

THE CONSTRUCTION AND DEVELOPMENT OF DOMESTIC OIL REFINERIES

(Presidential Regulation No.146/2015
dated December 22, 2015)

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that to create national energy resilience, ensure national fuel oil supplies and reduce dependence on imported fuel oils, it is necessary to construct and develop domestic oil refineries;
- b. that based on the consideration in letter a, it is necessary to stipulate Presidential Regulation on the Construction and Development of Domestic Oil Refineries;

In view of :

1. Article 4 paragraph (1) of the Constitution of the Republic of Indonesia of 1945;
2. Law No. 22/2001 on Natural Oil and gas (Statute Book of 2001 No. 136, Supplement to Statute Book No. 4152);
3. Law No. 19/ 2003 on State-Owned Companies (Statute Book of 2003 No. 70, Supplement to Statute Book No.4297);
4. Government Regulation No. 36/2004 on Downstream Oil and Gas Business Activities (Statute Book of 2004 No. 124, Supplement to Statute Book No. 436) as already amended by Government Regulation No. 30/ 2009 (Statute Book of 2009 No. 59, Supplement to Statute Book No. 4996);
5. Presidential Regulation No. 78/2010 on Infrastructure Insurance in Cooperation Projects between the Government and Corporate Bodies Carried out through Infrastructure Insurance Corporate Body;
6. Presidential Regulation No. 38/2015 on Cooperation between the Government and Corporate Bodies In Providing Infrastructures (Statute Book of 2015 No. 62).

DECIDES :

To stipulate :

PRESIDENTIAL REGULATION ON THE CONSTRUCTION AND DEVELOPMENT OF DOMESTIC OIL REFINERIES.

CHAPTER I

GENERAL PROVISIONS

Article 1

Referred to in this Presidential Regulation as:

1. Construction of domestic oil refineries, hereinafter called construction of oil refineries, is the construction of new oil refineries along with supporting facilities at home.
2. Development of domestic oil refineries, hereinafter called development of oil refineries, is the addition of facilities to the existing oil refineries.
3. Fuel oil is fuel originating and/or processed from natural oil.
4. Central Government, hereinafter called the Government, is the President of the Republic of Indonesia that holds the administrative power of the Republic of Indonesia, assisted by the Vice President and ministers as referred to in the Constitution of the Republic of Indonesia of 1945.
5. Corporate body is a company in the form of legal entity that carries out permanent and continuous business, is set up according to the law and regulation, operates and is domiciled in the territory of the Unitary State of the Republic of Indonesia.
6. Cooperation between the Government and corporate body, hereinafter abbreviated into KPBU, is cooperation between the Government and corporate body in providing infrastructures to serve public interests by observing the specifications set earlier by the minister/head of institution/regional head/state-owned company/regional government-owned company, by using partially or entirely the resources of the corporate body by observing risk sharing among the parties involved.
7. Person in charge of cooperation project, hereinafter abbreviated into PJPK, the minister/head of institution/regional head/state-owned company/regional government-owned company as the provider or operator of infrastructures based on the law and regulation.
8. KPBU executing corporate body, hereinafter called executing corporate body, is a limited liability company set up by the corporate body winning an auction or appointed directly to the post.
9. Person in charge of activities, hereinafter abbreviated to PJK is a state-owned company that prepares documents of planning, documents of procurement, person in charge and development supervisor.

10. Processing permit is a permit issued to a corporate body to process natural oil into fuel oil as a main product.
11. State budget, hereinafter abbreviated to APBN is an annual financial plan of the state administrator approved by the House of Representatives.
12. Regional government is a regional head as the operator of regional government that leads the realization of government affairs which serve as the authority of autonomous region.
13. Minister is the minister that realizes government affairs in the field of natural oil and gas.

Article 2

This Presidential Regulation is aimed to provide a guide to realizing the construction of oil refineries and the development of oil refineries to create national energy resilience by increasing the supply of fuel oil and other products in an integrated way.

CHAPTER II

CONSTRUCTION OF OIL REFINERIES AND DEVELOPMENT OF OIL REFINERIES

Part One

General

Article 3

- (1) The construction of oil refineries and the development of oil refineries shall be realized in an effective, efficient, transparent, fair and accountable way.
- (2) The construction of oil refineries and the development of oil refineries as referred to in paragraph (1) shall be realized based upon a processing permit according to the law and regulation.

Article 4

The construction of oil refineries and the development of oil refineries shall :

- a. use technology that meets provisions on environmental management and protection; and
- b. give priority to the use of domestic products.

Article 5

To increase economic feasibility, the construction of oil refineries and the development of oil refineries can be done by :

- a. providing fiscal or non-fiscal incentives according to the law and regulation; and/or
- b. integrating the production of petrochemicals.

Part Two

Construction of Oil Refineries

Paragraph 1

Oil Refinery Construction Scheme

Article 6

- (1) The construction of oil refineries can be done by:
 - a. the Government; or
 - b. corporate bodies
- (2) The construction of oil refineries by the Government as referred to in paragraph (1) letter a can be done through :
 - a. KPBU; or
 - b. assignment.
- (3) The construction of oil refineries by the Government through assignment as referred to in paragraph (2) letter is done through:
 - a. government financing; or
 - b. corporate financing.

Article 7

- (1) To realize the construction of oil refineries by the Government as referred to in Article 6 paragraph (1) letter a, the Minister shall at least set:
 - a. location;
 - b. capacity of refinery; and
 - c. the types and the number of refinery products.
- (2) To set location for the construction of oil refineries as referred to in paragraph (1), the Minister shall coordinate with relevant ministers.

Paragraph 2

Construction of Oil Refineries Through KPBU

Article 8

- (1) The construction of oil refineries through KPBU as referred to in Article 6 paragraph (2) letter a shall be realized based upon cooperation between the Government and the corporate body.
- (2) The construction of oil refineries through KPBU as referred to in paragraph (1), the Minister shall appoint PT Pertamina (Persero) as PJPK.
- (3) PT Pertamina (Persero) as PJPK as referred to in paragraph (2) shall appoint PJPK based upon provisions in the law and regulation in the field of KPBU.

Article 9

- (1) To support accelerated construction of oil refineries through KPBU, the minister in charge of realizing government affairs in the field of state finance shall provide facilities to prepare the construction of oil refineries and/or transaction counterpart according to his/her authority based on the law and regulation.
- (2) To provide the facilities as referred to in paragraph (1), PT Pertamina (Persero) can be assisted by an international institution by securing a seal of approval from the minister in charge of realizing government affairs in the field of state finance.
- (3) The minister in charge of realizing government affairs in the field of state finance shall compensate the costs to prepare the construction of oil refineries and/or transaction counterpart as referred to in paragraph (2).
- (4) Further provisions on the compensation for the cost to prepare the construction of oil refineries and/or transaction counterpart as referred to in paragraph (3) are set forth in the regulation of the minister in charge of realizing government affairs in the field of state finance.

Article 10

- (1) To realize KPBU as referred to in Article 8, PT Pertamina (Persero) as PJPK shall make plans, prepare transactions and sign transactions and supervise the realization of KPBU projects.
- (2) To make a plan and prepare KPBU transactions as referred to in paragraph (1), PT Pertamina (Persero) as PJPK shall :
 - a. procure executing corporate body;
 - b. sign a KPBU with the executing corporate body; and
 - c. ensure that financing needs have been fulfilled by executing corporate body.
- (3) The procurement of executing corporate bodies as referred to in paragraph (2) letter a is done by PT Per-

tamina (Persero) as PJPK through an auction according to the law and regulation in the field of KPBU.

(4) The signing of KPBU contract with executing corporate body as referred to in paragraph (2) letter b is done by PT Pertamina (Persero) as PJPK by mentioning at least :

- a. terms of KPBU contract;
- b. fulfillment of KPBU financing;
- c. obligation to provide raw materials;
- d. obligation to buy refinery products;
- e. fulfillment of good technical aspects; and
- f. termination of contract.

Article 11

- (1) Executing corporate body shall obtain financing over KPBU within a maximum period of 12 (twelve) months after the signing of KPBU contract as referred to in Article 10 paragraph (4).
- (2) Executing corporate body that does not receive financing over KPBU after the extended period of time as referred to in paragraph (1) has ended due to the matters outside the responsibility of the executing corporate body, the executing corporate body can be given another extended period of 12 (twelve) months at the most by PJPK.
- (3) If executing corporate body does not receive financing over KPBU after the extended period of time as referred to in paragraph (2) has passed, KPBU contract shall be declared terminated and execution guarantee will be disbursed by PT Pertamina (Persero) and PJPK and paid to the state treasury directly.

Article 12

- (1) Executing corporate body can be granted a processing permit for 30 (thirty) years and can be extended to another 20 (twenty) years at the most.
- (2) When the processing permit including the extended period of time as referred to in paragraph (1) expires, the executing corporate body shall hand over land and all assets of oil refinery and supporting facilities that are worthy of operation to the Government.

Article 13

- (1) The Government provides guarantee and support to the construction of oil refineries through KPBU.
- (2) The guarantee as referred to in paragraph (1) is given by the minister in charge of government affairs in

the field of state finance to the executing corporate body with regard to infrastructure risks according to the risk allocation as agreed upon in the KPBU contract.

(3) The support as referred to in paragraph (1) is in the form of :

- a. tax exemption and/or customs duty exemption for imported goods according to the law and regulation; and
- b. other incentives than those referred to in letter a according to the law and regulation.

(4) The guarantee as referred to in paragraph (2) is given according to the law and regulation in the field of infrastructure guarantee in KPBU project.

Paragraph 3

Construction of Oil Refineries through Assignment with Government Financing

Article 14

The construction of oil refineries through assignment with government financing as referred to in Article 6 paragraph (3) letter a is done with State Budget fund with the financing done based on multi years according to the law and regulation.

Article 15

- (1) The construction of oil refineries through assignment with government financing as referred to in Article 14 is done by the Minister by giving assignment to PT Pertamina (Persero).
- (2) To realize the assignment as referred to in paragraph (1), PT Pertamina shall act as PJK.
- (3) A working unit to realize the construction of oil refineries is in the hand of PT Pertamina (Persero) as PJK as referred to in paragraph (2).

Article 16

To realize the construction of oil refineries through assignment with government financing, PT Pertamina (Persero) as PJK shall:

- a. complete all phases of the construction of oil refineries according to the specified period of time and budget allocations;
- b. supply human resources during the construction of oil refineries; and
- c. fulfill good technical aspects during the construction of oil refineries.

Article 17

- (1) When the construction of oil refineries has been completed through assignment with government financing, the Minister shall assign PT Pertamina (Persero) as the management of oil refineries.
- (2) To realize the assignment as referred to in paragraph (1), PT Pertamina (Persero) as the management of oil refineries shall guarantee :
 - a. the availability of raw materials during the period of oil refinery operation; and
 - b. the availability of facilities to distribute and market fuel oils and other other products to up to consumers.

Paragraph 4

Construction of Oil Refineries through Assignment with Corporate Financing

Article 18

The construction of oil refineries through assignment with corporate financing as referred to in Article 6 paragraph (3) letter b is done by giving assignment from the Minister to PT Pertamina (Persero).

Article 19

- (1) To realize the assignment with corporate financing as referred to in Article 18, PT Pertamina (Persero) can conduct construction of oil refineries on its own or by cooperating with other corporate bodies.
- (2) The cooperation between PT Pertamina (Persero) and other corporate bodies as referred to in paragraph (1) is realized by forming a joint venture company.

Article 18

Article 20

to be continued

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Article 20

- (1) To realize the assignment with corporate financing as referred to in Article 18, PT Pertamina (Persero) is given funding facilities in the form of:
- state capital participation;
 - retained earning;
 - loans received by PT Pertamina (Persero) from domestic and/or foreign sources;
 - government loans from foreign sources, including multilateral financial institutions; and/or
 - bonds issued by PT Pertamina (Persero).
- (2) To provide loan facilities as referred to in paragraph (1) letter c, PT Pertamina (Persero) can be given government guarantee over payment obligation according to the law and regulation.
- (3) Further provisions on guarantee for domestic loans are to be stipulated by the minister in charge of government affairs in the field of state finance.

Article 21

The process of financing the construction of oil refineries as referred to in Article 20 is excepted from provisions in Presidential Decree No. 59/ 1972 on Offshore Credit Receipt.

Article 22

To realize the construction of oil refineries through corporate financing:

- the Minister shall issue a processing permit to PT Pertamina (Persero) if PT Pertamina(Persero) realizes the construction of oil refineries on its own; or
- the Minister shall issue a processing permit to a joint venture company if PT Pertamina (Persero) realize the construction of oil refineries through cooperation with other corporate bodies.

Article 23

To realize the construction of oil refineries through assignment with corporate financing, PT Pertamina (Persero) shall guarantee:

- a. all phases of the construction of oil refineries accord with the specified period of time and budget allocations;
- b. raw materials will be available during the operation period of oil refineries;
- c. human resources will be available during the construction of oil refineries;
- d. facilities to distribute and market fuel oil and other products to consumers will be available; and
- e. good technical aspects will be met during the construction of oil refineries.

Paragraph 5

Construction of Oil Refineries by Corporate Bodies

Article 24

- (1) The construction of oil refineries by the corporate bodies as referred to in Article 6 paragraph (1) letter b is done based upon the realization of downstream oil and gas businesses according to the law and regulation.
- (2) The corporate bodies as referred to in paragraph (1) consist of :
 - a. state-owned company;
 - b. regional government-owned company;
 - c. private corporate bodies; or
 - d. cooperative.

Part Three

Development of Oil Refineries

Article 25

Provisions on the construction of oil refineries as referred to in Article 6 up to Article 24 shall apply to the development of oil refineries

Part Four

Licensing

Article 26

The Government and Regional Governments are expected to give facilities and shorten the issuance of

permits needed to realize the construction of oil refineries and the development of oil refineries.

Part Five

Land Procurement

Article 27

- (1) The procurement of land for the construction of oil refineries and the development of oil refineries by the Government as referred to in Article 6 paragraph (1) letter a and Article 25 shall be done according to the law and regulation on the procurement of land for development in the interests of the public.
- (2) The procurement of land for the construction of oil refineries and the development of oil refineries by corporate bodies as referred to in Article 6 paragraph (1) letter b and Article 25 is done through land acquisition based on an agreement with land owners.
- (3) The Government and/or Regional Governments can give support to corporate bodies in the form of :
 - a. priority to the provision of land; and/or
 - b. the use of land owned by the Government or Regional Governments, according to the law and regulation.

CHAPTER III

PURCHASE OF PRODUCTS OF OIL REFINERIES

Article 28

- (1) The Minister can assign PT Pertamina (Persero) to buy fuel oils and other products at economic prices if the the construction of oil refineries and the development of oil refineries is done through :
 - a. KPBU; or
 - b. assignment with corporate financing to PT Pertamina (Persero) if it cooperates with other corporate bodies.
- (2) The economic prices as referred to in paragraph (1) serve as prices calculated based on return on investment and fair profit from the construction of oil refineries and the development of oil refineries set by the Minister after coordinating with the minister in charge of government affairs in the field of state finance.
- (3) PT Pertamina (Persero) can act as a buyer of fuel oils and/or other products if the construction of oil refineries and the development of oil refineries is done by corporate bodies.

CHAPTER IV

FULFILLMENT OF DOMESTIC NEEDS

Article 29

- (1) The products of oil refineries shall be prioritized to meet domestic needs.
- (2) If the domestic needs have been fulfilled and/or no domestic buyers are found, the products of oil refineries can be sold abroad according to the law and regulation.

CHAPTER V

GUIDANCE AND SUPERVISION

Article 30

The Minister shall guide and supervise the construction of oil refineries and the development of oil refineries according to the law and regulation.

Article 31

If the construction of oil refineries and the development of oil refineries is done by PT Pertamina (Persero), the minister in charge of government affairs in the field of state-owned companies shall :

- a. conduct corporate guidance and supervision of the realization of the assignment; and
- b. coordinate other state-owned companies to support the realization of the assignment.

Article 32

- (1) To support the construction of oil refineries and the development of oil refineries, a national team in charge of coordinating the construction of oil refineries and the development of oil refineries, hereinafter called a coordination team, shall be set up.
- (2) The coordination team as referred to in paragraph (1) shall be set up by the minister in charge of coordinating government affairs in the economic field, with members of the coordinating team comprising representatives from the ministry in charge of coordinating government affairs in the maritime field, the ministry in charge of government affairs in the field of national development planning, the ministry in charge of government affairs in the field of state finance, the ministry in charge of government affairs in the field of energy and mineral resources, the ministry in charge of government affairs in the field of state-owned companies, the ministry in charge of government affairs in the field of industry, the ministry in charge of government affairs in the field of trade, the ministry in charge of government affairs in the field of agrarian

affairs and spatial layout, the institution in charge of government affairs in the field of finance and development supervision and other related agencies.

(3) The coordination team as referred to in paragraph (1) is tasked with conducting coordination and providing necessary assistance to ensure smooth construction of oil refineries and development of oil refineries.

(4) Further provisions on the coordination team as referred to in paragraph (1) are to be stipulated by the minister in charge of coordinating government affairs in the economic field.

Article 33

PT Pertamina (Persero) shall convey a periodic report every 6 (six) months or any time if needed with regard to the assignment from the Government for the construction of oil refineries and the development of oil refineries, to the coordination team.

CHAPTER VI

CONCLUSION

Article 34

This Presidential Regulation shall come into force as from the date of promulgation.

For public cognizance, this Presidential Regulation shall be promulgated by placing it in the Statute Book of the Republic of Indonesia.

Stipulated in Jakarta,

On December 22, 2015

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd.

JOKO WIDODO

Promulgated in Jakarta,

On December 30, 2015

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

sgd.

YASONNA H. LAOLY

STATUTE BOOK OF THE REPUBLIC OF INDONESIA
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