

## Legal Alert

# Presidential Regulation 14/2024: Continued Efforts to Provide a Legal Basis for Carbon Capture and Storage Activities

## I. Introduction

Indonesia recognizes the needs for a comprehensive strategy to reduce carbon emissions to reach domestic net-zero emission target by 2060. Carbon Capture and Storage (“CCS”) activities are deemed as one of the components in achieving the said target. This strategy involves capturing carbon emissions at their source and preventing their release into the atmosphere.

Given the high-risk associated with CCS, its implementation must be performed safely and in accordance with good technical rules and regulatory frameworks. Recently, the Indonesian government enacted the Presidential Regulation Number 14 of 2024 on the Implementation of Carbon Capture and Storage Activities (“**PR 14/2024**”). Through PR 14/2024, which entered into force on 30 January 2024, the Indonesian government aims to address existing regulatory gaps and encompass all aspects related to the implementation of CCS in Indonesia.

Under this publication, it will explain several key provisions regulated under PR 14/2024, such as the way to initiate CCS activities, the relevant licensing, and the business process. Please note that this publication is not intended to neglect the importance and the gist of other provisions specified in PR 14/2024.

There might be certain legal issues that are not covered with the explanations provided hereunder, hence to get a more accurate view and understanding of the current conditions, please contact our legal consultants (the details are provided on the last page).

*PR 14/2024 shows the seriousness of the government of the Republic of Indonesia to provide a legal basis for CCS activities in Indonesia. In general, this regulation improves the preceding regulation, namely MoEMR Reg. 2/2023. For instance, PR 14/2024 has specified that the CCS activities can also be carried out in Carbon Storage Permit Area, including the relevant licensing for it. However, PR 14/2024 does not provide specific regulations regarding carbon utilization activities that are deemed increasing the economic feasibility of high-cost CCS activities.*

## II. CCS Operations Under PR 14/2024

### II.A. Existing Oil and Gas Cooperation Contracts

CCS can be implemented by integration to the operations of an existing oil and gas block. An oil and gas cooperation contracts (*kontrak kerja sama* or “**KKS**”)<sup>1</sup> contractor may carry out CCS activities within their KKS working area by firstly submitting CCS implementation plan through Special Task Force for Upstream Oil and Gas Business Activities (*Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi*, “**SKK Migas**”) or Aceh Oil and Gas Management Agency (*Badan Pengelola Migas Aceh*, “**BPMA**”).

The CCS implementation plan is submitted as a part of approval request for:

1. the first field development plan or changes to the first field development plan that has been approved; or
2. the further field development plan or changes to the further field development plan that has been approved.

The Minister of Energy and Mineral Resources (“**MoEMR**”) can approve or reject the CCS implementation as referred to in Point 1 above: (i) based on the recommendation of SKK Migas; or (ii) (if the working area is located in Aceh region) after having coordination with the Aceh Governor based on the considerations given by the BPMA. As for the CCS implementation plan as referred to in Point 2 above, SKK Migas or BPMA has the authority to approve or reject the CCS implementation plan.

It is important to note that under this framework, all goods and equipment purchased by contractors and used directly in the organization of CCS shall become state-owned property (*barang milik negara*).

### II.B. License-Based Implementation

It is also regulated under PR 14/2024 that CCS can be implemented on areas designated as a CCS area by the government (Carbon Storage Permit Area/*Wilayah Izin Penyimpanan Karbon*<sup>2</sup> - “**CCS Area(s)**”). Particularly, these designated CCS Areas will be tendered by the government to the business entities or permanent establishments,<sup>3</sup> and could be located in the: (i) open area/*wilayah terbuka*; (ii) mining business permit area/*wilayah izin usaha pertambangan*; and/or (iii) working area.

The implementation of CCS activities in CCS Areas shall be carried out based on the exploration permit/*izin eksplorasi* and storage operation permit/*izin operasi penyimpanan* issued by MoEMR who will delegate its authority to the Minister of Investment/the Head of Investment Coordinating Board. The overview of features of the said licenses are as follows:

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<sup>1</sup> Cooperation Contracts or *Kontrak Kerja Sama* (KKS) are cooperation contracts for oil and gas exploration and exploitation activities within a working area entered into by contractors and SKK Migas (or BPMA).

<sup>2</sup> Carbon Storage Permit Area/*Wilayah Izin Penyimpanan Karbon* means certain areas in Indonesia for implementation carbon capture and storage.

<sup>3</sup> Permanent Establishment or *Bentuk Usaha Tetap* (BUT) is a business entity incorporated outside the territory of the Republic of Indonesia that carries out activities in the territory of the Republic of Indonesia and is required to comply with the applicable laws and regulations in the Republic of Indonesia.

Features	Exploration Permit	Storage Operation Permit
<b>Eligible Holder</b>	Indonesian business entities or permanent establishments.	Indonesian business entities.  As a note, permanent establishments shall incorporate a business entity to be eligible to carry out CCS based on storage operation permit.
<b>Purpose</b>	Exploring potential target injection zones.	To carry out carbon injection and storage activities in the CCS Area.
<b>Validity Period</b>	Six (6) years, extendable once for another four (4) years.	Thirty (30) years, extendable for up to another twenty (20) years.
<b>Obligations</b>	Among others, issuance of performance bond to guarantee the performance on firm commitments to target injection exploration.	Among others:  a. submitting annual work plan on the implementation of carbon storage operation activities to the MoEMR; and  b. paying royalty payments to the government. However, the amount of royalty is not clearly set in PR 14/2024.
<b>Share Transfer Restriction</b>	Changes of majority shares ownership of the permit holder are permissible after the implementation of all firm commitment to target injection exploration and after obtaining approval from MoEMR.	Changes of majority shares ownership of the permit holder are permissible after obtaining the approval from MoEMR by considering sustainability of permanent safe carbon storage operations in accordance with the provisions of the storage operation permit.

As a note, in contrast to the KKS-based implementation, all goods and equipment purchased by the storage operation permit holder and used directly in the organization of CCS shall remain the property of the storage operation permit holder.

## II.C. CCS Business Process

The business process governed under PR 14/2024 generally comprises of the following activities:

Activity	The Relevant Provisions
Capture	<p>Carbon capture shall be carried out through: (i) carbon separation at oil and gas production facilities; (ii) carbon capture from combustion; (iii) pre-combustion capture; (iv) oxyfuel combustion capture; and/or (v) other methods in accordance with the development of science and technology. Additionally, carbon capture may be carried out through extraction from the atmosphere using direct air capture technology.</p> <p>This carbon capture must be processed and purified further by complying with good engineering principles to meet certain specifications ensuring transportation and injection safety.</p>
Transportation	<p>Carbon transportation is carried out based on a carbon transportation permit after coordinating with the minister who handles government affairs in the environmental sector. Particularly, the transportation can be carried out through pipelines, trucks, vessels, and/or other form of transportation.</p>
Injection and Storage	<p>a. Majority of the carbon storage capacity must be reserved for domestic emissions (at least seventy percent (70%) of the total carbon storage capacity).</p> <p>b. Storing Carbon originating from abroad can only be carried out by Carbon producers who invest and/or are affiliated with investments in Indonesia.</p> <p>c. The carbon storage activities may be monetized, by way of the following mechanisms:</p> <p>i. <b><u>For CCS Implemented based on KKS</u></b> This approach allows monetization through storage fees and/or other forms.</p> <p>ii. <b><u>For CCS Implemented based on the Storage Operation Permit</u></b> This approach allows monetization through storage fees.</p>
MRV (Measuring, Reporting, and Verification/Validation)	<p>Throughout the CCS operations, measurement, reporting and verification/validation must be carried out by the CCS operator to guarantee the quality, credibility, reliability, completeness, accuracy and correctness of the amount of carbon stored.</p>
End of CCS Activities	<p>The conclusion of a CCS operation may take place if: (i) the storage capacity is exhausted; (ii) no more carbon is injected; (iii) the underlying basis of</p>

Activity	The Relevant Provisions
	operations expires; (iv) unsafe condition persists; (v) force majeure event occurs; or (vi) the CCS operation is no longer economical.
Incentives	In supporting the implementation of CCS, the contractors, the holder of exploration permit, the holder carbon transportation permit, and/or the holder of storage operation permit may be granted tax and non-tax incentives in accordance with the prevailing laws and regulations.

## II.D. Mechanism for the Cross-Border Transportation of Carbon

Every carbon transport activity into the Indonesian customs territory must be carried out via transportation modes with engineering standards and rules that meet safety, occupational health and environmental protection aspects. This process is contingent upon the existence of a prior bilateral agreement between the Indonesia and the country where the carbon is produced and captured.

In the event of any leakage during cross-border transportation by Indonesia, it is explicitly stated that such incidents will not contribute to an increase in the Indonesian greenhouse gas inventory. Furthermore, it is stipulated under PR 14/2024 that the rights and obligations related to cross-border carbon handover mechanisms, including responsibilities in the event of a leak in any process chain, are regulated in the applicable laws and regulations and in accordance with the agreement between emitters and carbon transportation permit holders, storage operation permit holders, and/or the contractors.

### Note

Prior to the issuance of PR 14/2021, the MoEMR had issued the Minister of Energy and Mineral Resources Regulation Number 2 of 2023 on the Implementation of Carbon Capture and Storage and Carbon Capture, Utilization, and Storage for Upstream Oil and Gas Business Activities ("**MoEMR Reg. 2/2023**"). As the name suggests, the provisions of MoEMR Reg. 2/2023 comprise the activities of carbon utilization, not only capturing and storing carbon.

In general, it can be said that the regulations for CCS activities in MoEMR Reg. 2/2023 are not different from the regulations contained in PR 14/2024. The MoEMR Reg. 2/2023 does not even specifically mention the name of license/permit to conduct the CCS or Carbon Capture, Utilization, and Storage (CCUS) activities.

Under MoEMR Reg. 2/2023, it is stipulated that the carbon emissions are utilized to increase oil and gas production through increasing the yield of:

1. advanced stage petroleum;
2. advanced stage natural gas; or
3. advanced stage coalbed methane gas.

## References

1. Law Number 16 of 2016 on the Ratification of Paris Agreement to the United Nations Framework Convention on Climate Change.
2. Presidential Regulation Number 14 of 2024 on the Implementation of Carbon Capture and Storage Activities.
3. Presidential Regulation Number 98 of 2021 on the Implementation of Carbon Economic Value to Achieve Nationally Determined Contribution Targets and Control Over Greenhouse Gas Emissions in Relation to National Development.
4. Minister of Energy and Mineral Resources Regulation Number 2 of 2023 on the Implementation of Carbon Capture and Storage and Carbon Capture, Utilization, and Storage for Upstream Oil and Gas Business Activities.
5. SKK Migas Working Guideline Number PTK-070/SKKIA0000/2024/S9 on the Implementation of Carbon Capture and Storage and Carbon Capture, Utilization, and Storage in the Working Area of Contractor Cooperation Agreement.
6. ANTARA. *KESDM: Perpres 14/2024 jadi landasan hukum kuat pengembangan CCS*. <https://www.antaranews.com/berita/3973974/kesdm-perpres-14-2024-jadi-landasan-hukum-kuat-pengembangan-ccs> accessed on 24 February 2024.

We will continue to follow the developments of this topic. Should you have any queries on this topic, please contact our consultants:



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