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Amended and Restated Ministerial Ordinance toward Full Enforcement of CCS Business Act

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Contents

1. Introduction
2. Outline of the Draft of Ministerial Ordinance
3. Conclusion

1. Introduction

As reported previously, the Act on CCS Business of Japan (Act No. 38 of 2024) (the “**CCS Business Act**”) regarding carbon dioxide (CO₂) capture and storage in Japan was enacted and promulgated in May 2024. As of today, the provisions of the CCS Business Act other than those related to exploration and prospecting have not been enforced. Those remaining provisions are scheduled to be enforced on May 22, 2026, as per the latest cabinet order relevant thereto.¹

In this respect, a document entitled “Draft of Amended and Restated Ministerial Ordinance for CCS Business” (the “**Draft of Ministerial Ordinance**”) was released as of April 8, 2026. The Draft of Ministerial Ordinance clarifies the contents of “(the matters specified by) Ordinance of the competent ministry (i.e., Ministry of Economy, Trade and Industry, or METI)” or the like, which are referred to under the provisions of the CCS Business Act, in particular, regarding matters such as monitoring after the CO₂ storage and decommissioning measures of the CCS site after the completion of CO₂ injection.

This newsletter will outline the contents of the Draft of Ministerial Ordinance.

¹ For further details, please refer to this author’s articles: https://www.amt-law.com/insights/newsletters/newsletter_20251217001_ja_001/, https://www.amt-law.com/insights/newsletters/newsletter_20251015001_ja_001/

2. Outline of the Draft of Ministerial Ordinance

2.1. Monitoring obligation of the storage status of CO2

According to the relevant provisions of the CCS Business Act, a storage operator that has commenced the CCS business² must, *"in accordance with the Ordinance of the competent ministry,"* monitor *"the matters specified by Ordinance of the competent ministry"* as necessary to confirm the temperature, pressure, and other conditions of CO2 storage in the reservoir within the storage area.

The Draft of Ministerial Ordinance specifies the concept of the *"in accordance with the Ordinance of the competent ministry"* and *"the matters specified by Ordinance of the competent ministry"* described above.

First, *"in accordance with the Ordinance of the competent ministry"* shall refer to the following three (3) types of monitoring categories: (i) monitoring in danger,³ (ii) monitoring in extraordinary circumstances,⁴ and (iii) monitoring in normal circumstances.⁵

Next, according to the Draft of Ministerial Ordinance, *"the matters specified by Ordinance of the competent ministry"* shall refer to the following matters:

- (1) temperature and pressure of the reservoir within the approved storage area and its surroundings;
- (2) component, flow rate, injection volume, and concentration of CO2 to be stored;
- (3) soundness of the wells within the approved storage area;
- (4) vibration of the reservoir and the surrounding strata;
- (5) location and range of CO2 in the reservoir; and
- (6) environmental condition of the area immediately above the approved storage area and its surroundings, from the perspective of stable storage of CO2 in the reservoir.

2.2. Securing of Funds Necessary for Decommissioning after the CO2 Injection

According to Article 44, Paragraph (1) of the CCS Business Act, once a storage operator has commenced a storage business, the operator is required to take *"measures prescribed by the Ordinance of METI"* to secure funds, including the accumulation of reserves and other measures for securing funding, in order to cover expenses such as the costs necessary for monitoring of the storage site (as noted in Section 2.1 above) during the period from the completion of CO2 injection into the storage reservoir within the approved storage area until the operator obtains approval from METI for the discontinuation of the storage business.

In this regard, the Draft of Ministerial Ordinance clarifies the specifications of the ministerial

² For the avoidance of doubt, "prospectors" (i.e., not CCS operators) are excluded.

³ Monitoring to determine whether a leakage of stored CO2 has occurred or is likely to occur when an event likely to cause a leakage of CO2 has occurred in the reservoir.

⁴ Monitoring when a leakage of CO2 stored in the reservoir has occurred or is likely to occur and while such condition is continuing.

⁵ Monitoring in cases other than "monitoring in danger" or "monitoring in extraordinary circumstances."

ordinance of METI. Specifically, according to the Draft of Ministerial Ordinance, securing of funds pursuant to Article 44, Paragraph (1) shall be carried out by calculating, for each fiscal year during the commenced storage business (limited to periods during which CO₂ is being injected into the reservoir within the approved storage area, however), based on the total amount of funds necessary for monitoring over the site, etc. However, this requirement for securing the fund shall not apply where METI finds it acceptable in light of the implementation status of the relevant commenced storage project.

In addition, the phrase - "*measures prescribed by the Ordinance of METI*" above - is defined in the present Draft of Ministerial Ordinance as meaning either the accumulation of reserves or other measures deemed appropriate by METI.

2.3. Decommissioning after the CO₂ injection

According to the relevant provisions of the CCS Business Act, if the storage operator that has commenced the CCS business intends to discontinue the CCS business in the approved storage site, it is required to "decommission" the wellheads and take other "*measures specified by Ordinance of the competent ministry*" with respect to such storage site.

The Draft of Ministerial Ordinance clarifies the contents of these "*measures specified by Ordinance of the competent ministry*" as follows:

- (1) decommissioning of the wellheads of the storage site;
- (2) removal or disposal of the relevant structures and facilities, which were installed by such storage business that intends to take decommissioning measures;
- (3) assessment of the soundness of wells; and
- (4) measures to prevent the leakage of the stored CO₂.

2.4. Waiting period from decommissioning up to approved discontinuation of the CCS business

According to the CCS Business Act, a storage operator that has implemented decommissioning must thereafter obtain approval by METI to discontinue the storage business, however upon passing of the "*prescribed waiting period specified by the Ordinance of the competent ministry*". This prescribed waiting period is required until the CO₂ storage status becomes stable after the completion of CO₂ injection, given that the management of the storage site after the prescribed decommissioning measures and the (formal) decommissioning of the storage business are to be transferred to JOGMEC according to Article 54, Paragraph (1) of the CCS Business Act.

In this regard, the Draft of Ministerial Ordinance states that the prescribed waiting period shall mean a period of not less than 10 years. However, this waiting period (i.e., 10 years) may be shortened if METI approves that the amount of CO₂ injected is sufficiently small that the storage status of CO₂ in the reservoir is stable and such status is expected to continue in the future.

2.5. Third-party Access to Storage Business

Article 50, Paragraph (1) of the CCS Business Act constitutes the framework for third-party access

(TPA) to CCS business. It provides that a “specified storage operator” (*tokutei choryu jigyosha*), namely a storage operator conducting a storage business on behalf of another party with respect to CO₂ emitted through that third party’s activities, must establish standard terms and conditions for the storage business, including charges and other conditions with respect to the third party access, “*in accordance with the Ordinance of METI*”, and must submit such terms and conditions to METI.

The Draft of Ministerial Ordinance clarifies the content of the matters to be prescribed “*in accordance with the Ordinance of METI*” above with respect to the standard terms and conditions for the storage businesses in the context of third party access. Specifically, those standard terms and conditions are required to stipulate the following matters:

- (1) scope of application of the terms and conditions;
- (2) methods for calculating charges, the items forming the basis of such calculations, and explanations regarding those items;
- (3) allocation of costs relating to storage facilities and other equipment;
- (4) in addition to the matters listed in (2) and (3), where the user of CO₂ storage services is required to bear any other costs, the details thereof;
- (5) methods for measuring the volume of CO₂ received, and methods for collecting charges and any other amounts to be borne by the user of CO₂ storage services;
- (6) characteristics of CO₂ that may be stored and other acceptance conditions relating to CO₂ storage;
- (7) matters concerning safety-related responsibilities of the “specified storage operator” and the user of CO₂ storage services with respect to storage facilities and other equipment;
- (8) restrictions, suspension, and resumption of acceptance relating to CO₂ storage;
- (9) methods for applying for contracts, and matters relating to contract renewal and termination;
- (10) in addition to the foregoing, where there are any conditions relating to CO₂ storage or responsibilities of the “specified storage operator” and the user of CO₂ storage services, the details thereof;
- (11) if a validity period is specified, such period; and
- (12) effective date.

3. Conclusion

As described above, the ministerial ordinances (of METI) toward the full enforcement of the CCS Business Act are steadily being developed. Going forward, our attention will continue to be paid to developments toward the full enforcement of the Act.

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