



**THE MINISTER OF ENERGY AND MINERAL RESOURCES  
OF THE REPUBLIC OF INDONESIA**

REGULATION OF THE MINISTER OF ENERGY AND MINERAL RESOURCES  
OF THE REPUBLIC OF INDONESIA  
NUMBER 37 YEAR 2016

ON

PROVISIONS FOR THE OFFER OF 10% (TEN PERCENT)  
PARTICIPATING INTEREST IN OIL AND GAS WORKING AREAS  
BY THE GRACE OF GOD ALMIGHTY

THE MINISTER OF ENERGY AND MINERAL RESOURCES  
OF THE REPUBLIC OF INDONESIA,

Considering that in order to enhance participation at the regional and national levels through ownership of participating interest in Cooperation Contracts and to implement the provisions of Article 34 of Government Regulation No. 35 Year 2004 on Upstream Oil and Gas Business Activities which has been amended several times, lastly by Government Regulation No. 55 Year 2009 on the Second Amendment to Government Regulation No. 35 Year 2004 on Upstream Oil and Gas Business Activities, it is necessary to enact a

Minister of Energy and Mineral Resources Regulation on Provisions for the Offer of 10% (Ten Percent) Participating Interest in Oil and Gas Working Areas;

- In view of
1. Law No. 22 Year 2001 on Oil and Gas (State Gazette of the Republic of Indonesia Year 2001 Number 136, Supplement to the State Gazette of the Republic of Indonesia Number 4152);
  2. Government Regulation No. 35 Year 2004 on Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia Year 2004 Number 123, Supplement to the State Gazette of the Republic of Indonesia Number 4435) as amended several times lastly by Government Regulation No. 55 Year 2009 on the Second Amendment to Government Regulation Number 35 Year 2004 on the Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia Year 2009 Number 128, Supplement to State Gazette of the Republic of Indonesia Number 5047);
  3. Presidential Regulation No. 9 Year 2013 on the Implementation of Management of Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia Year 2013 Number 24);
  4. The Minister of Energy and Mineral Resources Regulation No. 9 Year 2013 on the Organization and Work Procedures of the Special Task Force for Upstream Oil and Gas Business

Activities (Official Gazette of the Republic of Indonesia Year 2013 Number 194));

5. The Minister of Energy and Mineral Resources Regulation No. 15 Year 2015 on the Management of Oil and Gas Working Area with Soon-to-expire Cooperation Contract (Official Gazette of the Republic of Indonesia Year 2015 No. 714), as amended by the Minister of Energy and Mineral Resources Regulation No. 30 Year 2016 on Amendments to the Minister of Energy and Mineral Resources Regulation No. 15 Year 2015 on the Management of Oil and Gas Working Area with Soon-to-expire Cooperation Contract (Official Gazette of the Republic of Indonesia Year 2016 No. 1578);
6. The Minister of Energy and Mineral Resources Regulation No. 13 Year 2016 on the Organization and Work Procedures of the Ministry of Energy and Mineral Resources (Official Gazette of the Republic of Indonesia Year 2016 Number 782);

HAS DECIDED:

To Enact THE MINISTER OF ENERGY AND MINERAL RESOURCES  
REGULATION ON PROVISIONS FOR THE OFFER OF 10% (TEN  
PERCENT) PARTICIPATING INTEREST IN OIL AND GAS  
WORKING AREAS

CHAPTER I

GENERAL PROVISIONS

## Article 1

In this Ministerial Regulation the following meanings apply:

1. Working Area means a certain area within the Indonesian Mining Jurisdiction where exploration and exploitation is carried out.
2. Contractor means a business entity or a permanent business establishment which is appointed to conduct exploration and exploitation in a Working Area based on a cooperation contract with the Special Task Force for Upstream Oil and Gas Business Activities.
3. Cooperation Contract means a production sharing contract or other forms of cooperation contract in the exploration and exploitation activities which are more favorable to the State, and the profits utilized for the greatest welfare of the people.
4. 10% (Ten Percent) Participating Interest hereinafter abbreviated as 10% PI, means a maximum amount of ten percent participating interest in a Cooperation Contract which shall be offered by Contractor to a Regional Owned Enterprise or a State Owned Enterprise.
5. State Owned Enterprise hereinafter abbreviated as BUMN means an enterprise whose entire capital is owned by the State through direct participation originating from a separated sovereign wealth and is engaged in the oil and gas business.
6. Regional Public Company means a limited liability enterprise formed by a Regional Owned Enterprise whose capital

consists of shares wholly owned by the regional government either directly or indirectly..

7. Minister means the minister who administers government affairs in the field of Energy and Mineral Resource.
8. Directorate General means the directorate general who has the task of organizing the formulation and implementation of policies for the management, control and oversight of oil and gas activities..
9. Directorate General means the directorate general who has the task of organizing the formulation and implementation of policies for the management, control and oversight of oil and gas activities..
10. The Special Task Force for Upstream Oil and Gas Business Activities hereinafter abbreviated as SKK Migas means the task force that carries out management of the upstream oil and gas business activities under the guidance, coordination and oversight of the Minister.

## CHAPTER II

### 10% PI OFFER

#### Article 2

As of the approval of the plan of field development for first production in an onshore and/or offshore area up to 12 (twelve) nautical miles in a Working Area, Contractor shall offer 10% PI to a Regional Owned Enterprise.

### Article 3

The Regional Owned Enterprise as referred to in Article 2 shall meet the following provisions:

- a. the Regional Owned Enterprise shall be in the form of:
  1. a regional company with shares wholly owned by the regional government; or
  2. a limited liability company with at least 99% (ninety-nine percent) of its shares owned by the regional government and the ownership of the remaining shares all affiliated with the regional government;
- b. its status is sanctioned by regional regulations; and
- c. with no business activities other than the management of the participating interest.

### Article 4

The 10% PI offer to the Regional Owned Enterprise as referred to in Article 2 shall be conducted with the following provisions:

- a. for a field located onshore within 1 (one) province or offshore at a distance of up to 4 (four) nautical miles, the 10% PI shall be offered to 1 (one) Regional Owned Enterprise whose formation is coordinated by the Governor with the involvement of the Regent/ mayor in whose administrative area the field with the approved plan of development is located.
- b. for a field located offshore at a distance of more than 4 (four)

- nautical miles and up to 12 (twelve) nautical miles as measured from the shoreline to the open sea the 10% PI shall be offered to the Provincial Owned Enterprise with the implementation coordinated by the Governor;
- c. for a field located onshore and/or offshore within the administrative area of more than 1 (one) province the implementation of the 10% PI offer shall be conducted with the following provisions:
1. based on a consensus among the relevant governors and coordinated by the governor in whose area the greater part of the field to be developed is located; or
  2. in the event the consensus among the governors as referred to in number 1 cannot be reached at the latest 3 (three) months after the date of the request for the appointment of a Regional Owned Enterprise, the Minister shall determine the amount of participating interest to be offered to each province.

#### Article 5

- (1) The percentage allocation of participating shares of the province and/or regency/city in a Regional Owned Enterprise as referred to in Article 4 letter a and the determination of the amount of participating interest to be offered to each province as referred to in Article 4 letter c, shall be based on the reservoir distribution area of the oil and gas reserves to be

produced in each province/ regency/ city.

- (2) In the event all the reservoir distribution of oil and gas reserves as referred to in Article 4 letter a is located in 1 (one) regency / city, the percentage allocation of participating shares of the province or regency/ city shall be set at 50% (fifty percent) each.
- (3) In the event all the reservoir distribution of oil and gas reserves as referred to in Article 4 letter a is located in more than 1 (one) regency / city, the percentage allocation of participating shares of the province and a number of regencies/ cities shall be coordinated by the Governor with the involvement of the regent/ mayor in whose administrative domain the field with the approved development plan is located.

#### Article 6

The determination of the reservoir distribution of oil and gas reserves as referred to in Article 5 shall be based on certification by an independent body appointed by the parties.

### CHAPTER III

#### PROCEDURES FOR THE 10% PI OFFER

##### Part One

Preparation and Appointment of the Regional Owned Enterprise



Article 7

- (1) Each Regional Owned Enterprise shall only be granted the management of 10% PI for 1 (one) Working Area.
- (2) In the event a Regional Owned Enterprise has already managed 10% PI in a Working Area or is already at work on another Working Area or is engaged in business activities other than upstream oil and gas business activities, the 10% PI shall be offered to a new Regional Owned Enterprise.
- (3) In the event the management of the 10% PI as referred to in paragraph (2) is not managed by a new Regional Owned Enterprise, the Regional Owned Enterprise receiving the offer of 10% PI shall appoint a Regional Public Company.
- (4) The Regional Public Company as referred to in paragraph (3) is formed by the Regional Owned Enterprise which is not managing the participating interest in a Working Area..
- (5) In the event the management of the 10% PI is conducted by the establishment of a new Regional Owned Enterprise as referred to in paragraph (2), it shall meet the provision as referred to in Article 3 and is not engaged in business activities other than the management of the participating interest in a Working Area..
- (6) In the event the management of the 10% PI is conducted by the establishment of a separate Regional Corporate Entity as referred to in paragraph (3), it shall fulfill the following

provisions:

- a. The basis of authority for its establishment is stated in a regional regulation;
- b. the shares are owned by the Regional Ownership Enterprise which meets the criteria as referred to in Article 3 letter a and letter b, at least 99% (ninety nine percent) of the shares shall be owned by the Regional Ownership Enterprise and the ownership of the remaining shares shall all be affiliated with the regional government;
- c. there shall be no private component in the share ownership; and
- d. It shall not be managing *participating interest* in any other Working Area.

#### Article 8

- (1) At the latest 10 (ten) work days from the date of receipt of approval for the first plan of field development, the Head of SKK Migas shall convey a letter to the Governor for the preparation of a Regional Owned Enterprise which shall be offered the 10% PI.
- (2) The preparation period for a Regional Owned Enterprise which shall be offered the 10% PI as referred to in paragraph (1) shall be at the latest 1 (one) calendar year from the date of receiving the letter from the Head of SKK Migas to the

Governor.

- (3) At the latest 1 (one) year as referred to in paragraph (2), the Governor shall deliver a letter appointing the Regional Owned Enterprise which shall be offered the 10% PI, to the Head of SKK Migas with a copy to the Minister.
- (4) At the latest 10 (ten) working days after receiving the governor's letter as referred to in paragraph (3), the Head of SKK Migas shall convey a letter to the Contractor to immediately start the 10% PI offer to the Regional Owned Enterprise which has met the provisions in Article 3, Article 4, and Article 5..
- (5) In the event the Governor does not deliver the letter appointing the Regional Owned Enterprise as referred to in paragraph (3), it shall be assumed that there is no interest and the 10% PI offer shall be declared closed.

## Part Two

### Offer to the Regional Owned Enterprise

#### Article 9

- (1) The Contractor shall convey the 10% PI offer in writing to the Regional Owned Enterprise appointed by the Governor as referred to in Article 8 Paragraph (3) with a copy to the Director General, the Head of SKK Migas, and the Governor.
- (2) The conveyance of the 10% PI offer in writing to the Regional Owned Enterprise as referred to in Paragraph (1) shall be

executed at the latest 60 (sixty) calendar days from the date of receiving the letter from the Head of SKK Migas as referred to in Article 8 Paragraph (4).

- (3) In the event the Regional Owned Enterprise is interested in the offer as referred to in paragraph (2), the Regional Owned Enterprise shall deliver a written expression of interest and capability to the Contractor with a copy to the Director General, the Head of SKK Migas and the Governor at the latest 60 (sixty) calendar days after the date of receiving the offer letter from the Contractor as referred to in paragraph (1).
- (4) In the event the Regional Owned Enterprise expresses interest and capability as referred to in paragraph (3), the Regional Owned Enterprise may conduct due diligence and access the data related to the Working Area and the Cooperation Contract in accordance with the provisions in the laws and regulations, at the latest 180 (one hundred and eighty) calendar days after the delivery of the expression of interest and capability as referred to in paragraph (3).
- (5) In the event the Regional Owned Enterprise conducts due diligence and accesses the data related to the Working Area and the Cooperation Contract as referred to in paragraph (4), the Regional Owned Enterprise shall convey a letter to the Contractor on whether to continue or not to continue the interest and capability as referred to in paragraph (3), with a copy to the Minister and the Head of SKK Migas at the latest

180 (one hundred and eighty) calendar days after conducting the due diligence and data access.

- (6) In the event the Regional Owned Enterprise continues with the expression of interest and capability as referred to in paragraph (5), the Contractor and Regional Owned Enterprise shall follow up on the transfer process of the 10% PI in accordance with the Cooperation Contract.

#### Article 10

The provisions on the procedures for the 10% PI offer as stated in Article 3 through Article 9 shall also apply to a new Regional Owned Enterprise and to a Regional Public Company.

### Part Three

#### Offer to State Owned Enterprise

#### Article 11

- (1) In the event the Regional Owned Enterprise does not convey the expression of interest and capability within the time period as referred to in Article 8 paragraph (5) or the Regional Owned Enterprise does not continue the expression of interest and capability as referred to in Article 9 paragraph (5), the 10% PI offer to the Regional Owned Enterprise shall be declared closed.
- (2) In the event the 10% PI offer to the Regional Owned Enterprise is declared closed as referred to in paragraph (1), the Contractor shall offer it to the State Owned Enterprise.

- (3) In the event the State Owned Enterprise conveys an expression of interest and capability, the Contractor and the State Owned Enterprise shall follow up on the transfer process of the 10% PI in accordance with the provisions in the laws and regulations and the Cooperation Contract.
- (4) In the event the State Owned Enterprise does not convey the expression of interest and capability within a period at the latest 60 (sixty) days after the date of 10% PI offer from the Contractor to the State Owned Enterprise, the offer shall be declared closed.

#### Article 12

- (1) The 10% PI offer to the Regional Owned Enterprise or the Regional Public Company shall be conducted through a cooperation scheme between the Regional Owned Enterprise or Regional Public Company and the Contractor.  
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- (2) The cooperation scheme with the Contractor as referred to in paragraph (1) shall be conducted with the Contractor carrying in advance the cost obligation of the Regional Owned Enterprise or Regional Public Company.
- (3) The obligation amount of the Regional Owned Enterprise or Regional Public Company as referred to in paragraph (2) shall be calculated proportionally from the operation cost spent during the exploration and exploitation according to the

work program and budget.

- (4) Upon payment of the obligation amount as referred to in paragraph (3), the Regional Owned Enterprise or the Regional Public Company shall have the right to obtain cost recovery for the expenditures spent by the Contractor during the exploration and exploitation period.
- (5) Cost restitution as referred to in paragraph (3) shall be taken from the Regional Owned Enterprise's or the Regional Public Company's portion of the Crude Oil and/or Natural Gas production in accordance with the Cooperation Contract with no interest charge.
- (6) The amount of cost restitution as referred to in paragraph (5) shall be deducted in accordance to customary business practices each year from the obligation amount as referred to in paragraph (3) while continuing to guarantee a certain income for the Regional Owned Enterprise or Regional Public Company from the production share of oil and gas.
- (7) The cost restitution period as referred to in paragraph (6) shall commence from the start of production up to the fulfillment of the obligation of the Regional Owned Enterprise or Regional Public Company as referred to in paragraph (3) within the period of the Cooperation Contract.

### Article 13

In the event the 10% PI is offered to the State Owned Enterprise, it

shall be conducted as customary business practices by proportionally calculating the operation cost spent during the exploration and exploitation period according to the work program and budget while the provisions of the cooperation scheme as referred in Article 12 do not apply.

#### Part Four

#### Data Access

#### Article 14

The access of data related to the Working Area and the Cooperation Contract as referred in Article 9 paragraph (4) shall be conducted in accordance to provisions in the laws and regulations.

### CHAPTER IV

#### PROCEDURES FOR THE 10% PI TRANSFER

#### Article 15

- (1) The 10% PI transfer from the Contractor to the Regional Owned Enterprise or Regional Public Company as referred to in Article 9 paragraph (6), and /or to the State Owned Enterprise as referred to in Article 11 paragraph (3) shall obtain approval from the Minister based on advice from the Head of SKK Migas.
- (2) To obtain approval for the 10% PI transfer as referred to in paragraph (1), the Contractor shall submit the request to the Minister through the Head of SKK Migas by attaching, among



others:

- a. a copy of confidentiality agreement signed by all parties;
  - b. a copy of the minutes of meeting of the data room opening signed between the Contractor and the party receiving the data/ information with a representative from the Directorate General as witness;
  - c. the profile of the company receiving the 10% PI transfer;
  - d. a copy of the articles of incorporation and amendments of the company receiving the 10% PI legalized from the original by a notary;
  - e. the agreement for the 10% PI transfer made before a notary; and
  - f. a letter of guarantee from the shareholder of the company receiving the 10% PI to support and assume responsibility for the smooth running of the oil & gas operations in accordance with the participating interest owned.
- (3) At the latest 30 (thirty) calendar days after receiving the complete request as referred to in paragraph (2), the Head of SKK Migas shall convey the request for approval of the 10% PI transfer to the Minister c.q. the Director General, together with the related considerations.
- (4) The Director General shall conduct a review and evaluation on the request for approval of the 10% PI transfer and if considered necessary may request the Contractor, Regional

Owned Enterprise or Regional Public Company as referred to in article 9 paragraph (6) and/ or State Owned Enterprise as referred to in Article 11 paragraph (3) to give a presentation for clarification purposes.

- (5) The Minister shall give approval to the request for the 10% PI transfer at the latest 30 (thirty) calendar days after the review and evaluation on the request for approval of the 10% PI transfer is conducted, as referred to in paragraph (4).

#### Article 16

As of the approval of the 10% PI transfer as referred to in Article 15 paragraph (5), for the duration of the Cooperation Contract the following provisions apply:

- a. the shareholders of the Regional Owned Enterprise or Regional Public Company and/ or State Owned Enterprise receiving the 10% PI are forbidden to transfer the shares they own to other parties, and/ or
- b. the Regional Owned Enterprise or Regional Public Company and/ or State Owned Enterprise receiving the 10% PI are forbidden to transfer the *interest* they own to other parties.

#### CHAPTER V

#### OTHER PROVISIONS

#### Article 17

In consideration of the national interest, the Minister may enact a policy to offer 10% PI of a field on first production located offshore

at more than 12 (twelve) nautical miles in a Working Area to a Regional Owned Enterprise or State Owned Enterprise.

#### Article 18

- (1) To the Regional Owned Enterprise which has not yet received a 10% PI offer after approval of the field development plan, may be offered the 10% PI upon the extension of the Cooperation Contract and management of the Working Area of an expiring cooperation contract..
- (2) For a Regional Owned Enterprise which has not yet received a 10% PI Offer as referred to in paragraph (1) the provisions to offer to the Regional Owned Enterprise as referred to in Article 9 shall apply.

#### Article 19

The Regional Government whose Regional Owned Enterprise or Regional Public Company has received management of the 10% PI shall have the responsibility in accordance with their authority:

- a. to facilitate and accelerate the process to obtain the required permits to carry out the Cooperation Contract activities in the region; and
- b. to help resolve problems arising from the execution of the Cooperation Contract activities in the region.

### CHAPTER VI

## TRANSITIONAL PROVISIONS

### Article 20

The transfer of 10% PI to a Regional Owned Enterprise which is still in the process of obtaining approval before the enactment of this Ministerial Regulation, shall adjust in accordance with the provisions in this Ministerial Regulation.

### Article 21

The provisions in Cooperation Contracts regulating the 10% PI offer to Regional Owned Enterprise which were in effect before the enactment of this Ministerial Regulation with the offer not yet executed, shall adjust in accordance with the provisions in this Ministerial Regulation.

## BAB VII

## SANCTIONS

### Article 22

- (1) The Minister shall give a written warning to the Regional Owned Enterprise or Regional Public Company or the regional government as referred to in Article 19, who does not fulfill the provisions in this Ministerial Regulation.
- (2) In the event the Regional Owned Enterprise or Regional Public Company or the regional government as referred to in Article 19, after receiving the written warning still does not

fulfill the provisions in this Ministerial Regulation, at the latest 60 (sixty) days after the conveyance of the warning letter as referred to in paragraph (1), the Minister may postpone or suspend the 10% PI.

- (3) In the event the Minister postpones the 10% PI as referred to in paragraph (2), the rights obtained by the Regional Owned Enterprise or Regional Public Company based on the Cooperation Contract shall not be accorded during the suspension period.
- (4) In the event the Minister postpones or suspends the 10% PI as referred to in paragraph (2), the Regional Owned Enterprise or Regional Public Company or the regional government as referred to in Article 19 shall be given the opportunity to fulfill the provisions in this Ministerial Regulation at the latest by 60 (sixty) days after the delay or postponement is enacted.
- (5) In the event after the end of the 60 (sixty) day period as referred to in paragraph (4), the Regional Owned Enterprise or Regional Public Company or the regional government as referred to in Article 19, has not fulfill the obligations to comply with the provisions in this Ministerial Regulation, the Minister may rescind the 10% PI.

## CHAPTER VIII

### CLOSING PROVISIONS

Article 23

This Ministerial Regulation comes into force on the date of its promulgation.

For public cognizance, this Ministerial Regulation shall be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

on 25 November 2016

THE MINISTER OF ENERGY AND MINERAL  
RESOURCES  
OF THE REPUBLIC OF INDONESIA,

signed

IGNASIUS JONAN

Promulgated in Jakarta

on 29 November 2016

DIRECTOR GENERAL OF  
LAWS AND REGULATIONS  
MINISTRY OF LAW AND HUMAN RIGHTS  
THE REPUBLIC OF INDONESIA

signed

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2016 NUMBER

1795

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MINISTRY OF ENERGY AND MINERAL RESOURCES

(signed) (stamped)

Head of Legal Bureau

Hufron Asrofi