application.
- 5) In case the applied mining area is in the reserved forest, the applicant must apply for a licence to permit use or residence in a national reserved forest.

2. *Processing Stage.*

- 1) The official reviews the record of mining operations and makes a verification report whether the mining plan and environmental protection measures have been correctly practiced.
- 2) When it is necessary, the official makes an appointment with the applicant for accompanying the governmental surveyor in surveying of the mined out and remaining areas.
- 3) The applicant prepares and submits the mining plan, a report on the appraisal of mineral reserves and value, including a document on calculation of Prathanabat's term.
- 4) The applicant arranges the report on environmental impact assessment and submits to the DPIM.
- 5) In case of an application for extension in the reserved forest, the applicant must inform of the values of mineral resources in the area, and request the forestry official to investigate the forest condition, thereafter ask for the Governor's letter that reports the forestry condition to the Royal Forestry Department.
- 6) In case of an application for mining within 50 meters to a main roadway or public water course, the applicant must apply for permission from the related governmental offices.



- 7) In case of an application for mining in the estate of other persons, or on the public domain or reserved land of the state, the applicant must request written consent from the estate's owners or permission from the related governmental offices.

3. Approving Stage.

- 1) The LMIO sends the application and attached documents to the DPIM after receiving a copy of the Governor's letter informing of the result of forest investigation to the Royal Forestry Department (there is no need to wait for the licence approval from the department).
- 2) The DPIM technically reviews the application, mined out and remaining areas, mining plan, and document on calculation of Prathanabat's term.
- 3) After the DPIM gives consent on the environmental impact assessment report and is informed of the approval from the Royal Forestry Department to permit use and residence in the reserved forest, the department will submit the matter to the Committee under the Minerals Act.
- 4) After the Committee approves the application, the Minister of Industry grants the extension of the Prathanabat.

Documents Attached to the Application

1. The map showing the mined out and remaining areas.
2. The mining plan.
3. A memorandum indicating the causes of Prathanabat extension.
4. A memorandum explaining the judgment on defining the Prathanabat's term.
5. Power of attorney (if any).
6. A list of any other application for, or any existing EPA, SA, or Prathanabat that belongs to the applicant at the date of submission.
7. The original Prathanabat that is petitioned for extension.

Relevant Documents Required for Prathanabat Extension

1. The application documents accompanied by the comments of the LMIO and the consent of the Governor.
2. A copy of the Governor's letter informing of the result of forest investigation to the Royal Forestry Department, in case of an application for mining in the reserved forest.
3. A copy of permission letter from the related governmental offices, in case of conducting mining within 50 meters to a main roadway or public watercourse.



4. A copy of certificate of estate title, or a letter of consent from the landowner allowing the applicant to mine in the area.
5. A copy of permission letter from the related governmental offices, in case of mining on the public domain or reserved land of the state.
6. The mining plan accompanied by the official's comment.
7. The document on calculation of the Prathanabat's term accompanied by the official's comment.

Renewal of Licences for Mining Related Operations

Since all licences for mining related operations will be terminated with the expiration of the Prathanabat, the applications for renewal of those licences must be submitted to the LMIO at the same time when applying for Prathanabat extension. Thus, the processing of these applications will immediately proceed after the Prathanabat is extended.

Rights to Mine after Applying for Prathanabat Extension

When the holder of a Prathanabat has applied for an extension, he may, notwithstanding that the Prathanabat term has expired, continue to mine as though he were the holder of the Prathanabat, but for not more than 180 days after the expiry of the Prathanabat.

4.4 Mining Sublease

The holder of a Prathanabat who wishes to sublease the mining operation to another person must apply for a Mining Sublease Licence with the LMIO. The applicant must specify the person to whom the mining operation will be subleased, a subleasing period within the term of the Prathanabat, and the portion of the mining concession area to be subleased. The licence is issued by the Minister of Industry, or the person entrusted by him, who may prescribe any condition for operating under the licence. The holder of a Prathanabat who subleases the mining operation still remains bound and liable by governing laws. The sub-lessee will have the rights, duties and liabilities under the laws as though he were the holder of a Prathanabat.

Qualifications of a Sub-lessor and Sub-lessee

The holder of a Prathanabat who wishes to sublease the mining operation in the area of that Prathanabat must be the applicant for the licence. The sub-lessee must be a natural person or a juristic person having the qualifications and characteristics as defined in chapter 2.



Steps and Procedure of the Application

- 1) A prescribed application form, accompanied by sub-lessee's documents, is filled and filed with the LMIO.
- 2) The official examines the completeness of the application form, accompanied documents, and applicant's qualifications.
- 3) The applicant pays the application fee of 20 baht, a licence fee of 1,000 baht.
- 4) The official registers the application.
- 5) The LMIO, who is the person entrusted by the Minister, issues the licence.

Documents Attached to the Application

The following sub-lessee's documents must be attached to the application form:

1. The general documents as mentioned in chapter 2.
2. A list of any other application for, or any existing EPA, SA, or Prathanabat that belongs to the sub-lessee at the date of submission.

4.5 Prathanabat Transfer

A Prathanabat can be transferred from the holder to another person when the Minister has ordered approval and the holder has discharged all debts obligated under the Minerals Act. The holder of the Prathanabat and the prospective transferee must file an application for registration such a transfer with the LMIO.

There are 3 kinds of Prathanabat transfers:

1. A general transfer.
2. A transfer of Prathanabat as a personal gift to his own father, mother, husband, wife, or descendants.
3. A transfer of Prathanabat by way of succession in the event that the holder dies or is adjudged incompetent.

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According to the policy of the Ministry of Industry, a Prathanabat that can be transferred must have a prior mine production and strictly operate under the mining plan and the protection measures on environmental impacts, except for a transfer by way of succession or as a personal gift.

Qualifications of the Applicant

The transferor must be the holder of a Prathanabat, and the transferee must have the same qualifications and characteristics as a Prathanabat holder defined in chapter 2.



Steps and Procedure of the Application

- 1) A prescribed application form accompanied by required documents, documents of the Prathanabat holder, and additional documents for each transfer case, is filled and filed with the LMIO.
- 2) The official examines the completeness of the application form, accompanied documents, applicant's qualifications, and conditions for a transfer.
- 3) The official reviews the record of mining operations and makes a verification report whether the mining plan and environmental protection measures have been correctly practiced.
- 4) The applicant pays the application fee of 20 baht, a transferring fee of 500 baht, and a mining rights transferring fee in advance at the rate of 3% of the mine appraisal value to be received.
- 5) The official registers the application.
- 6) The official prepares an explanatory memorandum about causes and necessity on the transfer, and a memorandum on the transferor's existing debts and liabilities under the Minerals Act.
- 7) The LMIO appraises the amount of the mining rights to be transferred, which will be used for calculating the mining rights transferring fee, and submits the report accompanied by the Governor's comment to the DPIM.
- 8) The DPIM reviews the application and all attached documents, then, submits the matter to the Committee under the Minerals Act.
- 9) After the Committee approves the application, the Minister of Industry orders the transfer of Prathanabat.

Documents Attached to the Application

1. The general documents of the transferee as stated in chapter 2.
2. Minutes of meeting of board of directors or shareholders of both the transferor and the transferee who agree upon the Prathanabat transfer (for a juristic person).
3. Map showing the mined out and remaining areas.
4. A list of any EPA, SA, or Prathanabat or application that belongs to the transferee at the date of submission.
5. If the Prathanabat is located in the reserved forest, the transferee must apply for a licence to use and reside in the forest, then attach a copy of such an application together with the consent letter from the Governor.
6. Memorandums between the transferor and transferee as follows:



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- Explanatory memorandum about causes and necessity on the transfer.
- Memorandum on the transferor's existing debts and liabilities under the Minerals Act.
- Memorandum about the transfer of a Prathanabat located in the reserved forest (if any).
- Memorandum on agreement and acknowledgement of any mining sublease.

Documents Required from the Prathanabat Holder

1. The original Prathanabat.
2. Mining plan.
3. Licences for mining related operations as mentioned in chapter 7 (if any).

Additional Documents According to the Type of Transfer

In case of a Prathanabat transfer as a personal gift, the following documents are required:

1. Evidence of being the transferor's father, mother, husband, wife, or descendants, such as house registrations, birth certificate, or the certification of the local registrar.
2. Evidence of being a husband or wife, such as marriage certificate.

In case of a Prathanabat transfer by way of succession, the additional documents are:

1. Evidence of being a husband or wife, such as a marriage certificate.
2. Evidence of being an adopted child such as a registration of adoption.
3. Evidence of being an illegitimate child such as a registration of legitimation or the court's order.
4. Evidence of being other heir or successor.

Case of Transferor's Remaining Debts under the Minerals Act

In case the Prathanabat holder who is the transferor has not discharged all debts obligated under the Minerals Act, the LMIO will proceed as follows:

- 1) Inform the holder or the transferee to discharge all outstanding debts.
- 2) Arrange for the memorandum made by the transferee to satisfy existing debts or any obligation incurred in the future.



Prathanabat Transfer during Mining Sublease

In case the mining operation is being subleased when transferring a Prathanabat, and the transferee wishes to continue the sublease:

- 1) The transferee makes a memorandum of consent that allows the sub-lessee to proceed with the mining operation throughout the term of sublease.
- 2) The sub-lessee makes a memorandum on acknowledgement of the Prathanabat transfer.

If the transferee or the mining sub-lessee does not agree with the above criteria, or the matter is in between the process of cancellation of the mining sublease, the Prathanabat cannot be transferred.

Prathanabat Transferring Fee

A transferring fee will be collected only on the amount received from transferring the mining rights, excluding the amount received from transferring other properties.

In the event that the applicant declares no disbursement on the transfer or the declared amount is considered lower than a reasonable amount, the LMIO may, according to the principles prescribed by the Director-General, appraise the amount of the transferring fee.

The transfer by way of succession or as a personal gift is not required to pay a transferring fee.

Prathanabat Transfer by Way of Succession

When the holder of a Prathanabat dies or is adjudged incompetent, his heir must submit an application to the LMIO for a transfer of the Prathanabat by way of succession within 90 days, otherwise it shall be deemed that the Prathanabat will expire within 90 day period.

When the heir of the holder of a Prathanabat already applies for a transfer by way of succession, the heir may continue mining as though he himself held the Prathanabat. If the Minister considers that the heir should not receive the transfer of the Prathanabat and orders refusal of the transfer, the Prathanabat will expire on the day such order is received.



4.6 Application for Prathanabat in the Class 1 Watershed Area

As mining activities in the class 1 (1A and 1B) watershed area may cause serious impacts to the environment and quality of river basin, the permission to use such an area must be profoundly considered in many aspects by the relevant governmental offices. A cabinet resolution prescribed the measures governing the use of a first class watershed area as:

- ◆ For the class 1 watershed area, most of the areas are not permitted to be used as mining areas except those in the western region, central region, Pa-Sak river basin, and some watershed areas in the northern and northwestern regions. An application for a new Prathanabat or an extension of a Prathanabat must be considered by the cabinet on the case by case basis.
- ◆ For the class 1B watershed area, permission for use of the area for mining must be obtained from the cabinet.

And also there are rules governing the extension of permission for use of the forest area in the class 1 watershed area. For mining, or the extension of a Prathanabat, the cabinet must consider the application case by case. For a new application for use of an area, only the area outside of the class 1 watershed area will be considered.

However, the cabinet issued a resolution allowing the use of the reserved forest area in the class 1A watershed area only in case that permission for prospecting or mining had already been issued. For the state's security or economic purposes, such a use can be allowed to continue until the expiration of the permission. If permission for use of an area expires while the Atchayabat or Prathanabat is still valid, the permission may be extended. In this case, an Environmental Impact Assessment report must be arranged and submitted to the Ministry of Natural Resources and Environment for approval before further consideration of the cabinet.

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For a new application, if the prospecting or mining concerns security or economy of the country and it is in the area demarcated for the development of mineral resource project in accordance with a cabinet resolution or Ministerial Announcement of the Ministry of Industry, permission for use may be considered by the cabinet on the basis of necessity. Nevertheless, an EIA report must firstly be submitted to the Ministry of Natural Resources and Environment for approval before further consideration of the cabinet.



Information Required for Consideration of the Cabinet

1. Information required for a mining project in the class 1 watershed area of 1A and 1B classes, to be submitted to the DPIM:
 - Details of Prathanabat application accompanied by a map with a scale of 1:50,000 showing the petition area.
 - Supporting reasons for Prathanabat application and a study on social and economic feasibility of the mining project.
 - Information about mining project, mineral deposits, details of mining method and mineral processing.
 - Report on Environmental Impact Assessment and mine rehabilitation plan.
 - In case of re-application for a new Prathanabat in the previous mining concession area, the following data must be provided: the record of mine productions, the measures on mitigation of environmental impacts and mine rehabilitation that have been implemented, as well as the record of royalty payments and mineral exports.
2. EIA report on potential uses of the class 1A and 1B watershed areas, submitted to the Office of Natural Resources and Environment Policy and Planning for approval:
 - Background and principles in assessment of potential uses of the class 1A watershed area including problems, watershed area quality management, study outline, and study plan.
 - Project information including characteristics of activities and plan.
 - An analysis of the watershed area's current status and a study on economic feasibility of the project.
 - An assessment of impacts on the watershed area's qualities due to mining operations.
 - The mitigation measures and rehabilitation of river basin's qualities.

Steps and Procedures for Consideration of the Cabinet

- 1) The DPIM's Committee on Exploration and Mining Licensing technically review the application and project document.
- 2) In case of application in the class 1A and 1B watershed areas, the expertise committee of ONEP will consider and approve the EIA report. For the case of class 1A watershed area, the report approved by the expertise committee will be submitted to the board of National Environment for further consideration and approval.



- 3) The Ministry of Natural Resources and Environment passes the Board's approval of the EIA report to the Ministry of Industry to conclude and compile all documents for consideration by the cabinet.

After being approved by the cabinet, the application for Prathanabat can be continued following the normal practices regulated under the Minerals Act.

4.7 Contract Bidding for Development of a Mineral Deposit

When there is a potential area of a large mineral deposit, the Ministry of Industry typically has a policy to grant an exclusive contract of mineral exploration and development of that deposit. The contract will set out rights and obligations with respect to all phases of exploration and mining operations which cover proposed expenditures, annual obligations, reporting requirements, work schemes, and employment of Thai nationals.

The Ministerial Notifications will be announced to designate the area for mineral development, and thereafter prescribe rules, procedures, and conditions for bidding. The bidder will be invited to submit a technical proposal and an offer of special benefits to the interest of the state in the tender process. This section summarizes the concepts and procedures that the Ministry used to practice in offering the tender and granting contract of exploration and development of a provided mineral deposit.

Qualifications of the Bidder

An applicant for the contract bidding must meet the qualifications set out for a SA and Prathanabat as described in chapter 2, as well as having experience in exploration and development of the same kind of the mineral deposit.

Contract Bidding Process

- 1) The Ministry of Industry announces the designated area to be developed and also prescribes rules, criteria, procedures, and conditions for bidding and development of such area.
- 2) An applicant makes a registration with the DPIM and receives preliminary reports and maps relating to the mineral deposit.
- 3) A bidder submits a technical proposal accompanied by specified documents showing qualifications. The bidding committee reviews the qualifications of the applicants, and the details of technical proposals.



- 4) The bidders also submit an offer of special benefits to the interest of the state.
- 5) The bidding committee selects the best and qualified offer, then compiles the bidding result and submits to the Minister for granting approval of the contract.
- 6) The Minister authorizes the DPIM to sign the contract on behalf of the government.
- 7) The company who is granted the contract applies for a SA in the provided area, and subsequently undertakes prospecting and exploration in accordance with the proposed obligations and exploration work plan.
- 8) If the exploration has discovered sufficient mineral reserves feasible for mining investment, the company must apply for a Prathanabat within the area granted by the contract.

Details of Technical Proposal

1. Evidence demonstrating the qualifications of the bidder. In case of a foreign company, the documents must be certified by the related embassy or consular office in Thailand.
2. An exploration work plan including preliminary investigation stage, detailed exploration stage, mineral reserves assessment stage, and feasibility study.
3. A prospecting obligation specifying detailed exploration works and corresponding amount of expenditures in each exploration stage, as well as annual expenses.
4. A tentative mining plan including mineral processing and metallurgy.
5. Other proposals such as special rights for Thai nationals to work or invest in the project.

Types of Special Benefits to the Interest of the State

1. An offer of cash bonus upon receiving the contract.
2. An offer of cash bonus when obtaining a mining concession or Prathanabat.
3. An offer of income dividend in the form of receipt on annual mineral productions.
4. Other offers such as allocated shares to the government, a set up of a community development fund for the locality, or scholarships.



Regulations and Commitment under the Contract

- The DPIM will exclusively grant a SA and Prathanabat to the party under a contract. However, the application for a SA and Prathanabat must follow normal procedures regulated under the Minerals Act.
- The rights for exploration and mining under the contract cannot be transferred.
- The company who is granted the contract must undertake prospecting in accordance with the proposed exploration work plan and obligations. The reports on the exploration results must be submitted according to the rules and reporting form provided by the DPIM.
- In case the company discovers other minerals and wishes to produce such minerals, additional special benefits must be offered to the government.

4.8 Public Hearing Process of Underground Mining Project

According to the effects of underground mining on surface land use, environment and land possession, the issuance of a Prathanabat for underground mining is considered under the condition of:

- The applicant for Prathanabat correctly proposes the petition under the stipulation.
- The Minister proceeds the public hearing process.
- The Minister issues obligations in the Prathanabat.

This section describes the public hearing process of the beneficiary in an underground mine project.

General Requirement for Underground Mine Operation

An underground mine normally operates by employing vertical shaft sinking or underground tunneling in order to excavate underground ores. The Minerals Act has the regulations about underground mine operations as follows:

- An underground mine must be operated at the safety depth, considered from the geological structure and the correct mining engineering practices.
- In case of excavating ore underneath a non-vacant land, below 100 meters from the ground surface level, the applicant for Prathanabat must show the proprietary document that he has the rights to mine in the area.
- The mining concession area given by the Prathanabat must not intrude a national park zone or wildlife reserved zone.



- In case of proving that the underground mine operation in any mining area will severely affect environment quality, then mining will not be allowed.

Relevant Documents in the Petition of Underground Mining Concession

The Minister requires the applicant to provide detailed information as follows:

1. concise data on mining depths and technical measures,
2. maps concisely indicating the mining area together with the environmental impact assessment data in concerned areas,
3. concise technical information on mining method and mineral processing procedure, including the mining engineering alternatives, the selected alternative and the supported reasons,
4. mining plan, procedure, and method including mineral processing procedure,
5. rehabilitation plan of the areas after underground mining indicating the measures to reduce the impacts or preserve the quality of the relevant environments,
6. a proposal for the participation of stakeholders in the inspection of underground mining, which specifies the amount of supporting funds and rules on mining inspection,
7. transportation routes and sources of water to be used in the project whether they are already in existence or will be developed together with the details of their uses throughout the period of the project,
8. a proposal to insure against liability that specifies the covered insurance amount and insured period.

Public Hearing Process

After the environmental impact assessment report of the applicant for Prathanabat has been approved under the environment quality promotion and protection law, the Minister then compiles and submits the following information to the public hearing process, for the purpose of imposition of conditions in the Prathanabat:

1. the mining project information submitted with the application for a Prathanabat,
2. the environmental impact assessment report accompanied with the opinions of the report evaluators.

Rules for Consideration of Conditions in Prathanabat

Once the process of the hearing of opinions ends and upon a receipt of the report from the note-taking committee, the Minister will study the report and pass judgment on the imposition of the conditions of the Prathanabat according to the following rules:



- the conditions in the Prathanabat must cover every item as prescribed in a Ministerial Regulation issued under Section 88/6 of the Minerals Act,
- in the case where a discrepancy appears about the information or opinions in the hearing of opinions, the Minister shall make a final conclusion,
- the conditions in the Prathanabat must cover the entire details of the project presented by the applicant in the environmental impact assessment report, and the report accompanying the application.

Rules and Procedures for Preliminary Consultation with Stakeholders

When the applicant of a Prathanabat plans to have a preliminary consultation with the stakeholders, he must submit the petition to the Director-General. In consequence, the committee for organizing consultation meetings will be appointed to arrange the consultation, which requires the following criteria and procedures:

- (1) The completion of a preliminary report, which will be brought into a consultation, shall clearly consist of necessary information and problematic issues.
- (2) The criteria to accept groups or organizations resulting from the association of stakeholders and the acquisition of delegates in the consultation.
- (3) The composition of the committee for organizing consultation meetings shall comprise of representatives from the relevant regional governmental offices and the state's institutes of higher education.
- (4) The procedure of the consultation meetings must include a public announcement of an invitation to stakeholders so that they may send their representatives to participate in the meetings, a registration of meeting participation, and an appropriate period of time for the stakeholders to study the information thereof in advance.

Research Supporting Fund for Stakeholders

When the public hearing process must be arranged, the Director-General of the DPIM has to establish a research supporting fund for the stakeholders of the underground mining project. The sources of the fund are:

- (1) The expenses collected from the applicant for Prathanabat in accordance with the rates prescribed in a Ministerial Regulation.
- (2) The supporting funds from various public and private funds.



Specifying the Persons Entitled to Inspect Mining and Funds

- Within 60 days from the date of issuance of a Prathanabat for underground mining, the Director-General of the DPIM will call for a meeting of the representatives of the stakeholders in order to make an agreement on specifying the persons entitled to inspect mining in accordance with the rules provided in the conditions of the Prathanabat.
- The holder of the Prathanabat must allocate financial funds for hiring specialists to assist the persons entitled to inspect mining at the wage rates specified in the conditions of the Prathanabat.
- The Ministry of Industry will prescribe the working term of the persons entitled to inspect mining, conditions and procedure for dismissal of the person entitled to inspect mining who misconducts his authority, safekeeping of supporting funds, standard qualifications of specialists, contract features for employment of specialists, and rules for withdrawal or payment.

Protection of Rights in Immovable Properties

Underground mining in any concession area that operates in the following manners:

- (1) the underground mining at the depth lesser than those specified in the conditions of the Prathanabat, and no deeper than 100 meters,
- (2) the underground mining at any depth level, the mining method of which does not correspond to practically mining engineering principles as stipulated in the Prathanabat,

can be deemed to cause damage to the rights in immovable properties in that area. The injured party is entitled to demand that the holder of the Prathanabat to suspend his activities and provide necessary remedies for the protection of the danger, which may occur.

In the event that any ground surface layer in a mining area of the Prathanabat has subsided causing damage to persons, properties, or environment:

- It shall be initially presumed that the subsidence of the ground surface is caused by the underground mining.
- If it is finally concluded that the underground mining is the cause of the subsidence of the ground surface, the holder of the Prathanabat and the relevant government offices, which are responsible for the mining inspection, shall be jointly liable in all cases, then after such governmental offices have already paid the compensation to the injured party, they are entitled to exercise the rights of subrogation against the holder.



5. Rock Quarry and Aggregates Crushing Plant

A rock quarry must apply for a Prathanabat for industrial rocks. Its operation is different from mining for other minerals because a large amount of blasted and crushed materials have to be extracted to serve industries and construction businesses as well as a different type of environmental impact is concerned. Therefore, specific criteria and application rules must be separately formulated to suit the nature of operation.

5.1 A Prathanabat for Quarrying of Industrial Rocks

Industrial rocks are rocks which are not suitable for dimensional stone utilization, for example, limestone for construction, limestone for other industries, dolomitic limestone, slate, etc. These rocks do not have to comply with the Minerals Act on purchase, sale and storage regulations but are required to pay royalties.

Table 5.1 Opening dimensions of a crusher that corresponds with its capacity.

Opening Dimension (width x length), in.	Crushing Capacity (metric tons/hour)
40X30	150
42X30	180
42X32	200
41X33	200
42X36	230
46X36	270
48X36	290
47X39	300
48X42	300
48X44	320
51X45	430
54X45	450
60X48	500
60X50	500
59X51	500



Notes on Table 5.1:

1. Different opening dimensions not shown in the table above can be compared as appropriate.
2. The capacity is calculated on the basis of 300 working days/year and 24 hours/day with 85% efficiency.
3. It is allowable to exclude a non-mining area such as an area close to public roads, water courses or other reserved areas.
4. Converting weight to volume uses density value of 2.5 metric tons/cu.m. for limestone and 2.7 metric tons/cu.m for granite or other appropriate values.
5. It is allowable to exclude soil content or rock cavities in the petitioned area but not more than 10% or as approved evidence.

Criteria on Prathanabat Application for Industrial Rocks for Construction

Applicants must follow stipulated rules and procedures in petitioning for a Prathanabat as mentioned in the previous chapter and must meet the following criteria:

1. The application must specify rock type and purposes of its utilization.
2. The Prathanabat must be located in the designated area notified by the Ministry of Industry as Industrial Rocks Reserved Areas or in areas legally owned by persons or juristic persons.
3. The applicant shall have additional qualifications apart from general qualifications defined for Prathanabat application, and must provide documents on quarrying project with information concerning location, access road, equipment, and other information related to scale of production.
4. An area allocated to the applicant is based on scale of production as measured from opening dimensions of a crusher (Table 5.1). Total allocated reserves will not be more than 10 years of operating time.

Additional Qualifications of the Applicants for Prathanabat in Industrial Rocks Reserved Area

The applicant must comply with the following qualifications as well as qualifications stated in Chapter 2:

1. having a rock blasting and crushing licence or an aggregates crushing plant licence, or
2. being a rock aggregate producer or has signed construction contracts with government organization which requires aggregates as raw materials, or
3. being a rock blasting and crushing or crushing plant operator, and



4. having working capital of not less than two hundred thousand baht endorsed by financial institutions.

Special Benefits to the interest of the state

According to the rules provided by the Ministry of Industry, the applicant for Prathanabat for all types of industrial rocks must offer special benefits to the interest of the state for the amount calculated from the given rates in Table 5.2.

Table 5.2 Progressive rates to be used in calculation of special benefits when applying for Prathanabat for industrial rocks.

Value of Rock Reserves (million baht)	Special Benefits Rates (% of progressive value)
< 50	-
50-2,500	0.1
2,500-7,500	0.2
7,500-20,000	0.5
20,000-50,000	1.0
> 50,000	2.0

If the petitioned area for Prathanabat is located in the watershed area class 1A or 1B, the rates for calculating special benefits must be two times the rate in the above table.

Mining Plan for Rock Quarrying

The mining plan for rock quarrying must include information as indicated in the general application for Prathanabat as described in the previous chapter. The plan must also include detailed information about a crushing plant in place of mineral processing. In case of setting up a rock aggregates crushing plant, the applicants must also petition for the licence as stipulated in the Factory Act B.E. 2535.

Addition of Type of Industrial Rocks for Construction

The holder of a Prathanabat who wishes to petition for addition of type of industrial rocks for construction must comply with the following matters:

- In case rock aggregates are produced from such a Prathanabat as by products, the addition of mineral type of industrial rocks is not allowed, however, rock aggregates can be sold as by product.



- In case the holder of a Prathanabat wishes to produce aggregates as another main product, he can petition for addition of a mineral type of industrial rocks based on capacity and the remaining term of the Prathanabat.
- In case the holder of a Prathanabat for dimensional stone wishes to petition for addition of a mineral type of industrial rocks for construction, information and evidence showing that rocks in that area are not qualified or suitable for dimensional stone utilization, and mechanical properties of rock is suitable for construction must be submitted for approval.
- In case the holder of a Prathanabat for marble and calcite wishes to petition for addition of a mineral type of industrial rock for construction, he must submit for approval the evidence showing appropriate mechanical properties of rock for construction.

Criteria on Prathanabat Application for Industrial Rocks (Limestone) for other Industries

The Prathanabat applicant must follow general rules and procedures as mentioned in the previous chapter and must follow the following criteria:

1. The petition must clearly specify rock type and utilization purposes.
2. The applicant must submit information concerning location, process type and flowchart, production capacity, and plant construction plan. The information will be used for allocation of quarrying area.
3. The applied area must not be in the Industrial Rocks Reserved Area.
4. Once the Prathanabat is granted, the alteration to the Prathanabat by adding type of industrial rocks for construction is not allowed.

5.2 A Rock Aggregates Crushing Plant

The Ministry of Industry has appointed the DPIM to have authorization on issuing licences concerning crushing plant operations as a follow up administration from issuing Prathanabat for rock quarrying.

Steps and Procedures in Applying for a Licence

- 1) Fill in the application form accompanied by the relevant documents and submit to the LMIO where the plant is located.
- 2) The authority thoroughly checks the completeness of the application document.
- 3) The official inspects plant location, building structure, equipment installation layout to conform to specified criteria and prepares an inspection report.
- 4) The local authority submits a report to the Governor and official letters will be issued to the local district and Local Administration Office for comments.
- 5) The province authority transfers all application documents to the DPIM.



- 6) The mining engineer of Rock Quarry and Crushing Plant Section of the DPIM technically inspects details of the following documents:
 - a location inspection report with comment from the LMIO and Head of Provincial Industrial Office concerning surrounding environment and plant location appropriateness,
 - a meeting report from Local Administration Office concerning the approval of establishing a plant,
 - a permission document to use the land from the estate owner,
 - a consent letter from the Governor with his comment,
 - evidence identifying source of rock,
 - details of machines and equipment and layout plan,
 - details of equipment and dust suppression system installation.
- 7) Upon the completeness and correctness of all documents together with approval from concerned authorities, the mining engineers will submit a report and draft licence to the Head of Health and Safety Engineering Section and Director of Bureau of Mines and Concession for approval respectively.
- 8) After the approval, the Director-General of the DPIM will issue the licence.

Documents Attached to the Application

1. The general documents as described in chapter 2.
2. The factory application form.
3. An inspection report from local authority together with the LMIO and Head of Provincial Industrial Office's comments.
4. A meeting report from Local Administration Office concerning plant resolution.
5. A permission document from an estate owner to use the land.
6. A consent letter with comment from the Governor concerning plant licence.
7. Evidence that clearly identifies source of rock.
8. Detailed equipment layout plan and dust suppression system certified and signed by an engineer according to DPIM's regulations.

Criteria on Rock Crushing Plant Location

According to the Ministerial Regulation prescribed under the Factory Act B.E. 2535, the following areas are not permitted to establish a rock aggregates crushing plant:

1. Housing estates, condominiums, and living areas.
2. Within 100 meters from the public places such as schools or education institutions, temples, churches, hospitals, historical sites, government buildings, natural resources or environmental reserved areas as designated



by the cabinet resolution.

3. The government buildings in 2. do not include working places for controlling, supervising and providing services for a rock aggregates crushing plant operations.

Besides the above criteria, a plant should be located in an appropriate surrounding area and have enough space corresponding to plant size and cause no harm, or nuisance to a surrounding property or a person nearby.

Criteria on Installation of Equipment and Dust Suppression System

Plant layout and equipment installation must follow the specifications listed below:

- 1) A plant should be a closed system:
 - Three side coverings and a roof for primary crusher, hopper, scalping screen are to be installed. Water spraying nozzles must be installed at a hopper.
 - Coverings should be applied to secondary crusher, tertiary crusher, scalping screen, rock aggregate screen. All of the equipment installed must be covered by an enclosed building.
 - A belt conveying system should be covered and equipped with water spray nozzles at every dust borne area.
 - At every rock aggregate stockpile, dust protection system or water spray nozzles should be installed at the conveyor ends.
- 2) Transportation roads in plant area should be concrete or asphaltic concrete roads. The floor area of rock aggregate stockpile should be covered with concrete, asphaltic concrete or compacted rock together with cleaning and drainage system.
- 3) Drainage ditch together with sediment trap pond should be constructed around the plant.
- 4) An embankment should be constructed and a dense belt of trees should be planted at appropriate location to prevent wind, noise and dust.
- 5) A plant should have at least a 10 meter wide buffer zone around the plant. Distance between a plant and public roads or water courses should be at least 50 meters.

Note: In case a crushing plant has a designed capacity not more than 150 metric tons per hour or the opening size of primary crusher is less than 40X30 in. and is located more than 1 km. from public places or reserved areas, it is not required to follow the above 1) to 3) criteria but it is necessary to install water spray nozzles at every dust borne point.



6. Other Petitions Concerning Prathanabat Applications

In the process of an application for a Prathanabat, there are many other steps on preparing reports and documents relating to the petitions for permission from various governmental bodies, such as a report on environmental impact assessment, consent of the Local Administrative Office, a licence for use and residence in the reserved forest or on the public domain or reserved land of the state. This chapter describes the rules and procedures for these petitions.

6.1 Environmental Impact Assessment Report (EIA)

According to the Ministry of Science, Technology and Environment's announcement concerning the Enhancement and Conservation of the National Environmental Quality Act B.E. 2535, mining activities of all sizes must prepare a report on environmental impact assessment (EIA). The EIA report must be submitted to the Office of Natural Resources and Environmental Policy and Planning (ONEP) for a review and approval prior to further proceedings of the mining project.

All of mining project proponents including private sector, government agencies, state enterprises, and the joint project between government agency and private sector must employ the consultant firms registered with the ONEP to prepare the EIA report. After completely preparing the report, the applicant must submit it to the ONEP for consideration. Meanwhile both copies of the summarized and final reports must also be submitted to the DPIM as an evidence for Prathanabat application.

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Preparing an EIA Report for a Private Sector's Project

The Office of Environmental Impact Evaluation in the ONEP will examine an EIA report and related documents within 15 days. The report will be sent back to an applicant if it is incorrect or it contains incomplete information. If the report is correct and complete, the ONEP will make preliminary comments on the report within 15 days and forward it to the expert committee. The committee composes of expert members qualified and specialized in the mining field, a representative from the DPIM authorized to grant the Prathanabat in accordance with the Minerals Act B.E. 2510, and other related agencies. The report, together with the comments, will then be reviewed by the committee within 45 days for final consideration.



If the report is approved by the committee, the ONEP will notify the DPIM to proceed with the Prathanabat application. But if the report is not approved, the ONEP will notify the DPIM for the committee's consideration. Consequently, the applicant has to re-submit an additional or revised report to the ONEP. The committee should review the re-submitted report within 30 days. If the committee fails to do this within the duration, it is presumed that the committee approves the EIA report.

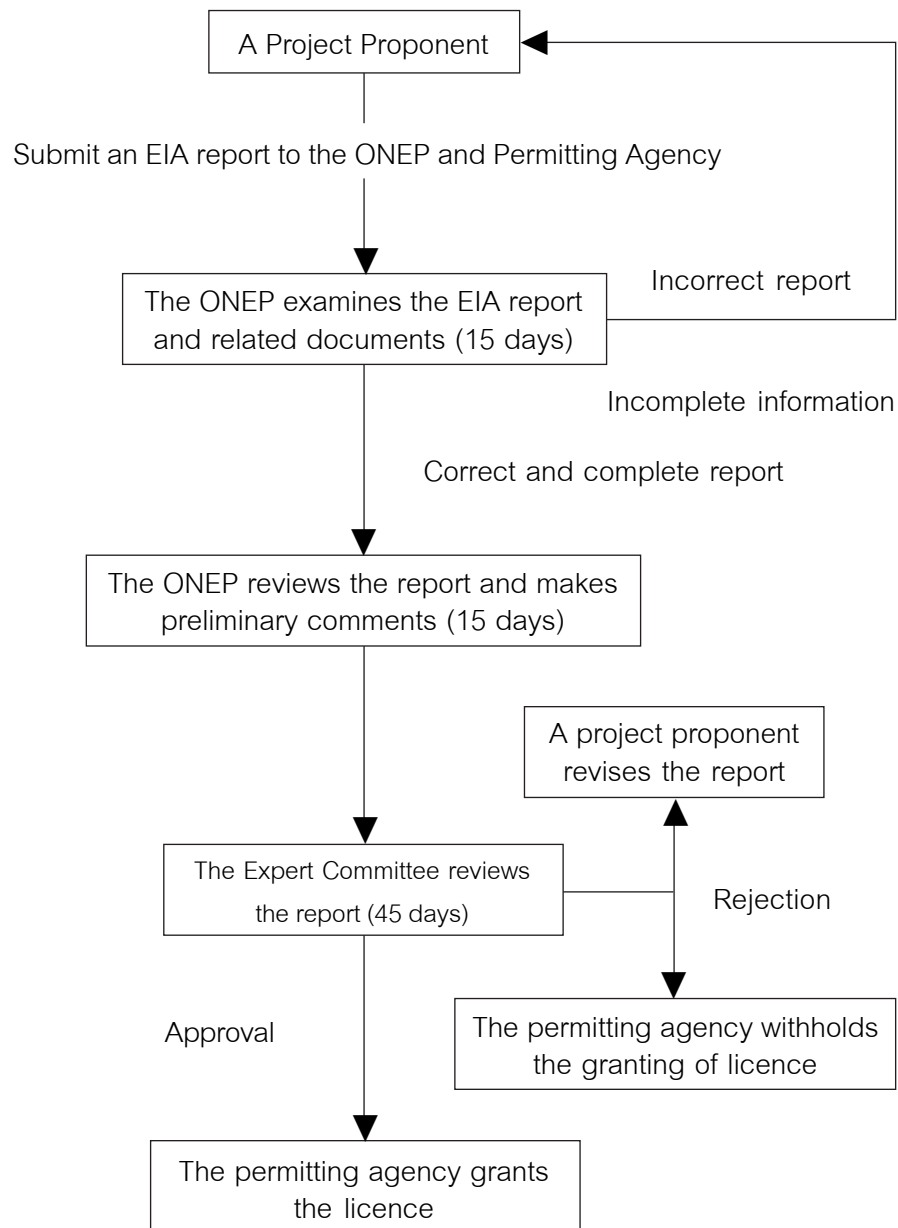


Figure 5. Steps of the EIA Review Process for a Private Sector's Project



Preparing EIA Report for a Government Agency's Project

For a mining project belonging to government agency, state enterprise, or the joint venture of these agencies and private sector, an EIA report has to be arranged and submitted to the National Environmental Board (NEB) at feasibility stage. The ONEP acting as a secretary of the NEB will summarize comments to the cabinet for consideration. Upon consideration, the cabinet can request to obtain additional comments from individual or institutional experts. There is no time limitation on the reviewing process of the government agency's project.

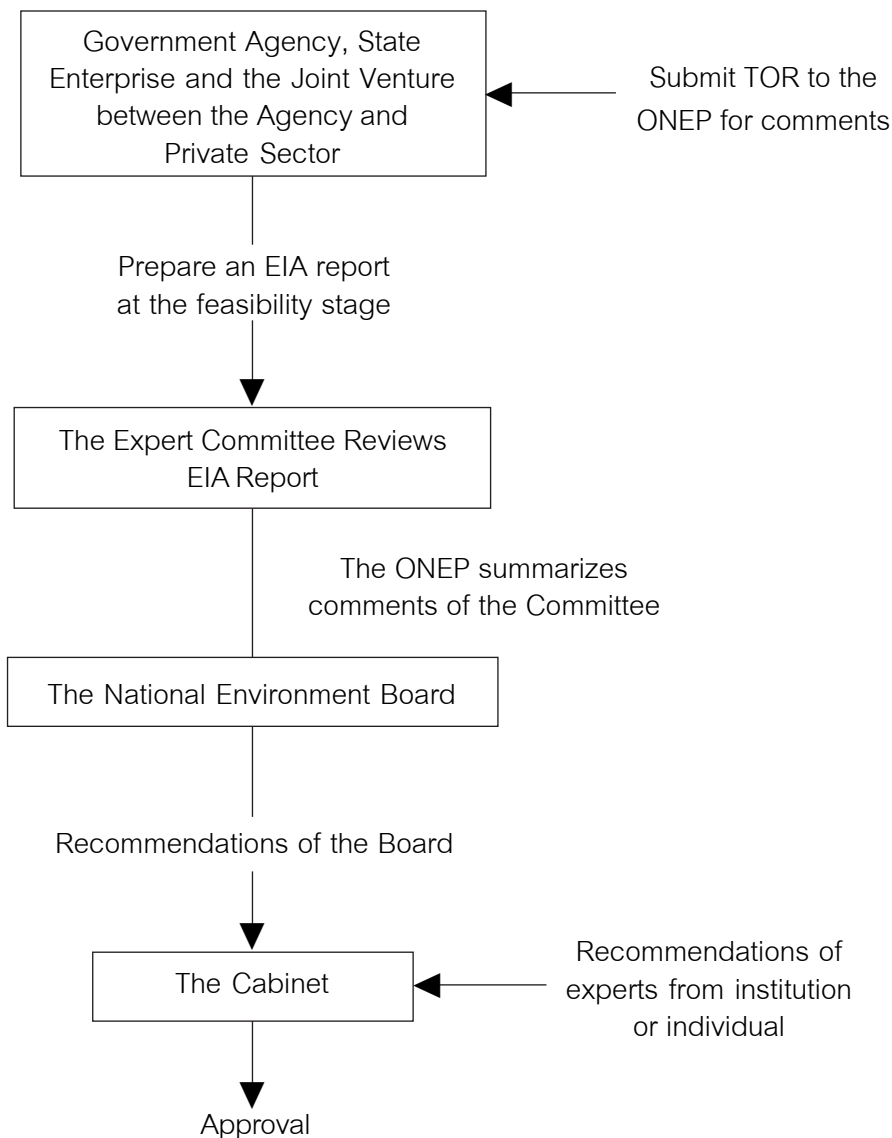


Figure 6. Steps of the EIA Review Process for a Government Agency's Project



6.2 An Approval of the Local Administrative Organization

The Ministry of Industry, through the Minister's policy, requires the LMIO to send the application for a Prathanabat to the Tambon Council, or Local Administrative Organization (LAO) for acknowledgement and approval. Thus, the local people are notified and aware of the facts and impacts of the mining to the environment and the community. In case the Tambon Council or LAO of the area issues an opposing opinion against the mining, the DPIM will take the opinion into consideration for the issuance of the Prathanabat. As a result, it is a burden of the applicant for the Prathanabat to provide information and facts relating to mining to the LAO.

Case of Mining is a Controlled Enterprise

This applies to the case that the mining is located in the area of an LAO and a Tambon has issued a regulation to control mining as a controlled enterprise under the Ministry of Public Health's Ministerial Regulation (Public Health Act B.E. 2535 authorizes the Minister of Public Health to issue the Ministerial Regulation on "Dangerous Enterprises Affecting Health," which classifies mining as a controlled enterprise). However, at present, most LAOs have not issued such regulation.

The mining business in the area of LAO under such Tambon regulation must apply for a licence from the Local Official or the Head of the LAO within 90 days. The consideration for the permission shall conform to the procedures as follows:

- 1) The operator submits the application for a licence to the Head of the LAO according to the form and documents as stipulated.
- 2) Upon receipt of the application, the Head may request that the Public Health Official (Chief of Health Center or Chief of Public Health Section) inspects the mining area in relation to hygienic conditions, devices, tools, danger or accident prevention system, waste or pollution management system, in order to guarantee that the local people in the LAO area are protected from the incidents affecting their health.
 - If it is found that the mining area fully conforms to the conditions above, the Public Health Official will propose to the Local Official for permission.
 - If it is under standard but can be improved, a period of time to make adjustments may be allowed before permission is considered.
 - In case it is considered unsuitable, faulty, and uncorrectable, or the mine owner does not make improvement in accordance with the suggestions, the Public Health Official may propose to the Local Official to reject the application.



- 3) The mine owner pays a licence fee to the LAO.

The consideration for the issuance of the above licence will be completed within 30 days from the date of application. If necessary, the period of consideration may be extended no more than two times, not exceeding 15 days each time. The licence is valid for 1 year only and the mine owner must apply for an extension before it expires.

6.3 Application for Utilization or Residence in Reserved Forest

The Director-General of the Royal Forestry Department, as authorized by the Reserved Forest Act, B.E. 2507, issued principles, methods, and conditions for the permission to use or reside in a national reserved forest as follows:

Qualifications of the Applicant

In case the applicant is a natural person, he must be a Thai national of legal age. In case the applicant is a juristic person, which is not a governmental office or state enterprise, the juristic person must be registered in Thailand. Additionally, more than two-thirds of its shareholders or partners must be Thai nationals who altogether hold more than half of all shares.

Procedures and Methods of Application

- 1) The person wishing to apply for a licence must submit an application to the district chief officer or sub-district chief officer of the area where the reserved forest is located, with concerned documents indicating the reason and necessity for the application.
- 2) The district chief officer or sub-district chief officer submits a report with preliminary comment to the Governor within 7 days from the date of application.
- 3) The Governor orders a forestry official to investigate the condition of the forest, and asks the Regional Forestry Official to jointly inspect the forest within 15 days from the date the report is received.
- 4) The officials report the inspection with their comment to the Governor and Chief of Regional Forestry Office within 30 days from the date the inspection is completed.
- 5) The Governor and the Chief of Regional Forestry Office consider and submit their comment to the Director-General of the Royal Forestry Department within 15 days. In case it is an application for mining, a copy



of all documents reported to the Director-General must also be sent to the Local Mineral Industry Official.

In case of an application to use the forest area for mining, the licence is valid for the same period in line with the Prathanabat, but not exceeding 10 years, and the use of the area is subject to the conditions attached to the licence.

Documents Enclosed with the Application

1. A copy of citizen ID card or personal ID card as prescribed by the law.
2. A copy of house registration.
3. A copy of a legal entity registration or a legal entity certificate.
4. In case the area exceeds 20 rai, the detail of the project activities and a plan map of the area usage must be attached.
5. A map of Royal Thai Survey Department indicating the area where a licence is applied for mining and the adjacent areas with the scale of 1:50,000.
6. Power of attorney (if any).

Criteria Regarding Inspection of the Forest and Area to be Used

In case of an application for mining in the area designated by the Cabinet as a class 1 and class 2 watershed area or the area with slope over 35 degrees, the forestry official must report further investigation concerning the Prathanabat and forest areas.

The area to be considered for the permission must comply with the following criteria:

- 1) It is not an area reserved for research.
- 2) It is not against land use policy in the watershed area, use of wetland, and use of resources and forest land in reserved forest under the Cabinet resolutions.
- 3) It is not a preserved scenic area.
- 4) It is not a preserved area for wildlife habitat.
- 5) It must be approved by the Tambon Council or LAO where the forest is located.
- 6) There are no more than 2 trees with 50-100 cm. in circumference per rai scattered in the area.
- 7) The area is suitable for activities applied and use plan.
- 8) The permission is not in conflict with other permission.



Permission to Use an Area According to the Minerals Act

The area to be considered for mining use must conform to the criteria mentioned above, and may be permitted in the following cases:

- 1) For mining under the Minerals Act, the area must be considered on the basis of necessity and suitability of the proposed project. For each application, the area cannot exceed 300 rai, and the licence is valid for no more than 10 years.
- 2) For the construction of mineral transportation road, it must not be wider than 6 meters, and must be constructed and maintained in accordance with the measures stipulated by the Royal Forestry Department. The licence will be valid for no more than 10 years at a time.
- 3) Mining related activity areas, such as dumping area for tailing, worker's quarters, mineral store, mineral mill or processing area, tool storage, and others, must be approved in writing by the DPIM on the basis of necessity and suitability. The permission will be valid for no more than 10 years at a time.
- 4) In case there is a transfer or sublease of the Prathanabat, the transferee or sub-lessor must submit an application for permission, and must be granted permission to use or reside in the reserved forest before the mining can continue.

6.4 Application for Land Use in a Self-Help Settlement

The person wishing to apply for prospecting, mining, Artisanal Mining, and Ore Panning in a Self-Help Settlement, under the supervision of the Department of Social Development, must receive prior permission from the Director-General of the department, by submitting a petition to the supervisor of the Self-Help Settlement according to the following procedures:

- 1) The land allowed for mining must be a land that has not been allocated to the members, but not including reserved area for public use. If the land is under restriction by the Royal Forestry Department, the Department of Social Development will apply for permission from the National Land Allocation Commission before making a contract with the petitioner.
- 2) The licensee cannot transfer his rights to another person unless it is permitted by the Director-General of the Department of Social Development.
- 3) The licensee must pay the fees, royalties, taxes, and other expenses in accordance with the laws governing the matters.
- 4) The licensee must report the result of the operation to the supervisor of the Settlement Area every month.



- 5) The area can be used for the period as follows:
- ◆ For prospecting, no more than 1 year per term.
 - ◆ For mining, no more than 3 years per term.
 - ◆ For Artisanal Mining and Ore Panning, no more than 1 year per term.

Qualifications of the Applicant

The applicant for Artisanal Mining and Ore Panning must:

1. Never have received a revocation of permission or contract permitting a mining in the Self-Help Settlement unless 1 year has elapsed since the date of the revocation.
2. Have sufficient funds for operations in the petition.

The juristic person applying for permission must:

1. Be registered and have its headquarters in Thailand provided that there are Thai shareholders which hold no less than 51% of all shares.
2. Never have received a revocation of permission for mining in the Self-Help Settlement.
3. Have sufficient funds for the operations as stipulated in the petition.

Documents Enclosed with the Petition

1. Projects, plans, charts, maps, and aerial photographs of Royal Thai Survey Department or the Land Department with a scale of 1:50,000 or 1:250,000 or larger.
2. A copy of house registration, citizen ID card, marriage licence (if any). In case of juristic person, the registration of a partnership or a company and a power of attorney must be presented.
3. Environmental Impact Assessment report approved by the Office of the Natural Resources and Environmental Policy and Planning.
4. A letter of consent from the people who occupy or use the area in the petition (if any).
5. Evidence indicating sufficient funds for the operations in the petition certified by a commercial bank as follows:
 - ◆ For prospecting and mining, at least 5 million baht.
 - ◆ For gold mining, at least 10 million baht.
 - ◆ For Artisanal Mining and Ore Panning, at least 100,000 million baht.



Contract and Payment of Fees for Mining

The petitioner must enter into a contract and pay the fees at the prescribed rates:

- The licensee must enter into a contract with the Department of Social Development. Also a guarantee by cash or a bank guarantee in the amount as stipulated must be presented on that date.
- Prior to a contract, the licensee must pay the fees for the use of the area in advance to the Department of Social Development at the prescribed rates.
- If the licensee wishes to extend the contract near the end of the contract term, he must submit a petition to the Director-General of the Department of Social Development at least 90 days before expiration.

Logging in the Licenced Area

In case of any activities involving logging of protected plants, the licensee for prospecting, mining, Artisanal Mining, and Ore Panning, must comply with the regulations of the Department of Social Development. The transportation of the timber out of the Self-Help Settlement must comply with the regulations of the Royal Forestry Department.

The licensee who also receives permission for logging must enter into a contract for logging by dividing the logging into no more than 3 operations and pay the fees for logging to the Settlement Area at the rates as the licensee may propose, but not less than the prescribed rate.

6.5 Application for Land Use in Agricultural Land Reform Area

The application for use of land in the Agricultural Land Reform Area for prospecting or mining must comply with the regulations of the Agricultural Land Reform Commission with the consent of using natural resources in the Agricultural Land Reform Area under other laws.

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Steps and Procedures of Application

- 1) The person wishing to apply for the use of land in the Land Reform Area for prospecting or mining must submit an application to the Provincial Land Reform Office in the area with the following documents:
 - A copy of citizen ID card and house registration (in case the applicant is a natural person).
 - A copy of the juristic person's registration and the power of attorney (in case the applicant is a juristic person).



- A detail of project activities, including maps and plan for use of the area.
- 2) The applicant must truthfully inform the Provincial Land Reform Office for the inspection of the land condition.
- 3) The permission for mineral prospecting and mining is under the secretary of the Agricultural Land Reform Office (ALRO) and the Agricultural Land Reform Committee respectively. After considering that the use of the area is not a problem and obstacle to the agriculture in the area, the office will permit the use of land.

Inspection of Land Condition

The inspection of the land condition in consideration for the application must conform to the following rules:

- 1) It is not prohibited to use the area under any agreement as proven by the Royal Forestry Department and the ALRO.
- 2) It is not a scenic area, which should be preserved.
- 3) There is no significant effect to the local people and those in the adjacent areas.
- 4) The characteristics and size of the area are suitable for the activities in accordance with the proposed plan.

Conditions and Duties of the Permitted Land Occupant

- The permitted area must not be used by another person unless legal permission is obtained.
- Land use fee must be paid as prescribed by the ALRO.
- Land uses must be only for the activities as stipulated in the Letter of Consent, and must not cause excessive deterioration of the land.
- The activities must not disturb other people such as obstructing public ways.
- The use of routes and vehicle speed must conform to the rules as prescribed by ALRO.
- The aesthetic value must not be inappropriately affected.
- The inspection of the operation by an official must be allowed at all times, and the occupant or his agent must facilitate the inspection officials and follow the written order.
- In case the official requires additional evidence or witness, the occupant must give oral or written statement.
- The conditions and regulations as prescribed by the Agricultural Land Reform Commission must be followed.



Expiration and Extension of the Permit

The use of the ALRO area expires if:

- ◆ The validity date in the permit has expired.
- ◆ The recipient of the permit has passed away or the juristic person has ceased to exist.
- ◆ The written order of the ALRO has not been followed without a proper reason.
- ◆ The licence for that operation has expired.

For the extension of the permit, an application must be submitted to the Local Land Reform Office at least 30 days before the expiration date. In case the application cannot be submitted in time due to a proper reason, the application for the extension may be submitted no later than 30 days after the permit is expired.



7. Mining Related Operations

Mining related activities are considered as parts of a mining operation. These are building construction, excavating of drainage trench, construction of tailing or water storage dam, and including installation of mining equipment. The above activities may affect surrounding environment, therefore there must be a control of the operations through the applications for licences prior to commence mining operation.

The licences for mining related operations are as follows:

- ◆ Licence for a Joint Mining Plan
- ◆ Licence for Suspension of Mining Operation
- ◆ Licence for Construction of Mine Building or Setting up a Mineral Processing Plant outside the Mining Concession Area
- ◆ Licence for Setting up Containment of Discharged Slime or Tailings outside the Mining Area
- ◆ Licence for Mining Operation nearby Public Highway or Public Water Course
- ◆ Licence for Blockage, Destruction or Deterioration of the Public Highway or Public Water Course
- ◆ Licence for Diverting Water from Public Water Course
- ◆ Licence for Construction of Road Access through another Mining Concession Area
- ◆ Licence for Discharging Slime or Tailings for Containment in another Mining Concession Area
- ◆ Licence for Discharging Slime or Tailings outside Mining Concession Area
- ◆ Licence for Removal of Tailings or Mine Waste from Mining Concession Area

Qualifications of the Applicant for the Licences

The Ministerial Regulation prescribed that the applicant for the licences must be the holder of a Prathanabat, the sub-lessor of the mining operation, or the applicant for Prathanabat who is a natural person or a juristic person as described in chapter 2.

7.1 A Joint Mining Plan

The Minerals Act specifies that either a holder who has several Prathanabats covering contiguous mining concession areas, or several holders who have their mining areas adjacent to one another may join into a single mining plan by submitting an application to, and obtaining a *Licence for a Joint Mining Plan* from the LMIO.



After the approval of the licence, those mining concession areas will be considered as one single mining area. Upon combining into one area, several benefits can be obtained such as possession of minerals and transportation of minerals. Moreover, the number of labourers and working hours will be also treated as a single mining operation.

Application Process

1. Fill in the prescribed application form and file with the LMIO.
2. The official examines the completeness of application form, qualifications of the applicant, and the condition for joint mining plan.
3. Pay an application fee of 20 baht, and the licence fee of 200 baht.
4. The official makes a registration of the application.
5. The LMIO issues the licence.

7.2 Suspension of Mining Operation

The Minerals Act specifies that if the holder of a Prathanabat cannot conduct mining operations due to encountering difficulties specified in the Ministerial Regulation, a *Licence for Suspension of Mining Operation* in the whole mining concession area or a part thereof can be petitioned from the LMIO who will issue the licence with the term of validity not exceeding 1 year.

Regulations on Number of Workers and Working Hours

The Minerals Act requires that the holder of Prathanabat must conduct a mining operation by having the number of labourers and the working hours as follows (except for the first year of a Prathanabat).

- There must be workers working during the 12 month period with a monthly average of not less than 1 person for an area of 2 rai. However, if the mining operation is mechanized with labour-saving, the power of such labour-saving machines will be calculated in place of the number of workers per area at the rate of 1 brake horsepower to 8 workers.
- There must be a total working time not less than 120 days in every 12 month period.

In case a holder holds several Prathanabats, the contiguous Prathanabats shall be deemed as the same mine for the purpose of calculating labourers and working time stated above.



Application Process

1. Fill in the prescribed form with the written statement to provide the reasons on suspending the mining operation. Submit all these documents to the LMIO.
2. The official will examine the application form, attached documents, and qualifications of the applicant.
3. Pay the application fee of 20 baht, licence fee of 200 baht, and another fee of 20 baht per rai per year.
4. The official makes a registration of the petitioned form for further process.
5. For the petition for suspension of the mining operation due to the difficulties in physical conditions or legal issues, the LMIO will issue the licence. However, for the suspension because of the economic reason, the petition form with supporting documents will be submitted to the Director-General to get a prior approval before the issuance of the licence by the LMIO.

Documents Providing Reasons for Suspension of Mining Operation

- ◆ For the petition for the suspension of a mining operation due to the difficulties in physical conditions such as the absence of equipment during the purchasing process, there must be documental evidence to demonstrate the purchase.
- ◆ For the petition for the suspension of a mining operation due to legal issues, for example the government sector has issued an order not to allow mining because it is not safe for workers or the third persons, that a copy of the written order must be attached.
- ◆ For the petition for the suspension of mining operations due to economic conditions such as the low price of mineral, there must be statistical evidence from related organizations.

7.3 Construction of Buildings outside the Mining Concession

The construction of mine buildings or the establishment of a processing plant outside the mining concession area are not allowed, except the *Licence for Construction of Mine Building or Setting up Mineral Processing Plant outside the Mining Concession Area* is obtained from the LMIO. However, such an operation must conform to the conditions specified in the licence.

Application Process

- 1) Fill in the petition form and enclose the map showing the areas for construction of mine buildings or processing plants outside the mining concession area. Then, submit these documents to the LMIO.



2. The official examines the map showing the boundary of the construction area, and the qualification of the applicant.
3. Pay application fees of 20 baht, 20 baht per rai for land usage, 40 baht per 40 meters of surveying line and a licence fee of 400 baht.
4. The official makes the registration of the application.
5. The LMIO issues the licence.

7.4 Containment of Tailings outside the Mining Concession

The setting-up of the containment of discharged slime or tailings containment outside the mining concession area is not permitted, except if obtaining the *Licence for Setting up Containment of Discharged Slime or Tailings outside the Mining Concession Area* is obtained from the LMIO. However, conforming to the required conditions is necessary.

Application Process

- 1) Fill in the prescribed form and enclose the map demonstrating the areas to set up the containment of discharged slime or tailings outside the mining concession areas. Then, submit these documents to the LMIO.
- 2) The official examines the application, the map demonstrating the petitioned area, and the qualifications of the applicant.
- 3) Pay the fees: 20 baht per one petition form, 20 baht per rai per year for land usage, 10 baht per 40 meters of surveying line and 400 baht per licence.
- 4) The official makes a registration of the application.
- 5) The LMIO issues the licence.

7.5 Mining nearby Public Highway or Waterway

The holder of a Prathanabat is not allowed to operate mining within 50 metres of a highway or public water course, unless the conditions in the Prathanabat allows to do so or a *Licence for Mining Operation nearby Public Highway or Water Course* is obtained from the LMIO, however, the holder must comply with the conditions prescribed in the licence.

Application Process

- 1) Fill in the prescribed form and enclose the map demonstrating the mining operation close to the highway and public water course. Then, submit these documents to the LMIO.
- 2) The official examines the application, the map demonstrating the mining operation close to the highway or public water course, and the qualifications



of the applicant.

- 3) Pay an application fee of 20 baht and a licence fee of 200 baht.
- 4) The official makes a registration of the application.
- 5) The LMIO issues the licence.

7.6 Blockage of Public Highway and Public Water Course

The holder of a Prathanabat cannot make a blockage, or undertake any work which may be detrimental to the use of highways or public water courses, unless he has obtained a *Licence for Blockage, Destruction or Deterioration of Public Highway or Public Water Course* from the LMIO and the holder must comply with the conditions prescribed in such a licence.

Application Process

- 1) Fill in the prescribed form and enclose the map demonstrating the petitioned boundary. Then, submit these documents to the LMIO.
- 2) The official examines the application, the map showing the petitioned area, and qualifications of the applicant.
- 3) Pay an application fee of 20 baht and a licence fee of 200 baht.
- 4) The official makes a registration of the application.
- 5) The LMIO issues the licence.

7.7 Diverting Water from Public Water Course

The holder of a Prathanabat is not allowed to divert water from a public watercourse, regardless of whether such a water course is within or outside of the mining concession area, unless a *Licence for Diverting Water* is obtained from the LMIO and the holder must comply with the conditions prescribed in such a licence.

Application Process

- 1) Fill in the prescribed form and enclose a drawing showing the arrangement and method in details. Then, submit the petition documents to the LMIO.
- 2) The official examines the application, drawing, and qualifications of the applicant.
- 3) Pay the following fees: 20 baht per application, 50 baht per cubic meter per minute for the amount of one year in advance, 10 baht per 40 meters of surveying line and 200 baht per licence.
- 4) The official makes a registration of the application.
- 5) The LMIO issues the licence.



7.8 Construction of Access through Other Mining Concession

The LMIO has authority to issue a licence allowing the holder of a Prathanabat in one mining concession area to construct roads or water-channel for discharged slime or tailings through other mining concession area. If such constructions result in any damage, the licensee shall be liable to pay for compensation.

Application Process

- 1) Fill in the prescribed form, enclose the map demonstrating the area for construction of the access through other mining concession area, and then submit these documents to the LMIO.
- 2) The official examines the application, the map indicating the access route, and qualifications of the applicant
- 3) Pay an application fee of 20 baht and a licence fee of 500 baht.
- 4) The official makes a registration of the application.
- 5) The LMIO issues the licence.

7.9 Containment of Slime in Other Mining Concession

The Minister is empowered to issue a *Licence for Discharging Slime or Tailings for Containment in other Mining Concession Area* that allows the holder of a Prathanabat in one mining concession area to discharge slime or tailings for containment in the other mining concession area where has already been mined out or does not contain sufficient amount of minerals for mining. The holder of such a licence will be liable to pay for the compensation if the operation results in any damages.

Application Process

- 1) Fill in the prescribed form accompanied by the map indicating the area for containment of discharged slime and tailings in other mining concession area, and then submit these documents to the LMIO.
- 2) The official examines the application, the map showing the containment area, and qualifications of the applicant.
- 3) Pay an application fee of 20 baht and a licence fee of 400 baht. The licensee must also pay the land utilization fee for containment of slime or tailings in place of the Prathanabat holder whose area is used.
- 4) The official makes a registration of the application for further process.
- 5) The LMIO submits the petition documents to the DPIM for consideration.
- 6) The Director-General proposes the matter to the Minister for approval and issues of the licence.



7.10 Discharging Slime outside the Mining Concession

The holder of a Prathanabat cannot discharge outside his mining concession area slime or tailings resulting from his mining operation unless such fluid does not contain solid matter in excess of 6 grams per litre of slime. In case of necessity for the holder to discharge it with more than 6 grams per litre, the Minister has the authority to issue the *Licence for Discharging Slime or Tailings outside Mining Concession Area*, with the provisions of the conditions for the licence holder to comply to.

In discharging slime or tailings outside his mining concession area, the holder of a Prathanabat must take measures to prevent the slime or tailings from causing public water courses to become shallow or from being detrimental to the use of such water courses.

Application Process

- 1) Fill in the prescribed form and enclose the statements justifying reasons to discharge slime or tailings exceeding the specified limit of solid matters, outside mining concession area. Then, submit these documents to the LMIO.
- 2) The official examines the application, the justifying statement, and qualifications of the applicant.
- 3) Pay an application fee of 20 baht and a licence of 500 baht.
- 4) The official makes a registration of the application for further process.
- 5) The LMIO submits the petition documents to the DPIM for consideration.
- 6) The Director-General proposes the matter to the Minister for approval and issue of the licence.

7.11 Removal of Mine Waste out of Mining Concession

The holder of a Prathanabat cannot remove, or allow any other person to remove tailings or mine waste out of the mining concession area unless a *Licence for Removal of Tailings or Mine Waste from the Mining Concession Area* is obtained from the LMIO, and the conditions prescribed in such a licence are complied with.

Application Process

1. Fill in and file the prescribed form with the LMIO, enclosing the documents justifying the reasons for removal of tailings or mine waste outside the mining area.
2. The official examines the application form, the justifying document, and qualifications of the applicant.



3. Pay an application fee of 20 baht and a licence fee of 400 baht.
4. The official makes a registration of the application.
5. The LMIO issues the licence.

7.12 Mining Inspection

There are regulations to follow in order to provide protection to labourer as well as safety to third persons, as prescribed in the Ministerial Regulation No. 9 (B.E. 2513) issued under the Minerals Act B.E. 2510.

When the mining or mineral processing operation is considered to be harmful to persons, animals, vegetation or properties, the LMIO has the authority to give an order in writing to the holder to alter or modify the mining or mineral processing procedure as may be necessary for the prevention of such harm, or to totally or partially suspend the operation as it is deemed appropriate.

The competent officials have the authority to enter the mining concession area at any time for inspection of the mining operations, and the holder of a Prathanabat shall facilitate as may be appropriate.

7.13 Mine Reclamation and Rehabilitation

For the mined out areas, the holder of a Prathanabat must:

- either backfill the pits, mine sump or shafts that are no longer in use, or
- reclaim the area to the original landforms, or
- degrade the slope area to provide safety and stability, or
- rehabilitate by re-vegetation

regardless of whether the Prathanabat has expired, unless the conditions in the Prathanabat stipulates otherwise or the LMIO, with an approval of the Director-General, has ordered otherwise in a written form.

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Mine reclamation and rehabilitation must be conducted in successive stages as proposed in the mining plan. Before mine closure, all mine structures and facilities must be completely removed, regardless of whether the Prathanabat has expired, except where such mining estates are private-owned properties.

In addition, the rehabilitation of mined out areas must comply with the conditions proposed in the EIA report that is approved and reviewed by ONEP.



8. Mineral Trade and Storage

The person who purchases minerals for commercial use must have a *Mineral Purchase Licence*. The licence will clearly designate a mineral purchasing place and a mineral store. If the licensee wishes to purchase the mineral outside the designated place, he must petition for an additional licence.

The holder of a Prathanabat or the sub-lessee of a mining operation who needs to store minerals obtained from mining outside the specified mining concession area, as well as the holder of a licence to purchase minerals who desires to keep the purchased minerals outside the designated mineral store, must apply for a *Mineral Storage Licence*.

8.1 Mineral Purchase

Mineral purchase is the mineral transfer from other persons by every means except inheritance. The buyer who conducts commercial purchase must obtain a *Mineral Purchase Licence* from the LMIO, except:

- Purchasing a mineral from the holder of Artisanal Mining Licence.
- Purchasing metal obtained from the metallurgical process.
- Purchasing a mineral which is processed to the quality that could be mixed with other materials or used in manufacturing of a final product according to the type and condition regulated by the Director-General and notified in the government gazette.

A Mineral Purchase Licence is valid until 31st December of the year of issue.

Qualifications of the Applicant

Following the ministerial regulation, the Applicant for a Mineral Purchase Licence must be a natural person or a juristic person, whose qualification is stated in chapter 2.

Application Process

- 1) Fill in the provided application form and submit it with attached documents to the LMIO in the locality.
- 2) The official examines the application form, the completeness of the attached documents, and the applicant's qualifications.
- 3) Pay the application fee of 20 baht and the licence fee of 1,000 baht.
- 4) The official registers the application for further process.



- 5) The LMIO inspects the mineral purchasing location, including the mineral storage location in case of wishing to keep the mineral outside the mineral purchasing place.
- 6) The LMIO issues the Mineral Purchase Licence by specifying the mineral purchasing place and the conditions in the licence.

Documents Attached to the Application

1. General documents as stated in chapter 2.
2. An explanation statement on the reason for application for the licence, and reason for mineral storage outside the purchasing place in case of keeping the purchased mineral outside the purchasing place.
3. A map indicating the mineral purchasing location.
4. A copy of the certificate of title of the mineral purchasing location or a copy of the consent document of the landowner.

Suitable Location for Mineral Purchasing Place

- The location must be convenient for official inspection.
- The structure of the buildings used for mineral purchasing and storage must be rigid and stable for the type of purchased mineral.
- The mineral purchasing place must not be located in a mineral processing area, or other purchasing place and mineral store of other person, except those for the purchase of marble and dimensional stone.

8.2 Mineral Purchasing Outside the Designated Place

The holder of a Mineral purchase Licence is not allowed to purchase a mineral in the place which is not designated by the licence unless a *Licence for Mineral Purchasing outside the Designated Place*, issued by the LMIO, is granted. In case the grantee wishes other buyers to purchase the mineral on his behalf, the name of such buyers must be specified in the licence application. The validity of the Licence for Mineral Purchasing outside the Designated Place is terminated on the same date as the validity of the Mineral Purchase Licence.

Qualifications of the Applicant

The applicant for a Licence for Mineral Purchasing outside the Designated Place must be a holder of the Mineral Purchase Licence.

Application Process

- 1) Fill in the provided application form and attach 2 portrait photographs size 2x3 cm. Then, submit the form to the LMIO.



- 2) The official examines the application, and the applicant's qualifications.
- 3) Pay the application fee of 20 baht and the licence fee of 1,000 baht.
- 4) The official registers the application.
- 5) The LMIO issues the licence.

Regulations on Mineral Purchasing

- The licence must be presented, both at the purchasing place and outside the designated area.
- The mineral purchased must be of type, amount, and quantity specified in the licence.
- Mineral purchasing, both at the purchasing place and outside the designated area, is allowed only when any one of the following documents is presented by the seller:
 - ◆ an official document showing that the source of mineral is from a Prathanabat, or
 - ◆ a seller's Mineral Purchase Licence showing that the mineral is obtained from the purchase under that licence, or
 - ◆ an official document showing that the buyer is granted a special purchasing case by the Director-General, or
 - ◆ an Ore Panning Licence showing the mineral is obtained from ore panning under that licence.
- The purchasing transaction must be recorded in the prescribed form for every mineral purchase. Then the receipt of purchased mineral must be noted and certified in the Mineral Transport Licence or the Ore Panning Licence before returning it to the licence holder.
- Mineral storage is allowed only in the area specified in the licence.
- The purchased and the remaining amount of mineral must be reported every month to the LMIO.
- All purchasing documents must be kept at the mineral purchasing place or the permitted mineral storage area.
- A Mineral Purchase Licence cannot be transferred.
- A Mineral Purchase Licence is valid until the holder who is a juristic person has terminated the juristic position or has been judged by court order to be bankrupt. In case the holder who is a natural person has passed away, his heir may continue the mineral purchase, but he must petition for mineral purchasing under the existing licence within 30 days.



8.3 Setting up a Mineral Store

Commercial mineral storage can be operated by obtaining a *Mineral Storage Licence* issued by the LMIO, otherwise the mineral must have the other permissions for possession. The licence is valid until 31st December of the year of issue.

Qualifications of Applicant

The applicant for Mineral Storage Licence must have the following qualifications:

1. be the holder of a Prathanabat or a Provisional Prathanabat, or a sub-lessee of a mining operation who desires to keep the mineral obtained from mining outside the mining concession area, or
2. be the holder of a Mineral Purchase Licence who wishes to keep the purchased mineral outside the purchasing place.

Application Process

- 1) Fill in the provided application form and submit it with attached documents to the LMIO.
- 2) The official examines the application, the completeness of the attached documents, and the applicant's qualifications.
- 3) Pay the application fee of 20 baht and the licence fee of 1,000 baht.
- 4) The official registers the application for further process.
- 5) The LMIO inspects the suitability of the mineral storage location.
- 6) The LMIO issues the licence and may provide the conditions in the licence.

Documents Attached to the Application

1. A map indicating the mineral storage location and a chart showing the mineral storage procedure.
2. A copy of the certificate of land title of the mineral storage location, or a copy of the consent document of the land owner.
3. A copy of the document showing the rights on mineral storage i.e. a Prathanabat, a Mining Sublease Licence, or a Mineral Purchase Licence.
4. An explanation statement on the reason or necessity of setting up a mineral storage.
5. A power of attorney (if any).

Suitable Location for Mineral Store

- The location must be convenient for official inspection.
- The structure of the buildings used for mineral storage must be rigid and stable for the type of mineral to be stored.
- The mineral store must not be located in the mineral processing area.



Regulations on Mineral Storage

- A sign indicating the type of mineral and the name of owner must be posted at the mineral storage area.
- A mineral store cannot be used in common with others unless it has been permitted.
- Each mineral storage transaction must be recorded in the provided form.
- The amount of mineral storage, removal, and remnant must be reported in the provided form to the LMIO every month.
- Documents concerning mineral storage must be kept at the permitted place for the official to inspect at anytime.

Revocation of the Licence

The Director-General of the DPIM has the authority to revoke the Mineral Purchasing Licence, Licence for Mineral Purchasing outside the Designated Place, and Mineral Storage Licence if there is any violation under the Minerals Act or the conditions provided in the licence, or there will be any cause that could affect the safety and welfare of the people.

After the order of licence revocation is informed to the licensee, the licence will be terminated on the date of acknowledgement. The licensee whose licence has been withdrawn has the rights to appeal the revocation to the Minister of Industry by submitting the petition to the LMIO within 15 days from the date of acknowledgement. The judgment of the Minister will be finalized.

8.4 Mineral Sale

Mineral sale is the transfer of minerals to other persons by any means.

Qualifications for Authorized Mineral Vendor

Under the Minerals Act, the authorized mineral vendor must have at least one of the qualifications below:

1. Be the holder of a Prathanabat or Provisional Prathanabat, or the registered representative of such a holder who sells the mineral which has been mined from that mining concession area.
2. Be the holder of a Mineral Purchase Licence or his registered representative.
3. Be the holder of an Artisanal Mining Licence or a mineral owner who has obtained the mineral from the holder of such a licence.
4. Be the holder of an Ore Panning Licence.
5. Be a licensee who is granted permission from the Director-General for each specific sale.



6. Be a vendor who sells the metal obtained from a metallurgical process.

Regulations and Exception for Authorized Mineral Vendor

An authorized mineral vendor must only sell minerals to the holder of a Mineral Purchase Licence or a Licence for Mineral Purchasing outside the Designated Place, except:

- ◆ the mineral is obtained from Artisanal Mining, or
- ◆ the metal is obtained from a metallurgical process, or
- ◆ the mineral is for export.

For each mineral trade, a mineral vendor must give the documents i.e. a Mineral Transport Licence, or the official document on permission of specific mineral trade, as the case may be, to the mineral buyer. In case a vendor is the holder of the Ore Panning Licence, the licence must be presented to the buyer who will certify the purchase in that licence.

8.5 Minerals under Exemption from Regulations

The Minister of Industry has announced the mineral type and quantity from which the buyer, vendor, or mineral keeper is exempted from the provisions of the Minerals Act on mineral purchase, trade, and storage, however, the royalty for such a mineral must be paid before transaction.

Types of minerals with any quantity which are under the above exception as declared by the Ministry of Industry are:

- Gypsum, Fluorite, Barite, Coal (Lignite), Marl, and Precious Stones
- Dolomite and Sodium Feldspar
- Marble and Dimensional Stones
- Bentonite, Fireclay, Diatomite or Diatomaceous Earth, Kaolin, and Ball Clay
- Industrial Rocks

The production and transportation of these minerals will be under monthly inspection of mining operations and a daily record of mine production and mineral sale. The removal of these minerals from the mining concession area must be petitioned for permission following the payment of royalties.



9. Mineral Processing and Metallurgical Processing

9.1 Mineral Processing

Mineral Processing means any operation to upgrade a mineral or to separate from each other two or more minerals in mixed ore which includes crushing, comminuting, and sizing of minerals. Under the rules imposed by the DPIM, mineral processing is categorized into:

- Group 1: The mineral processing that employs methods of crushing, grinding or sizing of ore not exceeding 25 metric tons per day, including washing by water, hand sorting, mineral separation by applying different specific gravity (i.e. using a lanchute, jig, shaking table, Humphrey's spiral or cyclone), magnetic separation, and electrostatic or high tension separation.
- Group 2: The mineral processing that employs flotation, chemical method, and other methods approved by the Director-General.

The person who can operate mineral processing must be the holder of a Provisional Prathanabat or Prathanabat who undertakes mineral processing operations within his mining concession area, unless a *Mineral Processing Licence* is obtained from the LMIO who will issue and designate the mineral processing area. The licence will be valid for a period of not exceeding 3 years and may be renewed for not exceeding 3 years. The licensee must comply with the conditions specified in the licence.

Qualifications of the Applicant for a Licence

The applicant for a Mineral Processing Licence must be a natural person or a juristic person that has the qualifications as mentioned in chapter 2.

Application Process

- 1) A prescribed application form, accompanied by required documents, is filled and filed with the LMIO.
- 2) The official examines the completeness of application form, accompanied documents, applicant's qualifications, a map of the petitioned processing area and a processing flowchart and procedure.



- 3) The applicant pays the application fee of 20 baht and a licence fee of 1,000 baht.
- 4) The official registers the application for further consideration.
- 5) The official inspects the conditions of petitioned processing area, impacts on surrounding environment, and makes a boundary survey of the area. The mineral processing area shall not be located in the mining concession area, another mineral processing area, a metallurgy area, or a mineral purchasing place.
- 6) In case of an application for mineral processing in Group 1, the LMIO will directly issue the licence, however, in case of mineral processing in Group 2, the LMIO will forward the matter to the DPIM for technical reviews and prior approval before the licence can be issued.

Documents Attached to the Application

1. General documents as described in chapter 2.
2. A map indicating the mineral processing area.
3. A mineral processing flowchart and procedure which is certified by the engineer with a professional practicing licence.
4. A copy of the certificate of title of the mineral processing location or a copy of the consent document of the land owner.

Mineral Processing Flowsheet and Procedure

A processing procedure and flowsheet illustrating mineral processing operations must provide the following:

- (1) Information on licence holder, processing plant, and location.
- (2) Types of ores to be processed.
- (3) Source of ores and acquisition method.
- (4) Processing methods as specified in Group 1 or 2.
- (5) List of machinery and equipment, including their features and installation location.
- (6) Processing procedure and a flowchart demonstrating processing steps.
- (7) Procedures and location for storage of tailings, waste, de-sliming water, and stockpiles.
- (8) Source of supply water and method of dewatering from mineral processing area.
- (9) Procedures for dust protection and suppression, and disposal of toxic matters.



The processing procedure and flowsheet must be accompanied by a map with attached scale to illustrate a mineral processing plant and mineral processing area, the road and the distance from the main road, together with location of an office, water reservoir, and storage area for mineral, tailing waste and slime.

Regulations on Mineral Processing

- Before commencement of any mineral processing operation, the licensee must petition in writing to the DPIM for official inspection.
- Mineral processing must be operated according to the approved flowsheet and mineral processing procedure under supervision and responsibility of the licenced engineer. In case there is a need to replace the engineer, the LMIO must be given a notification of the replacement together with a written consent from the substitute.
- In undertaking a mineral processing operation, the licensee shall not perform any act likely to render, or fail to perform any act the failure of which is likely to render toxic minerals or other poisonous materials being harmful to persons, animals, vegetation, or properties.
- The competent official has the authority to enter into a mineral processing area for inspection of the operation at any time and may give orders in writing to the licensee to alter, modify, or suspend the operation and undertake any action to prevent any harm which may result from mineral processing.
- In case the licensee would like to make a change or addition to any item with no relation to mineral processing procedure, a written notification must be given to the LMIO. However, if the change or addition directly concerns processing procedure or storage of tailing waste and wastewater, the licensee must propose a new mineral processing procedure with a flowsheet for a prior written approval.
- The licensee must submit a monthly report on actual mineral processing operations to the LMIO.
- The Director-General has the authority to revoke a Mineral Processing Licence when it appears that there has been a violation of the provisions under the Minerals Act or the conditions prescribed in the licence. The licensee whose licence is revoked is entitled to appeal to the Minister of Industry by petitioning such an appeal to the LMIO within 15 days. The holder of a licence that has been revoked cannot apply for a new licence until 2 years have lapsed.



Extension of Mineral Processing Licence

For extension of a Mineral Processing Licence, an application accompanied by required documents must be submitted to the LMIO at least 60 days before the expiration date. The application process is quite similar to the petition for a new licence, except that there will be a review on the past performance indicating whether the operation has been in compliance with regulations and specified conditions.

9.2 Metallurgical Processing

Metallurgical processing means smelting or extracting metals from minerals by any method and includes purification and alloying of metals, and manufacturing of finished or semi-finished metallic products of various kinds by melting, casting, rolling or any other processes. According to the Ministerial Regulation issued under the Minerals Act, any single or several of the following methods is regarded as metallurgy processing:

- (1) Pyrometallurgical process.
- (2) Hydrometallurgical process or chemical solution process with metallurgical separation or precipitation.
- (3) Other processes as approved by the Director-General.

The Ministerial Regulation also prescribed the metallurgical processing methods that are under restriction which include all metallurgical processes by smelting method, other metal extraction methods from ores, purification of metal, and productions of steel at any capacity. The person who desires to undertake any metallurgical processing under restriction must apply for a *Metallurgical Processing Licence* with the LMIO. The licence will designate a metallurgy area and provide any condition to perform. The Director-General has the authority to issue the licence and give the validity not exceeding 25 years which may be extended successively.

Qualifications of the Applicant for a Licence

The applicant for a Metallurgical Processing Licence must be a natural person or a juristic person that has the qualifications as mentioned in chapter 2.

Application Process

- 1) A prescribed application form, accompanied by required documents, is filled and filed with the LMIO.
- 2) The official examines the completeness of application form, accompanied documents, applicant's qualifications, a map of the petitioned processing



- area, a processing flowchart and procedure, and the type of metallurgical processing.
- 3) In case the metallurgical processing operation has a production capacity in the range and types specified by the Office of the National Environmental Board (steel production over 100 metric tons per day and ore smelting or metal smelting industry in excess of 50 metric tons per day), must be arranged a report on environmental impact assessment.
 - 4) The applicant pays the application fee of 20 baht and a licence fee of 1,000 baht.
 - 5) The official registers the application for further consideration.
 - 6) The official inspects the conditions of petitioned processing area, impacts on surrounding environment, and makes a boundary survey of the area. The metallurgy area shall not be located in the mining concession or the mineral processing area.
 - 7) The LMIO forwards the application to the DPIM for technical reviews.
 - 8) The Director-General issues the licence.

Documents Attached to the Application

1. General documents as mentioned in chapter 2.
2. A map indicating the metallurgy area.
3. A metallurgical processing flowchart and procedure which is certified by a licenced engineer.
4. A copy of the certificate of title of the metallurgical processing location or a copy of the consent document of the land owner.
5. A report on environmental impacts assessment in accordance with the formats specified by the ONEP.
6. A document appointing a licenced engineer, and a written consent from the engineer.

Metallurgical Processing Flowsheet and Procedure

A processing procedure and flowsheet to illustrate the metallurgical processing must provide the following:

1. Processing methods.
2. Information on licence holder, processing plant, and location.
3. Types of ores to be processed, fuel and other raw materials to be used.
4. The metallurgical processing method according to the categorized groups, and the illustrated flowsheet.



5. A list of smelting furnaces, blast furnaces, machinery and equipment including their features and installation location.
6. Methods in details for prevention or suppression of the dust as well as the hazardous matters resulting from metallurgical processing.
7. Procedures for discharging of water, gas, fumes, or waste from metallurgical processes out of the metallurgy area.
8. Production capacity per day.

The processing procedure and flowsheet must be accompanied by a map with attached scale to illustrate the location of a metallurgical processing plant, metallurgy area, main road, and the distance to the main road, together with a storage area for crude ore, metal products, slag, dust, and the dewatering route out of the metallurgy area.

Regulations on Metallurgical Processing

- Metallurgical processing must be operated according to the approved flowsheet and metallurgical processing procedure under supervision and responsibility of the licenced engineer who has certified the documents of flowsheet and processing procedure. In case there is a need to replace the engineer, the LMIO must be given a notification of the replacement together with a written consent from the substitute.
- In undertaking a metallurgical processing operation, the licensee shall not perform any act likely to render, or fail to perform any act of the failure of which is likely to render toxic minerals or other poisonous materials being harmful to persons, animals, vegetation, or properties.
- The competent official has the authority to enter into a metallurgy area for inspection of the operation at any time and may give orders in writing to the licensee to alter, modify, or suspend the operation and undertake any action to prevent any harm which may result from metallurgical processing.
- In case the licensee would like to make a change or addition to any item with no relation to metallurgical processing procedure, a written notification must be given to the Director-General. However, if the change or addition directly concerns processing procedure or storage of tailing waste and wastewater, the licensee must propose a new metallurgical processing procedure with a flowsheet for a prior written approval.
- The licensee must submit a monthly report on actual metallurgical processing operations to the LMIO.



- The Director-General has the authority to revoke a Metallurgical Processing Licence when it appears that there has been a violation of the provisions under the Minerals Act or the conditions prescribed in the licence. The licensee whose licence is revoked is entitled to appeal to the Minister of Industry by petitioning such an appeal to the LMIO within 15 days. The holder of a licence that has been revoked cannot apply for a new licence until 2 years have lapsed.

Extension of Metallurgical Processing Licence

For extension of a Metallurgical Processing Licence, the application accompanied by required documents must be submitted to the LMIO at least 60 days before the expiration date. The extension process will review the past performance indicating whether the metallurgical processing operation has been in compliance with regulations and specified conditions.



10. Royalty

Royalty is the tax collected from mining and produced minerals which belongs to the state. The royalty rate will be prescribed in accordance with the current mineral price or the price of metal in the ore, and the royalty payment will be calculated from the conditions or quantities of the compound materials in the mineral. The royalty rates for various types of minerals are prescribed in the Ministerial Regulation issued under the Mineral Royalty Rates Act.

10.1 Payment of Royalty

The holder of a Prathanabat, Provisional Prathanabat, Mineral Purchase Licence, or a Metallurgical Processing Licence, or the person who possesses minerals obtained from mineral processing, must pay the royalties under the Mineral Royalty Rates Act, according to the following regulations:

- Royalties on the mineral prescribed in a Prathanabat including other admixed minerals or a by-product from mining shall be paid in full, in accordance with the mineral quantity, before transporting the minerals out of the mining concession area.
- In case the holder of a Mineral Purchase Licence purchases minerals from the holder of an Ore Panning Licence, all royalties for the minerals purchased in the previous month shall be paid by the 5th day of the month subsequent to the month in which the purchase is made.
- In case the holder of a Prathanabat, a Provisional Prathanabat or a Mineral Purchase Licence who purchases minerals from an ore panning licensee, transports minerals to a mineral processing area or a metallurgy area for which the Director-General has given approval, the said person may ask to defer the payment of royalties until the completion of mineral processing or metallurgical processing, but must deposit money or provide the LMIO a bank guarantee for the payment of royalties.
- In case there are other minerals obtained from mineral processing, the licensee must pay the royalties and obtain a Mineral Possession Licence on such minerals.
- In case the slag contains other minerals, for which royalties have not yet been paid, all royalties on such minerals must be paid in full in accordance with the quantity derived from the calculation, before transporting such a slag from the metallurgy area.



In case there is a trade on the mineral which is seized to become the government asset and the royalties on such a mineral have not yet been paid, the buyer must pay the royalty and obtain a Mineral Possession Licence on such a mineral.

Steps and Procedures

Before the minerals can be transported out of the permitted area, the possessor must apply for royalty payment as follows:

- 1) Fill in the prescribed royalty payment form and file with the LMIO.
- 2) The official reviews the applicant's qualifications, mineral types and conditions, purpose and method of mineral transportation.
- 3) The official registers the application for further process.
- 4) The official accepts the royalty payment according to the amount of minerals informed by the applicant or the actual amount derived from inspection, then, a receipt will be given as the proof of payment.

Table 10.1 Schedule of Mineral Royalty Rates (in percent of the price posted by the DPIM, as prescribed by the Ministerial Regulation No. 23 and the amended issued under the Mineral Royalty Rates Act, B.E. 2509).

No.	Minerals	Royalty Rates
1	(a) Minerals Industrial minerals (Rock salt, Graphite, Quartz, Kaolinite, Calcite, Chromite, Dolomite, Talc, Pyrophyllite, Phosphate, Gypsum, Asbestos, Mica, Anhydrite, Emery, Zircon)	4
2	Diatomite or Diatomaceous Earth	2
3	Kaolin (unwashed, processed, filler), Fire clay, Marl, Ball clay, Bentonite	4
4	Coal	4
5	Barite (lump) Barite (ground)	7 2
6	Feldspar (Potassium or Sodium, lump) Feldspar (Potassium or Sodium, ground)	4 2
7	Fluorite Fluorite (chemical grade)	7 4



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No.	Minerals	Royalty Rates
8	Manganese (metallurgical grade)	2.5
	Manganese (battery grade)	7
	Manganese (chemical grade)	4
9	Dimensional stone/Decorative rock (Conglomerate, Breccia, Granite, Travertine, Serpentinite, Gneiss, Basalt, Limestone, Slate, Marble)	4
10	Industrial rocks (Limestone, Perlite, Phyllite, Dolomitic limestone, Sandstone)	4
	Limestone and Shale for cement industry	7
11	Dickite, Pagodite, Soapstone, Glass sand	4
12	Metallic ore (Copper, Stibnite, Molybdenite)	10
13	Lead ore (progressive rates on prices of metal)	2-15
14	Zinc ore (progressive rates on prices of metal)	2-15
15	Iron ore	4.5
16	Magnesite, Monazite, Rutile, Arsenic	7
17	Columbite-Tantalite, Xenotime	5
18	Ilmenite, Garnet, Leucosene	2
19	Tin (progressive rates on prices of metal)	0.1-60
20	Tungstic oxide (progressive rates on prices)	0.1-20
21	Gemstone	10
	(b) Metal	
1	Lead, Copper, Antimony, Zinc, Cadmium	2.5
2	Iron	2
3	Gold	2.5
4	Silver	10
	(c) Slag, containing	
1	Cadmium, Lead, Copper, Nickel, Bismuth, Zinc, Arsenic	10
2	Tin, Tungsten trioxide	15
3	Columbium or Tantalum pentoxide	5



10.2 Deferment of Royalty Payment

Under the Minerals Act, the holder of a Provisional Prathanabat, a Prathanabat or a Mineral Purchase Licence who purchases minerals from an ore panning licensee, whose minerals are retained at the Mineral Depository Area (see details in Chapter 12), may defer the payment of royalties under the duration, regulations, methods, and conditions as follows:

- 1) A person who wishes to defer the payment of royalty submits the petition to the LMIO together with an application for a Mineral Transport Licence.
- 2) The petitioner arranges for a bank, which is approved by the Director-General of the DPIM, to provide a guarantee document of the royalty payment for the amount that the petitioner wishes to defer by using the provided form.
- 3) The LMIO is the person who reviews the petition and grants each deferment of the royalty payment for no longer than 1 year period.

10.3 Royalty Reimbursement

When the user of a mineral for which the royalty has been paid is able to prove that the mineral is used for raw material for domestic power generation, the Minister of Industry has the authority to order the reimbursement of royalty to the mineral user. A person who wishes to reimburse royalty can submit a petition for being registered as a mineral user for domestic power generation, according to the principles, procedures, and conditions imposed by the Director-General of the DPIM.

Steps and Procedures

- 1) Fill in and file a prescribed petition form, accompanied by relevant documents, with the LMIO in the locality where the minerals are used.
- 2) The official reviews the petition, evidence on mineral uses and plant location, an official document on royalty payment, and the attached documents.
- 3) The reimbursement of royalty is prescribed at the rate of 25% of the amount already paid for royalty, and procedures will follow the Ministry of Finance's regulations.

Documents Required for Royalty Reimbursement

1. Evidence proving that the applicant is a mineral user who uses minerals for domestic power generation.
2. A *Mineral Transport Licence* or other evidence proving that such minerals are obtained from mining under a Prathanabat or a Provisional Prathanabat together with the receipt of royalty payment.
3. A record of the mineral quantity consumed in each day and the mineral inventories.



11. Minerals Possession and Transportation

This chapter describes types of minerals of which the owner is required to have a Mineral Possession Licence, the application process for a licence, and regulations on mineral possession. The last part of the chapter also mentions the petition process and rules for obtaining a Mineral Transport Licence for which the petitioner must present a receipt of royalty payment or a permission document on the deferment of royalty payment.

11.1 Possession of Minerals

Mineral possession covers purchasing, ownership, holding or accepting of minerals in any cases, either for oneself or other persons. A person cannot have each kind of mineral exceeding 2 kilograms in his possession except:

- the mineral is possessed under a Mineral Possession Licence or exempted under the Minerals Act;
- the mineral is obtained from prospecting for analysis or research, not exceeding the quantity specified in the Atchayabat;
- the mineral is obtained from mining in the mining concession area where such a mineral is stored;
- the mineral under a Mineral Transport Licence is kept in a mineral store specified by a Mineral Storage Licence;
- the mineral is in the course of transportation under a Mineral Transport Licence or in a mineral transit store specified by the licence;
- the mineral obtained from a mineral vendor who possesses the permission document is kept in the purchasing place;
- the mineral under a Mineral Transport Licence is transported for processing in a processing area or for metallurgical processing in a metallurgy area;
- the mineral is acquired under an Artisanal Mining Licence or an Ore Panning Licence, or a purchase of minerals in accordance with the type, conditions of mineral that has been processed until such a mineral can be mixed with other materials or made into finished products;
- the mineral is in the possession for education or research of government organizations, government agencies, educational institutes, or private research institutes authorized by the Director-General;



- the mineral is allowed to be in possession as a specific case by written permission of the Director-General;
- the mineral is in the form of finished products of appliances, decorative minerals, sculptures or of products from metallurgical or industrial process;
- the mineral under the Mineral Transport Licence is deposited in a Mineral Depository Area.

Minerals Eligible for a Licence

Minerals which a *Mineral Possession Licence* can be applied for:

1. Minerals obtained from mining in any Prathanabat which has expired and has not been renewed, or is in the process of renewal but overdue of 180 days from the expiry date.
2. Minerals under a Mineral Transport Licence, kept in the mineral storage designated by the Mineral Storage Licence which has expired and has not been renewed, or is in the process of renewal.
3. Minerals in a mineral purchasing place where a Mineral Purchase Licence has expired and has not been renewed, or is in the process of renewal.
4. Minerals under the transporting permission for processing or for metallurgical processing which a Mineral Processing Licence or a Metallurgical Processing Licence has expired and has not been renewed.
5. By-products obtained from the authorized mineral processing.
6. Low quality minerals or by-products, or other minerals not specified under the item 1 to 5 above which require the approval from the Director-General.

The Mineral Possession Licence is issued by the LMIO and is valid only until 31st of December of the year of issue.

Applicant's Qualifications

A person who wishes to obtain a Mineral Possession Licence must be the owner of mineral according to the type prescribed by the licence, and must have qualifications of an ordinary person or juristic person as specified in chapter 2.

Steps and Procedures in Applying for a Licence

- 1) Fill and file the prescribed form accompanied by relevant documents with the LMIO.
- 2) The official examines the application for the completeness of documents, a map showing the location of the mineral storage, type and sources of mineral, and the applicant's qualifications.



- 3) The applicant pays 20 baht for the application fee and 500 baht for the licence fee.
- 4) The official registers the application for further processes.
- 5) The official reviews type and sources of mineral, location and conditions of mineral storage. In case the mineral has not yet been processed or is found to be the type other than minerals specified for possession, the mineral sample will be sent for analysis together with the review report in order to have a prior approval from the Director-General.
- 6) The LMIO issues a Mineral Possession Licence that specifies the conditions for the licensee to operate and the place where the mineral is to be retained.

Documents Required for Application for the Licence

1. A map showing the location of a mineral storage.
2. A detailed record of type and sources of mineral, location and conditions of mineral storage.
3. A mineral ownership record showing the permission to possess the mineral (if any).

Regulations on Possession of Mineral

- The minerals under a Mineral Possession Licence must be retained only in the place specified in the licence. In this case, the licensee does not have to obtain a Mineral Storage Licence, but must have a Mineral Transport Licence and pay for the royalty before being allowed to transport the mineral in possession out of the storage place. (To transport a mineral for mineral processing, the guarantee of royalty payment may be deposited in the form of cash, a certified check, or a bank guarantee document. Then, after obtaining the result of mineral processing, the royalties will be collected immediately.)
- A sign identifying the mineral storage must be posted where it can be seen clearly.
- Every time a mineral in possession is sold or transferred, the transaction must be recorded in the printed form prescribed by the DPIM.
- The record, on the prescribed form, showing the receipt of minerals in possession must be submitted to the LMIO every month.
- The document on mineral ownership must be kept in the permitted place, for the competent officer to inspect at any time.



- Upon the death of the holder of a Mineral Possession Licence, it can be deemed that the possessor of the mineral at that time is the holder of the Mineral Possession Licence until the expiry of the licence.

11.2 Transport of Minerals

A person cannot transport minerals anywhere except when:

- the mineral is allowed to be transported under a Mineral Transport Licence, or exempted under the Minerals Act;
- the mineral is acquired from prospecting for analysis or research not exceeding the quantity specified in the Atchayabat;
- the transport of mineral is within a mining concession area, mineral processing area, metallurgy area, mineral storage, mineral transit store, or purchasing place specified by a Mineral Purchase Licence;
- the transport of mineral that belongs to the holder of an Artisanal Mining Licence, Ore Panning Licence or a Licence for Mineral Purchasing Outside the Designated Place;
- the mineral belongs to the person who purchases it from the holder of an Artisanal Mining Licence, or acquired from mineral purchasing in accordance with the type and conditions of the mineral that has been processed until they can be mixed with other minerals or made for finished product;
- the transport of mineral of the same kind does not exceed 2 kilograms;
- the mineral is for education or research of government organizations, government agencies, educational institutes, or private research institutes authorized by the Director-General;
- the mineral is in the form of finished product of appliances, decorations, sculpture, or of a product from industrial process;
- the mineral is allowed to be transported for a specific case by the permission of the Director-General;
- the metal is obtained from metallurgy, unless it is transported out of a metallurgy area.

A person who wishes to obtain a *Mineral Transport Licence* for exporting a mineral must submit a petition to the LMIO, and must provide the evidence to prove that the royalties on such a mineral have been paid, or the deferment of royalty payment has been granted.



Applicant's Qualifications

A person who wishes to obtain a Mineral Transport Licence must have the same qualifications as the person who wishes to obtain a Mineral Possession Licence and must have a legal ownership of that mineral such as:

- ◆ Be a holder of Prathanabat, Provisional Prathanabat or a sub-lessee of mining operation.
- ◆ Be a holder of a Mineral Purchase Licence.
- ◆ Be a holder of a Mineral Processing Licence who obtains the mineral as a by-product from mineral processing.
- ◆ Be a holder of a Metallurgical Processing Licence who obtains slags from metallurgical processing.

Steps and Procedures in Obtaining a Licence

- 1) Fill in the prescribed form and submit to the LMIO, together with the documents proving the payment of royalties, or the guarantee of royalty payment, or the permission to defer the royalty payment of the mineral to be transported.
- 2) The official reviews the petition, the completeness of documents, the details concerning the mineral transportation and the applicant's qualifications.
- 3) The petitioner pays 20 baht for the application fee and 20 baht for licence fee, and also pays for the mineral royalties.
- 4) The official registers the petition for further processes.
- 5) The official examines types and quantities of the petitioned mineral.
- 6) The LMIO issues a Mineral Transport Licence, according to the types of mineral, and also specifies the conditions to regulate the mineral transport. The licence will be valid in accordance with the transporting distance to the destination.

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Information Required in the Application Form

1. Types, conditions, quantity and weight of the minerals to be transported.
2. A place of origin, such as mining concession area, mineral processing area, mineral purchasing area, metallurgical area.
3. A vehicle used in mineral transport.
4. Transportation routes.
5. The transit and resting area.
6. A destination, such as mineral purchasing place, mineral storage, or metallurgical area.
7. The purpose of mineral transport.



Regulations on Mineral Transport

- The holder of a Mineral Transport Licence must transport minerals only of the same type and quantity as specified in the licence. To transport minerals exceeding the quantity prescribed in the licence, the licensee must follow the regulations under the Ministerial Regulation and must pay the royalties on the excess in full.
- The transport of minerals in excess of the quantity prescribed in the licence and not under the regulations of the Ministerial Regulation will be deemed that the entire lot of minerals is illegally transported.
- The transportation routes, transit areas and duration of resting must be complied with the designation in the licence and the licensee must carry the original licence on every mineral transport.
- The official is authorized to specify in the licence allowing mineral inspection during mineral transport.
- In case the mineral has not been transported to the place specified in the licence, the licensee must inform the LMIO before the expiry of the licence.

Transport of Minerals Admixed with other Minerals

The holder of a Mineral Transport Licence can transport minerals only for the same type and conditions specified in the licence. If another mineral is mixed therein and such a mineral is found to be not admixed in natural occurrence, it will be deemed that the entire lot of minerals is transported without a licence.

Types and quantities of minerals admixed in natural occurrence, which the licensee is forbidden to transport under the Ministerial Regulation, are as follows:

- Tin, exceeding 4%
- Tungstic oxide, exceeding 4%
- Columbium pentoxide and tantalum pentoxide, altogether exceeding 2%
- Zinc, exceeding 8%
- Lead, exceeding 10%
- Gold, exceeding 5 grams per metric tons
- Silver, exceeding 100 grams per metric tons

However, there is an exemption if such mineral mixtures have been specified in the licence, but the licensee shall abide by the conditions prescribed.



12. Import and Export of Minerals

12.1 Mineral Import

According to the Ministerial Regulation issued under the Minerals Act, the types, conditions and quantity of import minerals are to be specified in order to restrict and control the import of minerals. A person who wishes to import a mineral under this condition must possess a *Mineral Import Licence*. A Mineral Import Licence is issued by the Director-General or his appointee, who will prescribe the conditions, procedures of mineral selling and buying, and utilization of the mineral. Upon the occurrence of causes affecting the security or economy of the country, the Minister is empowered to revoke any Mineral Import Licence at any time.

Minerals under Restriction for Import

The minerals under restriction of import are as follows:

- ◆ Tin ore, with quantity exceeding 2 kilograms.
- ◆ Tin metal or mixed tin metal, with quantity exceeding 2 kilograms.

Applicant's Qualifications

A person who wishes to obtain a Mineral Import Licence must be an ordinary person or a juristic person who possesses the qualifications as mentioned in Chapter 2.

Steps and Procedures in Applying for a Licence

- 1) The applicant fills the prescribed form and submits to the LMIO, together with relevant documents.
- 2) The official reviews an application for the completeness of documents, type of the mineral whether it is under import restriction, and the applicant's qualifications.
- 3) The applicant pays 20 baht for an application fee and 500 baht for the licence fee.
- 4) The official registers an application for further process.
- 5) The LMIO proceeds with the inspection according to the type of mineral to be imported.
- 6) The LMIO sends the application with the attached documents to the Director-General or his appointee for issuing the licence.



Documents Accompanying the Application

1. A purchase document for the mineral to be imported.
2. A bill of lading of the mineral to be imported, and the form showing a trading list.
3. Packing list.
4. A memorandum indicating the reasons and the necessities to import mineral.

Regulations on Import of Mineral for Smelting into Metal for Export

- The LMIO will check the weight and collect the sample of such minerals, and then send them to the DPIM for analysis of quality and quantity of such minerals and tin mixture. (In case of tin ore, the chemical analysis will be performed to check the quality of both tin and tantalum pentoxide.)
- The holder of a Metallurgical Processing Licence must report the quantity of metals and slags. Slags obtained from domestic mineral and imported mineral must be separated in the report.
- If the slag to be exported contains columbium or tantalum, the exporter must apply for a Mineral Export Licence.
- The holder of the Metallurgical Processing Licence must report the quantities of exported metal every time until it is totally exported.

Regulations on Mineral Re-export

- The LMIO will check the weight and collect the samples of minerals and send them to the DPIM in order to analyse for the quality of such imported minerals.
- A person who obtains a Mineral Import Licence must notify the official at least 3 days in advance before sending such imported minerals out of the country. This will allow the official to inspect and collect the samples of minerals and send them to the DPIM for analysis, and compare them with the previous samples collected when the minerals have been imported.

12.2 Mineral Export

Under the Minerals Act, the restriction and control of export minerals has been prescribed by specifying the types, conditions and the quantity of minerals. To export the restricted mineral, the exporter must obtain a *Mineral Export Licence* which is issued by the Director-General or his appointee. Upon the occurrence of causes affecting the security or economy of the country, the Minister is empowered to revoke any Mineral Export Licence at any time.



Minerals under Restriction for Export

The minerals under export control are as follows:

- ◆ Tin ores, in excess of 50 grams.
- ◆ Gold ores, irrespective of the quantity.
- ◆ Copper ores, zinc ores, or iron ores, in excess of 2 kilograms.
- ◆ Minerals with columbium tantalum or thorium, or other minerals with radio-activity contents, irrespective of the quantity.
- ◆ Dolomite, barite, pyrophyllite, feldspar, gypsum or kaolin, in excess of 1 metric ton.

Applicant's Qualifications

A person who wishes to obtain a Mineral Export Licence must be an ordinary person or a juristic person who possesses qualifications as described in chapter 2.

Steps and Procedures in Applying for a Licence

- 1) The applicant fills the prescribed form and submits to the LMIO, together with the documents showing the sources of the mineral to be exported, and other additional documents depending upon the type of mineral.
- 2) The official reviews an application for the completeness of the documents, type of mineral whether it is under the mineral export restriction, and the applicant's qualifications.
- 3) The applicant pays 20 baht for an application fee and 500 baht for the licence fee.
- 4) The official registers the application for further process.
- 5) The official reviews all documents, checks the mineral weight and collects the mineral samples for analysis, depending upon the type of mineral to be exported. The expenses of mineral analysis will be incurred by the applicant.
- 6) The LMIO sends the application form with attached documents to the Director-General or his appointee for issuing the licence.
- 7) A person who obtains a permission to export minerals must apply for a Mineral Transport Licence and must pay for the royalty.

Additional Documents and Procedures for Export of Tin Ore

1. The document showing that Thailand Smelting and Refining Co.,Ltd. has declined to buy the tin ore, which the applicant petitions for export.
2. The transaction document showing that the selling price of tin ore to be exported is higher than the buying price of Thailand Smelting and Refining Co.,Ltd.



3. An agreement or a guarantee to pay for additional royalty in case tin content in the export minerals more than the royalty has been paid. The guarantee may be cash, a bank check or a bank guarantee document, at the amount of 4% of the royalty that has been paid.

Documents for Export of Mixed Tantalite and Columbite or Columbium-Tantalum Metals

Additional documents and procedures for obtaining a permission to export mixed tantalite and columbite or columbium-tantalum metals are:

1. The applicant submits an application form at least 20 days in advance.
2. The transaction documents of the exported mineral and other evidence showing the reasons to export the mineral.
3. The official examines weight and records the details of minerals, and then collects samples for analysis at the DPIM. If the results show that additional royalty must be paid for mineral content, the applicant must pay the royalty in full before the licence is issued.

Additional Documents and Procedures for Export of Other Minerals

1. The document on transaction of the mineral to be exported, and other evidence showing the reasons to export the mineral.
2. The official examines the weight and records the details of the mineral, and collects samples for analysis of the chemical and physical properties at the DPIM. If the results show that additional royalty is to be paid for mineral content, the applicant must pay the royalty in full before the licence is issued.
3. Mineral analysis of the following must meet the conditions set below:
 - gold ores, must include analysis of gold and silver;
 - copper ores, must include analysis of copper, gold, and silver;
 - zinc ores, must include analysis of zinc, lead, and silver;
 - iron ores, must include analysis of iron;
 - monazite ores, in case that tin, wolframite, scheelite, or columbium-tantalum based minerals are found in the significant amount, the percentage of these minerals must be analysed;
 - ilmenite, zircon, xenotime, or rutile ores, in case that tin, wolframite, or scheelite is found in the significant amount, the percentage of these minerals must be analysed.



12.3 Mineral Depository

For the benefits of mining operations that produce minerals more than the quantity permitted by the government for exporting in any period, the holders of the following licences are encouraged to submit the petition to establish their mineral store, mineral processing area or metallurgy area to be a *Mineral Depository Area*:

- ◆ the holder of a mineral storage licence, or
- ◆ the holder of a mineral processing licence or a metallurgical processing licence.

The Minister has the authority to establish the place as stated above to be a Mineral Depository by considering the necessity and quantity of mineral in each locality including the conditions and suitability of the place. The validity of each Mineral Depository will not exceed 1 year.

Regulations on the Mineral Depository Area

- The minister may designate an official to supervise at the Mineral Depository Area or specify the conditions to the licensee to perform.
- The holder of a Prathanabat or a Provisional Prathanabat, or a Mineral Purchase Licence, who purchases minerals from the ore panning licensee, may deposit at the Mineral Depository Area, the minerals obtained from mining or in possession exceeding the quantity permitted by the government for export in any period. The Mineral Depository must be operated under regulations, procedures and conditions prescribed by the Director-General.



Bibliography

1. The Minerals Act B.E. 2510 and the amended (in Thai).
2. The Ministerial Regulations issued under the Minerals Act B.E. 2510 (in Thai).
3. The Royalty Rates Act B.E. 2509 and the amended (in Thai).
4. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Procedures Concerning Atchayabat and Application for Atchayabat (in Thai).
5. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Procedures for Making a Survey of Application Area (in Thai).
6. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Procedures for Application, Extension and Transfer of a Prathanabat (in Thai).
7. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Arrangement of Mining Project Plan and Calculation of Prathanabat's Term (in Thai).
8. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Addition of Mineral for Mining, Alteration of Mining Method and Modification of Mining Project Plan (in Thai).
9. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Issuance of Mineral Purchase Licence and Mineral Storage Licence (in Thai).
10. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Issuance of Mineral Processing Licence and the Arrangement and Modification of Processing Flowsheet and Procedures (in Thai).
11. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Issuance of Metallurgical Processing Licence and the Arrangement and Modification of Metallurgical Flowsheet and Procedures (in Thai).
12. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Additional Payment and Reimbursement of Mineral Royalty (in Thai).
13. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Procedures for Mineral Possession (in Thai).
14. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Procedures for Issuance of Mineral Transport Licence (in Thai).
15. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Applications for Mineral Import and Export (in Thai).



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16. The Regulations of the Department of Primary Industries and Mines B.E. 2531 on the Procedures Concerning Minerals under Exemption by Section 103 bis of the Minerals Act (in Thai).
17. The Regulations of the Department of Primary Industries and Mines B.E. 2540 on the Procedures for Governing the Special Benefits to the Interest of the State (in Thai).
18. The Regulations of the Ministry of Industry B.E. 2539 on the Procedures for Public Services Concerning Applications Processing under the Minerals Act (in Thai).
19. The Notification of the Department of Primary Industries and Mines on the Prathanabat for Industrial Rocks, 4th April B.E. 2539 (in Thai).
20. The Notification of the Department of Primary Industries and Mines on the Operations of Rock Crushing Plant, 11th June B.E. 2539 (in Thai).
21. The Notification of the Ministry of Industry on the Policy, Rules and Conditions for Prathanabat Transfer and Extension, 13th December B.E. 2536 (in Thai).
22. The Notification of the Ministry of Industry on Designation of Industrial Rocks Reserved Areas, 7th August B.E. 2539 (in Thai).
23. The Government Restructuring Act B.E. 2545 and the Royal Decree on Transfer of Governmental Agencies' Authority Regarding to the Government Restructuring Act B.E. 2545, Section 93 (in Thai).