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THE LAND CODE

LAND (CARBON STORAGE) RULES, 2022

(Section 213(m))

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THE LAND CODE

LAND (CARBON STORAGE) RULES, 2022

(Section 213(m))

In exercise of the powers conferred by section 213(m) of the Land Code [*Cap. 81 (1958 Ed.)*], the Minister, with approval of the Majlis Mesyuarat Kerajaan Negeri, has made the following Rules:

PART I

GENERAL

Citation and commencement

1. These Rules shall be cited as the **Land (Carbon Storage) Rules, 2022**, and shall come into force on the 1st day of January, 2023.

Interpretation

2. In these Rules, the following expressions shall have the meanings assigned:

“abandoned petroleum site” means any well, subsurface reservoir, cavity or facility on onshore land or offshore land where:

- (a) after the completion of exploration or appraisal activities as approved under a petroleum production sharing contract, no petroleum in commercial quantity has been discovered; or

- (b) there has been no production of petroleum for a period exceeding twelve months;

“Authority” means the State Planning Authority established under section 228 of the Land Code [*Cap. 81 (1958 Ed.)*];

“decommission” or “decommissioned” means the removal or disposal of any facility when it is no longer required for the intended purpose and the restoration of the land to a safe and environmentally stable condition in accordance with the existing laws and “decommissioning” refers to the process by which the operator of the facility plans to obtains regulatory approval for and implements the removal or disposal of that facility when it is no longer needed for its current purpose;

“incidental substances” means a substance which has become associated with the scheduled gases either at its original source or as a result of the process of capture or injection;

“industrial activity” includes the exploration and production of petroleum and the manufacturing of any products in the State which releases any of the scheduled gases to the atmosphere;

“licence” means a licence issued under Rule 10 and includes any certified copy, replacement or extension thereof;

“licensee” means the person named in the licence as the holder of the licence and includes any approved transferee or assignee thereof;

“licensed area” means any area, on onshore land or offshore land, described in the licence issued under these Rules as having been approved by the Authority for the activities allowed under the licence, including use as storage sites for scheduled gases;

“offshore land” means the sea bed and subsoil in the continental shelf within the boundaries of the State as extended by the Sarawak (Alteration of Boundaries) Order in Council, 1954 [*Vol. VI, p. 1025*];

“onshore land” means land in the State which is not offshore land and includes the foreshores;

“petroleum” shall have the same meaning assigned to that term in the Oil Mining Ordinance [*Cap. 82 (1958 Ed.)*];

“petroleum operator” means any person who has been exploring or producing petroleum in any part of onshore land or offshore land of the State;

“Registrar” means the Registrar appointed under section 3 of the Land Code [*Cap. 81 (1958 Ed.)*];

“subsurface reservoir” means a subsurface rock formation containing one or more individual and separate natural accumulations of moveable petroleum that is confined by impermeable rock and is characterized by a single-pressure system;

“scheduled gases” means atmospheric carbon dioxide and any other greenhouse gases the reduction of emission, capture or storage whereof, is needed to mitigate effects of global climate change, and any incidental substances or trace substances which may be injected into a storage site;

“significant irregularities” means any irregularity which could give rise to a risk of a leakage or a risk to the environment or human health;

“State” means the State of Sarawak;

“storage” means the process of depositing, dumping, sequestration or retention of scheduled gases in secured conditions and includes the process of closure of any storage sites;

“storage permits” means an authorization for the storage of scheduled gases in a storage site by the storage user specifying the conditions under which the storage may take place, issued by the Superintendent with the approval of the Authority under these Rules;

“storage sites” means any well, subsurface reservoir, cavity, coal seams or facility licensed under these Rules for the storage of scheduled gases;

“storage operator” means any competent person appointed under Rule 34;

“storage user” means any person who is issued with a permit under Rule 23 to use any storage site licensed for the storage of scheduled gases; and

“trace substance” means a substance which has been added to the scheduled gases in order to assist in the monitoring and verifying of its migration after injection.

Application

3. These Rules shall apply to:

(a) the use of land for the development of storage sites for scheduled gases in any part of Sarawak, whether on onshore land or offshore land, by any petroleum operator or any person undertaking any industrial activity whether or not required by any written law, industrial best practices and international treaties ratified by Malaysia, to capture and store scheduled gases as measures to reduce emission of such gases to mitigate the effects of global climate change; and

(b) any storage user including any person or entity who is not resident in Sarawak, who desires to use any storage site for the storage of scheduled gases whether or not such gases were captured within or outside Sarawak.

PART II

LAND FOR CARBON STORAGE

Categories of land where carbon storage permitted

4. Storage sites may be established on:

(a) decommissioned or abandoned petroleum production sites in onshore land and offshore land;

(b) deep saline aquifer;

(c) coal seams; and

(d) such other area on onshore land or offshore land which the Authority determines as suitable and safe for use as to be developed into storage sites for scheduled gases.

Rights of Government to any abandoned petroleum production site

5.—(1) The Government shall be entitled to possession of any abandoned petroleum site.

(2) The petroleum operator shall notify the Director of the abandonment of petroleum site and subject to sub-rule (3), appoint a date, not later than twelve months from the date of notification, for the delivery of possession of the site to the Director, upon completion of all decommissioning works stipulated in Rule 6.

Provided that the Director may extend the time for delivery of possession if he is satisfied that the decommissioning works could not be completed within twelve months.

(3) Where the petroleum operator notify the Director that the abandoned petroleum site is part of an integrated facilities hub where there are other petroleum sites still producing petroleum, the Director may direct the petroleum operator to delay the abandonment of the abandoned petroleum site until such time that the integrated facilities hub are no longer required for petroleum production or until such other time as the Director deems fit provided that petroleum production at such petroleum sites shall not be adversely affected.

Decommissioning of abandoned petroleum production site

6.—(1) The petroleum operator shall together with the notice in writing of abandonment under Rule 5(2) or 5(3) submit to the Director a decommissioning plan for approval by the Authority.

(2) Upon approval by the Authority of the decommissioning plan, the petroleum operator shall carry out all decommissioning works and activities in accordance with the decommissioning plan and complete such works prior to date appointed under Rule 5(2) for the handing over of the site to the Superintendent.

(3) Upon completion of the decommissioning works, the petroleum operator shall notify Director in writing and the Superintendent may accept delivery of possession of the site from the petroleum operator, if he is satisfied that the decommissioning works have been duly and properly completed in accordance with the decommissioning plan.

(4) Upon handing over of the abandoned petroleum site to the Superintendent, the petroleum operator and any person claiming rights under him including its agent, servants or contractors shall have no right to enter, occupy or remain on the site unless with the consent in writing of the Superintendent.

(5) Notwithstanding the handing over of the abandoned petroleum site to the Superintendent, the petroleum operator shall continue to be liable for any residual remains after the decommissioning, including any significant irregularities discovered subsequent to the handing over of the abandoned petroleum site.

Costs of decommissioning

7.—(1) All costs and expenses incurred in or related to the decommissioning of an abandoned petroleum site shall be borne and paid by the petroleum operator.

(2) Where a petroleum operator fails or neglects to decommission an abandoned petroleum site in accordance with these Rules, the Authority may appoint any person to undertake the decommissioning works in accordance with a decommission plan approved by the Authority, and all costs and expenses so incurred shall be recovered from the petroleum operator as a civil debt, without prejudice to the prosecution of the petroleum operator for an offence under these Rules.

Right of Government to issue licence over any abandoned petroleum production site for carbon storage

8. Where possession of any abandoned petroleum site has been handed to the Superintendent under Rule 6(4), the site may be added to the licensed area under a licence for carbon storage and used as a storage site for scheduled gases and the Authority may approve the issuance of a storage permit by the Superintendent in accordance with and for the purposes of these Rules.

No implied right of petroleum operator to licence

9. Nothing in these Rules shall be construed as conferring any right of a petroleum operator to a licence for carbon storage or storage permit over an abandoned petroleum site which has been decommissioned and possession thereof had been delivered by him to the Superintendent.

Duty of current petroleum operators to provide decommissioning plan

10.—(1) The Director may, by notice in writing to any petroleum operator undertaking the exploration and production of petroleum on any onshore land or offshore land, request the petroleum operator to submit within such time as may be specified in the notice, a decommissioning plan for the site, for the approval of the Authority, and whether any security or funds have been set aside to undertake the works specified in the decommissioning plan.

(2) Any person to whom a notice is addressed under sub-rule (1) fail, refuse or neglect to comply with that notice shall be guilty of an offence and on conviction

be liable to a fine not exceeding five hundred thousand ringgit or imprisonment for a term not exceeding five years or to both.

PART III

LICENCE FOR CARBON STORAGE

Application of Licence

11.—(1) No person shall use, appraise, explore, develop, occupy or be in possession of onshore land or offshore land for carbon storage without a licence required under section 32B(1) of the Land Code [*Cap. 81 (1958 Ed.)*] and issued in accordance with these Rules.

(2) Application for licence for carbon storage shall be made in the form as prescribed in the First Schedule to the Director together with the information and documents specified in rule 12 and be subject to the payment of fee as prescribed in the Sixth Schedule.

(3) Such licence may be granted upon such terms and conditions as the Director may approve and shall remain valid until its expiry or early revocation.

(4) Any person who contravenes sub-rule (1) shall be guilty of an offence and on conviction be liable to a fine of five hundred thousand ringgit and imprisonment for not exceeding five years, or to both.

Information and Documents required to support Application For Licence

12.—(1) An application for licence over onshore land shall contain the following documents: -

- (a) a locality map, prepared and certified by a licensed surveyor, of the area applied for;
- (b) an area plan of potential storage site within area applied for;
- (c) audited financial statements for the last two financial years preceding the date of application; and
- (d) such other documents or information as may be requested by the Director.

(2) If the area applied for is offshore land, the application shall contain the following documents:

- (a) a locality map showing the location, including the coordinates, of the area within the boundary of the State and its approximate size;
- (b) if the area applied for encompass an abandoned petroleum site that have yet to be possessed by the State under rule 5, a proposed

decommissioning plan, details of the structures and other facilities at the site, the completion schedule of the decommissioning work and the estimated date of possession of the abandoned petroleum production site;

(c) audited financial statements for the last two years preceding the date of application; and

(d) such other documents or information as may be requested by the Director.

Verification, examination, etc., of information

13. Upon receipt of the application for licence, the Director shall:

(a) verify the information and data contained in the application form and the documents in support thereof;

(b) request the applicant to furnish additional information, data or documents required for consideration of the application; and

(c) if necessary, visit and inspect the land applied for storage site.

Duty of the Director to process the Application

14. Upon completion of the verification, examination, evaluation, inspection and investigation carried out under rule 13, the Director shall:

(a) make a report on his findings and on the application for licence for carbon storage; and

(b) forward his report and the application together with all documents relating thereto to the Authority.

Power of the Authority to approve an application for a licence

15.—(1) The Authority may, if satisfied, that:

(a) the licensed area is suitable for the purpose of exploration, appraisal, development and use for storage of scheduled gases;

(b) the applicant is technically competent to undertake all activities allowed under the licence;

(c) the applicant is financially sound; and

(d) the applicant can be relied upon to carry out the duties, responsibilities and obligations imposed by these Rules,

approve the application and direct the Superintendent to issue a licence to the applicant in accordance with and subject to the provisions of these Rules.

(2) The Authority may reject the application if it decides that the licensed area is not suitable, safe or not in the public interest to allow for the activities under the licence to be undertaken.

(3) Any party aggrieved with the decision of the Authority may, within thirty days from date of notification of such decision, appeal against such decision to the Majlis Mesyuarat Kerajaan Negeri who may reject the appeal or direct the Superintendent to issue the licence upon term and conditions as may be specified in the direction.

(4) The decision of the Majlis Mesyuarat Kerajaan Negeri is final.

Issuance of a licence

16.—(1) Where the application for licence is approved by the Authority, the Superintendent shall issue a licence to the applicant in a form as prescribed in the Second Schedule upon payment of the fees as prescribed in Sixth Schedule.

(2) The licence shall be registered and kept in Register in accordance to rule 66.

(3) The licence shall contain the terms and conditions approved by the Authority.

(4) A licence issued under this Rule shall be prepared in quadruplicate and serially numbered.

(5) Each original copy of the licence shall be kept by the licensee, the Authority, the Registrar and the Ministry responsible for energy and environmental sustainability.

(6)(a) The Ministry responsible for energy and environmental sustainability, upon receipt of the original copy of the licence, shall maintain a record of the licence issued and all relevant particulars contained therein.

(b) In the event that there is any modification or alteration or amendment of the licence, the Superintendent shall notify the Ministry responsible for energy and environmental sustainability accordingly to enable the Ministry to modify its record.

Area of licence

17.—(1) A licence may be issued over an area not exceeding two million hectare.

Provided that the Majlis Mesyuarat Kerajaan Negeri may, on the recommendation of the Authority, permit the issuance of a licence for an area exceeding two million hectare.

(2) Notwithstanding sub-rule (1), where any part of the licensed area is no longer or not required for the use to establish of storage sites, the Director may, by notice in writing to the licensee, request the licensee to surrender the licence to the Government within six months from the date of such notice for the purpose of amendment or variation.

Provided that the licensee may appeal, within the six month period, against the decision of the Director, to the Authority whose decision shall be final.

Rights and privileges of licensee

18.—(1) A licensee shall have such rights and privileges and duties and responsibilities as are stated in the Form of Licence in the Second Schedule.

(2) Without prejudice to the generality of sub-rule (1), the Authority may impose such duties and responsibilities on a licensee as it deems fit.

Duration of licence

19. —(1) Licence issued under these Rules shall not exceed sixty years from the date of issuance thereof.

(2) Without prejudice to sub-rule (1), a licensee may, at least twelve months before the date of expiry of the licence apply to the Authority for an extension of its term stating the grounds for such extension.

(3) Such application for extension shall be made in writing to the Director and shall be accompanied by such documents as may be determined by the Authority.

(4) There is no implied right to an extension of the term of the licence.

(5) Upon the grant of such extension the necessary modification, amendment and variation shall be made by the Director to all copies of the licence.

Revocation of Licence

20.—(1) In the event the Director becomes aware of any breach of the terms and conditions of the licence, he shall make a report to the Authority, who may determine that the licence be revoked.

(2) For the purpose of sub-rule (1), the Director shall serve or cause to be served on the licensee a written notice of the intention to revoke the licence and the grounds on which such action is proposed to be taken, and he shall give the licensee an opportunity to make written representations thereon within thirty days from the date of service of the notice.

(3) Upon the expiry of the thirty days period, the Authority shall decide whether to revoke the licence or to take any other action as it deems fit after considering any representation made by the licensee and after holding an inquiry.

(4) The Director shall convey in writing the decision made by the Authority under sub-rule (3) to the licensee.

(5) On revocation of the licence, the licensee shall return the licence to the Director for cancellation and pay any amount due and payable by the licensee under these Rules.

Right of the Authority to issue new licence to another party

21.—(1) Upon expiry of a licence and no extension is granted by the Authority under rule 19(3) or upon revocation of a licence under rule 20, where there are existing storage permits for storage sites that are still required for the storage of the scheduled gases already contained therein, the Authority may approve the grant of a new licence to any person and such active storage permits under the former licence shall automatically be transferred under the new licence upon such terms and conditions as the Authority may, in its discretion, determine.

(2) The former licensee and the new licensee shall do all things necessary to ensure safe and uninterrupted operation of the storage sites during the transition from the expired licence to the new licence.

PART IV

STORAGE PERMIT

Application of a Storage Permit

22.— (1) No person shall be permitted to use any land for the storage of scheduled gases unless he is issued with a permit from the Superintendent for carbon storage.

(2) Application for the permit shall be made, in writing, by the licensee, for himself or on behalf of any person who intends to be a storage user within his licensed area to the Director specifying the nature and estimated quantity of scheduled gases to be stored and estimated duration for such storage.

(3) Application for storage permit shall be made in the form prescribed in the Third Schedule to the Director together with the storage development plan of the potential storage site specified in rule 23 and be subject to the payment of a fee as prescribed in the Sixth Schedule.

(4) Such permit may be granted upon such terms and conditions as the Authority may deem fit and shall remain valid until its expiry or revocation.

(5) Any person who contravenes the provisions of sub-rule (1) shall be guilty of an offence and on conviction be liable to a fine of five hundred thousand ringgit and imprisonment not exceeding five years, or to both.

Storage development plan of potential storage site

23.—(1) Storage development plan of potential storage site for the application of storage permit shall contain the following:-

- (a) the name and address of the proposed storage users;
- (b) the name and address of the licence holder;
- (c) the name and address of the storage operator;
- (d) a copy of the licence for carbon storage for the licensed area within which the proposed storage site is located;
- (e) in relation to the scheduled gases that is to be contained within the storage site:
 - (i) the total estimated quantity of scheduled gases that is to be injected and stored;
 - (ii) the proposed date on which the injection of scheduled gases is to commence;
 - (iii) the prospective sources and transport methods;
 - (iv) the composition of the scheduled gases streams that are to be injected;
 - (v) the proposed injection rates and pressures; and
 - (vi) the proposed location of the injection facilities.
- (f) the storage site capacity;
- (g) a description of measures to prevent any significant irregularities, including corrective measures;
- (h) a proposed monitoring and maintenance plan drawn up in accordance with the guidelines or any direction issued by the Authority;
- (i) evidence of financial resources to operate and maintain the storage site in accordance with the terms of the storage permit and to comply with the provisions of these Rules;
- (j) detailed development plan for the storage site including proposed work programme and expenditure;
- (k) if the application is made for storage permit over onshore land, the documents as required under sub-rule (2);

(l) if the application is made for storage permit on offshore land, the documents as required under sub-rule (3); and

(m) such other documents or information as may be requested by the Director.

(2) An application for storage permit over onshore land shall be accompanied by the following documents:

(a) a locality map, prepared and certified by a licensed surveyor, of the storage site applied for;

(b) a report on the geological formation of the storage area approved by the Authority; and

(c) if the area applied for is an abandoned petroleum site, details of the decommissioning of the site and written authority from any person having control over the site.

(3) If the area for the storage permit is on offshore land, the application shall be accompanied by the following documents:

(a) a locality map showing the location, including the coordinates, of the storage site within the boundary of the State and its approximate size;

(b) a report on the geological formation of the storage area approved by the Authority; and

(c) if the area applied for is an abandoned petroleum site, a copy of the decommissioned plan, and details of any structures or installations on the site with an undertaking in writing to remove the same if so ordered by the Director.

(4) Any material change to the information and documents stated under this rule, including information on the storage capacity, after the issuance of the storage permit shall be notified in writing to the Director by the licensee forthwith.

(5) The Director shall modify, the storage permit to affect any necessary changes in sub-rule (4), and impose such terms and conditions as he may deem fit.

Verification, examination, etc., of information

24. Upon receipt of the application for storage permit, the Director shall:

(a) cause the information and data contained in the application form and the documents in support thereof to be verified;

(b) request the applicant to furnish additional information, data or documents required for consideration of the application; and

(c) inspect and investigate the site proposed for storage, if necessary.

Duty of Director to Process an Application for a Storage Permit

25. Upon completion of the verification, examination, evaluation, inspection and investigation carried out under rule 24, the Director shall cause a report on his findings and on the application for storage permit to be prepared and forward the report together with the application and all documents relating thereto to the Authority.

Power of the Authority to approve an application for a Storage Permit

26.—(1) The Authority may, if satisfied, that:

- (a) the area intended for carbon storage is suitable and safe for use, for the storage of schedule gases;
- (b) there is an acceptable monitoring and maintenance plan for the proposed storage site;
- (c) the applicant is a technically competent person including to perform the operation of environmental management systems;
- (d) the applicant is financially sound; and
- (e) the applicant can be relied upon to perform the duties, responsibilities and obligations imposed by these Rules,

approve the application and direct the Superintendent to issue a storage permit to the applicant in accordance with these Rules.

(2) Where the Authority decides that the area is not suitable or safe or not in the public interest to be used for carbon storage or that such application should not be allowed on any reasonable grounds, it may reject the application.

(3) Any party aggrieved with the decision of the Authority may, within twenty-one days from date of notification of such decision, appeal against the decision to the Majlis Mesyuarat Kerajaan Negeri who may reject the appeal or direct the Superintendent to issue the storage permit on such terms and conditions as it may deems fit.

Issuance of a Storage Permit

27. —(1) The Superintendent shall, upon receipt of the Authority's approval in rule 26(1), issue to the applicant a storage permit in a form prescribed in the Fourth Schedule and subject to payment of fees and charges specified under the Sixth Schedule.

(2) The storage permit shall contain the terms and conditions approved by the Authority.

(3) Any storage permit issued under this rule shall be registered and kept in Register in accordance to rule 66.

(4) A storage permit issued under this rule shall be prepared in quadruplicate and serially numbered.

(5) Each original copy of the storage permit shall be kept by the storage user, the Authority, the Registrar and the Ministry responsible for energy and environmental sustainability.

(6)(a) The Ministry responsible for energy and environmental sustainability shall maintain a record of the storage permit issued and all relevant particulars contained therein.

(b) In the event that there is any modification or alteration or amendment of the storage permit, the Superintendent shall notify the said Ministry accordingly to enable the Ministry to update its record.

Contents of Storage Permit

28.—(1) The storage permit shall contain the following terms:

- (a) the location and delimitation of the storage site and storage complex, and any relevant information concerning the hydraulic unit;
- (b) the operational requirement for storage, including—
 - (i) the total estimated quantity and nature of scheduled gases authorized to be stored;
 - (ii) the reservoir pressure limits;
 - (iii) the maximum injection rates and pressures; and
 - (iv) the storage site estimated capacity.
- (c) the provisions relating to acceptance and injection of scheduled gases;
- (d) requirements designed to prevent undue interference with other users of the area surrounding the storage site;
- (e) the provisions relating to monitoring and maintenance of the storage site, including the monitoring and maintenance plans;
- (f) the provisions relating to reporting, and notification of leakages and significant irregularities;
- (g) the provision relating to notification and implementation of changes and revision and modification or revocation of the storage permit;
- (h) conditions for closure of storage sites;
- (i) provisional post – closure plan; and
- (j) the provisions relating to financial security.

(2) The Director or any person authorized by him, may at all reasonable times enter upon the storage site for inspection to ensure compliance with the terms and conditions of the storage permit and the provisions of these Rules.

(3) The Director may, at any time, with the approval of the Authority, makes such modifications or variation to the terms and conditions of the storage permit.

(4) The storage permit may be revoked or terminated in the event of any breach of these Rules or the terms and conditions of the storage permit.

(5) Notwithstanding sub-rule (1), the storage permit shall be subject to the provisions under these Rules.

Revocation of Storage Permit

29.—(1) In the event, that the Director becomes aware of:

- (a) any leakages or any risk thereof or significant irregularities in the injection or storage operations or the condition of the storage site itself;
- (b) breach of the terms and conditions of the storage permit;
- (c) any scientific finding or technological development which made the continuance of the use for storage site become unsafe or would adversely affect the environment in or around the storage site,

he shall cause a report be made to the Authority, who may determine that the storage permit be revoked.

(2) For the purpose of sub-rule (1), the Director shall serve or cause to be served on the licensee or the storage user a written notice of its intention to revoke the storage permit and the grounds on which it proposes to take such action, and it shall give the licensee or the storage user an opportunity to make written representations thereon within thirty days from the date of service of such notice.

(3) The Director shall also serve or cause to be served on any person or body—

- (a) who has a lawful interest affecting the land in respect of which the licence has been granted; or
- (b) who is in lawful occupation of any part of the land in respect of which the licence has been granted,

a copy of the written notice mentioned in sub-rule (2) to which there shall be appended an additional notice in such form as may be prescribed.

(4) Upon the expiry of the period of thirty days mentioned in sub-rule (2), the Authority shall, after considering any representation made by the licensee or the storage user and after holding an inquiry, decide—

- (a) whether to proceed with the proposed action;
- (b) whether to take action under rule 30; or
- (c) whether to take no further action.

(5) The decision of the Authority under sub-rule (4) shall be made in writing and a copy thereof shall be sent to the Director and the licensee or the storage user.

(6) On revocation of the storage permit, the licensee or the storage user shall return the original copy of the storage permit to the Director for cancellation.

Consequences of Revocation of a Storage Permit

30.—(1) Upon the revocation of a storage permit, the Authority may:

- (a) close the storage site and direct the storage operator to make safe the storage site at their own cost and expense within such period as the Authority may determine; or
- (b) consider any application for a new storage permit in respect of that storage site.

(2) Until the storage site is closed or a new storage permit is issued, the storage operator:

- (a) shall not accept any scheduled gases for storage; and
- (b) shall continue be liable for:
 - (i) continued monitoring of the storage site and submit weekly report of its condition to the Director; and
 - (ii) taking corrective measures to contain any leakage of scheduled gases already stored in the storage site.

PART V

OCCUPATION OF LAND RESTRICTIONS AND LIABILITIES OF LICENSEE, STORAGE OPERATOR AND STORAGE USER

Licence not transferable

31.—(1) A licence issued under these Rules shall not be transferable unless authorized in writing by the Authority.

(2) Where a licence is issued to a company incorporated under the Companies Act, 2016 [Act 777] or to a firm registered under the Business Names Ordinance [Cap. 64 (1958 Ed.)] or any other written law, any transfer of the controlling shares of the company or the majority interest in the form shall be deemed to be a transfer of the licence.

(3) The term “controlling shares” in this Rule shall have the same meaning assigned to it in the Land (Companies) Rules, 2022 [Swk. L.N. 145/2022].

(4) Rule 6(2) of the Land (Companies) Rules, 2022 [Swk. L.N. 145/2022] shall apply:

- (a) in determining whether controlling shares in a company issued with a licence has been transferred;
- (b) the process of applying for transfer of controlling shares; and
- (c) in regard to the consequences for an unauthorized transfer of controlling shares.

Restrictions on charge, pledge mortgage or assignment of Licence

32.—(1) Where a licensee is desirous to charge the Licence he shall, through the Director, apply to the Authority for its prior written approval to charge his licence and submit a copy of the document evidencing such charge to the Authority together with such application.

(2) The Authority, in the exercise of its discretion, may allow or reject such an application and the decision of the Authority shall be final.

Use of Land

33.—(1) A licence issued under these Rules shall confer upon a licensee, the rights to use and occupy land described in the licence, including:-

- (a) subject to the payment of any fees or levies prescribed in the Sixth Schedule, a right to occupy and use the licensed area for the purpose of exploration, appraisal, development, operation, maintenance and use of a storage site;
- (b) to enter into financial, commercial or other arrangements with any person to explore, appraise, develop, operate, maintain and use a storage site in the licensed area;
- (c) to lay, erect or install pipelines or other conveyance systems for the transportation of scheduled gases for injection and storage in the storage site;

(d) to install systems and facilities for the injection, monitoring and maintenance of the storage site;

(e) subject to storage permit issued by the Director, to allow any storage user to store scheduled gases in the storage site; and

(f) to impose, collect and retain fees, cess and other charges at such rate as may be approved by the Authority, for the use of the storage site and the monitoring and maintenance of the storage site.

(2) Nothing in these Rules and in the terms and conditions of a Licence shall be deemed to have conferred or vest in the licensee:

(a) any proprietary right, interests or estate in the land covered by the licence; and

(b) any right to any petroleum or other minerals found on the land covered by the licence.

Appointment of Storage Operator

34.—(1) The licensee may engage or appoint any competent person to:

(a) operate the storage site and any associated facilities;

(b) monitor and maintain the site; and

(c) generally, to perform and fulfil all obligations and duties imposed by these Rules and the terms and conditions of the storage permit.

(2) The licensee shall register with the Superintendent, the storage operator appointed under sub-rule (1) within fourteen days from the date of his appointment and the Registrar shall register or cause to be registered the storage operator, in the Register kept under Rule 66 subject to fees and charges under the Sixth Schedule.

(3) The Registrar shall, upon the registration, issue a certificate of storage operator under the Fifth Schedule.

(4) A certified true copy of the certificate of the storage operator shall be submitted to the Ministry responsible for energy and environment sustainability for its record purposes.

(5) Upon termination or expiry of the appointment of the storage operator, the licensee shall notify the Superintendent in writing within fourteen days from such termination or expiry whereupon the Registrar shall cause the requisite particulars to be entered into the Register.

(6) Any licensee who fails or neglects to comply with sub-rule (2) or (4) shall be guilty of an offence and on conviction be liable to a fine not exceeding ten thousand ringgit.

(7) Notwithstanding the engagement or appointment of a storage site operator, the licensee and the storage user shall remain jointly and severally liable for the performance of all obligations and duties imposed on them in the licence and permit respectively.

Duty of a licensee to ensure compliance

35.—(1) A licensee shall ensure that any party which it enters into financial, commercial or other arrangements referred to in Rule 33(1)(b) comply with all written laws, conditions of licence, storage permit and any guidelines issued by the Authority, including the:

- (a) exploration and appraisal activities in the licensed area;
- (b) development of the storage site;
- (c) transportation and injection of scheduled gases into the storage site;
- (d) monitoring and maintenance of the storage site;
- (e) use of the scheduled gases stored in the storage site; and
- (f) payment of storage charges, fees or other dues.

(2) Any failure or neglect by the party with whom the licensee had entered into financial, commercial or other arrangements with or by the storage operator or storage user, and damage or injury is caused to the Government or any party, the licensee shall be liable vicariously for such default, failure or neglect.

Operational obligations of the storage operator

36.—(1) The storage operator shall monitor and maintain the storage sites in accordance with guidelines issued from time to time by the Authority and the monitoring and maintenance plan submitted to the Director under Rule 23(1)(h).

(2) The storage operator shall be responsible to ensure the safety of the storage site.

(3) The storage operator shall forthwith report in writing to the Director of any damage, however caused to the storage site, including any damage to injection facilities and transportation facility or systems, or, in the case of a storage site in offshore land, damage to the marine ecosystem in the vicinity, or leakage of scheduled gas and any incident which resulted in death or severe physical injury to persons at area licensed for the use of the storage site.

(4) Upon receipt of the report referred to in sub-rule (3), the Director in consultation with the Authority may order the licensee, storage user and storage operator, jointly or separately, to take all necessary corrective measures, including

measures for the protection of human health and safety and the licensee, storage user or storage operator shall comply therewith.

(5) Where a licensee, storage user or storage operator fail, neglect or unable to take the corrective measures referred to in sub-rule (4) above within fourteen days from date of the order from the Director:

(a) he is guilty of an offence and upon conviction, be liable to a fine of fifty thousand ringgit or a term of imprisonment not exceeding one year, or to both; and

(b) the Director may appoint another party to implement the corrective measures and recover the costs and expenses from the licensee.

Submission of reports and information on the storage site

37. The storage user shall ensure the storage operator submit a report through the licensee, to the Director on:

(a) condition of the storage site;

(b) estimated quantity and type of the scheduled gases stored;

(c) any incident which has occurred which required corrective measures referred in Rule 36(4) to be undertaken or implemented, and the corrective measures undertaken or implemented;

(d) the name and address of any storage user (other than the licensee) storing scheduled gases in the storage site with details of permit for the storage site; and

(e) any modification or changes to the storage site and the injection facilities,

at yearly intervals, beginning twelve months from the date of the issuance of the storage permit or whenever a written request for any or all of the above information is given by the Director.

Entry and Inspection of storage site

38.—(1) The Director or any person duly authorized by him in writing may, upon service of notice on the storage operator, enter upon and inspect the storage site.

(2) The storage operator shall take all measures to facilitate such entry or inspection.

Closure of Storage Sites

39.—(1) The storage operator shall close the storage site in accordance with the conditions for closure specified in the storage permit.

(2) The storage operator may close the storage site if:

(a) the consent of the Authority has been given following an application under sub-rule (3); and

(b) any conditions attached to that consent are complied with.

(3) The storage operator shall apply for the approval of the Authority, in writing, for the closure of the storage site specifying the ground for such closure.

(4) A storage site may not be closed until the terms of the post – closure plan for the storage site have been determined under these Rules.

Post – Closure Plan

40.—(1) Prior to the closure of the storage site in accordance with Rule 39, the licensee or the storage user shall submit a proposed post – closure plan to the Authority for approval.

(2) That proposal shall be based on the provisional post – closure plan subject to any modifications proposed by the storage operator, taking into account relevant risks, current best practice and any improvements in the available technology.

Post – Closure Obligations

41.—(1) Nothing contained herein shall relieve the licensee, storage user or storage operator from any liabilities arising from any breach or non-compliance with these Rules and the conditions of the Licence and storage permit which occurred or arose prior to the date of closure of the storage site.

(2) After the storage site has been closed and until the storage permit is terminated, the storage user shall continue to:

(a) monitor the storage site in accordance with the conditions of the storage permit relating to monitoring including the monitoring plan;

(b) comply with its reporting and notification obligations in accordance with the conditions of the storage permit relating to reporting and notification of leakages and significant irregularities; and

(c) comply with its obligations to take corrective measures in accordance with the conditions of the storage permit relating to corrective measures.

(3) Subject to sub-rule (4), at the time of approving the post-closure plan, the Authority shall notify the storage operator of the minimum period that shall elapse between the date of the closure of the storage site and the termination of the storage permit.

(4) The minimum period shall not be less than twenty years from the date of the closure of the storage site or to a reduced minimum period if the Authority is satisfied that transfer conditions specified in sub-rule (5) are fulfilled.

(5) The Authority may reduce the minimum period specified in sub-rule (3) upon the fulfillment of the transfer conditions where:

- (a) all available evidence indicates that the stored scheduled gases will be completely and permanently contained;
- (b) a minimum period, to be determined by the Authority has elapsed. This minimum period shall be no shorter than twenty years, unless the Authority is convinced that the criterion referred to in (a) is complied with before the end of that period;
- (c) the storage user has provided financial contribution under Rule 42;
- (d) the storage site has been sealed; and
- (e) the abandonment programme has been carried out in accordance with the guidance issued by the Authorities.

Financial Obligations

42.—(1) Prior to terminating the storage permit, the Authority shall determine the amount and form of financial contribution from the storage user that the Authority considers will be sufficient to cover the estimated post – transfer costs.

(2) The Authority shall notify the storage user of the amount, form and the date by which the financial contribution shall be provided to the Government.

Termination of Storage Permit and Transfer of Obligations

43.—(1) Where a storage site has been closed in accordance with the terms of the storage permit and the provisions of these Rules, the Authority shall serve a termination notice to the storage user if it is satisfied that in respect of the storage site, all available evidence indicates that the stored scheduled gases will be completely and permanently contained and the storage site is sealed and the injection facilities have been properly decommissioned.

(2) Except as otherwise provided in these Rules, the termination of a storage permit does not affect any obligation imposed upon or liability incurred by the licensee.

(3) The licensee shall, immediately on the termination of a storage permit, be liable to continue monitoring and take corrective measures until otherwise provided by these Rules.

(4) Upon the termination of the storage permit, any leakage, liabilities and non-payment of any fees, levies, dues, rents, cess and other payments incurred by or attributable to the storage user prior to the termination of the storage permit shall constitute a debt payable to the Authority by the storage user.

(5) The Authority may recover from the storage user, as a civil debt, any costs which it incurs in consequence of the transfer obligations or liabilities which arose due to the fault, negligence, deceit or a failure to exercise due diligence on the part of the storage user.

PART VI

FEES, LEVIES AND OTHER DUES

Fees, levies, dues, rents, cess and other payments for use and occupation of land, and storage of scheduled gases

44. —(1) A licensee and storage user shall pay all fees, levies, dues, rents, cess and other payments for the use and occupation of the land for exploration, appraisal and development of storage site as stipulated in the Sixth Schedule.

(2) The cess collected from the licensee shall be used for the discharge of all obligations under the closure and post-closure plans, and shall be accounted for in a fund to be established by the Authority.

(3) The Authority may exempt the licensee or storage user from payment of any fees, levies, dues, rents, cess and other payments for such period of time and upon such terms as the Authority may deem fit.

Revision of fees, levies, etc.

45. The Director may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, from time to time revise the fee, levies, *etc.* payable under these Rules.

Surcharge

46. Surcharge may be imposed by the Director, for late payment of any fees, levies, rents, cess or other payments chargeable under these Rules on the terms of the licence or storage permit provided that the amount of such surcharge shall not exceed fifty per cent of the amount of the unpaid amount of fees, levies, rents cess or other payments.

Ownership of scheduled gases in storage site on State Land

47. Where scheduled gases are permanently stored in a storage site on State Land, the scheduled gases shall be treated as a fixture and part of the State Land and the Government shall be the absolute owner of such gases.

Usage of scheduled gas in the storage site

48. The scheduled gas stored in the storage site on State Land may be removed and used only for purposes approved in writing by the Minister responsible for energy and environmental sustainability in the State.

Carbon Credit Plan

49. A licensee shall give written notice to the Director and seek approval from the Authority in the event it plans to seek validation of the scheme for the capture and storage of scheduled gases in the storage site on State Land to secure certification for the issuance of carbon credit.

Government's right to Carbon Credit

50. Where the licensee has received any revenue from the trade of carbon credits, the Government shall be entitled to a percentage of the revenue in kind or in cash as determined by the Authority.

PART VII**ENFORCEMENT, OFFENCES AND SANCTIONS****Power of Investigation**

51. —(1) The Director or public servant authorized by him or any police officer not below the rank of Inspector (referred to in this Rule collectively as an "Investigating Officer") may carry out investigation into any offence under these Rules and in carrying out such investigation, the Investigating Officer may exercise all or any of the special powers of a police officer in relation to investigation provided under the Criminal Procedure Code [Act 593].

(2) Any Investigating Officer may in writing require the attendance before himself of a person who appears to be acquainted with the facts and circumstances of that case or is suspected of being concerned with the offence under investigation.

(3) Where the person who is so required to attend fail to comply therewith, the Investigating Officer may report such failure to a Magistrate who will issue a warrant to secure the attendance of such person.

(4) Any Investigating Officer shall be issued with an authority card to be signed by the Director.

(5) Whenever such Investigating Officer exercises any powers under these Rule, he shall, on demand, produce to the person against whom the power is being exercised the authority card issued to him under sub-rule (4).

Power of search and seizure

52. When there is a reason to believe that an offence against section 32B has been committed, any officer duly authorized by the Authority may:

- (a) remove from any land any person whom he has reason to believe to be committing the offence; and
- (b) detain or seize any items appurtenance to the licensed area or other thing whatsoever which he has reason to believe was used or is being used in the commission of the offence.

Power of arrest

53.—(1) Any Investigating Officer referred to in rule 51(1) may, without warrant, arrest any person reasonably suspected of having been concerned in any such any offence under these Rules or if the person refuses to give his name and residence, or gives a name and residence which such officer has reason to believe is false, or that he will abscond.

(2) Every Investigating Officer making an arrest under this paragraph shall, without unnecessary delay, take or send the person arrested to the officer in charge of the nearest police station or, if the offence is compoundable under section 209F of the Land Code [*Cap. 81 (1958 Ed.)*] to an officer empowered under that section to accept such composition:

Provided that, in the latter case, if the arrested person refuses to accept the offer to compound the alleged offence, he shall forthwith be sent to the officer in charge of the nearest police station.

(3) Where the person arrested under this Rule is required, for the purposes of investigation, to be detained for more than twenty-four hours, the Investigating Officer investigating the case may deliver him to the nearest police station to be released on a bond or police bail or to be detained thereat pending arrangement to produce the person before a court of competent jurisdiction.

Temporary return of seized item

54. Where any thing has been seized under this Rule, the Director or any person authorized may, at his discretion, temporarily return such thing to the owner or the person from whom such thing was seized subject to such terms and conditions as the Director may impose, and subject in any case to sufficient security being furnished to his satisfaction that such thing shall be surrendered to him on demand or be produced before a court of competent jurisdiction.

Forfeiture of things seized

55.—(1) Any thing seized in exercise of any power conferred under this Rule shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any thing seized in exercise of any power conferred under this Rule shall be made by the court before which the prosecution with regard thereto has been held and an order for the forfeiture of the thing shall be made if it is proved to the satisfaction of the court that an offence under this Rule has been committed and that the thing was the subject matter of or was used in the commission of the offence, notwithstanding that no person may have been convicted of such offence.

(3) If there is no prosecution with regard to any thing seized in exercise of any power conferred under this Rule, such thing shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of service of a notice to the person from whom the thing was seized indicating that there is no prosecution in respect of such thing, unless before that date a claim thereto is made in the manner set out in sub-rules (4), (5) and (6).

(4) Any person asserting that he is the owner of the thing referred to in sub-rule (3) and that it is not liable to forfeiture may personally or by his agent authorized in writing give written notice to the authorized officer in whose possession such thing is held that he claims the same.

(5) On receipt of the notice referred to in sub-rule (4), the authorized officer shall refer the claim to the Director who—

- (a) may order that such thing be released; or
- (b) may direct the authorized officer to refer the matter to a Magistrate for decision.

(6) The Magistrate to whom a matter is referred under sub-rule (5)(b) shall issue a summons requiring the person asserting that he is the owner of the thing and the person from whom it was seized to appear before the Magistrate and upon their appearances or default to appear, due service of the summons being proved, the Magistrate shall proceed to the examination of the matter and on proof that an offence under this Rule has been committed and that such thing was the subject matter of or was used in the commission of such offence shall order the same to be forfeited and shall, in the absence of such proof, order its release.

(7) Any thing forfeited or deemed to be forfeited shall be delivered to the Director or any person authorized and shall be disposed of by the Director—

- (a) in accordance with the directions of the Magistrate; or
- (b) if there is no such direction, in such manner as he deems fit.

(8) Where any thing seized in exercise of the powers conferred under this Rule is of a perishable nature or is subject to speedy and natural decay or where the

custody of such thing involves unreasonable expense and inconvenience, or is believed to cause obstruction or hazard to the public, the Director may direct that such thing be sold at any time and the proceeds of the sale be held to abide by the result of any prosecution or claim under this section.

Cost of holding seized thing

56. Where any thing seized under Rule 52 is held in the custody of the Director pending completion of any proceedings in respect of an offence under these Rules, the cost of holding such thing in custody shall, in the event of any person being found guilty of an offence, be a debt due to the Government by such person and shall be recoverable accordingly.

No costs or damages arising from seizure to be recoverable

57. No person shall, in any proceedings before any court in respect of seizure of any thing seized in the exercise or the purported exercise of any power conferred under these Rules, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Sample

58. Any authorized officer may, without payment, take a sample of any scheduled gases as is necessary and reasonable for the examination and testing thereof and the sample so taken shall be accepted in any court, in the absence of any other evidence, as representative of the source material from which such sample has been taken.

Certificate of analysis

59.—(1) In any prosecution under these Rules, a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the prosecuting officer, be sufficient evidence of the facts stated therein unless such analyst shall be required to attend as a witness—

- (a) by the court; or
- (b) by the accused,

in which case the accused shall give notice to the prosecuting officer not less than three clear days before the commencement of the trial: Provided always that in any case in which the prosecuting officer intends to give in evidence any such report he shall deliver a copy thereof to the accused not less than ten clear days before the commencement of the trial.

(2) In this Rules, “analyst” means—

- (a) a person for the time being employed wholly or partly in chemical or physical analytical work relating to scheduled gases and mineral in the Government; or

(b) a person engaged in chemical or physical analytical work relating to scheduled gases and mineral and employed by a laboratory recognized by the Government.

(3) If any analyst is called by the accused as provided for by sub-rule (1), he shall be called at the expense of the accused unless the court otherwise directs.

Tampering with, removing, damaging or destroying any thing seized

60. Any person who tampers with, removes, damages or destroys any thing seized under these Rules shall be guilty of an offence.

Penalty for continuing offences

61. Any person who commits an offence under these Rules shall, in the case of a continuing offence, be liable, in addition to any fine provided under these Rules, to a further fine of five hundred ringgit for every day or part of a day during which the offence continues after conviction.

Protection of officers

62. No authorized officer responsible for the administration of these Rules shall incur personal liability for any loss or damage caused by any act or omission by him in carrying out the duties under these Rules unless the loss or damage was occasioned intentionally or through recklessness or gross negligence.

PART VIII

MISCELLANEOUS

Delegation of power

63.— (1) Any power or duty or authority vested under these Rules on any person or authority may be delegated by or with the approval of the Authority to any person or company owned by the Government, on such terms and conditions as the Authority deems fit.

(2) Notwithstanding the delegation of powers or duties or authority under sub-rule (1), the Authority or the person delegating, may continue to exercise and perform any of its powers, duties or authority conferred under these Rules.

General Offences and Penalties

64. Where there has been a breach or non-compliance with any of these Rules and offences, where penalties have not been provided, any person who is in breach or non-compliance with these Rules shall be guilty of an offence and on conviction, be liable to a fine not exceeding twenty thousand ringgit or to an imprisonment for a period not exceeding eighteen months, or to both.

Service of notice

65.—(1) Any notice required to be given or served under these Rules may, unless any other form of service is prescribed, be sent by registered post to the person affected thereby.

(2) Where a notice is served by registered post, it shall be deemed to have been served on the day succeeding the day on which the notice would have been received, in the ordinary course of post, if the notice is addressed—

(a) in the case of a company incorporated in Malaysia, to the registered office of the company;

(b) in the case of a company incorporated outside Malaysia, either to the individual authorized to accept service of process under the Companies Act 2016 [Act 777], at the address filed with the Registrar of Companies or to the registered office of the company, wherever it may be situated; or

(c) in the case of an individual or a body of persons, to the last known business or private address of such individual or body of persons.

(3) Where the person to whom there has been addressed a registered letter containing any notice which may be given under these Rules is informed of the fact that there is a registered letter awaiting him at a post office, and such person refuses or neglects to take delivery of such registered letter, such notice shall be deemed to have served upon him on the date on which he was so informed.

Duty to Keep Register

66.—(1) Every Registrar shall keep a register in such form as may be prescribed and shall record therein particulars of all instruments, dealings and other matters required to be registered or entered on the Register.

(2) Part VII of the Land Code [Cap. 81 (1958 Ed.)] shall be applicable to any registration matters under these Rules.

Amendment of Schedules

67. The Schedules of these Rules may be amended by the Majlis Mesyuarat Kerajaan Negeri by notification in the *Gazette*.

FIRST SCHEDULE

Form of Application for Licence

(Rule 11)



APPLICATION FOR LICENCE FOR CARBON STORAGE

To: THE DIRECTOR,
LAND & SURVEY DEPARTMENT SARAWAK

Please (☐) tick appropriate box for type of application

☐

New Application

☐

Previous Licence No. (if any):

A. Particulars of Applicant

No.	Item	Details
1.	Company Name :	
2.	Company Registration No. :	
3.	Date of Registration :	
4.	Address :	
5.	Contact Person :	
6.	Contact No. :	
7.	Fax No. :	
8.	E-mail Address :	
9.	Type of Company :	
10.	Paid Up Capital :	RM

Please attached Audited Financial Statement for the last two (2) financial years (Rule 12(c))

Company shareholder information

No.	Name	I.C. No./ Passport No./ Company Registration No.	Shares Units
1.			
2.			
3.			
4.			

B. Description of Area Applied

1. Name of Area :
2. Location/Description of Area :
3. Block (if relevant) :
4. Land District (if relevant) :
5. Division (if relevant) :
6. Size (ha./km²) : approx.

Note: Please attach plan showing the area applied including longitudes and latitudes of all corners (tabulate in a sheet of paper if any) or the co-ordinates (Easting & Northing). Please state the coordinate reference system used.

C. Reference Of Previous or Current Licence (if relevant)

1. Name Of Area :
2. Land and Survey's Ref./Licence No. :
3. Expiry Date :

D. Attachments To Be Included

Please attach the following documents:-

1. ☐ Latest print out of company's SSM (Item A);
(Directors, shareholders, paid up, certificate of incorporation)
2. ☐ Company Profile (Item A);
(Company's particulars - background of the company i.e. Activities, industry, expertise)
3. ☐ Constitution (i.e. Memorandum & Articles of Association (MAA));
4. ☐ Audited Financial Statement for the last two (2) financial years (Item A);
5. ☐ Study area plan of potential storage sites with coordinates of all corners (Item B);
6. ☐ Copy of expired license (if relevant) (Item C);

7. **Application Fee of RM1,000.00 (not refundable);**
8. **Forest Department's comment (Onshore);**
(status comment for area applied i.e. Permanent Forest Estate (PFE))
[Standard format for Forest Department's comment attached with this form.](#)
9. **Sarawak Forestry Corporation's (SFC) comment (onshore & offshore).**
(status comment for area applied i.e. Totally Protected Area (TPA))
[Standard format for SFC's comment attached with this form.](#)
10. **Post-closure plan.**

We hereby certify that the above information given is true and correct.
(To be filled by Director, Secretary or Shareholder)

Name :
Designation:

Signature :

Name :
Designation:

Signature :

Company's Stamp:

Date :

Note:

The prescribed application fees as stated in the checklist must be paid upon submission of this application.

SECOND SCHEDULE

FORM OF LICENCE FOR CARBON STORAGE

(Section 32B & Rule 16)

Licence No: LICENCE FOR CARBON STORAGE THE LAND CODE [CAP. 81 (1958 ED.)] (Section 32B & Rule 16)	
This Licence is issued to the Licensee to use the land shown in the map attached hereto as Appendix A and generally described as: (hereinafter called “licensed area”) for the exploration, appraisal and development of a storage site for the storage of scheduled gases in accordance with area plan of potential storage sites which is attached hereto as Appendix B in accordance with the provisions of these Rules and the terms and conditions hereinbelow and the special conditions set out in Appendix C .	
NAME(S) OF LICENSEE & COMPANY REGISTRATION NUMBER (“the licensee”)	
Term Of Licence (Years):	
Commencement Date:	
Expiry Date:	
Size of Licensed Area (ha/km ²):	more or less
Licence Fee (RM):	per annum

TERMS AND CONDITIONS

1. The Licensee is entitled only to occupation of the land for the purpose of exploration, appraisal, development of storage site and the use thereof for the storage of scheduled gas but has no proprietary rights, interests and estate to the land;
2. Upon the expiry of the Licence, possession of the land shall be delivered to the Government upon completion, at the costs and expense of the Licensee, of all works of decommissioning of the storage sites in accordance with a decommissioning plan to be approved by the Authority.
3. If the storage site is to be used by any other person, the Licensee shall apply for a storage permit by that other person.
4. The Licensee may enter into commercial or business arrangements with other parties to develop the storage site provided that the Superintendent is notified in writing of such arrangement and a copy of any document evidencing such arrangement shall be deposited with the Superintendent;
5. The Licensee shall be responsible for due performance and observance by a storage user or a storage site operator and any person with whom he entered into arrangements described in paragraph (7) of all duties and obligations imposed by these Rules or the terms and conditions of this Licence and in the event of non performance or non observance by any of them the Licensee shall be vicariously liable for their default, breach or non compliance therewith.
6. The Licensee hereby acknowledges ownership of the scheduled gases permanently stored in the storage site on state land belong to the Government of the State of Sarawak but the Government may enter into arrangements with the Licensee for the use thereof or the sharing of any benefits whatsoever derived from the storage and use of such gases.
7. In the absence of any arrangement referred to in paragraph (9), the Licensee shall not use or permit the scheduled gases to be used for any purpose except for such purposes as may be permitted by the Minister for the time being responsible for Land.
8. This licence is not transferable except as otherwise provided under these Rules;
9. This Licence shall be deemed to have been revoked if the Licensee becomes insolvent, wound up by an Order of Court or shall enter into arrangements with creditors.
10. The Appendices are an integral part of this Licence.

Dated this day of 20

.....

Superintendent of Lands & Surveys

Registered onvide L.No:.....on.....

Registrar/Asst. Registrar

APPENDIX A:

APPENDIX B:

APPENDIX C:

SPECIAL CONDITIONS:	

Dealings, Encumbrances, Limitation, Annotation & Etc.	Signature of Registrar/ Asst. Registrar

THIRD SCHEDULE

FORM OF APPLICATION FOR STORAGE PERMIT

(Rule 22(3))



APPLICATION FOR STORAGE PERMIT

To: THE DIRECTOR,
LAND & SURVEY DEPARTMENT SARAWAK

Please (☐) tick appropriate box for type of application

☐

New Application

☐

Previous Permit No. (if any):

E. Particulars of Licence Holder

No.	Item	Details
1.	Name :	
2.	Company Registration No. :	
3.	Address :	
4.	Licence Number :	
5.	Date of Issuance of Licence :	
6.	Term/Date of Expiry :	

F. Particulars of Applicant (Storage Permit Holder)

No.	Item	Details
1.	Company Name :	
2.	Company Registration No. :	
3.	Date of Registration :	
4.	Address :	
5.	Contact Person :	
6.	Contact No. :	
7.	Fax No. :	
8.	E-mail Address :	
9.	Type of Company :	
10.	Paid Up Capital :	RM

Note: Please attach Audited Financial Statement for the last two (2) financial years (Rule 1(e))

G. Company Shareholder (Storage Permit Holder)

No.	Name	I.C. No/ Passport No./ Company Registration No.*	Shares Units
1.			
2.			
3.			
4.			

H. Description of Area Applied for Carbon Storage

1. Existing Licence Number :
2. Specific Locality/Description of Area :
3. Block (if relevant) :
4. Land District (if relevant) :
5. Division (if relevant) :
6. Size (ha./km²) : approx.

Note: Please attach plan showing the specific area applied including longitudes and latitudes of all corners (tabulate in a sheet of paper if any) or the co-ordinates. Please state the coordinate reference system used.

I. Details on Storage

No.	Item	Remark
1.	Storage site capacity (volume of scheduled gas)	Overall : Committed: Balance:
2.	Total estimated quantity to be injected and stored	Proposed:
3.	Annual estimated quantity to be injected and stored	
4.	Duration/Term of Permit Applied	
5.	Commencement date of gases injection	
6.	Origin of prospective sources	
7.	Transport methods of item (vi)	
8.	Composition of the scheduled gases streams that are to be injected	
9.	Proposed injection rates and pressures	
10.	Proposed location of the injection facilities	-Please demarcate on plan-
11.	To attach any other relevant or additional information required by the authority	
Note: To attach 3 sets of Storage Development Plan		

J. Reference Of Previous or Current Permit (if relevant)

- | | | |
|----|-----------------------------------|---|
| 1. | Name Of Area | : |
| 2. | Land and Survey's Ref./Permit No. | : |
| 3. | Expiry Date | : |

K. Attachments To Be Included

Please attach the following documents by the applicant for permit holder:-

- | | | |
|-----|----------------------|--|
| 1. | <input type="text"/> | Latest print out of company's SSM (Item B); |
| 2. | <input type="text"/> | Audited Financial Statement for the last two (2) financial years (Item B); |
| 3. | <input type="text"/> | Company Profile (Item B); |
| 4. | <input type="text"/> | Potential storage sites including coordinates of all corners (Item B); |
| 5. | <input type="text"/> | Copy of expired license (if relevant) (Item F); |
| 6. | <input type="text"/> | Application Fee of RM50,000.00 (not refundable); |
| 7. | <input type="text"/> | Storage Development Plan; |
| 8. | <input type="text"/> | Description of measures to prevent any significant irregularities; |
| 9. | <input type="text"/> | Forest Department's comment (Onshore);
(status comment for area applied i.e.. Permanent Forest Estate (PFE))
Standard format for Forest Department's comment attached with this form. |
| 10. | <input type="text"/> | Sarawak Forestry Corporation's (SFC) comment (onshore & offshore);
(status comment for area applied i.e.. Totally Protected Area (TPA))
Standard format for SFC's comment attached with this form. |
| 11. | <input type="text"/> | To submit Environmental Impact Assessment (EIA) Report approved by Natural Resources Environmental Board (NREB); |
| 12. | <input type="text"/> | If area applied for is an abandoned petroleum site, a copy of approved decommissioning plan is required; and |

13.

Post-closure plan.

Note: Licencee shall notify the Director of Land & Survey on any changes to the information and documents after the issuance of the storage permit.

We hereby certify that the above information given is true and correct.

(To be filled by Director, Secretary or Shareholder)

Name :

Designation:

Signature :

Name :

Designation:

Signature :

Company's Stamp:

Date :

Note

The prescribed application fees as stated in the checklist must be paid upon submission of this application.

FOR INTERNAL USE ONLY (L&S)

Once approved, DLS to send a copy of approval letter with remark/direction to:-

1.

Maritime Enforcement Agency (MMEA)
2.

Jabatan Laut Sarawak
3.

Pusat Hidrografi Negara (PHN)

FOURTH SCHEDULE

FORM OF STORAGE PERMIT

(Section 32B & Rule 27)

Permit No: Licence No: CARBON STORAGE PERMIT THE LAND CODE [CAP. 81 (1958 ED.)] (Section 32B & Rule 27)	
This Storage Permit is issued to the storage user to permanently store scheduled gases on the storage sites shown in the map attached hereto as Appendix A ("storage site") and generally described as:	
NAME OF STORAGE USER/COMPANY REGISTRATION NUMBER ("the storage user")	
Term Of Permit (Years):	
Commencement Date:	
Expiry Date:	
Permit Fees (RM):	
Levy on Carbon Storage Charges (RM):	
Cess (RM):	
Scheduled gases injection plan:	metric ton per year

TERMS AND CONDITIONS

1. The storage user must comply with all the provisions of these Rules applicable to the storage of scheduled gases.

Acceptance and injection of scheduled gases

2.—(1) In order to be injected into the storage site the scheduled gas stream must consist overwhelmingly of carbon dioxide, and must in particular satisfy the conditions in sub-paragraph (2).

(2) The stream—

- (a) must contain no waste or other matter added for the purposes of disposal;
- (b) may contain incidental or trace substances (to the extent permitted by any legislation applicable to those substances), but only if the concentrations of all such substances are below the levels that would—
 - (i) adversely affect the integrity of the storage site or the relevant transport infrastructure, or
 - (ii) pose a significant risk to the environment or human health.

(3) Before accepting and injecting the stream the storage site operator must ensure that the conditions in sub-paragraphs (1) and (2) can be met, by carrying out—

- (a) an analysis of the composition of the stream, and in particular of any corrosive substances that may be present in it; and
- (b) an assessment of the risk that the stream will fail to comply with those conditions.

(4) The storage user must maintain a register, at a place and in a manner approved by the Authority, of the quantities and properties of the scheduled gases streams that have been delivered to, and injected in, the storage site (including the composition of those streams).

Monitoring

3.—(1) The storage site operator must carry out a programme of monitoring of the storage complex and injection facilities, for the purposes specified in sub-paragraph (3).

(2) Such monitoring must include (where possible) the monitoring of the scheduled gases plume, and (where appropriate) of the surrounding environment.

(3) The purposes are—

- (a) the comparison of the actual and modelled behaviour of the scheduled gases (and the naturally-occurring formation water) in the storage site;
- (b) the detection of any significant irregularities;
- (c) the detection of any migration of scheduled gases;
- (d) the detection of any leakage of scheduled gases;
- (e) the detection of any significant adverse effects on the surrounding environment, and in particular on—
 - (i) drinking water,
 - (ii) human populations; and
 - (iii) users of the surrounding biosphere;
- (f) the assessment of the effectiveness of any corrective measures taken;
- (g) updating the assessment of the safety and integrity, both short- and long-term, of the storage complex (including the assessment of whether the stored scheduled gases will be completely and permanently contained).

(4) The monitoring must be based on the monitoring plan drawn up and confirming to guidelines approved by the Authority.

(5) The monitoring plan must be updated in accordance with carbon storage in order to take account of—

- (a) changes to the assessed risk of leakage;
 - (b) changes to the assessed risks to the environment and human health;
 - (c) new scientific knowledge; and
 - (d) improvements in best available technology.
- (e) The updated plan must be submitted for approval by the authority.

(6) The Authority may—

- (a) approve that updated plan; or

(b) require the storage user to make such modifications to it as the Authority (after consulting the operator) considers necessary, and the updated monitoring plan is the plan as so approved or modified.

(7) Sub-paragraphs (5) to (7) apply to the further updating of an updated plan as they apply to the updating of the storage development plan.

(8) Rule 39, Rule 40 and Rule 41 shall be applicable in the event that the storage user intends to close the storage site.

Reporting, and notification of leakages and significant irregularities

4.—(1) The storage user must send to the authority a report duly verified by qualified auditor in respect of each reporting period, containing the information specified in sub-paragraph (5).

(2) The report must be sent to the authority no later than four weeks after the end of the relevant reporting period.

(3) Unless the authority determines otherwise under sub-paragraph (4), the reporting periods are the period of one year beginning with the commencement of injection, and each subsequent yearly period.

(4) At any time before the commencement of injection, or during a current reporting period, the Authority may notify the storage user that (beginning with the next reporting period) reporting periods are to be a period of less than one year that is specified in the notice.

(5) The information is—

(a) the results of the monitoring carried out under paragraph 2 of this Schedule (including details of the monitoring technology employed);

(b) the quantities, properties and composition of the scheduled gases streams registered by the storage site operator under paragraph 1(5) of this Schedule;

(c) proof that the financial security required by paragraph 7 of this Schedule has come into effect and remains in force;

(d) any other information requested by the authority that the authority considers relevant for the purposes of assessing compliance with the conditions of the storage permit or for increasing knowledge of the behaviour of the scheduled gases stored at the storage site.

(6) If the storage user becomes aware of any leakages or significant irregularities, the operator must immediately notify the Director.

Notification and implementation of changes

5.—(1) The storage user must notify the authority of any change planned in the operation of the storage site, including any change concerning the operator.

(2) A notification under sub-paragraph (1) must specify the target date.

(3) Except where sub-paragraph (4) applies, such a notification must be made at least three months before the target date.

(4) If the change solely concerns the operator, the notification must be made at least four weeks before the target date.

(5) The change may not be implemented before the later of—

(a) the target date, or any date notified; and

(b) the date notified by the Authority.

(6) The change may not be implemented if the authority makes a notification to that effect.

(7) However, notwithstanding sub-paragraphs (5) and (6), the change may be implemented on or after the later of the dates mentioned in sub-paragraph (5)(a) if the authority has not before then made a notification.

Corrective measures

6.—(1) If the storage site operator becomes aware of any leakages or significant irregularities, the operator must take the necessary corrective measures and measures for the protection of human health.

(2) The measures taken must include those set out in the corrective measures plan.

Dated this day of.....20

.....

Superintendent of Lands & Surveys

.....

Superintendent of Lands & Surveys

Registered onvide L. No:.....

Registrar/Asst. Registrar

Registered onvide L. No:.....

Registrar/Asst. Registrar

APPENDIX A:

Dealings, Encumbrances, Limitation, Annotation & Etc.	Signature of Registrar/ Asst. Registrar

FIFTH SCHEDULE

CERTIFICATE OF STORAGE OPERATOR

(Rule 34(2))

Storage Operator Certificate No:

LAND AND SURVEY DEPARTMENT
SARAWAKLAND (CARBON STORAGE) RULES, 2022
RULE 34 (2)CERTIFICATE OF STORAGE OPERATOR

This is to certify that _____ is appointed as Storage Operator under Rule 34.

Licencee :

Licence No. :

Storage User :

Storage Permit No. :

Dated this ____ day of ____, ____

(____)

Registrar

Land Registry

*SIXTH SCHEDULE***Fees, levies and other payments****(Rule 44)**

NO.	ITEM	FEES
1.	Application for licence	RM 50,000.00 per application.
2.	Licence Fee	RM 1.00 per hectare/ per year
3.	Application for permit	RM50,000.00 per application.
4.	Permit Fee	RM 25.00 per m ³ metric tonne /per year
5.	Levy on Carbon Storage Charges	An amount to be determined by the Authority
6.	Cess	An amount to be determined by the Authority.
7.	Preparation and Registration of issuance of licence	RM300.00 per licence.
8.	Preparation and Registration of issuance of permit	RM300.00 per permit.
9.	Registration and Issuance of Certificate of Storage Operator	RM 1,000.00 per certificate.

Made this 21st day of December, 2022.

DATUK PATINGGI TAN SRI (DR) ABANG HAJI ABDUL RAHMAN ZOHARI
BIN TUN DATUK ABANG HAJI OPENG,
Minister for Natural Resources and Urban Development

Approved by the Majlis Mesyuarat Kerajaan Negeri this 8th day of
December, 2022.

DATU MOHAMAD JUNAIDI BIN MOHIDIN
Clerk to Majlis Mesyuarat Kerajaan Negeri



DICETAK OLEH PERCETAKAN NASIONAL MALAYSIA BERHAD, KUCHING, SARAWAK
BAGI PIHAK DAN DENGAN KUASA PERINTAH KERAJAAN SARAWAK

