



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

**REGULATION OF THE MINISTER OF ENERGY AND MINERAL RESOURCES
THE REPUBLIC OF INDONESIA
NUMBER 26 YEAR 2017**

ON

**MECHANISM FOR INVESTMENT COST RECOVERY
IN OIL AND GAS UPSTREAM BUSINESS ACTIVITIES**

BY THE GRACE OF GOD ALMIGHTY

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

- Considering:
- a. that to maintain an equitable level of production and optimize the state income from oil and gas business activities, it is deemed necessary to regulate a mechanism for investment cost recovery for the cooperation contract contractor at the end of the cooperation contract period;
 - b. that in view of the consideration as referred to in letter a, it is necessary to enact the Regulation of the Minister of Energy and Mineral Resources on the Mechanism for Investment Cost Recovery in the Oil and Gas Upstream Business Activities;
- In view of:
1. Law Number 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 Number 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, last by Government Regulation Number 55 Year 2009 on the Second Amendment to Government Regulation Number 35 Year 2004 on Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia Year 2009 Number 128, Supplement to the State Gazette of the Republic of Indonesia Number 5047);
3. Government Regulation Number 79 Year 2010 on Operating Cost which can be Cost Recovered and the Treatment of Income Tax in the Upstream Oil & Gas Business Area Upstream Oil and Gas Business Area (State Gazette of the Republic of Indonesia Year 2010 Number 139, Supplement to the State Gazette of the Republic of Indonesia Number 5173);
4. Presidential Regulation Number 9 Year 2013 on the Management of the Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia Year 2013 Number 24);
5. Presidential Regulation Number 68 Year 2015 on the Ministry of Mines and Natural Resources (State Gazette of the Republic of Indonesia Year 2015 Number 132) as amended by Presidential Regulation Number 105 Year 2016 on the Revision to Presidential Regulation Number 68 Year 2015 on the Ministry of Mines and Natural Resources (State Gazette of the Republic of Indonesia Year 2016 Number 289);
6. Minister of Energy and Mineral Resources Regulation Number 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);

7. Minister of Energy and Mineral Resources Regulation Number 8 Year 2017 on Gross Split Production Sharing Contract (Official Gazette of the Republic of Indonesia Year 2017 Number 116);

HAS DECIDED:

To Enact: THE REGULATION OF THE MINISTER OF ENERGY AND MINERAL RESOURCES ON MECHANISM FOR INVESTMENT COST RECOVERY IN OIL AND GAS UPSTREAM BUSINESS ACTIVITIES.

CHAPTER I GENERAL PROVISIONS

Article 1

In this Minister Regulation, the following meanings apply:

1. Crude Oil means the product of a natural process of hydrocarbon, which under atmospheric pressure and temperature is in a liquid or solid state, including asphalt, wax, whether mineral or ozokerite, and bitumen obtained through a mining process, but not including coal or other solid hydrocarbon deposits obtained from activities not related to the oil and gas business activities.
2. Natural Gas means the product of a natural process of hydrocarbon, which at atmospheric pressure and temperature is in a natural gas state obtained from the mining process of Oil and Natural Gas.
3. Oil and Gas means Crude Oil and Natural Gas
4. Upstream Business Activities means business activities which are based or centered on exploration and exploitation business activities
5. Exploration means activities that aim to obtain information on geological conditions to find and obtain Oil and Gas reserves estimates in a certain Working Area

6. Exploitation means a series of activities that aim to produce Oil and Gas in a certain Working Area, consisting of well drilling and completion, construction of facilities for transportation, storage and processing to separate and refine Oil and Gas in the field and other supporting activities.
7. Working Area means a certain area in the Indonesia Legal Mining Territory in which to carry out Exploration and Exploitation.
8. Cooperation Contract means a Production Sharing Contract or other schemes of cooperation contract in Exploration and Exploitation activities that are more favorable to the State, and the profits utilized for the greatest welfare of the people.
9. Production Sharing Contract means a scheme of Cooperation Contract in Exploration and Exploitation activities based on the principle of production sharing.
10. Gross Split Production Sharing Contract means a Production Sharing Contract in the Upstream Oil and Gas Business Activities based on the principle of gross production sharing without the mechanism of operating cost recovery.
11. The Oil and Gas Upstream Investment Activities hereinafter abbreviated as Upstream Investment Activities are the activities conducted by the Contractor to maintain an equitable level of production as stated in the approved field plan of development and/ or work program.
12. Investment Cost is the cost expended by the contractor to carry out Upstream Investment Activities as of the start of the Upstream Investment Activities until the end of the Cooperation Contract.

13. Contractor means a business entity or a permanent business establishment that conducts Exploration and Exploitation in a working area based on cooperation contract with the Special Task Force for Upstream Oil and Gas Business Activities.
14. Minister means the minister who administers government affairs in the area of Oil and Gas.
15. Directorate General means the directorate general with the task of organizing the formulation and implementation of policies for the management, control and oversight of oil and gas activities.
16. The Special Task Force for Upstream Oil and Gas Business Activities hereinafter abbreviated as SKK Migas means the task force that carries out the management of the Upstream Oil and Gas Business Activities under the guidance, coordination and oversight of the Minister of Energy and Mineral Resources.

Article 2

- (1) Contractor must maintain an equitable level of Oil and Gas production until the end of the Cooperation Contract period.
- (2) To maintain the production level as referred to in paragraph (1), Contractor must conduct investments in their Working Area.
- (3) In the frame of Contractor investment as referred to in paragraph (2), SKK Migas gives approval on:
 - a. the work plan and budget for the Cooperation Contract which utilizes the operating cost recovery mechanism; or
 - b. the work plan for the Cooperation Contract which utilizes the Gross Split Production Sharing Contract.

Article 3

- (1) Contractor receives the Investment Cost recovery as referred to in Article 2 paragraph (2).
- (2) Investment Cost Recovery as referred to in paragraph (1) is conducted with the Investment Cost recovery mechanism in accordance with the Cooperation Contract.

Article 4

The Investment Cost Recovery as referred to in Article 3 shall be given for the duration of the Cooperation Contract period.

Article
5

- (1) In the case of the Cooperation Contract being extended and there is remaining Investment Cost yet to be recovered, the recovery can be continued for the duration of the extended period of the Cooperation Contract, for the Cooperation Contract which utilizes the operating cost recovery mechanism.
- (2) In the case of the Cooperation Contract being extended utilizing the Gross Split Production Sharing Contract and there is remaining Investment Cost as referred to in paragraph (1), the remaining Investment Cost not yet recovered shall be accounted for in the Contractor share.
- (3) In the case of the Cooperation Contract as referred to in paragraph (2) having other parties as new Contractor besides the Contractor, the remaining Investment Cost not yet recovered shall be borne proportionally by the new Contractor, in accordance with the amount of their participating interest.

Article 6

In the case of the Cooperation Contract not being extended and there is remaining Investment Cost not yet recovered, the recovery of the Investment Cost to the Contractor shall be done by the new Contractor.

Article 7

- (1) The value of the Investment Cost recovery as referred to in Article 6 includes the remaining Investment Cost not yet recovered.
- (2) The value of the Investment Cost recovery as referred to in paragraph (2) shall obtain verification and approval from SKK Migas.

Article

8

- (1) In the case of the Cooperation Contract not being extended as referred to in Article 6, the new Contractor shall conduct settlement of the value of the Investment Cost recovery.
- (2) The obligation to settle the value of the Investment Cost recovery as referred to in paragraph (1) is stated in the letter of assignment for the management of the new Working Area and the new Cooperation Contract.
- (3) The value of the Investment Cost recovery received by the Contractor from settlement by the new Contractor as referred to in paragraph (1), shall be accounted for as reduction to the operating cost of the *existing* Cooperation Contractor.
- (4) The value of the Investment Cost recovery settled by the new Contractor as referred to in paragraph (1) shall be accounted for as the new Contractor's share.

Article 9

- (1) The settlement mechanism for the Investment Cost recovery as referred to in Article 8 shall be stated in a written agreement between Contractor and new Contractor.

- (2) The new Contractor shall submit a settlement report on the Investment Cost recovery as referred to in paragraph (1) to the government through SKK Migas.

Article 10

Settlement on the value of Investment Cost recovery as referred to in Article 9 shall already be considered in the Contractor share and shall not influence the calculation of the production share in the Gross Split Production Share Contract.

Article 11

SKK Migas conducts inventorying and supervision over the Contractor's investment plan or work program to achieve equitable oil and gas production levels as referred to in Article 2 paragraph (1).

Article 12

The Minister may enact policy on :

- a. an Investment Cost recovery value other than that referred to in Article 7 in consideration of the economics of Upstream Investment Activities, after receiving recommendation from SKK Migas;
- b. recovery of the Investment Cost not yet recovered in the case of there being no new Contractor until the end of the Cooperation Contract period; or
- c. other matters pertaining to the execution of this Minister Regulation based on the principles of prudence, fairness, transparency and accountability.

Article 13

The provisions in this Minister Regulation shall apply to the Cooperation Contracts signed before the enactment of this Minister Regulation.

Article 14

This Minister Regulation shall come into force on the date of promulgation.

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

Enacted in Jakarta
On 29 March 2017

MINISTER OF ENERGY AND MINERAL
RESOURCES REPUBLIC OF INDONESIA,

(signed)

IGNASIUS JONAN

Promulgated in Jakarta
on 30 March 2017

DIRECTOR GENERAL OF
REGULATORY LEGISLATION
MINISTRY OF LAW AND HUMAN RIGHTS
REPUBLIC OF INDONESIA,

(signed)

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2017 NUMBER 480

Copy in accordance with the original

MINISTRY OF ENERGY AND MINERAL RESOURCES

Head of Legal Bureau,

(signed and stamped)

Hufron Asrofi
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