



**CONTRACT REQUIREMENTS  
REGULATIONS FOR QUALIFICATION OF OIL  
COMPANIES**

**(Supreme Decree N° 047-93-EM)**

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PLEASE REFER TO OFFICIAL DOCUMENTS  
IN SPANISH)**

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**TITLE I**

**DEFINITIONS**

**Article 1.-** The following definitions shall apply for purposes of the present Regulations:

- a) Qualification: the process of determining, prior evaluation, the Oil Company's technical, legal, economical and financial capabilities, to comply to its contractual obligations, in relation with the Contract area's characteristics, the required investment, and the strict compliance with the environmental protection standards.
- b) Contract: any of the contractual forms under which hydrocarbon exploration and exploitation or only exploitation activities may be carried out, in keeping with the provisions of law N° 26221.
- c) Oil Company: Any local or foreign corporation which corporate purpose includes carrying out hydrocarbon exploration and exploitation activities or only exploitation. Individuals engaging in these activities shall be regarded as an Oil Company.

(\* Paragraph modified by Article 1 of Supreme Decree N° 037-2001-EM published on 07-15-2001, whose text is the following:

"c) OIL ENTERPRISE: All natural or juridical, national or foreign person who has developed Hydrocarbons exploration or exploitation activities, or that demonstrate to have the capacity to apply the development of last technologies in Hydrocarbon industry and count in their enterprise organization with professionals of managerial and supervision level accrediting a minimum experience of ten (10) years in functions related to Hydrocarbon exploration and exploitation activities.

- d) Organic Hydrocarbon Law: Law N° 26221, enacted on August 19, 1993, and published on August 20, 1993 as well as any amendments which may have been introduced after the date it came into effect.

**TITLE II**

**QUALIFYING**

**CHAPTER I**

**GENERALITIES**

**Article 2.-** An Oil Company must be duly qualified to start negotiations of a Contract with PERUPETRO S.A.

PERUPETRO S.A shall grant the qualification and it shall not imply any rights whatsoever over the area.

**Article 3.-** The qualification of foreign Oil Companies shall be granted to their head office or corporation which, at all times, shall be jointly and severally responsible for the technical, legal, economic and financial capabilities of the branch office or corporation they may set up and register in Peru, for purposes of what is provided for in Article 15 of the Organic Hydrocarbon Law.

If there is no head office or corporation, the Qualification shall be granted to the applying Oil Company.

In the case of joint venture or any other form of association, or in the case of assignment, each of the Oil Companies shall have to get the corresponding Qualification from PERUPETRO S.A.; the present Regulations shall be applicable in whatever is pertinent.

## **CHAPTER II**

### **REQUIREMENTS FOR QUALIFICATION**

**Article 4.-** The Qualification process shall start with the application referred to in Article 5 of the present Regulations, by means of which Oil Companies will communicate to PERUPETRO S.A. their intention to negotiate a Contract or to become a partner of an Oil Company that has a Contract in force.

In the case of bidding, the Qualification shall be in keeping with the present Regulations and whatever is specified in the bidding conditions.

**Article 5.-** For purposes of Qualifications, Oil Companies shall have to file an application with PERUPETRO S.A.; attaching the following documents thereto:

a. Documents supporting the Oil Company's legal existence and, if needed, its corporate validity.

These documents, as a minimum, shall be the following:

- A transcript or simple copy of the Public Deed of Incorporation, Certificate of Incorporation or any other document supporting the legal existence of the Oil Company.
- A transcript or simple copy of the Public Deed amendment of the Oil Company, Certificate of Incorporation or any other in the case of any amendments have been produced.
- An affidavit by the company officer duly authorized to make it. The affidavit must not have more than ninety (90) days and shall certify that the Oil Company:
- Is not in bankruptcy, has not suspended payments, and is not subject to any procedure which implies total or partial loss of the right to manage, or dispose of its property.
- Has no legal impediment to enter into contracts with the Peruvian State, nor any impediment of any nature which could affect its complying with its future contractual obligations.

b. Audited financial statements for the last three (3) years, showing business results, such as: balance sheet, profit and loss statement and statement as to any changes in net equity.

If an Oil company has started its operations within the aforementioned term, the documents submitted must be in keeping with the period the company has been in existence.

c. Information on the hydrocarbon exploration and exploitation activities carried out by the Oil Company in the last five (5) years, giving annual details on the exploration work, the number and type of well drilled, the production and proven reserves of crude oil, natural gas, and condensates, investments, etc.

Mention will also be made of any hydrocarbon exploration and exploitation contracts entered into during the period stipulated in the previous paragraph, indicating the place,

the size of the contract area, activities carried out, investments, results obtained, sharing and whether they are the operators or not.

In the case the Oil Company has started its operations within the aforementioned period, the documents submitted must be in keeping with the time the company has been in existence.

(\*) Paragraph modified by Article 2 of Supreme Decree N° 037-2001-EM published on 07-15-2001, whose text is the following:

“d) Information about exploration and exploitation activities performed by the oil enterprise during last five (5) years, detailing per year the exploration works, number and type of wells drilled, crude oil, natural gas and condensates production and proven reserves, investments, etc. Also indicating the exploration and exploitation contracts signed during such period, indicating location, area extension, activities performed, investments, results obtained, participation percentage and if acts or not as operator.

In case of an oil company that had begun operations during the indicated period, documentation requested shall correspond to the enterprise antiquity.

In case of oil companies not having experience in hydrocarbon exploration or exploitation activities, these shall accredit their capacity to apply the development of last technologies in hydrocarbon activities feasible at judgment of PERUPETRO S.A. In this case, PERUPETRO S.A. shall evaluate that the economic capacity of the enterprise is appropriate for the Projects level, accrediting a minimum experience of minimum ten (10) years in hydrocarbon exploration and exploitation activities or exploitation activities of their managerial and supervising staff which will be in charge of conducting the respective operations stipulated in the Contract to be entered with PERUPETRO S.A.

d. Annual reports, as well as any other information the Oil Company deems convenient to include for purposes of the aforementioned data analysis.

**Article 6.-** When, in PERUPETRO S.A.'s opinion, the information submitted in keeping with the previous paragraph is not sufficient to qualify the Oil Company, PERUPETRO S.A. shall request any additional information it may deem necessary including, but not limited to, bank references, clarifications regarding its economic, financial and tax status, permanent or contract staff payrolls, certifications, compliance with contracts, etc., from whoever is pertinent.

**Article 7.-** All the documentation necessary for qualification shall be submitted by the Oil Company in Spanish, either by original writing or translation.

Pamphlets, annual reports, and other documents, which due to their nature must be submitted in English, will be exempted from this obligation.

### CHAPTER III

#### EVALUATION AND QUALIFICATION PROCEDURE

**Article 8.-** The documentation submitted in keeping with Article 5 of the present Regulations, shall be evaluated by PERUPETRO S.A. within a maximum term of sixty (60) days.

**Article 9.-** If PERUPETRO S.A. were to detect any error or omission in the documents referred to, or if it considers that the information is not sufficient, PERUPETRO S.A., as provided for in the present Article 6 of these Regulations shall notify the Oil Company for it to submit the required documentation within a term of thirty (30) days run as of the date the notice is received.

PERUPETRO S.A. shall have an additional term of fifteen (15) days, to run as of receiving the supplementary information, to carry out the Oil Company's final evaluation.

If the Oil Company does not produce the additional documentation requested within the stipulated term, PERUPETRO S.A. shall declare the procedure abandoned.

Article 10.- In carrying out an Oil Company's evaluation, PERUPETRO S.A. shall take the following into consideration:

- a. Location and size of the requested area.
- b. Required investment's program and time schedule.

PERUPETRO S.A. based on the information received, shall evaluate whether the Oil Company has the necessary technical, economic and financial capacity, being understood that:

- Technical capacity refers to the experience and the necessary means to carry out oil activities in keeping with the practices and techniques in use by the international oil industry and in strict compliance with environmental protection standards.
- Economic and financial capacity refers to the applying company's having the solvency, solidity and economic and financial support needed to guarantee its compliance with the contract obligations considered for the Qualification.

PERUPETRO S.A. shall also evaluate the Oil Company's legal status on the basis of the documents, which prove its legal existence, as well as any impediments, which could affect its compliance with its contract obligations.

Article 11.- Once the evaluation has been carried out, PERUPETRO S.A. General Management shall issue a document stating that the Qualification has been granted or, otherwise, that it has been denied.

In this latter case the interested Oil Company, within a term of seven (7) working days to run as of the date the notice containing the corresponding decision was received, may submit a request for reconsideration to PERUPETRO S.A. Board of Directors. The resolution produced at this level shall be final and unappealable and will, in no case, give rise to any claim whatsoever.

PERUPETRO S.A. General Management shall communicate the Qualification to the Oil Company and to the General Hydrocarbons Bureau.

**Article 12.-** Notwithstanding what is provided in the third paragraph of Article 3 and in Article 10 of the present Regulations, PERUPETRO S.A. may, qualify an enterprise exceptionally, on the basis of its legal, economic and financial capacity.

This procedure shall be applicable in the case of temporary associations not involving formal partnerships, or of any other kind of association, which guarantees to PERUPETRO S.A., the presence of a technically qualified associated operator. To this end, said enterprises shall submit evidence of the corresponding association commitment together with the documentation indicated in Article 5 of these Regulations.

In this case, the Qualification document that may be issued by PERUPETRO S.A. shall record the circumstances involved in the evaluation.

The qualification shall cease to be in force if the Contract is not signed, or if it does not include the required operator's guarantee as indicated in the present article.

**Article 13.-** PERUPETRO S.A. shall consider all of the information used in the Qualification process as confidential.

## **CHAPTER IV**

### **REGISTRATION IN THE PUBLIC HYDROCARBON REGISTRY**

**Article 14.-** Oil Companies which have obtained the Qualification and which, as a result of a negotiation are considered acceptable to sign a Contract with PERUPETRO S.A., must first register in the Public Hydrocarbon Registry, in keeping with the provisions of the Single Text of Administrative Procedures (TUPA) of the Ministry of Energy and Mines.

In the case of foreign Oil Companies, the registration requirement will apply to the branch office or corporation, which is set-up in the country, as stipulated in Article 15 of the Organic Hydrocarbon Law.

## **CHAPTER V**

### **TERM IN FORCE**

**Article 15.-** The Qualification certificate granted to an Oil Company shall remain in force as long as it carries out hydrocarbon exploration and exploitation activities in Peru and faithfully complies with its obligations under contract. The document shall cease to be in force upon termination of the Contract.

Notwithstanding the above, if these Oil Companies ask to negotiate or participate in new Contracts, PERUPETRO S.A. may request from them the information it may consider necessary to make sure that the Oil Company's capacity is adequate to guarantee compliance with the additional obligations arising from the new areas involved.

**Article 16.-** For those Oil Companies which do not have a Contract in force with PERUPETRO S.A., the Qualification document shall be valid for two (2) years, and shall only apply to an area of characteristics similar to, or lesser than those which were considered for the Qualification. Once this term lapsed, said companies may request from PERUPETRO S.A. a new Qualification in the terms and under the procedures contemplated in the present Regulations.

**Article 17.-** False document submitted to PERUPETRO S.A. shall automatically make the Oil Company lose the Qualification, aside from any legal actions which may apply.

**Article 18°.-** What is stipulated in Article 15° of these Regulations shall apply to Oil Companies which have Contracts in force on the date the present legal provision is published.

This Document was given in the Government House, in Lima, on November the twelfth of nineteen ninety-three.

ALBERTO FUJIMORI FUJIMORI

Constitutional President of Peru

DANIEL HOKAMA TOKASHIKI

Minister of Energy and Mines