

## New Implementing Regulation on Licence Based Carbon Capture and Storage

January 2025

### 1. Background

On 20 December 2024, MEMR issued the long-awaited Minister of Energy and Mineral Resources Regulation No. 16 of 2024 on Implementation of Carbon Storage Activities in Carbon Storage Licence Area for CCS (“**MEMR 16 / 2024**”) regulating carbon capture and storage (“**CCS**”) activities conducted under the new licensing scheme introduced by Presidential Regulation No. 14 of 2024 on Implementation of CCS Activities (“**PR 14 / 2024**”).

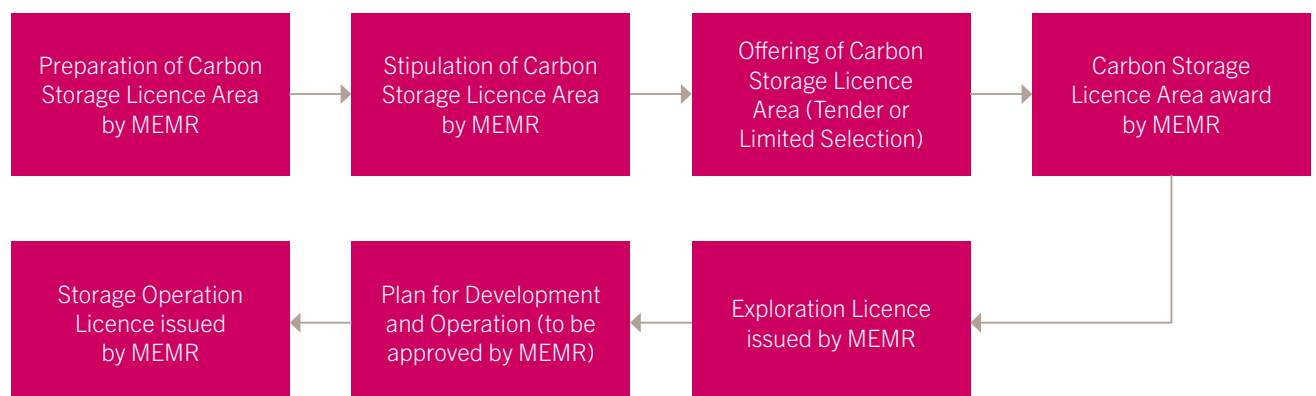
By the issuance of MEMR 16 / 2024, the legal basis for two different schemes of CCS activities is now implemented – the other one being CCS conducted by Production Sharing Contract (“**PSC**”) contractor as part of Petroleum Operations under the PSC, as regulated under MEMR Regulation No.2 of 2023 on Undertaking CCS and CCUS in Oil and Gas Activities (“**MEMR 2 / 2023**”).

In addition to providing more details on technical, procedural and licensing aspects of licence-based CCS activities, MEMR 16 / 2024 also deals with some important issues which are not specifically captured in PR 14 / 2024, including licence-based CCS business activities by a PSC contractor, which will be highlighted in this publication.

MEMR 16 / 2024 is effective as of 24 December 2024 being the enactment date of the regulation.

### 2. CCS business operation chain

Adopting the provisions of PR 14 / 2024, the CCS business operation chain under MEMR 16 / 2024 is generally displayed in the below diagram.



### 3. Offering mechanism for licence area

As a general proposition, there are three stages to undergo before a Carbon Storage Licence Area is awarded to the eligible awardee, as set out below.

#### 3.1 Preparation of Carbon Storage Licence Area

- 3.1.1 The Carbon Storage Licence Area may be located in an open area, mining business licence area or PSC Working Area.
- 3.1.2 The preparation of the Carbon Storage Licence Area is undertaken by MEMR. This may be undertaken at the initiative of the MEMR itself or based on a proposal made to the MEMR by a prospective license holder covering an area that is not already allocated for open tender by MEMR.
- 3.1.3 An area prepared at the initiative of MEMR will subsequently be offered using an open tender method, whilst an area prepared based on a proposal of a prospective license holder will be offered by way of a limited selection.
- 3.1.4 MEMR will undertake an initial risk assessment and technical evaluation before the proposed area can be stipulated by MEMR – the amount of royalty on the storage fee, firm work commitments and the “licence award compensation” (which we understand to be akin to a signing bonus for upstream oil & gas PSCs) are some of the aspects that need to be included in the proposal.

#### 3.2 Stipulation of Carbon Storage Licence Area

If the assessment and evaluation referred to in paragraph 3.1.4 above is satisfactory, MEMR will stipulate the Carbon Storage Licence Area. The stipulation covers, amongst others, the coordinates of the area, the exploration firm commitment, the performance guarantee and an estimate of the royalty on the storage fees.

#### 3.3 Offering and award of Carbon Storage Licence Area

##### 3.3.1 Offering mechanism

As foreshadowed above, the offering of a Carbon Storage Licence Area by MEMR is conducted using two alternative mechanisms:

##### (i) Open tender

- (a) This mechanism is used for the offering of an area initially prepared by MEMR.
- (b) The tender is open for Indonesian business entities and/or foreign entities with a permanent establishment in Indonesia (including those listed in MEMR’s Short List<sup>1</sup>).

##### (ii) Limited selection

- (a) Limited selection is used for the offering of an area prepared by MEMR based on a proposal of a prospective license holder (which may be in the form of an Indonesian business entity or a foreign entity with a permanent establishment in Indonesia).
- (b) Limited selection is open for the proponent that made the proposal along with any Indonesian business entities or foreign entities with a permanent establishment in Indonesia that are listed in MEMR’s Short List.
- (c) If a limited selection involves participants other than the proponent and the winning candidate is not the proponent, the proponent shall have a “right to match” the highest offer of the first-ranked participant.

##### 3.3.2 Bid bond

- (i) During the submission of participation documents, participants in a tender or limited selection are required to provide a bid bond (addressed to MEMR) in the amount of 100% of the value of the “licence award compensation”. It must be valid for six months and can be extended.
- (ii) If the winner does not proceed to apply for the license and pay the “licence award compensation” post award of the Carbon Storage Licence Area, then the stipulation of the winner will be cancelled, and the bid bond will be drawn down by MEMR. Alternatively, if: (i) a tender/selection participant is not stipulated as the winner or (ii) if the participant is the winner and has paid the “licence award compensation”, the bid bond will be returned to the relevant participant.

<sup>1</sup> Short List is list of business entities or permanent establishments that have been pre-qualified by MEMR to participate in the offering of Carbon Storage Licence Areas.

### 3.3.3 Establishment of new entity

The winner of the tender or limited selection is given the opportunity to establish new entity to obtain the Exploration Licence (see [section 4.1](#) below) or appoint its affiliate which will apply for the Exploration Licence. If the winner is a consortium, the consortium members may establish a joint venture for the holding of the Exploration Licence. The establishment of a new entity, the appointment of an affiliate or the establishment of the joint venture are only permitted if the newly established/appointed entity is directly controlled by the winner of the tender or limited selection or its holding company (evidenced by ultimate beneficial ownership).

### 3.3.4 Performance guarantee

- (i) The winner of the tender or limited selection shall provide a performance guarantee for the exploration firm work commitment with a value of 10% of the firm commitment or at least US\$1.5m, whichever is higher.
- (ii) The performance guarantee must be given prior to applying for the Exploration Licence and must be addressed to MEMR.
- (iii) The performance guarantee must be valid for three years after the issuance of the Exploration Licence and, if required, must be extended until the completion of the exploration firm work commitment.
- (iv) The performance guarantee will be drawn down if the licence holder fails to implement the exploration firm work commitment, or returned after the exploration firm work commitment is fully completed.

Upon the award of the Carbon Storage Licence Area, the awarded entity should proceed with the business licensing phase as elaborated in [section 4](#) below.

## 4. Licensing scheme

MEMR 16 / 2024 confirms and implements further the CCS business licensing scheme provided in PR 14 / 2024, as set out below.

### 4.1 Exploration Licence

An Exploration Licence is issued to cover injection target zone exploration activities in the form of data acquisition, drilling, subsurface studies and injection target zone leakage risk mitigation.

Exploration Licence is issued to the winner of the tender or limited selection of a Carbon Storage Licence Area.

<b>Eligible holder</b>	Indonesian business entity or permanent establishment <sup>2</sup> or consortium of Indonesian legal entity and/or permanent establishment <sup>3</sup> .  An Exploration Licence can be issued to holder of an Exploration Licence in other Carbon Storage Licence Areas, so that a business entity or a permanent establishment can hold more than one Exploration Licence (ie, no ring-fencing is applied).
<b>Issuer</b>	MEMR
<b>Application</b>	Through the Online Single Submission (“ <b>OSS</b> ”) System.

<sup>2</sup> As an alternative to the winner of the tender or limited selection itself, the Exploration Licence can be applied by and issued to the winner’s affiliate so long as it is directly controlled by the winner or by its holding company.

<sup>3</sup> In the case of a consortium, the names of its members will be stated in the Exploration Licence and all members are subject to the provisions of the Exploration Licence and fully responsible for the implementation of the licence. One member having the largest interest in the consortium shall act as the operator.

<b>Pre-requisites</b>	<ul style="list-style-type: none"> <li>&gt; The winner of the tender or limited selection shall have a Business Identification Number (“<b>NIB</b>”).</li> <li>&gt; Payment of the “licence award compensation”.</li> <li>&gt; The Exploration Licence will be issued after the entity satisfies the administrative, technical, environmental and financial requirements.</li> <li>&gt; Providing performance guarantee for the exploration firm work commitment (see <a href="#">section 3.3.4</a>).</li> </ul>
<b>Validity period</b>	Six years, extendable one time for up to four years.
<b>Licence transfer</b>	<p>Not permitted.</p> <p>MEMR 16 / 2024 is silent on whether or not a transfer to an affiliate could be permitted.</p>
<b>Subsequent obligation as licence holder</b>	<ul style="list-style-type: none"> <li>&gt; The licence holder must prepare a work program and budget and submit it to MEMR for approval. The work program and budget should include a work plan for the first and second three year firm work commitments during the exploration period (covering geology, geophysics, reservoir engineering, seismic, drilling of exploration and appraisal wells, etc.).</li> <li>&gt; If the Carbon Storage Licence Area overlays an oil and gas Working Area, the licence holder must agree “mutually agreed principles” with the PSC operator (see further <a href="#">section 6.3</a>).</li> <li>&gt; The procurement of goods and services must be conducted by the licence holder.</li> <li>&gt; The licence holder must submit periodic and incidental reports on the licence implementation to MEMR.</li> </ul>

## 4.2 Plan for Development and Operation

- 4.2.1 If the exploration of the injection target zone shows potential commercial capacity for carbon storage, at the latest six months prior to the expiry of the Exploration Licence, the licence holder must submit a Plan for Development and Operation of the injection target zone to MEMR for approval.
- 4.2.2 The Plan for Development and Operation should cover, amongst others, the geological, geophysical, petrophysical, reservoir, geo-mechanical, economics, technical, environmental and monitoring/MRV aspects of the carbon storage activities.
- 4.2.3 Upon MEMR approval of the Plan for Development and Operation, the Exploration Licence holder may apply for a Storage Operation Licence (see [section 4.3](#) below).

## 4.3 Storage Operation Licence

The activities covered under a Storage Operation Licence are carbon injection and storage in the relevant Carbon Storage Licence Area.

<b>Eligible holder</b>	<p>Indonesian business entity or consortium of Indonesian legal entities<sup>4</sup> holding an Exploration Licence which has obtained MEMR approval for its Plan for Development and Operation. If the holder of Exploration Licence is a permanent establishment, it must establish an Indonesian business entity to hold a Storage Operation Licence (and report this establishment to MEMR). Upon obtaining approval for any Plan for Development and Operation, the holder of an Exploration Licence is guaranteed to obtain a Storage Operation Licence (subject to fulfilling the licensing requirements and submitting an application for the Storage Operation Licence).</p> <p>A Storage Operation Licence can also be issued to the holder of a Storage Operation Licence in other Carbon Storage Licence Areas, so that a business entity can hold more than one Storage Operation Licence (no ring-fencing is applied).</p>
<b>Issuer</b>	MEMR
<b>Application</b>	Through OSS System.
<b>Pre-requisites</b>	<ul style="list-style-type: none"> <li>&gt; The business entity shall have an NIB.</li> <li>&gt; Providing a performance guarantee for the implementation of carbon storage operations (see below).</li> <li>&gt; The Storage Operation Licence is issued after the entity satisfies the administrative, technical, environmental and financial requirements.</li> </ul>
<b>Performance guarantee</b>	<p>A performance guarantee must be given prior to applying for a Storage Operation Licence and must be addressed to MEMR.</p> <p>The value of the performance guarantee is 10% of the budget for carbon injection wells or at least US\$1.5m, whichever is higher.</p> <p>Validity period: up to five years after the issuance of Storage Operation Licence and, if required, must be extended up to the completion of the drilling of the carbon injection wells.</p> <p>The performance guarantee will be drawn down if the licence holder fails to implement the carbon injection well drilling and it will be returned after such drilling is fully completed.</p>
<b>Validity period</b>	30 years and can be extended for 20 years for each extension.
<b>Licence transfer</b>	<p>Not permitted.</p> <p>MEMR 16 / 2024 is silent on whether or not a transfer to an affiliate could be permitted.</p>
<b>Subsequent obligation as licence holder</b>	<ul style="list-style-type: none"> <li>&gt; The licence holder shall prepare and submit to MEMR for approval: (i) a carbon storage operation implementation work plan (and the supporting budget) and (ii) a work program and budget for monitoring, MRV and closure on an annual basis.</li> <li>&gt; The licence holder must submit a periodic and incidental report on the licence implementation to MEMR.</li> </ul>

The licence for carbon transportation activities is discussed in [section 9](#).

<sup>4</sup> In the case of a consortium, the names of its members will be stated in the Storage Operation Licence and all members are subject to the provisions of the Storage Operation Licence and fully responsible for the implementation of the licence. One member having the largest interest in the consortium shall act as the operator.

## 5. Foreign ownership limitation

Currently, there is no foreign ownership limitation for the business activities undertaken under an Exploration Licence, Storage Operation Licence and/or Transportation Licence.

## 6. Overlap with oil & gas or mining areas

- 6.1 MEMR 16 / 2024 recognises that a Carbon Storage Licence Area might overlap with an oil and gas PSC Working Area or a mining business licence area. In this case, the preparation of the Carbon Storage Licence Area requires cooperation with the relevant oil & gas or mining contractor in the form of data utilisation cooperation and/or joint utilisation of surface facilities.
- 6.2 In the case of an area which overlaps with a PSC Working Area, the Exploration Licence holder shall enter into an agreement with the PSC contractor containing the mutually agreed principles for the conduct of CCS operations in that area. The mutually agreed principles must at least provide for the joint utilisation of data and facilities, risk assessment on operations, safety, environment and social and the responsibilities of each party.

More on the circumstance where a Carbon Storage Licence Area overlaps with a PSC Working Area is elaborated in [section 7](#) below.

## 7. Licence-based CCS activities by PSC Contractor

- 7.1 MEMR 16 / 2024 provides that in the case the prepared Carbon Storage Licence Area is located in a PSC Working Area, MEMR shall seek confirmation from the relevant PSC contractor if the PSC Contractor is interested in undertaking the injection target zone exploration and carbon storage operation (which must be confirmed by the PSC contractor within 30 days). This provision gives the priority to the PSC contractor to conduct CCS activities in its Working Area.
- 7.2 If the PSC contractor is interested, MEMR 16 / 2024 gives two options to the PSC Contractor:
  - 7.2.1 to conduct the CCS activities as part of its Petroleum Operations based on its PSC, as regulated under MEMR 2 / 2023; or
  - 7.2.2 to adopt the licensing scheme under MEMR 16 / 2024.
- 7.3 The two alternative options under MEMR 16 / 2024 therefore give the opportunity for the PSC Contractor to determine the most economic and profitable options for its CCS business activities (for instance, considering that if the PSC Contractor adopts the PSC-based CCS activities, the generated storage fees will merely serve as a deduction of Operating Costs under the PSC).
- 7.4 In the event the PSC contractor opts for licence-based CCS operations under MEMR 16 / 2024, the PSC contractor shall propose the area to be stipulated by MEMR as a Carbon Storage Licence Area which will subsequently be offered by MEMR through a limited selection method where the PSC contractor will have a “right to match” (see [section 3.3.1 \(ii\)](#)).
- 7.5 If PSC contractor proposes to conduct CCS activities in its Working Area using the licensing mechanism and the PSC contractor has conducted field data collection (including drilling, seismic and other filed data collection) and target injection zone study, such field data and the study may be excluded from the firm commitment for injection target zone exploration.
- 7.6 Given the principle of ring-fencing under a PSC, it is expected that any Exploration Licence may only be held by a controlled affiliate of the PSC contractor (regardless of whether it is in the form of a business entity or permanent establishment).

## 8. Carbon storage services agreement and royalty

- 8.1.1 The terms and conditions of the carbon storage services must be negotiated on a B-to-B basis by the holder of the Storage Operation License with the carbon emitter/carbon delivering party. However, the provisions of the carbon storage services must be first approved by MEMR. The application for approval includes supporting information on the storage fees and the carbon storage services economics.
- 8.1.2 The storage fee submitted to MEMR must be the agreed storage fee after deducting transportation costs (in this context, transportation costs include carbon processing costs). If the carbon transportation facilities are owned by the holder of the Storage Operation Licence, the transportation costs exclude capital and maintenance costs.
- 8.1.3 In giving his/her approval, MEMR will consider various aspects, including the carbon storage capacity for domestic needs<sup>5</sup>.
- 8.1.4 If the proposed provision of the carbon storage services is approved by MEMR, the holder of the Storage Operation Licence may execute the carbon storage services agreement with the carbon emitter or carbon delivering party.
- 8.1.5 Royalty must be paid to the government on the storage fees. The amount of the royalty shall be based on prevailing laws and regulations (as yet, the amount of the royalty has not been stipulated).

## 9. Carbon transportation

In the context of MEMR 16 / 2024, carbon transportation which is subject to a Transportation Licence is carbon transportation through pipelines from the capture and/or processing facilities up to the carbon injection delivery point.

MEMR 16 / 2024 adopts the concept where non-commercial transportation of own carbon by a business entity is also subject to a Transportation Licence.

The regulatory provisions on a Transportation Licence under MEMR 16 / 2024 are set out below.

<b>Eligible holder</b>	Indonesian business entity or holder of Storage Operation Licence (that also conducts carbon transportation business activities).
<b>Issuer</b>	MEMR
<b>Application</b>	Through OSS System.
<b>Pre-requisites</b>	<ul style="list-style-type: none"> <li>&gt; Having obtained environmental approval from the Minister of Environment and Forestry.</li> <li>&gt; The business entity shall have an NIB.</li> <li>&gt; The Transportation Licence is issued after the entity satisfies the administrative, technical, environmental and financial requirements. The administrative requirements include the carbon transportation agreement where the transportation of third party's carbon is contemplated.</li> </ul>
<b>Validity period</b>	20 years and can be extended for 10 years for each extension.
<b>Licence transfer</b>	<p>Not permitted.</p> <p>MEMR 16 / 2024 is silent on whether or not a transfer to an affiliate could be permitted.</p>
<b>Subsequent obligation as licence holder</b>	The licence holder shall submit periodic (monthly) and incidental report on the licence implementation to MEMR.

<sup>5</sup> PR 14/2024 provides that the carbon storage capacity is prioritised for domestic carbon emitters. PSC Contractors or the holders of Storage Operation Licences shall allocate 70% of their carbon storage capacity for domestic carbon storage (the remaining 30% can be used for storing carbon originating from overseas, provided that it is conducted by carbon emitters that have and/or is affiliated with an investment in Indonesia).

## 10. Carbon credits

The carbon economic value (carbon credit) in the framework of licence-based CCS activities may be implemented through voluntary carbon markets or other markets (including overseas carbon trading).

Further implementation of this provision will presumably be addressed in a separate regulation regarding carbon credits and trading in oil and gas areas (including international carbon trading, which is a significant issue for the implementation of CCS regional hub businesses in Indonesia).

## 11. Assets

In principle, goods and equipment purchased by the holder of an Exploration Licence and/or a Storage Operation Licence are the property of the licence holder. However, upon conclusion of carbon storage operations and/or post-closure activities, the licence holder's assets that need to be controlled by the government for the Carbon Storage Licence Area post-relinquishment management must be handed over to the government and then converted into state owned assets.

## 12. Closure and monitoring

12.1 Adopting the provisions of PR 14 /2024, MEMR 16 / 2024 regulates that the closure of CCS activities is conducted in the following events:

- > the carbon storage capacity in the injection target zone is full;
- > there is no longer carbon to be injected;
- > the expiry of the Storage Operation Licence (without extension);
- > an unsafe condition arises leading to suspension of CCS activities and closure as the best option;
- > force majeure events where closure is the best option; or
- > the Carbon Storage Licence Area is no longer economic.

12.2 The closure activities cover the dismantling of equipment, installation and/or supporting facilities, permanent closure of wells and location recovery. These activities must be carried out prior to or on the expiry of the Storage Operation Licence.

12.3 The plan for the closure of CCS activities shall be approved by MEMR.

12.4 The closure must be reported within 30 days to MEMR for verification by MEMR's appointed independent verifier. If the closure is in line with the approved closure plan, MEMR will stipulate the completion of the closure of carbon storage operation.

12.5 Upon such completion, monitoring activities will be conducted up to 10 years after the MEMR's stipulation above. The monitoring identifies the potential risks of leakage, soil water contamination, injection target zone integrity and other risks.

12.6 The costs for the closure and monitoring shall be borne by the holder of Storage Operation Licence using the post-operation guarantee. The post-operation guarantee shall be placed into an escrow account of the Storage Operation Licence holder and the Directorate General of Oil and Gas on an annual basis through the work program and budget. The fund for the post-operation guarantee shall be taken from the storage fee after deducting the royalty to be paid to the government.

## 13. Transitional provisions

Upon the enactment of MEMR 16 / 2024, the existing proposal for Carbon Storage Licence Area which is based on injection target zone exploration and carbon storage operation studies by a PSC contractor, business entity or permanent establishment shall be subject to the following provisions of MEMR 16 / 2024:

- > If the prepared Carbon Storage Licence Area is located in a PSC Working Area, MEMR will first confirm if the PSC Contractor in that Working Area is interested in conducting CCS operations in the area;
- > The prepared Carbon Storage Licence Area will then be offered using limited selection mechanism as regulated in MEMR 16 / 2024; and
- > It will be determined whether the field data collection (including drilling, seismic and other filed data collection) and the target injection zone study will be excluded from the firm commitment for injection target zone exploration.



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