

Analysis of Presidential Regulation Number 14 of 2024 on The Implementation of Carbon Capture and Storage Activities

Prepared by:

Andre Rahadian (Partner), Winda Tania (Partner) and Reyner Mulia (Associate)

Implementation of CCS Based on Cooperation Contract

The plan for CCS implementation through a Cooperation Contract (*Kontrak Kerja Sama*) under Presidential Regulation Number 14 of 2024 (PR 14/2024), is implemented through the following stages:

- a. Contractor submits the plan for CCS implementation to the Minister of Energy and Mineral Resources (MEMR) through SKK Migas or Aceh Oil and Gas Management Body (*Badan Pengelola Migas Aceh - BPMA*) according to its authority¹, as a part of request for approval for the first field development plan or any subsequent field development plan, including when there is a change in the relevant development plan.²
- b. The plan for CCS implementation must be accompanied with a Carbon Storage capacity certification³ (further regulated by a Ministerial Regulation) and subsequently the Minister may reject/approve the CCS implementation plan submitted by Contractor. It is to be noted that SKK Migas or BPMA according to their respective authority may also give approval/rejection to the CCS implementation by Contractor, before it is sought to MEMR.
- c. The approved CCS implementation plan will be followed up by an amendment of the Production Sharing Contract (which also covers Contractor's responsibilities for implementation of CCS)⁴, to be presented to the Minister through SKK Migas or BPMA according to their respective authority.

Before the Minister gives its approval or rejection to the amendment of the Production Sharing Contract, SKK Migas will perform evaluation in the technical, economic, operational, safety and environmental aspects and the closure of activities for MEMR's consideration.⁵

In the event that the scope of the implementation of CCS and/or CCUS has not been determined in the Cooperation Contract, a Contractor of Cooperation Contract is obligated to amend the Cooperation Contract under the following conditions:⁶

- a. Contractor of Cooperation Contract which will carry out the development of CCS and/or CCUS facilities in its Working Area and carbon storage in:
 - i. Salt Aquifer or Saline Aquifer, amendments to the Cooperation Contract are carried out before the CCS implementation data collection process;
 - ii. Depleted reservoir, amendments to the Cooperation Contract are carried out before the development process of CCS and/or CCUS implementation.
- b. Contractor of Cooperation Contract producing Carbon Emissions that will organize CCS and/or CCUS in its Working Area and/or planning to organize CCS and/or CCUS in other parts of the Cooperation Contract Contractors Working Area as part of the plan for field development of Contractor of Cooperation Contract producing Carbon Emissions.

¹ PR 14/2024, Article 5 paragraph (1).

² PR 14/2024, Article 5 paragraph (2).

³ PR 14/2024, Article 5 paragraph (7).

⁴ PR 14/2024, Article 7 paragraphs (1) and (2).

⁵ PR 14/2024, Article 7 paragraph (4).

⁶ PTK SKK Migas 70/2024, Point 1.8 of Section III.

CCS Implementation under Permit

In addition to the above CCS implementation under Cooperation Contract, Article 9 of PR 14/2024 stated that CCS can be implemented by the Business Entity (with Indonesian legal entity status) or Permanent Business Establishment (with legal entity outside Indonesia), through Exploration Permit and Storage Operation Permit issued by MEMR provided that those which can conduct the CCS implementation under **Exploration Permit are Legal Entities or Permanent Business Establishments**, meanwhile those which can conduct the CCS implementation under **Storage Operation Permit are only Business Entities**.

Relating to the Carbon Storage Permit Area, it is designated by the Minister to be located in an open area, mining business permit area, and/or Area of Operations. Carbon Storage Permit Area can be designated by taking into consideration the proposal from Business Entity or Permanent Business Establishment. If the Carbon Storage Permit Area is overlaying with an Area of Operations and/or mining business permit area, it will be made the data utilization cooperation and/or joint utilization of superficial facilities for the interests of Carbon Storage Permit Area.⁷

Carbon Storage Permit Area is offered by the Government to Business Entity or Permanent Business Establishment through the limited selection or bidding based on the existence of the right to match by Business Entity or Permanent Business Establishment which proposes the Carbon Storage Permit Area, and provided that any Business Entity or Permanent Business Establishment which attends the limited selection or bidding must have technical competence in Upstream Business Activity, mining or geothermal, technical competence for Dangerous and Poisonous Material, and the financial competence for the CCS implementation.⁸

It is to be noted that the main terms of CCS business activities will be determined by MEMR and the awardee of the limited selection or bidding will be determined by MEMR, before the awardee of the limited selection or bidding given the Exploration Permit through the application.

Required Permits for the CSS Implementation

The required permits are as follows:

- a. Exploration Permit (based on Article 16 until Article 22 of PR 14/2024)
The permit that is given by the government to conduct the ITZ (Injection Target Zone or *Zona Target Injeksi/ZTI*) Exploration within a Carbon Storage Permit Area through the activities of data acquisition, drilling, subsurface study and ITZ risk mitigation.
- b. Storage Operation Permit (based on Article 23 until Article 27 of PR 14/2024)
A permit that is given by the government to conduct the Carbon Storage and injection activities in the Carbon Storage Permit Area.
- c. Carbon Transportation Permit (based on Article 31 of PR 14/2024)
Carbon Transportation Permit is a permit that is given by the Government to transport the carbon to the delivery point of the injection location.

Carbon Capture

Carbon Capture is a business activity of Carbon capture and processing with certain specifications to be further transported with certain transportation means.⁹

Carbon Transportation

Carbon Transportation is a business activity which covers the Carbon transportation from the capture and/or processing facilities via transportation means until the delivery point of the Carbon injection.¹⁰

Carbon Injection and Storage

Carbon injection and storage is made in ITZ in form of Depleted Reservoir, Salty Aquifer Storage or coal seam, which is made pursuant to laws and regulations terms, international or national standards, and good engineering principles.¹¹

Cross-Border Carbon Transportation

Carbon transportation can be conducted through cross-border via a bilateral cooperation agreement which serves as the guidelines to issue the recommendation, or the permit required for the cross-border carbon transportation and must consider international rules about the cooperation for the climate change mitigation.¹²

⁷ PR 14/2024, Article 10 paragraph (4).

⁸ PR 14/2024, Article 12 paragraph (4) and (6).

⁹ PR 14/2024, Article 1 Number 13.

¹⁰ PR 14/2024, Article 1 Number 14.

¹¹ PR 14/2024, Article 34 paragraph (1).

¹² PR 14/2024, Article 45 and Article 46.

Against Carbon transported into the Indonesian customs area after the existence of a bilateral agreement, it is obliged to be registered by the importer for 1 (one) time upon the first importation and is obliged to satisfy engineering standards and principles adhered to the aspects of occupational health and safety and environmental protection.¹³

The rights and obligations between cross-border Carbon delivery is including the responsibility in the event of any Leakage, shall be governed under prevailing laws and regulations and according to the agreement between the emission producer and the holders of Carbon Transportation Permit, Storage Operation Permit, and/or Contractor. If there is any leakage during the cross-border Carbon transportation, the Leakage is not added to the inventory of the Indonesian greenhouse gases.¹⁴

Commercialization of CCS Implementation

CCS implementation by the Contractor under Cooperation Contract, **can be monetized in form of the storage fee and/or other forms**, subjects to taxation within oil and gas upstream business activities. Meanwhile the CCS implementation by the holder of Storage Operation Permit, **can be monetized in form of the storage fee**, subjects to Non-Tax State Revenue (royalty) and taxation according to prevailing laws and regulations. Terms related to the storage fee shall be governed in the ministerial regulation.¹⁵

If considering terms as governed in Chapter VI of PTK SKK Migas 70/2924, the monetization type for the Carbon capture from oil and gas upstream activities can be made pursuant to prevailing laws and regulation and the monetization proceeds must be calculated as the reduction of operation costs pursuant to laws and regulations about the joint utilization. Concerning the monetization type for the Carbon capture resulted from other than oil and gas upstream activities, it can be made under the revenues resulted from injection and storage services.

Further, in the monetization implementation, the Contractor must submit the following documents:

1. the proposed monetization of the carbon capture which reflects the most optimum result;
2. evaluation/review of the Contractor against the counterpart and other market potentials; and
3. written report about the monetization process (starting from the negotiation phase until the implementation phase).

CCS implementation by Contractor of Cooperation Contract, can be provided with taxation incentives according to taxation regulations within oil and gas upstream business activities, and non-taxation incentives according to prevailing laws and regulations. Meanwhile for the CCS implementation by holders of Exploration Permit, Carbon Transportation Permit, and/or Storage Operation permit can be provided with taxation and non-taxation incentives pursuant to laws and regulations terms.¹⁶

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The article above was prepared by Dentons HPRP's lawyers

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