

## Indonesia's New CCS/CCUS Regulations: Promoting Energy Transition in Southeast Asia

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In March 2023, Indonesia's Minister of Energy and Mineral Resources, Arifin Tasrif, announced the Ministry of Energy and Mineral Resources Regulation No. 2 of 2023 concerning Implementation of Carbon Capture and Storage, as well as Carbon Capture, Utilization and Storage in Upstream Oil and Gas Business Activities (the "**MEMR 2/2023**"). Indonesia, which has geological formations well suited to the development of carbon capture and storage ("**CCS**") as well as carbon capture, utilization and storage ("**CCUS**") projects, has become one of the first countries in Southeast Asia to promulgate regulations to support the integration of CCS/CCUS projects within upstream exploration and production activities with the goal of helping to decarbonize the industry.

### MEMR 2/2023

According to the International Energy Agency, "successfully deploying CCUS relies on the establishment of legal and regulatory frameworks to ensure the effective stewardship of CCUS activities and the safe and secure storage of CO<sub>2</sub>"<sup>1</sup>. MEMR 2/2023 (which consists of 11 chapters and 61 articles) has been drafted with the goal of encouraging the development of commercial scale CCS/CCUS projects in Indonesia. Some of the key items addressed in MEMR 2/2023 include:

- before commencement of a CCS/CCUS project, a proposal or a plan which addresses the feasibility of the proposed CCS/CCUS project in terms of its compliance with applicable standards and good practice principles needs to be submitted by the contractor of the relevant upstream working area to a government unit called the

Special Work Unit for Upstream Oil and Gas Activities (*Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi* or “**SKK Migas**”) or (in the context of projects related to concessions in Aceh province) the Aceh Oil and Gas Management Agency (*Badan Pengelola Migas Aceh* or the “**BPMA**”);

- once the above proposal or plan is approved by the relevant regulator, the contractor may carry out the CCS/CCUS activities, provided that (i) a series of ongoing monitoring activities is also undertaken in parallel to ensure compliance with health, safety, environmental and social aspects of the CCS/CCUS project, (ii) such monitoring obligation continues for a period of up to 10 years after the closure of CCS/CCUS activities and (iii) a reserve account (which shall be a joint account established and maintained on behalf of the contractor and SKK Migas/BPMA) is funded during the 10-year period to ensure the monitoring activities can be undertaken even after decommissioning;
- in order to proceed with closure of CCS/CCUS activities and transfer a contractor’s rights, obligations and responsibilities for the CCS/CCUS project back to the state, the contractor needs to verify with the Directorate General of Oil and Gas or a third-party verification body that, among others, there is no leakage, ground water contamination or other risks from any of the project facilities and adequate measures have been taken to prevent any future leakage; and
- carbon trading and reimbursement of operational costs for the use of joint facilities can be ways to monetize a CCS/CCUS project, and the CCS/CCUS project may also benefit from tax incentives applicable to the upstream oil and gas business activities (e.g., exemption from import taxes).

Although the regulation does provide some much needed clarity around the scope and requirements of CCS/CCUS activities, there are a number of issues that remain to be addressed, including leakage risk, allocation of title and risk in the context of commingled carbon and ensuring quality specifications. It is also unclear to what extent Indonesia will look to offer financial incentives to attract investment across the CCS/CCUS value chain, and it will be interesting to see whether the Indonesian government will follow jurisdictions such as the United States, the United Kingdom and Europe by introducing tax breaks and credits for CCUS technologies.

## Catalyst for the Neighboring Countries?

CCS/CCUS technologies are set to play an important role in supporting the clean energy transition across Southeast Asia. Indonesia's neighboring countries Malaysia, Vietnam, Thailand and the Philippines all have potential for geological storage of CO<sub>2</sub> and are working to draft their own regulations and so are likely closely monitoring the developments in Indonesia and the impact MEMR 2/2023 has on the development of domestic CCS/CCUS projects.

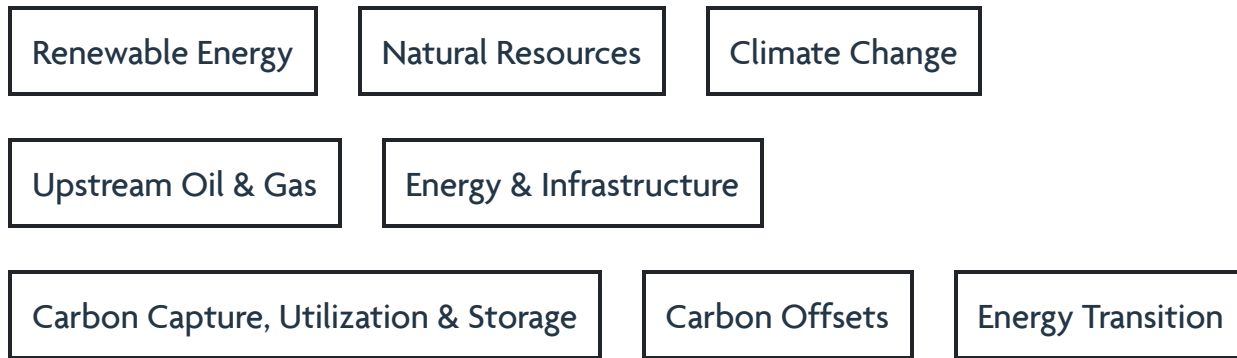
It would be especially interesting to see whether Malaysia will quickly follow Indonesia's footsteps and announce its own regulations, given Malaysia through its well-established oil and gas industry was positioning itself to be a CCS/CCUS leading destination in Southeast Asia. Malaysia was already moving ahead with projects such as the Kasawari offshore CCS project and the Lang Lebah offshore CCS project, and Malaysia's PETRONAS has signed a Memorandum of Understanding in August 2022 with six South Korean companies (Samsung Engineering Co., Ltd., Samsung Heavy Industries, SK E&S Co., Ltd., SK Energy Co., Ltd., GS Energy Corporation and Lotte Chemical Co.) to undertake conceptual and feasibility studies towards establishing a full value chain related to CCUS, but currently there is no CCS/CCUS-specific law in Malaysia.

Also, we may wait and see whether Indonesia's MEMR 2/2023 could serve as a stepping stone towards discussion around regional cooperation. Although domestic regulations such as MEMR 2/2023 will be important to the development of domestic CCS/CCUS projects, regional cooperation will be absolutely critical to unlock the region's vast carbon-capture potential. A series of issues will inevitably arise in a cross-border context, so without regional cooperation to foster confidence and certainty around a cross-border/transboundary legal and regulatory regime, the idea of transporting CO<sub>2</sub> from Singapore to Indonesia through pipeline or shipping CO<sub>2</sub> from countries such as Japan and South Korea to Malaysia may merely remain a lofty ambition.

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<sup>1</sup><https://www.iea.org/reports/legal-and-regulatory-frameworks-for-ccus>

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