Analysis of Reclamation and Post-Mining Obligations in Mineral and Coal Mining Business Activities

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Abstract *: This research aims to analyze the reclamation and post-mining obligations of holders of mineral and coal IUPs, as well as to understand the legal sanctions for mining business license holders who fail to meet these reclamation and post-mining obligations. Indonesia is a country with various natural resources that can be used for the prosperity of its people. These natural resources include minerals or mining materials. Mining activities can have both positive and negative effects. The negative impacts of mining activities include environmental damage. Therefore, reclamation and post-mining efforts are needed to preserve nature and the environment. The method used is normative legal research which employs two types of approaches: the conceptual approach and the statutory approach. The research results explain that reclamation and post-mining activities are regulated in Law Number 3 of 2020, which amends Law Number 4 of 2009 concerning Minerals and Coal. Reclamation and post-mining activities are an obligation for IUP holders. If an IUP holder fails to fulfill this obligation, they can be subject to administrative and criminal sanctions.*

Keywords *: Reclamation; Post-mining; Mineral and Coal Mining; Legal Obligations; Environmental Protection.*

Abstrak : Penelitian ini memiliki tujuan menganalisis tentang kewajiban reklamasi dan pascatambang oleh pemegang IUP mineral dan batubara serta mengetahui sanksi hukum bagi pemegang izin usaha pertambangan mineral dan batubara yang tidak memenuhi kewajiban reklamasi dan pascatambang. Indonesia adalah sebuah negara yang memiliki berbagai kekayaan alam yang dapat dimanfaatkan untuk kemakmuran rakyat. Kekayaan alam yang dimaksud meliputi bahan galian atau barang tambang. Kegiatan pertambangan dapat memberikan efek positif serta efek negatif. Dampak negatif dari kegiatan pertambangan seperti kerusakan lingkungan. Oleh itu, upaya reklamasi dan pascatambang diperlukan untuk menjaga kelestarian alam dan lingkungan. Metode yang digunakan yaitu penelitian hukum normatif yang menggunakan dua jenis pendekatan yaitu pendekatan konseptual dan pendekatan perundang – undangan. Hasil penelitian menjelaskan bahwa kegiatan reklamasi dan pascatambang diatur di dalam UU Nomor 3 Tahun 2020 tentang Perubahan UU Nomor 4 tahun 2009 tentang Mineral dan batubara. Kegiatan reklamasi sert kegiatan pascatambang adalah suatu kewajiban bagi pemegang IUP. Apabila didapati pemegang IUP tersebut tidak melaksanakan kewajibannya, maka pemegang IUP dapat dikenakan sanksi administratif dan sanksi pidana.

Kata Kunci : Reklamasi; Pascatambang; Pertambangan Mineral dan Batubara; Kewajiban Hukum; Perlindungan Lingkungan.

INTRODUCTION

The Earth, water, and the natural resources contained within it are controlled by the State and used for the greatest possible prosperity of the people; that is what Article 33 Paragraph (3) of

the 1945 Constitution of the Republic of Indonesia says.(Bahari et al., 2025) Regarding the understanding of being controlled by the state according to Novemyanto: "(1) Control similar to ownership by the state, meaning the state through the Government is the sole authority to determine the rights over it, including land, water, and the wealth contained within, (2) Regulating and supervising its use and utilization, (3) Capital participation and in the form of state-owned enterprises for certain businesses."(Novemyanto, 2024)

The control by the state over natural resources mentioned in Article 33 paragraph (3) of the 1945 Constitution. Stuart G. Cross said that: "Article 33 (3) of the 1945 Constitution States that "(Anggara, 2025) *The land, the waters, and the natural wealth contained in them are controlled by the State and used for the greatest benefit of the people." As two mining industry commentators noted, "this statement goes beyond a traditional affirmation," instead expressing a core, untouchable principle of Indonesian constitutional law. So, Contracts of Work (CoWs) are similar to traditional concession contracts in some ways, like how revenue goes back to the State through taxes and royalties, and the level of control CoW holders have over operations. But in other key ways, foreign mining companies act not as concessionaires but as contractors for the Republic of Indonesia (RI), which owns the unextracted minerals, and for which the mining companies work.*

The state's control over the natural resources contained in the land and water within Indonesia, which can be recognized as mining materials or minerals, is a constitutional mandate.(Wahyudi et al., 2024) Mineral or mining materials contained in the earth's crust, such as oil and natural gas, coal, copper, silver, gold, nickel, and others. These minerals are under the authority of the state, which has the right to regulate and supervise their management and use, and the obligation to make them as widely beneficial as possible for the people's prosperity.(Imawan & Al Yasir, 2024) Ownership of natural resources contained in the earth belongs to all the people of Indonesia. The management of natural wealth is not done directly by the state, but is managed by mining companies, provided they have first obtained permission from the government. Regulations related to the management of natural wealth are governed by Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 on Mineral and Coal Mining.(Suwarno et al., 2024)

According to Article 2 of the Minerba Law, mineral and/or coal mining is managed based on: First, Benefit, Justice, and Balance; Second, Favoring the interests of the nation; Third, Participatory, transparency, and accountability; Fourth, Sustainable and environmentally conscious.(Setiawan et al., 2025) Mining activities are some or all stages of work related to the management and exploitation of minerals or coal, including general surveys, exploration, feasibility studies, construction, mining, processing and/or refining, development and/or utilization, transportation and sales, as well as post-mining activities.(Nikawanti, 2021) This activity is a long-term one that involves high technology and requires a lot of capital throughout its process. In Indonesia itself, there are several areas that are coal mining regions, namely South Kalimantan Island, Samarinda in East Kalimantan, Meulaboh in West Aceh, Lahat in South Sumatra, Tanjung Enim in South Sumatra, Sorong in Papua, and Sawahlunto in West Sumatra.

Mining activities, besides having positive impacts like boosting the country's economy and people's welfare, can also cause negative effects on the environment. Mining activities can harm the country if these activities are not accompanied by reclamation efforts and post-mining measures.(Danu & Rohman, 2022) Reclamation refers to a process aimed at restoring land that was previously used for mining so that it can be returned to a condition close to what it was before the mining activities took place. The reclamation process is carried out to reduce the negative impacts of mining on the environment and also to preserve environmental sustainability. Reclamation efforts and post-mining activities are mandatory for mining companies, but there are still some

mining companies that do not carry them out, or they are implemented in ways that do not align with the reclamation and post-mining plans in the approved reclamation documents. As a result, the success rates in reclamation and post-mining assessments have not improved.(Alfiani, 2022)

Abandoned mining pits that are left open after mining activities are completed can cause new problems, such as people falling into them. According to several news sources, there have been cases in East Kalimantan where abandoned mining pits have claimed victims due to mining companies neglecting their responsibilities, like carrying out reclamation and post-mining activities. The government plays a very important role in overseeing these mining activities to ensure that mining is carried out in accordance with the laws and regulations governing mining operations.

Even though it is regulated in laws related to reclamation and post-mining obligations, it can be said that the success rate for these two activities is still relatively low, because there are still mining companies that are reluctant to carry out reclamation/post-mining. Or they do it, but not according to the reclamation plan that has been prepared in the reclamation plan documents that have been received. This can cause the success rate in the assessment of reclamation/post-mining not to improve. But among the companies that are reluctant to carry out reclamation and post-mining, There are also mining companies that comply with regulations requiring reclamation and post-mining efforts. Given the various impacts of mining activities, it is only right that mining license holders pay attention to their responsibilities, which include carrying out reclamation and post-mining duties. This study aims to analyze the obligations of mining license holders in implementing reclamation and post-mining measures, as well as to find out the legal sanctions for mining license holders who fail to meet these reclamation and post-mining obligations.

RESEARCH METHODOLOGY

Normative legal research is a type of research that is used. It involves studying certain legal phenomena so that legal doctrines, legal principles, and legal procedures can be found to answer legal problems being faced. This is a scientific activity based on specific methods, systematics, and ways of thinking, and is called normative legal research.(Rosidi et al., 2024) *The statute approach is an approach carried out by examining regulations that are related to the legal issues being studied. This approach is also used to emphasize the obligation to carry out all mining activities properly, including reclamation and post-mining activities. In addition, there is also the conceptual approach, which is an approach based on doctrines that have developed in the field of law. This approach is used in this research to analyze the obligations of carrying out reclamation and post-mining in mining activities. Data analysis is conducted using a qualitative descriptive method. With the research objectives previously set, a review can be conducted within a research activity.*

RESULTS AND DISCUSSION

Obligations of Mineral and Coal Mining License Holders in Carrying Out Reclamation and Post-Mining Activities

According to Article 4 of the Mineral and Coal Law, it states that 'Minerals and coal as non-renewable natural resources are non-renewable natural resources.' The ownership of natural wealth contained in the earth belongs to all Indonesian citizens. The scope of state control according to Article 4 of the Mineral and Coal Law is very broad because the state's control in its implementation is carried out through policy functions and others, over mining goods that exist within the jurisdiction of Indonesian mining law.(Kuswardani & Anggraini, 2021) Article 4 of the Minerba Law states: First, minerals and coal as non-renewable natural resources are national wealth controlled by the state for the greatest welfare of the people. Second, the control of minerals

and coal by the state as referred to in paragraph (1) is carried out by the Central Government in accordance with the provisions of this Law. The control as referred to in paragraph (2) is implemented through policy, regulation, management, administration, and supervision functions.

The scope of state control based on the provisions of Article 4 of the Mineral and Coal Law is very broad, because in practice, state control is carried out through policy functions, regulation, management, administration, and supervision of the mineral resources found within Indonesia's mining jurisdiction.(Almubarok, Agustina Nurhayati, 2025) The government allows the management of these natural resources through the Mineral and Coal Law. Besides covering management, the Mineral and Coal Law also regulates reclamation and post-mining activities. Reclamation and post-mining efforts aim to restore environmental sustainability that has been affected by mining operations. These reclamation and post-mining activities offer various benefits, such as: First, reclamation can help improve soil quality and control erosion. Second, reclamation can help reduce heavy metal content in former mining soils. Third, reclamation in former mining areas can restore the diversity of flora and fauna and boost biodiversity.

In the Mineral and Coal Law, the implementation of reclamation and post-mining responsibilities is charged to mining companies to restore the environment affected by mining activities so that the environment can be used again and provide benefits to the surrounding community.(Teguh & Anisa Kurniatul Aziah, 2025) The positive benefits referred to can be social benefits and economic benefits. Reclamation and post-mining activities, which are obligations for holders of IUP and IUPK, are strictly regulated in the Mineral and Coal Law. However, the Mineral and Coal Law doesn't clearly mention the mechanism for carrying out reclamation and post-mining, so the government issued regulations aimed at regulating the implementation of reclamation and post-mining, namely Government Regulation Number 78 of 2010 concerning Reclamation and Post-Mining.

It's stated in the Mineral and Coal Law that reclamation and post-mining activities are an obligation for holders of IUP and IUPK. Holders of IUIP and IUPK have responsibilities that must be fulfilled when carrying out reclamation and post-mining activities, which include preparing a reclamation and post-mining plan, submitting reclamation guarantees, carrying out and reporting reclamation and post-mining activities, and handing over the reclaimed and post-mining land.(Al Idrus, 2022) All of those responsibilities have been clearly explained in the regulations related to mining and must be carried out by the IUP and IUPK holders so that reclamation and post-mining activities can be done to achieve success levels according to the reclamation and post-mining plans.

According to Article 96 of the Mineral and Coal Law, holders of IUP and IUPK are required to carry out environmental management and monitoring in mining, including reclamation and/or post-mining activities. Furthermore, Article 99 of the Mineral and Coal Law explicitly states that holders of IUP and IUPK must prepare and submit a reclamation plan and/or a post-mining plan.(Rahmawan & Cetera, 2020) The reclamation plan that is prepared must comply with environmental documents as well as the laws and regulations in the field of environmental protection and management. The reclamation plan must be included in the exploration work plan and budget. The reclamation plan is prepared for a period of 5 (five) years and should include the reclamation plan for each year. If the mine's lifespan is less than 5 (five) years, the reclamation plan is prepared according to the mine's lifespan. This is stated in Article 7 Paragraph (1) and Paragraph (3) of Government Regulation No. 78 of 2010. The time limit in reclamation is intended to ensure that within the set period, the former mining land has been fully reclaimed and can function again according to its land use.

A reclamation activity can be considered good and meets reclamation criteria if the activity follows the technical guidelines for reclamation and post-mining implementation according to the needs of the activity itself. Reclamation and post-mining activities have stages that must be followed by mining companies. Among the stages meant are: First, reclamation preparation in this activity is needed to produce a well-integrated reclamation process. Second, Land Arrangement In reclamation activities, land arrangement aims to organize or rearrange former mining land so that the land is ready for planting, prevent erosion and sedimentation on sloped areas, and at the same time aims to restore the carrying capacity and function of the land that will be revegetated. Third, Erosion and Sedimentation Control The process of controlling erosion and sedimentation is closely related to land arrangement, especially in planning the shape of a piece of land, particularly in planning the shape of the land that will be created when the land arrangement activity begins. Fifth, Revegetation. With land arrangement and sediment erosion activities, it can create growing conditions that will determine the stages of revegetation. Sixth, Plant Maintenance. Replanting, controlling ground cover plants, fertilizing, pest and disease control, pruning, thinning, as well as preventing forest fires and illegal grazing are some of the steps in plant maintenance activities.

Besides the reclamation plan, IUP and IUPK holders are also required to submit reclamation guarantee funds and post-mining guarantee funds. According to Article 100 of the Mineral and Coal Law, IUP and IUPK holders must provide and place these guarantee funds. The guarantee funds mentioned in Article 100 of the Mineral and Coal Law will be used if the IUP and IUPK holders fail to fulfill their obligations in carrying out reclamation and post-mining activities according to the plan that was previously submitted.(Akbar et al., 2021) Even though funds for reclamation guarantees and post-mining guarantees have been set aside, the obligation to carry out reclamation and post-mining activities doesn't just disappear, because these activities are the responsibility of the mining company. This is clearly stated in Article 32 of Government Regulation No. 78 of 2010, that setting aside a reclamation guarantee does not eliminate the obligation of IUP and IUPK holders to carry out reclamation. The amount of reclamation guarantee funds placed in a government bank must match the work plan and budget that have been approved by the government. The technical details of placing reclamation guarantees and post-mining funds are regulated in Government Regulation No. 78 of 2010.

Holders of IUP and IUPK are required to carry out reclamation and post-mining activities and submit reports related to these activities to the authorities. Reporting on the implementation of reclamation and post-mining activities must be done systematically. The implementation of reclamation and post-mining is an obligation of IUP and IUPK holders that must be supervised by the Minister in accordance with the provisions of Article 140 of the Mineral and Coal Law, which states, "The Minister is responsible for supervising the implementation of mining business activities carried out by holders of IUP, IUPK, IUPK as a Continuation of Contract/Agreement Operations, IPR SIPB, Transport and Sales Permits, or IUJP."(Yanto & Hikmah, 2023) The supervision carried out by the Minister aims to ensure that the activities have been carried out according to regulations and have achieved maximum results while meeting the success criteria. With the supervision by the Minister, there should no longer be any violations of reclamation and post-mining obligations by IUP and IUPK holders.

Holders of IUP and IUPK are required to hand over land that has been successfully reclaimed according to the reclamation plan to the authorities. If the reclaimed land is still needed for further mining activities, IUP and IUPK holders can apply for a postponement of the land handover. Carrying out reclamation and post-mining activities is the obligation of IUP and IUPK holders after

conducting mining activities, and this is clearly regulated by law. If IUP and IUPK holders are found to neglect their obligations, they should be given legal sanctions in accordance with the regulations.

Legal Sanctions for Mineral and Coal Mining Business License Holders Who Do Not Fulfill Reclamation and Post-Mining Obligations

Giving sanctions is really important when enforcing laws related to reclamation obligations and post-mining responsibilities, which are the duties of mining companies. By imposing legal sanctions, it is hoped that it can raise awareness among mining companies about the importance of fulfilling the responsibilities assigned to them during the mining process. Giving legal sanctions to mining companies serves as a push for them to carry out their obligations. The goal is to reduce the negative impact on the environment caused by mining activities. The mechanism for giving legal sanctions to mining companies is regulated in the laws and regulations. The legal sanctions being referred to can take the form of administrative, criminal, or civil penalties. In the context of mining companies, the legal sanctions given are in the form of administrative and criminal penalties.(Rahmadani et al., 2024)

Holders of IUP and IUPK for Minerals and Coal can be given administrative sanctions if they violate the provisions of laws and regulations, such as not carrying out or fulfilling reclamation and post-mining obligations. The rules for giving administrative sanctions can be found in the Mining Law. According to Article 151 Paragraph (2), it states that: Administrative sanctions as referred to in paragraph (1) include: Written warnings, Fines, Temporary suspension of part or all exploration or production operations, Revocation of IUP, IUPK, IPR, SIPB, or IUP for Sales.(Tapada, 2022)

Even though holders of IUP and IUPK have been given administrative sanctions, the obligation for reclamation and post-mining activities doesn't just go away. This is because reclamation and post-mining activities are responsibilities that IUP and IUPK holders must fulfill. This is in line with the provisions of Article 50 paragraph (3) of Government Regulation No. 78 of 2010, which states, 'Holders of IUP, IUPK, or IPR who are subjected to administrative sanctions in the form of revocation of their IUP, IUPK, or IPR as referred to in paragraph (2) letter c, do not remove their obligation to carry out reclamation and post-mining activities.' In addition to administrative sanctions, IUP and IUPK holders who fail to fulfill their obligations can also face criminal sanctions. Criminal sanctions are punishments imposed on someone who is guilty and commits acts prohibited by criminal law, and with these sanctions, it is expected that people will refrain from committing crimes.(Santoso et al., 2024)

Anyone whose IUP or IUPK is revoked or ends and fails to carry out reclamation and post-mining obligations can be punished with imprisonment for up to 5 (five) years and a maximum fine of Rp. 100,000,000,000.00 (one hundred billion rupiah). This also applies to former IUP or IUPK holders who do not place funds for reclamation and post-mining guarantees. In addition to criminal sanctions, former IUP and IUPK holders may also face additional penalties in the form of payments for fulfilling their reclamation and/or post-mining obligations. These provisions can be referred to in Article 161B of the Minerba Law, which states: Anyone whose IUP or IUPK is revoked or ends and does not carry out: Reclamation and/or Post-Mining; and/or Placement of reclamation guarantee funds and/or post-mining guarantees. Punishable by imprisonment for up to 5 (five) years and a fine of up to IDR 100,000,000,000 (one hundred billion rupiah). In addition to the criminal penalties referred to in paragraph (1), former holders of IUP or IUPK may also be subject to additional penalties in the form of payments for carrying out their reclamation and/or post-mining obligations. With these administrative and criminal sanctions in place, it is hoped that IUP

or IUPK holders will follow the regulations set by the government, particularly regarding the implementation of reclamation and post-mining activities.

CONCLUSION

Reclamation and post-mining activities are obligations for holders of Mining Business Permits (IUP), including Special Mining Business Permits (IUPK) for minerals and coal. These obligations are regulated in Law Number 3 of 2020 concerning the Amendment of Law Number 4 of 2009 on Minerals and Coal. However, the law doesn't regulate the mechanism for carrying out reclamation and post-mining activities. To avoid legal gaps (rechtsvacuum), the government still refers to Government Regulation Number 78 of 2010 on Reclamation and Post-Mining in implementing these activities. The legal sanctions faced by IUP and/or IUPK holders include administrative and criminal penalties. Administrative sanctions in this case can include written warnings, fines, temporary suspension of part or all exploration or production operations, and revocation of IUP, IUPK, IPR, SIPB, or IUP for sales. Meanwhile, criminal sanctions for holders of Mineral and Coal IUPs can include imprisonment and fines.

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