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New Regulatory Regime on Implementation of Carbon Capture and Storage Activities

On 30 January 2024, the Government of the Republic of Indonesia enacted Presidential Regulation No. 14 of 2024 on the Implementation of Carbon Capture and Storage Activities which introduces a methodology for capturing and processing carbon produced from the upstream oil and gas business activities, power plant, industry and other emission producing activities with certain specifications to be transported from catching and/or processing facilities to the injection and storage facilities. This presidential regulation aims to support the reduction of carbon emissions from many emission-producing activities, in order to fulfill the contribution target determined nationally and to achieve net zero emission in 2060. The great prospective possessed by Indonesia as a region to stock carbon increases the potential of Indonesia to be considered as a carbon capture location at both national and regional levels. Consequently, it raises investors' interest and creates economic value for the carbon capture and storage business process.

Overview

Carbon Capture Storage (“**CCS**”) is not a new concept, albeit it signifies a new era for Indonesia and this approach will be a breakthrough for Indonesia's economy, unlocking new industry opportunities and creating a global market for low-carbon products. To realize that notion, the Indonesia Government has enacted three regulations as follows:

1. Minister of Energy and Mineral Resources Regulation No. 2 of 2023 on the Implementation of Carbon Capture and Storage and Carbon Capture, Utilization and Storage for Upstream Oil and Gas Business Activities;
2. SKK Migas Working Guideline No. PTK-070/SKKIA0000/2024/S9 on the Implementation of Upstream Oil and Gas Business Activities; and
3. Presidential Regulation No. 14 of 2024 on the Implementation of Carbon Capture and Storage (“**Presidential Regulation 14/2024**”).

The latest regulation is intended to be a guideline for business processes, licensing, and monetization as well as a technical and legal framework for the implementation of CCS activities. The following summary highlights key provisions outlined in Presidential Regulation 14/2024 and offers key considerations to captivate investment and shape Indonesia’s position to lead regional CCS deployment.

CSS Operations

In implementing CCS, two (2) major business schemes could be exercised by in specific areas, namely: (i) implementation of CSS based on cooperation contract (*kontrak kerja sama*); and (ii) license-based CCS implementation.

Implementation of CSS based on Cooperation Contract

The execution of CCS can be undertaken by integration into the operations of an existing oil and gas block. With the issuance of Presidential Regulation 14/2024, the government provides an opportunity to contractors through cooperation contract to perform CCS as part of petroleum operations within the working area. In performing CCS, contractors through Special Task Force for Upstream Oil and Gas (*Satuan Kerja Khusus Pelaksanaan Kegiatan Usaha Minyak dan Gas Bumi – “SKK Migas”*) or the Aceh Oil and Gas Management Body (*Badan Pengelola Migas Aceh – “BPMA”*) according to its respective authority submits the CCS implementation plans as a part of request for approval with the following:

- (i) initial field development plan or its amendments; or
- (ii) subsequent development plan or its amendments.

Minister of Energy and Mineral Resources (“MEMR”) may approve or reject the initial field development plan proposed by contractors based on (i) recommendation from SKK Migas; or (ii) coordination with Aceh Governor based on considerations given by BPMA (specifically for the working area within the Aceh Province). On the other hand, SKK Migas or BPMA according to its authority may approve or reject the subsequent development plan proposed by contractors. After MEMR has approved the application of CCS implementation plans, the cooperation contract shall be amended to reflect the provisions on the responsibility of contractors on the management of CCS.

Furthermore, as mandated under Presidential Regulation 14/2024, contractors are also permitted to utilize depleted reservoirs or saline aquifers within the designated Injection Target Zones (“ITZ”) within the contractor’s working area to implement CCS.

License-Based CCS Implementation

Apart from relying on a cooperation contract, Presidential Regulation 14/2024 also furnishes business actors’ opportunity to operate CCS within the carbon storage permit area based on several related permits through (i) an exploration permit; and (ii) a storage operation permit. Carbon storage permit areas are prepared and determined by MEMR. The determined carbon storage permit is offered by MEMR to business entities or permanent business establishments through a limited selection or tender process. A limited selection process is conducted toward the carbon storage permit area proposed by the business entity or permanent business establishment, meanwhile in terms of the tender process will be stipulated by MEMR.

In the light of foregoing, the specific features of the exploration permit and storage operation permit under Presidential Regulation 14/2024 are as follows:

Aspects	Exploration Permit	Storage Operation Permit
License Holder	Indonesian business entities or permanent establishments.	Indonesian business entities.
Objective	Exploring potential ITZ within the carbon storage permit area.	Perform carbon injection and storage activities in carbon storage permit areas.
Validity Period	Six (6) years and could be extended once for another four (4) years, and the permit is non-transferable.	Thirty (30) years and could be extended once for another twenty (20) years by taking into account storage capacity, and the permit is non-transferable.

Fundamental Documents to be Submitted to MEMR	The holder of the exploration permit shall submit a development and operation plan to MEMR once the ITZ exploration has identified potential carbon storage capacity that could be commercialized.	The holder of the storage operation permit shall propose the annual work plan to obtain approval from MEMR prior to commencing the operation of carbon storage.
Restriction on Majority Share Transfer	The majority shares in the business entities or permanent business establishments holding the exploration permit could be transferred to a third party after the business entities or permanent business establishments have performed commitment and after obtaining approval from MEMR.	Transfer of majority shares owned by business entities holding the storage operation permit could be conducted after MEMR has approved the transfer of the shares by considering the sustainability of carbon storage operation with the safe and permanent condition as stipulated in the storage operation permit.

CSS Business Process

The core business process of CCS as regulated by Presidential Regulation 14/2024 covers the following activities:

Carbon Capture

Carbon capture is conducted by capturing and processing the carbon with certain specifications to be further hauled with a specific transportation mode. Several methods could be used for carbon capture, as follows: (i) carbon separation at oil and gas production facilities; (ii) carbon capture from combustion result; (iii) pre-ignition catch; (iv) oxyfuel combustion capture; and/or (v) any other means in accordance with the development of science and technology. Additionally, carbon capture may involve extracting from the atmosphere using direct air capture technology.

The captured carbon will be processed and purified further according to good engineering principles and fulfill certain specifications. This activity shall also meet the standards outlined in the Indonesian national standard or other internationally recognized standards endorsed by the government.

Carbon Transportation

The carbon transportation activities could be exercised based on carbon transportation permits from the relevant ministers. It allows transportation through pipes, trucks, vessels, and/or any other means in accordance with the development of science and technology. On the other hand, the carbon transportation permit is not required in the context of transportation activity performed by the contractor of cooperation contract to the extent that this activity is performed as a part of CCS implementation and the carbon transportation is conducted within the same working area or from one working area to another working area.

Carbon Injection and Storage

Carbon injection and storage may be conducted at ITZ in the form of a depleted reservoir, salty aquifer storage, or coal seam. The carbon injection and storage could be exercised after obtaining approval from the relevant ministries.

Carbon Storage Capacity for Domestic Needs

The capacity of carbon storage is prioritized for domestic carbon producers. Thus, it is mandatory to allocate seventy percent (70%) of the carbon storage total capacity as the domestic carbon depository, and the rest of the carbon storage capacity or in the amount of thirty percent (30%) may be utilized to store carbon captured abroad. The carbon storage originating from the other countries is solely to be performed by the carbon producers performing investments and/or affiliated with business entities investing their capital in Indonesia.

Economics or Business Scheme

The CCS implementation by the contractors under the cooperation contract could be monetized in the form of storage fees and/or other forms subject to taxation in the sector of upstream oil and gas business activities. Meanwhile, the CCS implementation by the holder of the storage operation permit can be monetized subject to non-tax state revenue (royalty) and taxation under the prevailing laws and regulations. The detailed provisions regarding the storage fee of CCS implementation will be regulated further under the MEMR regulations. Further, in supporting the implementation of CCS,

there will be incentives provided by the government in the form of both taxation and non-taxation incentives according to the prevailing laws and regulations.

Cross-Border Carbon Transportation

Carbon transportation can be performed via cross-border by executing bilateral cooperation agreement which plays a crucial role as guidelines in issuing required recommendations or permits concerning cross-border carbon transportation and must consider international rules about cooperation for climate change mitigation. The carbon transported to the customs territory of Indonesia shall be registered by the importer for one (1) time upon the first importation and must satisfy standards and principles of engineering and fulfill the aspects of occupational health, safety, and environmental protection.

Carbon Economic Value

The implementation of Carbon Economic Value (Nilai Ekonomi Karbon – “NEK”) of the CCS activity should be registered and reported within the national registry system for climate change control and NEK implementation through carbon trading shall require the Greenhouse Gas Emission Reduction Certificate (Sertifikat Pengurangan Emisi Gas Rumah Kaca – SPE-GRK), as the evidence of emission reduction performance.

Key Takeaways

In view of the foregoing, some of the key takeaways which may be taken for consideration encompass:

1. Parallel with the government’s program to achieve net zero emissions in 2060, the Indonesian Government through the promulgation of Presidential Regulation 14/2024 provides a pivotal framework for the development of CCS by facilitating the participation of existing upstream oil and gas investors and also inviting investments.
2. The implementation of CCS is an open door to opportunities for Indonesia, both environmentally and economically. The development and deployment of CCS can foster innovation, create high-skilled jobs, and even attract investment, especially for foreign investments. Indonesia's geographical advantages also enhance its potential to become a significant player in the global CCS landscape.
3. Regardless of the framework provided under this new regulation, more detailed provisions are still required to provide extensive and applicable for the implementation of CCS development across Indonesia, particularly on the structure of storage fees and ownership transfer for licensing-based CCS implementation.
4. The implementation of NEK organization through carbon trading required the SPE-GRK as the proof of emission reduction performance.

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