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Government targets Carbon Capture, Utilisation and Storage to meet reduction commitments

Feedback on the Ministry of Business, Innovation and Employment's (MBIE) *Proposal for a Regulatory Regime for Carbon Capture, Utilisation and Storage* is due 5pm, 6 August. The Proposal provides an important opportunity for carbon emitters and potential sequesters alike to have their say on how innovative proposals for carbon reduction will be regulated.

The Government has indicated that there is growing momentum for Carbon Capture, Utilisation and Storage (**CCUS**) as a technological means of reducing carbon emissions. As such, the Government is seeking to establish an 'enabling' regulatory framework to allow New Zealand to 'seize this opportunity'. The Government sees CCUS as a means of supporting our transition towards a net zero emission economy and providing a resilient energy system by addressing a decline in gas production.

A multifactor approach to meet reduction commitments

According to the Proposal document, the Intergovernmental Panel on Climate Change has indicated that CCUS is an important means of reducing emissions, particularly for industries involved in natural gas production or petrochemical manufacture. In essence, CCUS is a means of preventing carbon dioxide from entering the atmosphere through either storage or utilisation. Although 'utilisation' is not defined, examples of industrial or commercial uses of CO_2 include production of dry ice, production of beer and service of beverages and welding gas mix. At this stage the Proposal has not provided definitions, so it is unclear whether other means of reducing carbon, for instance removal, will be covered.

Carbon capture and storage (**CCS**) under the Proposal relates to the capture and permanent storage of CO_2, and could include permanent underground storage. The Proposal suggests that an enabling regulatory framework for CCS could assist in reversing a decline in gas production, providing for a more resilient energy system, as the cost of emissions can effectively be offset by the credits provided for emissions being returned into the ground. It is unclear how the enablement of CCS will go beyond, or work with, the unique emissions factor that is already available for geothermal fields.

Carbon capture and utilisation (**CCU**) involves indirect or direct usage of carbon dioxide for industrial and commercial use. New Zealand currently has one domestic CO_2 supplier, with the remainder of our CO_2 requirements being met with imported CO_2. The ability to utilise existing CO_2 emissions, rather than importing CO_2 for industrial and commercial use, has the dual benefit of reducing emissions and reinvesting in the New Zealand economy.

Treatment under the Emissions Trading Scheme

The ETS does not currently include mechanisms to recognise or reward reductions, storage or removals other than forestry reductions or geothermal removals (through the *Unique Emissions Factor*).

The Proposal suggests that the ETS also cover CCS by either allowing ETS participants carrying out storage activities to subtract the emissions captured from their own emissions stored, or by receiving New Zealand Emissions Units (**NZU**) for the emissions stored (like the existing forestry removals). The Proposal suggests that a market could be created for third party emitters with the NZUs. There are no details for how this would operate, although feedback is sought on this point. Companies will not be able to both reduce their own emissions, and receive NZUs.

Government targets Carbon Capture, Utilisation and Storage to meet reduction commitments (Continued)

The Proposal does not provide for the inclusion of CCU in the ETS, presumably because carbon captured for utilisation would be sold to industrial and commercial businesses that use it.

Proposed Monitoring and Liability

The Proposal suggests a monitoring regime for CCS to record the amount of CO_2 initially captured, any CO_2 leaked during transportation to the storage facility, the amount of CO_2 stored in the storage facility and the amount, if any, leaked from the storage facility. As part of monitoring, there would be an audit and compliance regime, including penalties for non-compliance, but little detail is provided on that at this stage. It seems logical that the capture and transportation of CO_2 for CCU also be covered by this regime, although this is not presently envisaged.

Likewise, liability is only addressed in relation to the amount of CO_2 leaked from the storage facility. The framework for record keeping and liability requires an application for storage-related activities to be made, with monitoring plans to be approved, monitoring to be undertaken and appropriate compensation to be paid for any leakages or 'significant irregularities', specific requirements for closure including (if requested) a financial capability assessment to determine an operator's ability to meet costs. Interestingly, the Proposal suggests that after a certain (to be determined) timeframe, liability for closed storage facilities would pass to the Government. It is unclear whether the Government will be subject to the same monitoring requirements that the prior owner was.

Consenting and permitting

At present, CCUS onshore and within 12 nautical miles is governed by the Resource Management Act 1991 (**RMA**), and CCUS outside 12 nautical miles would be governed by the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. The Proposal indicates that at present, consenting requirements are broadly neutral i.e. not enabling or disabling for CCUS.

In our experience, the existing consenting regimes vary depending on the type of activities required for a specific CCUS proposal, and the location (district/region or EEZ) within which they would occur. CCUS falling under the RMA are unlikely to be specifically envisaged in the policy provisions of relevant district and/or regional plans, and determination of consenting requirements is not likely to be straight forward. The Government is seeking feedback on whether the existing consenting and permitting pathways for CCUS are impacting investment, and whether there would be benefit in some form of bespoke regime. We consider that this an area where the Government could benefit from feedback, and are happy to assist with feedback if required.

Feedback

MBIE is seeking feedback on the Proposal by 5pm, 6 August 2024. MBIE has directed feedback by posing specific questions within the proposal document, questions relate to five key areas:

- How CCS activities should be treated under the Emissions Trading Scheme;
- What type of monitoring regime should be imposed for CCS;
- How liability for CCS sites should be managed;
- How the consenting and permitting regimes should work for CCUS;
- Whether there are any barriers to enabling CCU.

Want to know more?

If you want to discuss the proposed regulatory regime for CCUS or make a submission on it, please contact our specialist Carbon and Climate Change team.