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PR 14/2024: A Unified and Expanded Carbon Capture Storage Regulation

On 30 January 2024, President Joko Widodo enacted Presidential Regulation No. 14 of 2024 on The Organization of Carbon Capture and Storage Activities (“**PR 14/2024**”), effective on the date of its issuance. PR 14/2024 now regulates all carbon capture and storage (“**CCS**”) activities and expands upon Ministry of Energy and Mineral Resources Regulation No. 2 of 2023 (“**MEMR Reg. 2/2023**”) which only regulates CCS/CCUS in connection with upstream oil and gas business activities. With the enactment of PR 14/2024, all previous CCS regulations are still in force as long as they do not contradict with provisions under PR 14/2024.

PR 14/2024 is designed to leverage Indonesia’s potential as a key carbon storage hub, both nationally and regionally, by promoting the adoption of CCS technologies. These technologies are crucial for reducing carbon emissions and are integral to Indonesia achieving its Nationally Determined Contribution (NDC) targets and aspiring for net-zero emissions by 2060 or sooner.

The regulation delineates two primary schemes for conducting CCS activities: one that operates under Cooperation Contracts within designated oil and gas Working Areas, and another that functions through Exploration and Storage Operation Permits applicable outside these areas. The enactment of PR 14/2024 marks a significant broadening of the scope of CCS regulations, allowing for the inclusion of various industries beyond oil and gas.

This article provides an overview of several key provisions under PR 14/2024 in respect to CCS activities, as follows:

I. CCS Schemes

CCS activities may be conducted within two different schemes, as follows:

A. CCS Based on Cooperation Contract within Working Area

This scheme will be applicable for CCS activities conducted as part of oil and gas operations under a cooperation contract (Kontrak Kerja Sama – KKS) or a Production Sharing Contract. Oil and gas business actors intending to conduct CCS activities may do so by submitting a CCS organizational plan, along with a certification of carbon storage capacity, to Special Task Force for Upstream Oil-and-Gas Business Activities (“**SKK Migas**”) (or Aceh Oil-and-Gas Management Agency) during the submission for approval of first field development plan or subsequent field development plan. Any proposed CCS activities, when not governed under existing Cooperation Contract, will need to be incorporated as part of an amendment to the Cooperation Contract. Any assets purchased by an oil and gas contractors (“**Contractors**”) in relation to CCS activities are to be considered as state assets.

B. CCS Based on Exploration and Storage Operation Permit within Carbon Storage Permit Areas

This scheme is intended for CCS activities conducted outside the scope of oil and gas business, which includes activity of exploration on carbon storage potential (conducted through an Exploration Permit) and the activity of carbon storage operation itself (conducted through a Storage operation Permit). CCS activities in this scheme may only be conducted within a Carbon Storage Permit Area (Wilayah Izin Penyimpanan Karbon - “WIPK”).

II. Carbon Storage Permit Area (Wilayah Izin Penyimpanan Karbon - “WIPK”)

Under PR 14/2024, the establishment of WIPK is a critical component. Prior to any CCS activity based on Exploration/Storage Permit can be conducted, Minister of Energy and Mineral Resources (“MEMR”) must establish a WIPK, which may be determined based on its own assessment or suggestion from business entities. Once a WIPK is established, it is auctioned to potential operators through a tender or limited selection process. If a carbon storage area potential within an oil and gas working area is not utilized by a Contractor, such area can be proposed to be determined as WIPK by an affiliate of the Contractor, an affiliate of a mining license contractor, or a third-party business entity or permanent establishment.

For WIPK that is determined by the MEMR, the area will be auctioned through tender process. For an area that is to be determined as a WIPK based on suggestion from business entity, the area will be auctioned through a limited selection process. Parties that can participate in the WIPK auction and limited selection may be in the form of business entities or permanent establishment, as long as they have met the technical and financial capabilities to conduct a CCS activity.

III. CCS Exploration and Storage Operation Permit

A. Exploration Permit

An Exploration Permit may be held by either a business entity or a permanent establishment. An exploration permit is valid for 6 years and can be extended once for a maximum of 4 years.

If during the Exploration the business entity/permanent establishment found a potential for a commercial carbon storage, they may apply for a CCS Development and Operation Plan to obtain a Minister approval, in order to be granted a Storage Operation Permit. The CCS Development and Operation Plan must be applied with an attached Carbon Storage capacity certification, which is conducted by an independent body appointed or established by the MEMR.

During exploration stage, a party holding Exploration Permit may only have majority of its shares transferred to another party if all of its commitments for carbon injection zone exploration has been completed, and such acquisition is subject to approval from the MEMR.

B. Storage Operation Permit

A holder of Exploration Permit may be granted a Storage Operation Permit if it has obtained an approval for the CCS Development and Operation Plan. However, since only Business Entities may hold a Storage Operation Permit, holder of Exploration Permit in the form of Permanent Establishment must establish a Business Entity in order to obtain a Storage Permit.

A Storage Operation permit is granted for a maximum of 30 years and can be extended multiple times, with each extension for a maximum of 20 years. Additionally, it should be noted that holder of Storage Operation Permit must submit an annual operational plan to be approved by the MEMR.

The transfer of the majority shares of the Storage Operation Permit holder must obtain an approval from the MEMR.

IV. Consortium Participation in CCS Permit

A consortium of business entities and/or permanent establishments can participate in the tender or limited selection process to be granted a WIPK, by submitting the consortium agreement containing the determination of operator (who will hold the rights in communicating and coordinating in relation to implementation of the Exploration and Storage Operating Permit) and non-operator members of the consortium.

In the event that the WIPK and Exploration Permit is awarded to a consortium, either consortium may appoint one of its member as the operator to represent the consortium in holding the Exploration Permit, or the consortium may form a new business entity or permanent establishment as the holder of the Exploration Permit provided that it is controlled directly by the consortium. However, the terms of the Exploration Permit, and eventually the Storage Operation Permit as well as CCS Activities (if granted) would also apply to all members of the consortium.

V. CCS Activities

PR 14/2024 recognize the following methods for carbon capture operation:

- Carbon segregation at oil and gas production facilities
- Capture of carbon from combustion;
- Pre-ignition capture;
- Oxyfuel combustion capture;
- Direct air capture; and/or
- Other methods in accordance with the development of science and technology.

The injection and storage of carbon itself may be conducted on depleted reservoir, salinized aquifer storage, or coal seam, in accordance with legal regulations, international or national standards, and sound engineering practices.

VI. Carbon Transportation Permit

The business of transporting carbon may be conducted by either a separate business entity, or a Storage Operation Permit holder after obtaining a Carbon Transportation Permit issued by the MEMR in conjunction with the Ministry of Transportation.

Carbon transportation may be conducted through:

- Pipelines
- Trucks;
- Ships; and/or
- Other methods in accordance to the development of science and technology

Carbon Transportation Permit using pipeline is granted with a validity period of 20 years and extendable for 10 years per extension. Carbon Transportation Permit for transports using non-pipeline is granted with a maximum validity period of 10 years and extendable for 10 years period per extension.

Importantly, PR 14/2024 specifies that carbon transport conducted within the same Working Area or between Working Areas do not require a separate Carbon Transportation Permit.

VII. Requirement for Storage Capacity Allocation between Domestic and International Source of Carbon Emission

Contractors conducting CCS within a cooperation contract and Storage Operation Permit Holder must allocate 70% of their carbon storage capacity for carbons from domestic sources, while carbon from international sources may be allocated for a maximum of 30% of the carbon storage capacity, under the condition that it originates from parties or affiliated parties that has conducted an investment in Indonesia. Adjustments to the allocation of carbon storage capacity can be made based on national policies. A Task Force coordinated by the minister responsible for maritime and investment affairs will oversee these adjustments, with the adjustments requiring presidential approval. This adjustment possibility seems to accommodate the needs and intention of maintaining Indonesia's commitment to fulfilling its own NDC as well as prioritizing domestic needs for carbon storage.

These provisions not only prioritize national environmental objectives but also strategically positions Indonesia as an attractive destination for foreign investment in the CCS sector. However, it remains to be seen whether this investment requirement will have a minimum threshold other than the existing statutory requirement for foreign investment to establish presence in Indonesia.

VIII. CCS Monetization

The regulation also outlines a framework for monetizing CCS activities, where it allows collection of storage fees collected by holders of Storage Operation Permit or Contractors within a Cooperation Contract, with the condition that a part of the collected storage fee must be paid to the government as royalties. However, it should be noted that there are tax incentives that may be granted to holders of Storage Operation Permit or Contractors within a Cooperation Contract, in accordance with taxation regulation.

IX. Cross-Border Carbon Transport

PR 14/2024 also enables cross-border carbon transport, which is to be conducted based on a bilateral agreement between Indonesia and other nations. Such bilateral agreement will form a basis for the necessary recommendation or permits for cross-border Carbon Transport applicable in the respective country and Indonesia. However, PR 14/2024 governs a provision on the circumstances where there is a leak, such condition shall not be accounted to Indonesia's total GHG emission inventory.

Rights and obligation on mechanism of delivery of transported carbon, including issues on liabilities in the case of leakage in each chain process is to be conducted based on prevailing regulations and based on agreements between emitters and Carbon Transport permit holder, Carbon Storage Operation permit holder, and/or a Contractor.

X. Carbon Economic Value

Every responsible party must register and report the carbon economic value administration from CCS activities through the National Registration for Climate Change Control (SRN-PPI). Further, administration of carbon economic value for CCS activities requires a carbon certificate (SPE-GRK) as evidence of emission reduction performance, issued in accordance with prevailing regulations on issuance of SPE-GRK and registration in SRN-PPI.

XI. Reporting and Supervision Obligations

Several obligations in relation to reporting and supervision of CCS activities which must be noted among others are:

- a. Obligation to conduct measurement, reporting, and verification of climate change mitigation activities;
- b. Obligation to conduct monitoring of operational safety by implementing a monitoring plan, which should be reported to the MEMR periodically, commencing from the approval of CCS activities until 10 years after closure of CCS activities; and
- c. Obligation to implement emergency response plan.

XII. Key Takeaways

The enactment of PR 14/2024 significantly broadens the legal framework for CCS activities beyond the confines of upstream oil and gas activities, allowing businesses involved in other sectors to potentially engage in CCS activities. This expansion of scope is a significant development as it opens up new opportunities for businesses to participate in the CCS market, which also opens innovations and participations for business players in decarbonization efforts.

Further, the provision for Cross Border Carbon Transportation in PR 14/2024 is another significant development, allowing carbon transport across national borders, which was not previously possible. This opens up the possibility for businesses in countries with high carbon emissions but limited storage capacity to transport their carbon to Indonesia for storage. This also allows business opportunity and opening up possibility to a new market for carbon transportation services, be it within or across the borders.

Lastly, the possible allocation of 30% Carbon Storage Capacity for foreign Carbon opens up the possibility for foreign businesses to store Carbon in Indonesia. This is a significant development as it allows foreign businesses to take advantage of Indonesia's large carbon storage capacity. This provides an opportunity for increased foreign investment in Indonesia's CCS sector, which could in turn lead to the creation of new jobs and economic growth.

If you have any questions in relation to the issues raised in this briefing, please contact the authors in the left-hand column.

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