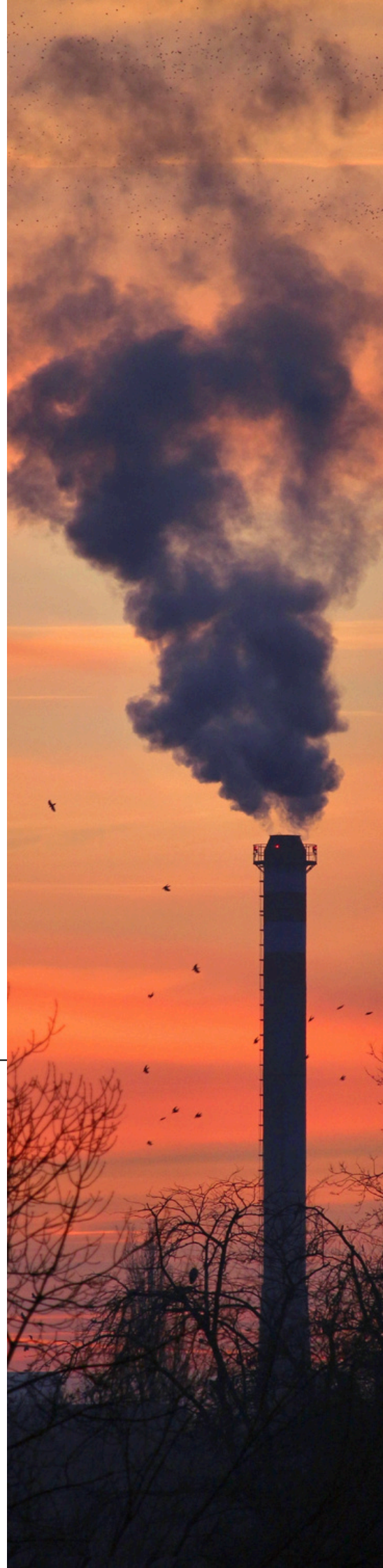


26 MARCH 2025

Senate Passes Landmark Carbon Capture Bill: Capturing Carbon and Our Attention

In a significant move toward tackling climate change, the Dewan Negara passed the Carbon Capture, Utilization and Storage (“**CCUS**”) Bill yesterday, and is aimed to be enforced by 31 March 2025. Carbon capture, utilization, and storage is a cutting-edge technology that involves capturing carbon dioxide emissions at their source, transporting them, and storing them underground to prevent their release into the atmosphere. In addition to reducing carbon dioxide emissions, the captured carbon can be repurposed for use in products such as chemicals or building materials, offering economic opportunities alongside environmental benefits.

“... a Carbon Capture, Utilization and Storage Agency to administer and ensure effective implementation ... overseeing CCUS activities.”



Application

The CCUS legislation will apply to Peninsular Malaysia and the Federal Territory of Labuan only and excludes Sabah and Sarawak. The Sarawak government has previously enacted the Land (Carbon Storage) Rules 2022 to regulate CCUS projects within the state.

Establishment of Agency

The CCUS legislation establishes a Carbon Capture, Utilization and Storage Agency (“**Agency**”) to administer and ensure effective implementation of the legislation while overseeing CCUS activities. The Agency will serve as the central authority for CCUS promotion and development, while also acting as the licensing authority for permits and storage activities.

Registration

The CCUS legislation necessitates registration with the Agency for the following activities:

- (a) Ownership or operation of a carbon capture installation;
- (b) Transportation of carbon dioxide obtained through carbon capture;
and
- (c) Utilization of carbon dioxide obtained through carbon capture.



Further, the CCUS legislation necessitates an application for licence or permit from the Agency for the following activities:

- (a) Importation of carbon dioxide captured outside of Malaysia;
- (b) Conducting an onshore or offshore geological assessment of a potential storage complex; and
- (c) Operation of an onshore or offshore storage site.

The terms of the licence and the application process have not been specified at this juncture, and we presume they will be outlined in subsequent regulations and guidelines.

Operational Obligations

Operators of a storage site must adhere to the carbon dioxide acceptance criteria outlined in the CCUS legislation, ensuring compliance with internationally recognised best practices. These criteria stipulate that the carbon dioxide stream, along with any waste or additional substances introduced for disposal, and any substances added for the purpose of monitoring and verifying migration of carbon dioxide, must not pose a significant risk to human health or the environment.

Furthermore, operators of carbon storage sites must provide relevant information to assess compliance with storage license conditions, develop a monitoring plan for the storage site and surrounding environment, and take corrective actions to address any leakage or potential issues.



Injection Levy and Post-Closure Fund

Under the CCUS legislation, operators are required to pay an injection levy to fund the long-term monitoring of each storage site by the Malaysian government after post-closure transfer. These levies will be pooled into a “Post-Closure Stewardship Fund”, which will be controlled by the Agency and used for ongoing monitoring and remedial work following closure.

Transfer and Closure Obligations

The CCUS legislation stipulates that a storage site can only be closed once the “prescribed conditions” for closure have been met. Even after closure, the operator remains responsible for ongoing monitoring, corrective actions, and remediation during a specified ‘transition period’. The duration of this post-closure transition period is not defined in the CCUS legislation.

The operator’s responsibilities continue until the Malaysian government issues a certificate confirming the end of the transition period and the transfer of obligations from the operator to the government. However, regardless of the transfer of responsibilities, the operator will remain indefinitely liable for any criminal, contractual, or civil liabilities related to the storage site due to fault, negligence, or deceit, or failure to exercise due diligence.



Closing Thoughts

While the CCUS legislation marks progress toward addressing climate change, the rushed legislative process has raised significant concerns from environmental organisations, as there was inadequate time for proper scrutiny or public consultation. There are concerns about the potential environmental risks associated with the extraction, transportation, and injection of carbon dioxide, such as potential leakage or accidents. If leakage were to occur, it could have detrimental effects on both the environment and public health, particularly if stored carbon dioxide were to contaminate groundwater or cause local seismic activity.

The CCUS legislation does not elaborate on safety protocols for the prevention of leaks and environmental damage caused by the carbon capture activities. As Malaysia moves forward with CCUS initiatives, it is crucial that these concerns are urgently addressed to ensure a comprehensive, transparent, and responsible approach to environmental and social risks.

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