

Legal Alert: Indonesia

New Implementing Regulation on Carbon Capture Storage Activities in Licensed Areas

The Government of Indonesia (“**Government**”) introduced Presidential Regulation No. 14 of 2024 on Carbon Capture and Storage (“**CCS**”) Activities (“**PR 14/2024**”) at the start of 2024. This regulation provides a legal framework for organizing all CCS-related activities.

Under PR 14/2024, there are two possible schemes for implementing CCS. The first possible scheme is CCS within the framework of an oil and gas production sharing contract (“**PSC**”) by a PSC contractor as part of its petroleum operations under the PSC. The second scheme is CCS performed by a non-PSC contractor outside of oil and gas operations, which requires the business actor to obtain an Exploration Permit and an Operation Permit before initiating carbon injection and storage in a so-called designated Carbon Storage License Area (*Wilayah Izin Penyimpanan Karbon* or “**WIPK**”).

The first scheme (i.e., CCS in PSC activities) has been further detailed and regulated by the Minister of Energy and Mineral Resources (“**MEMR**”) by virtue of MEMR Regulation No. 2 of 2023 on the Implementation of Carbon Capture and Storage as well as Carbon Capture, Utilization and Storage in Upstream Oil and Gas Business Activities.

To further clarify CCS implementation within a WIPK under the second scheme (i.e., CCS in non-PSC activities), the MEMR issued Regulation No. 16 of 2024 on the Implementation of Carbon Storage Activities in WIPK for the Purpose of CCS Activities (“**MEMR Regulation 16/2024**”), which came into effect on December 24, 2024.

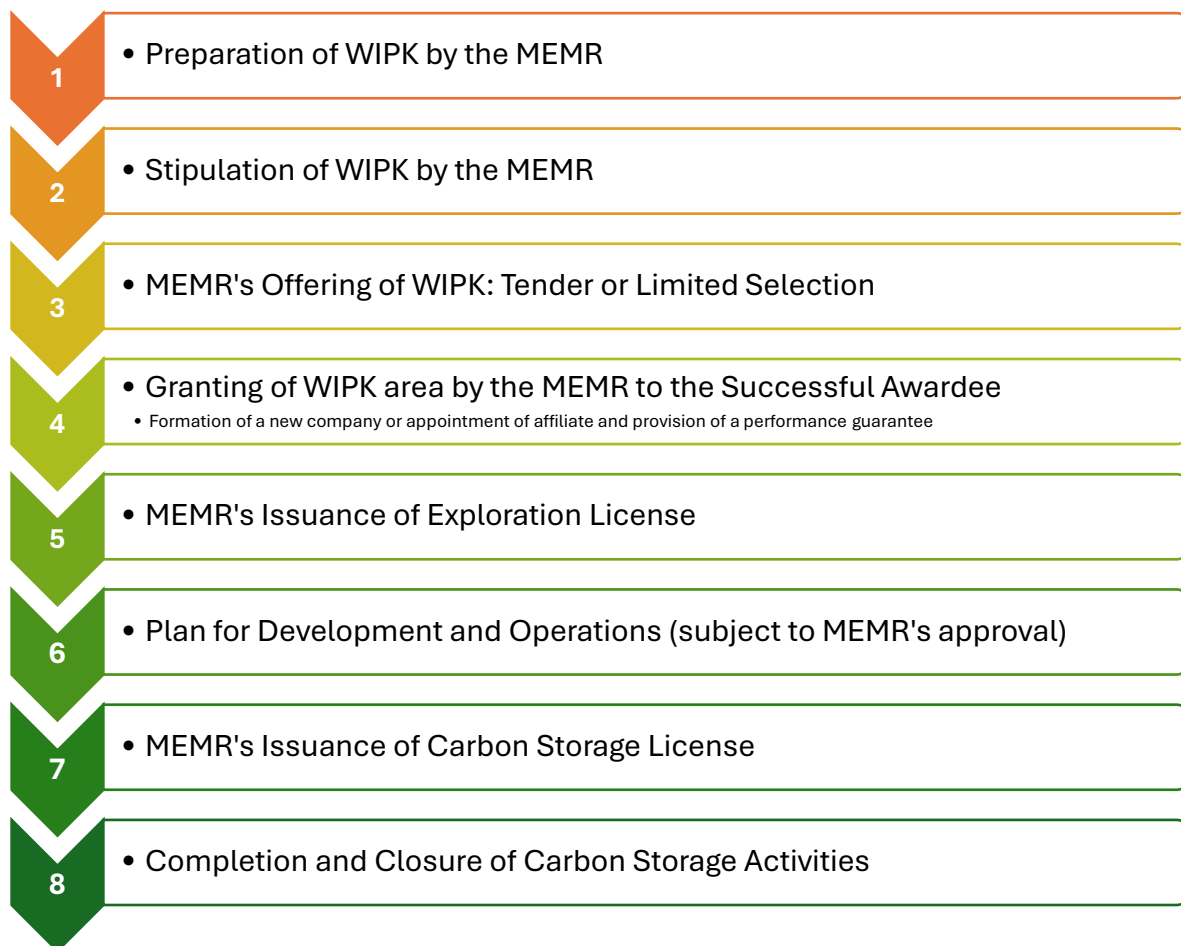
General Overview

MEMR Regulation 16/2024 establishes specific requirements and steps for businesses, in particular non-PSC contractors, to participate in CCS activities. MEMR Regulation 16/2024 clarifies the required procedures for non-PSC contractors to implement CCS activities in MEMR-designated areas, which are not limited to PSC oil and gas working areas.

The clearer regulatory framework provided by MEMR Regulation 16/2024 is expected to offer greater certainty for a wider range of investors and stakeholders looking to engage in CCS activities in Indonesia, which has enormous CO₂ storage potential amounting to approximately 577.6 gigatonnes of CO₂ from depleted oil and gas reservoirs and saline aquifers across the country.

Key Frameworks and Processes

MEMR Regulation 16/2024 outlines the fundamental requirements and procedures for business actors, which includes both domestic business entities and foreign ones in the form of a permanent establishment, to conduct CCS activities within WIPK. It introduces a step-by-step framework that covers preparation, evaluation, and approval processes for CCS projects, which can be summarized in the following flow process/sequence:



MEMR Regulation 16/2024 establishes that WIPK are allocated through an auction or limited selection mechanism.

First, the MEMR prepares the WIPK area for the subsequent bid/selection process. WIPK areas may encompass open areas, mining business license areas, or PSC working areas. The MEMR may prepare a WIPK on its own initiative or in response to a proposal from a prospective licensee.

holder. If the MEMR prepares an area on its own initiative, it will be offered through an open tender process to bidders. However, if a prospective license holder proposes the area, it will be offered through a limited selection process.

Before designating the WIPK, the MEMR or a prospective license holder will conduct a risk assessment and technical evaluation. Based on the results of the risk assessment and technical evaluation, the MEMR or the prospective license holder prepares a proposal that must include key aspects such as the royalty on storage fees, firm work commitments, and license award compensation. If the assessment is deemed satisfactory by the MEMR, it will issue a stipulation for the relevant WIPK, along with the applicable terms such as the exploration firm commitment, name and coordinates of the WIPK area, the performance guarantee, estimate of the royalty fee/storage fee, license award compensation, and exploration-related obligations or post-operation obligations.

The WIPK offering mechanism consists of two methods: (i) open tender and (ii) limited selection.

Open Tender	Limited Selection
<ul style="list-style-type: none"> This option is available for Indonesian business entities and foreign entities with a permanent establishment presence in Indonesia (including those included in the MEMR's Shortlist, i.e., Indonesian business entities and foreign entities that have qualified to participate in a limited selection as stipulated by the MEMR, with the registration to be listed open annually through the website of the Ministry of Energy and Mineral Resources). 	<ul style="list-style-type: none"> Limited selection is for parties that propose the relevant WIPK (as explained above) and any Indonesian business entities or foreign entities with a permanent establishment in Indonesia that are included in the MEMR's Shortlist. If the party that proposed the WIPK to the MEMR does not win the limited selection, it has a right to match the winning bid.

Both open tender and limited selection shall be commenced electronically. Participants (for both schemes) must purchase bid documents and submit comprehensive technical and financial proposals. If a participant is in the form of a consortium, each member of the consortium is required to purchase the bid documents.

For both mechanisms, key considerations for bidders include submitting a bid guarantee/bond equal to 100% of the license award compensation issued by a qualified bank and valid for six months and extendable in relation to the open tender/limited selection process. The amount of the license award compensation is stipulated by the MEMR when determining a WIPK area.

Bidders are ranked based on financial capacity, performance in related industries, and through technical criteria determined through geological studies, commitment to seismic surveys, CO₂ leakage mitigation and other relevant criteria.

The winner of the open tender/limited selection can either form a new entity to hold the Exploration License (to be issued later) or appoint an affiliate to apply for the license. If the winner is a consortium, its members may form a joint venture to hold the license. However, any new entity, either an appointed affiliate or a joint venture, must be directly controlled by the winner or its holding company as evidenced by ultimate beneficial ownership.

The winning party must then provide to the MEMR a performance guarantee/bond for the exploration work firm commitment, which is valued at 10% of the firm commitment proposed by the winning party during the open tender/limited selection or at least US\$1.5 million, whichever is higher. This performance guarantee/bond must be valid for three years after the exploration license is granted. Such performance guarantee will be drawn down if the license holder later fails to perform the exploration work firm commitment. Otherwise, it will be returned after completion of the exploration work firm commitment.

Key Licenses Required for CCS Activities

For business entities that win the tender/selection process, MEMR Regulation 16/2024 highlights critical points, including the introduction of new permits and approvals relating to CCS activities. These include:

1. **Exploration License:** Allows businesses to conduct exploration activities within the WIPK to determine the feasibility of CCS operations. An exploration license shall be issued to the winner of the open tender/limited selection process for the WIPK.
2. **Plan for Development and Operations:** If exploration confirms the potential for carbon storage, the exploration license holder must submit a development and operation plan to the MEMR for approval at least six months before the exploration license expires. The plan shall include key aspects such as geology, reservoir conditions, geomechanics, economics, technical details, environmental impact, and measurement-reporting-verification of carbon storage activities. Once the MEMR approves the plan, the relevant party can apply for a Storage Operations License.
3. **Storage Operations License:** Authorizes CO₂ injection and long-term storage within designated WIPK areas. Eligible license holders are Indonesian business entities or consortiums of Indonesian legal entities. Exploration license holders in the form of a permanent establishment will need to establish an Indonesian entity to hold the Storage Operations License.
4. **Transportation License:** Allows the transportation of captured CO₂ via pipelines to injection sites. Eligible participants include Storage Operations License holders.

General Compliance Requirement

Business entities engaged in CCS activities must adhere to stringent compliance requirements outlined in MEMR Regulation 16/2024. These include meeting environmental impact assessment standards, submitting regular monitoring reports, and maintaining operational safety protocols. Deadlines for compliance are tied to the issuance of permits, requiring businesses to complete specified actions such as site readiness and technical assessments within prescribed timelines. Non-compliance may result in administrative sanctions or the revocation of permits.

Failure to comply with MEMR Regulation 16/2024 poses significant legal and operational risks. Businesses may face substantial fines, forced operational shutdowns and permit revocation. Moreover, operational risks such as CO₂ leakage or environmental degradation could result in significant liability claims. To mitigate these risks, companies should adopt comprehensive planning and robust risk management strategies. This includes implementing advanced monitoring systems, conducting regular safety audits, and developing contingency plans to address potential emergencies effectively.

Conclusion

MEMR Regulation 16/2024 introduces detailed procedures for CCS activities particularly for WIPK areas subject to specific licenses outside oil and gas PSC operations. It offers flexibility for participants (including foreign entities that not yet have an Indonesian presence) through open tenders and limited selection mechanisms.

By complying with this regulation and leveraging expert legal advice, businesses can contribute to Indonesia's environmental and climate change goals while fostering sustainable growth in the green economy. (12 February 2025)

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A special thank you to Imanuel Setyo Indradi for his valuable assistance with this publication.

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