



NEWSLETTER

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MEMR ISSUES REGULATION ON IMPLEMENTATION OF CARBON CAPTURE AND STORAGE AND CARBON CAPTURE, UTILIZATION AND STORAGE IN UPSTREAM OIL AND GAS ACTIVITIES

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After a long deliberation the Indonesian Government recently announced the new regulation for implementing carbon capture and storage (“CCS”) and carbon capture, utilization and storage (“CCUS”) for upstream oil and gas as set out in the Minister of Energy and Mineral Resources (“MEMR”) Regulation No. 2 of 2023 on the Implementation of CCS and CCUS in Upstream Oil and Natural Gas Business Activities (“MEMR 2/2023”) which was promulgated on 3 March 2023.

MEMR 2/2023 has two aims:

1. to support Indonesia’s national commitment on global climate change in reducing greenhouse gas (“GHG”) emissions and achieving its Nationally Determined Contribution (“NDC”) in accordance with the Paris Agreement to the United Nations Framework Convention on Climate Change and as mandated by Presidential Regulation No. 98 of 2021 on the Implementation of Carbon Economic Value or *Nilai Ekonomi Karbon* (NEK) for Achieving NDC Target and Controlling GHG Emissions in National Development (“PR 98/2021”); and
2. to further boost oil and gas production.

MEMR 2/2023 introduces the concept of CCS and CCUS which involves the initial process of capturing carbon emissions generated from upstream oil and gas business activities, other industrial activities and from the atmosphere (by using direct air capture). The captured carbon emissions will then be transported by using various “medias” e.g., pipes, trucks, ships etc for injection and storage in a designated Injection Target Zone (*Zona Target Injeksi*) in an oil and gas working area and/or for further utilization. Implementation of CCUS, specifically utilization of captured carbon emissions from within an oil and gas working area, is carried out to increase oil and gas production. Injection and storage activities are carried out by the contractor of the working area (the “**Contractor**”) during the exploitation period.

A. Procedure for Implementation of CCS and CCUS

In principle, CCS and CCUS consist of two phases i.e. planning and implementation.

According to MEMR 2/2023, implementation of CCS and CCUS activities may only be carried out by a Contractor that has been appointed to explore and exploit a working area based on a contract with the relevant authority i.e. the Special Task Force for Upstream Oil and Gas Business Activities or *Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi* (“**SKK Migas**”) or the Oil and Gas Management Agency for Aceh or *Badan Pengelola Migas Aceh* (“**BPMA**”) after obtaining an approval from either MEMR, SKK Migas or BPMA (the “**Regulator**”).

Submission of Proposal or Study (Planning Phase)

Before commencing the CCS/CCUS activities, the Contractor must submit a proposal or study to one the following authorities, as applicable:

1. MEMR, if the CCS or CCUS activity is part of the first field development plan; or
2. SKK Migas or BPMA, if the CCS or CCUS activity is part of the subsequent field development plan.

The submitted proposal or study must include technical, economic, operational analysis, safety and environmental analysis and business closure planning. If the proposal or study encompasses a reservoir it must also include engineering, safety and environment and operation models in transporting, storing and injecting and utilizing the carbon emissions.

The submission of a comprehensive study to the Regulator is intended to ascertain that the proposed CCS or CCUS activities of the potential CCS and CCUS players are already in compliance with the prescribed standards and good engineering principles and rules.

Upon securing approval from the relevant Regulator, the Contractor can commence CCS or CCUS activities.

Implementation Phase of CCS and CCUS Activities

Implementation of CCS or CCUS activities includes:

- a. preparation of documents on mitigation and handling of environmental, social and community involvement impacts in accordance with the provisions of laws and regulations;
- b. engineering, procurement and construction processes;
- c. commissioning and operation of CCS or CCU activities;
- d. implementation of operational safety management;
- e. management of environmental aspects;
- f. implementation of emergency response activities;
- g. implementation of repair and maintenance activities;
- h. implementation of monitoring and measurement, reporting and verification ("**MRV**"); and
- i. closure of CCS or CCUS activities.

B. Cooperation with third parties regarding CCS and CCUS activities

MEMR 2/2023 permits Contractors to inject and store carbon emissions generated by third parties within the Contractor's working area based on a cooperation agreement which is subject to approval from either SKK Migas or BPMA (as applicable).

SKK Migas or BPMA are to issue a further regulation on technical guidance for this approval procedure.

C. Monitoring and MRV as Emerging Obligations during Performance Period of CCS and CCUS Activities

Monitoring for Safety Operation

A Contractor must carry out ongoing monitoring of its CCS and CCUS activities to ensure the safety of its workers, plant and equipment, the environment and the public in performing the CCS or CCUS activities. This monitoring obligation commences upon securing approval from the relevant regulator and ends up to 10 years after the completion of the closure of the CCS or CCUS activities evidenced by the verification result. The monitoring activities will be reported by the Contractor on a semi-annual basis to SKK Migas or BPMA.

A Contractor is also obliged to reserve a budgeted amount in its working program for the 10 year post closing monitoring activities and this budget is subject to approval by SKK Migas or BPMA. The reserve fund must be deposited in a joint account under the name of the Contractor and SKK Migas or BPMA.

Measurement, Reporting and Verification (MRV)

In addition, during the implementation phase of the CCS or CCUS activities, a Contractor must also conduct a measurement program under MRV once a year in which the MRV result is submitted annually to MEMR by the end of March each year.

Failure to submit this semi-annual monitoring for safety operation report and annual measurement program under MRV will result in administrative sanctions of a written reprimand and temporary suspension of the CCS and CCUS activities.

D. Economic aspects of CCS and CCUS activities

As specified under PR 98/2021, as further implemented under Minister of Environment and Forestry Regulation No. 21 of 2022 on the Procedures for Carbon Pricing Implementation, carbon emissions can be monetized.

With respect to CCS and CCUS from upstream oil and gas activities, carbon emissions can be monetized by the Contractor through:

- a. carbon trading; and/or
- b. replacement of cost operation of the joint facilities.

CCUS carbon emissions other than the above can be monetized through injection services and storage.

With respect to incentives for Contractors, MEMR 2/2023 sets out that incentives applicable for CCS and CCUS activities are subject to the prevailing laws and regulations for general tax incentives for upstream oil and gas business activities (Article 25 of Government Regulation No. 53 of 2017 on Tax Treatment for Upstream Oil and Gas with Gross Split Profit Sharing Contract) which may include tax exemptions for import duty, land and building tax deduction etc.

If you have any questions or comments about the matters discussed in this newsletter, please contact:

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