

Change From Law Number 4 Year 2009 to Law Number 3 Year 2020 in Environmental Obligations and Good Mining

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Abstract

Mining is an important thing for the world, which cannot be separated from the environment that is the object in it. In the amendments to the new law, namely Law Number 3 of 2020 concerning amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, there are regulations regarding environmental obligations and good mining principles. The number of mining companies that do not carry out reclamation has attracted the attention of many parties. The distribution of the authority of the central and local governments is also unstructured with many local governments' powers being amputated by the central government. The scope of the research is environmental problems such as reclamation studies, post-mining and good mining rules regarding the change from Law 4/2009 to Law 3/2020 and ineffective supervision in the implementation of Mining Business activities. The approach taken is using a normative juridical method based on an analysis of normative law. The distribution of authority related to supervision should be shared with the local government so that good mining rules can be perfectly realized. In implementing good mining rules, the government as the issuer of Mining Business Permits should be able to involve the community around the mine more because the role of the community around the mine is also necessary to maintain the ecosystem and environmental sustainability. Environmental responsibility must be increased where the role of mining corporations should not be reduced by choosing only reclamation or post-mining activities.

Keywords

mining; environment; law; minerals; renewal; renewable



I. Introduction

In early 2020 when the Covid-19 pandemic spread throughout the world including Indonesia, the Government of the Republic of Indonesia issued Law Number 3 of 2020, which amended Law Number 4 of 2009 concerning Mineral and Coal Mining. Following this change, the 2009 law was further amended by Law Number 11 of 2020 concerning Job Creation. After the amendments to Law no. 4 of 2009 ("Mining Law"), Government Regulation no. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities, which was the implementing regulation of the Mining Law prior to the amendment, was also adjusted. The latest changes to the 2010 regulations have been made through the issuance of Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities.

After the issuance of Law 3/2020 the mining world entered a new era because it was considered no longer in accordance with developments, problems and legal needs in coal mineral matters. Changes to regulations were made as an improvement to Law 4/2009 to provide legal certainty in the management and exploitation of mineral and coal mining. As

a refinement of the old law. The world community's desire for more environmentally friendly energy management makes people care about the surrounding environment, especially in the mining sector, because the mining world is considered damaging to the environment. In the mining world there are activities carried out to improve and manage the use of damaged/disturbed land due to mining activities, as well as politics that are difficult to avoid. This is where the importance of discussing the legal politics of coal mining and mineral management with environmental obligations. The main benefit of reclamation is to restore land. This study aims to find out the legal politics of environmental obligations and good mining practices in the mining world. In this way, the community and actors in the mining world can feel the need for change to occur.

To further regulate the various provisions stipulated in Law 4/2009 which has been amended by Law 3/2020 and by Law 11/2020 concerning Job Creation, the government issued PP 96/2021 as an updated regulatory framework for the implementation of mineral and mining business activities coal. With the issuance of PP 96/2021, the government also revoked and replaced PP 23/2010 concerning the Implementation of Mineral and Coal Mining Business Activities, which had previously been amended several times, most recently with the issuance of PP 8/2018 (collectively referred to as PP 23/2010). Basically, PP 96/2021 regulates various aspects related to the implementation of mineral and coal mining business activities. However, in order to provide a concise analysis of this new framework, discussion is limited to topics including business licensing in the mineral and coal mining sector, Mining Business Permits ("IUP") and mining services businesses.

II. Review of Literature

2.1 Natural Law Theory

Order law is based on the interconnectedness of natural order. Natural law believes that the Law must be based on moral sources originating from nature (*universe*) which are manifested by the law of reasoning or human reasoning. Natural law opposes the notion that law is a product of rulers. Natural law is often used as a reference in determining the relationship between something stated as "good" with things that become a natural reality that occurs in society (*empirical*). Natural law contributes to reasoning and interpretation which until now is also used as one of the theories that inspires jurists. The view that Natural Law has variables that can influence such as time, place and situation and condition variables. Along with the development of human reason and thought, Natural Law also accommodates the limitations of human reason and reason in understanding and interpreting nature.

2.2 Licensing Theory

In the dictionary of legal terms, permission or known as another foreign language, namely *vergunning*, is explained as a permit/permit from the government that is required for actions that generally require special supervision, but which in general are not considered as things that are not at all desirable. Some experts also interpret licensing with different points of view from one another. The first expert, namely Utrecht, defines *vergunning* as the expression that if the regulator generally does not prohibit an act, but still allows it as long as it is carried out in a determined manner for each concrete matter, the decision of the state administration that allows the act is a permit (*vergunning*).

2.3 Natural Resource Management Theory

Theory of natural resource management as proposed by Robert Malthus that, in order to balance population growth (birth) with food growth (production), food productivity must be increased. This can be done by optimizing natural resources that can be managed in the form of goods and services. Because the level of human satisfaction with goods and services is unlimited, the optimization of the depletion of natural resources is carried out without ever taking into account the limited natural resources. As a result, the environmental degradation process in the form of environmental damage and pollution is getting worse and worse.

2.4 The Welfare State Theory

According to Bessant, Watts, Dalton and Smith, the basic idea of the welfare state dates back to the 18th century when Jeremy Bentham (1748-1832) promoted the idea that the government has a responsibility to ensure *the greatest happiness (or welfare) of the greatest number of their citizens*. Bentham uses the term "utility" to describe the concept of happiness or well-being. Based on the principles of utilitarianism that he developed, Bentham argued that something that can lead to extra happiness is something good. On the other hand, something that causes pain is bad. According to him, government actions should always be directed at increasing the happiness of as many people as possible.

III. Research Method

This research uses a normative juridical approach based on an analysis of normative law. The researcher also compares settings and practices in other countries with various regulatory models similar to Indonesia. The scope of the research is also limited, namely related to environmental problems such as reclamation studies, post-mining and good mining rules for changes from Law 4/2009 to Law 3/2020 and ineffective supervision in the implementation of Mining Business activities. The research study uses a descriptive research typology. The data used is secondary data sourced from literature studies on the formation of laws, books, journals, articles related to environmental obligations and the implementation of good mining rules. The data collection technique was carried out through library research methods by reviewing document studies carried out in several libraries, as well as the data analysis method used, namely qualitative.

IV. Results and Discussion

4.1 Obtaining and Extending IUP or IUPK

To obtain an IUP/IUPK, business actors must first obtain: 1) IUP area (“**WIUP**”); or 2) IUPK area (“**WIUPK**”). After obtaining a WIUP/WIUPK, business actors can continue the process of obtaining an IUP/IUPK for the exploration and production operations stages. Once granted, the IUP/IUPK will be valid for different periods of time based on the mining commodity and can be extended.

Obtaining an IUP or IUPK

WIUP can be granted for various types of mining commodities through the following procedures:

- a. For radioactive minerals: the procedure must be in accordance with the legislation in the field of nuclear power;
- b. For metallic minerals and coal minerals (collectively, “**Mineral A**”): auction;

- c. For non-metallic minerals, certain types of non-metallic minerals and rocks (collectively referred to as “**Mineral B**”): submission of application to acquire territory.

Table 1. Procedures and requirements that apply to points (2) and (3) are summarized in the following table:

Method	Procedures and Requirements The	
Auction	<p>The Minister of Energy and Mineral Resources (“Minister”) will publicly announce the auction between 60-14 days before the auction takes place. Previously, within the framework of Regulation 23/2010, auctions had to be announced by the Minister, governors/regents/mayors no later than three months prior to its implementation.</p>	
	To be able to participate in the auction, interested business actors must meet the following requirements:	<p>Administrative requirements, which at least include the following (collectively referred to as “Basic Administrative Requirements”):</p> <ol style="list-style-type: none"> 1. NIB, profile, organizational structure, list of beneficial owners of business actors (i.e. business entity, cooperative/individual company); and 2. Register of shareholders (only for business entities). <p>Previously, Regulation 23/2010 required business actors to have a Taxpayer Identification Number and a deed of establishment, although it did not require a list of beneficial owners.</p>
		<p>Technical requirements and environmental management, which at least includes:</p> <ol style="list-style-type: none"> 1. Experience in mining/support from other mining companies (for newly established companies); 2. Personnel who have experience in mining and/or geology for at least three years; 3. A statement of commitment regarding compliance with environmental laws and regulations (“Statement of Environmental Management Compliance”); and 4. Annual work plan and budget (“RKAB”).
		<p>Financial requirements, which include:</p> <ol style="list-style-type: none"> 1. Financial statements for the last three years (which have been audited by a public accountant) or a statement from a public accountant; 2. Fiscal certificate; 3. Auction seriousness guarantee; and 4. a statement of ability to pay the auction bid amount within seven working days after the announcement of the auction winner. <p>Previously, Regulation 23/2010 did not state the requirements as referred to in point (2), while the time period as referred to in point (4) was set for five working days.</p>

	<p>The auction procedure includes two stages: prequalification (to evaluate the above requirements) and qualification (to evaluate the bid price). Previously, Regulation 23/2010 explained the stages of this auction in more detail.</p>
	<p>The auction winner must complete the payment of the information data compensation value in accordance with the number of auction bids within seven working days after the announcement of the auction winner.</p>
Submission of an application to obtain territory	<p>Business actors must submit an application to the Minister and fulfill the following requirements:</p> <ol style="list-style-type: none"> 1. Basic Administrative Requirements; 2. Geographical coordinates, in accordance with the applicable national geographic system; 3. Payment of regional reservation and map printing fees; and 4. Approval from IUP/IUPK holders for other mining commodities, if the application is submitted for an area that has been granted an IUP/IUPK.
	<p>The Minister will approve/reject the application within 10 working days from the receipt of the application.</p>

Unlike WIUP, the Minister can only grant WIUPK to BUMN, BUMD/private business entity for Mineral mining A. In general, the auction procedure and requirements for WIUPK are similar to the auction procedure and requirements for WIUP. However, in terms of technical requirements and environmental management related to the experience of the parties concerned, Regulation 96/2021 requires BUMN, BUMD and private business entities to have a minimum of 3 years experience in the mining sector.

4.2 Reclamation and Post-mining and Environmental Obligations

Mining operations cause damage to the environment/land use layout and neglect the protection of occupational health and safety. Another severe impact on the environment is seen in hundreds or even thousands of hectares of ex-mining land managed by companies and individuals. The land is excavated, then its valuable minerals are taken and the former mining is left badly damaged without any reclamation. From a juridical perspective, there is an obligation to apply good mining engineering principles including management and monitoring of the mining environment, including reclamation and post-mining activities.

It is undeniable that mining activities can cause damage that is difficult to return to normal. In post -coal mining land, land reclamation is an effort/effort to restore the land surface to be stable and sustainably sustain, which can be used for production, starting from the relationship between soil and vegetation, as a starting point for building a new ecosystem. Provisions regarding reclamation are regulated in Permen ESDM 18/2008, where this regulation is quite specific in regulating the mechanism regarding the implementation of reclamation. In accordance with Law 4/2009, reclamation and post-mining activities must be carried out by every IUP and IUPK holder by taking into account aspects of the environment, worker safety and health as well as mineral and coal conservation. The reclamation plan must be prepared for a period of 5 years, or according to the life of the mine, if the life of the mine is less than 5 years. After the plan is approved by the government, the holder of Production IUP and Production IUPK must appoint a special official who is responsible for its implementation and must start reclamation

activities within 30 days after there is no mining business activity on a disturbed land until the success criteria are met.

According to Article 1 paragraph (2) of Law 32/2009 it is explained that environmental management is an integrated effort to preserve the function of the environment which includes policies for structuring, utilizing, developing, maintaining, recovering, monitoring, and controlling the environment. In discussing environmental obligations, it is necessary to discuss understanding, this is necessary to find a basis. The environment is a combination of physical conditions that include natural resources such as soil, water, solar energy, minerals, and flora and fauna that grow on land and in the ocean, with institutions that include human creations such as decisions on how to use the physical environment. While mining is part/all stages of activities in the framework, management and exploitation of mineral/coal which includes general investigation, exploration, feasibility study, construction, mining, processing and/purification/development and/or utilization, transportation and sales, as well as post-mining activities. The term Reclamation Guarantee is known, which is the funds provided by the company as collateral for reclamation.

In Law 3/2020 Article 100 concerning Reclamation Guarantees, the Minister may stipulate third parties to carry out Reclamation and/or Post-mining with guaranteed funds. Coal mining activities as one of the utilization of natural resources are basically part of the implementation of economic development which essentially refers to the national development goals, namely improving the welfare of the community. Economic growth is still an important goal in a country's economy, especially for developing countries like Indonesia (Magdalena and Suhatman, 2020). However, mining is also an exploitation that is very vulnerable to the risk of pollution and environmental damage, so that the government, as a consequence of the State's Right to Control over Natural Resources, is obliged to carry out the function of regulating, managing and supervising every management of natural resources. Therefore, the state is obliged to emphasize licensing policies, both environmental permits and IUPs that are integrated and refer to the concept of sustainable development and are environmentally sound, as an effort to prevent environmental pollution and damage.

Referring to the article written in the Minerba Law Article 96 letter b, related to the company's obligation to repair ex-mining land, it is enough to only carry out one of the repair obligations. Mining companies can freely choose between Reclamation Activities or Post-Mining Activities. Not only that, companies that are proven to be negligent and do not carry out reclamation or post-mining activities can still extend their contract permits. In fact, in accordance with Article 169A of the Minerba Law, under the pretext of increasing state revenues, the government even guarantees contract extensions in the form of KK and PKP2B for 2 times 10 years. If the author tries to use the theory of natural resource management proposed by Robert Malthus where if the optimization of the depletion of natural resources is carried out without ever paying attention to limited natural resources, the result that arises then is the process of environmental degradation in the form of environmental damage and pollution which is getting worse and worse getting worse. Meanwhile, if following the previous regulation, namely Law Number 4 of 2009, mining companies are required to carry out all Reclamation and Post-mining activities as well as deposit Reclamation and Post-mining guarantee funds. Even though there are rules like this, in fact in the field there are still many violations in the form of ex-mining holes that are left gaping and open and forming a giant lake which also often takes the lives of local people. Instead of reaffirming the rules for Reclamation and Post-mining Activities, instead of criminalizing companies that do not repair ex-mining land, miraculously, the

government has actually made a new rule that liberates the obligations of mining entrepreneurs who destroy the environment by changing the contents of the law. This is very contrary to the circumstances and the environment that should be fully guarded by the state. Even the effects of sustainability seem to be ignored at all by the provisions of this article. Even if you use an analytical knife by linking it to the idea of sustainable development agreed upon at the Earth Summit in Rio de Janeiro 1992, in which one of the two instruments, namely waste management and natural resource management, it becomes difficult to fulfill if the rules related to these matters are relaxed by the government legislator. What is even more unsettling is that the regulation has actually been regulated in the previous law but has been removed and changed to become looser in this new mineral and coal law.

4.3 Changes in Law No. 4 of 2009 to Law No. 3 of 2020

In accordance with good and correct mining principles, every company that has an IUP and IUPK must make an environmental management plan, which is related to reclamation and post-mining. Law 4/2009 obliges mining companies to carry out reclamation and post-mining activities over the mining areas they cultivate. In order to provide a coercive effect for mining entrepreneurs to carry out reclamation, these entrepreneurs are required to submit a certain amount of money as a reclamation guarantee, which must be placed before the company carries out production operations. In Law 4/2009 article 100, IUP and IUPK holders are required to provide reclamation guarantee funds and post-mining guarantees. If the IUP and IUPK holders do not carry out the reclamation in accordance with the approved plan, then the minister, governor, or regent/mayor in accordance with their authority may assign a third party to carry out reclamation and post-mining with the guarantee fund. Reclamation and Post-mining are also important points in the latest mineral and coal law. For reclamation and post-mining activities, it is explained in Articles 99 and 100. IUP/IUPK holders are required to prepare and submit reclamation plans and/or approved plans. Whereas in Law 3/2020 article 100, IUP and IUPK holders are required to provide reclamation guarantee funds and post-mining guarantees.

If the IUP and IUPK holders do not carry out the reclamation in accordance with the approved plan, the minister may assign a third party to carry out reclamation and post-mining with the guarantee fund. In Article 161B of Law 3/2020, it is explained that IUP and IUPK holders whose business permits are revoked but do not carry out reclamation/post-mining/do not place a reclamation/post-mining guarantee fund can be sentenced to a maximum of 5 years in prison and a maximum fine of Rp. 100 billion. The provisions of this law also have sanctions for parties who do not carry out reclamation and/or post-mining and/or do not carry out the placement of reclamation guarantee funds and/or post-mining guarantees as stated in article 161B will be subject to a penalty of up to 5 years in prison and a fine of up to Rp 100 billion. In addition to criminal sanctions, IUP and IUPK holders may be subject to additional penalties in the form of payment of funds in the context of carrying out their reclamation and/or post-mining obligations. Administrative sanctions for reclamation and post-mining activities are less able to provide a deterrent effect on mining companies that violate their obligations to carry out reclamation and post-mining activities, besides the possibility of being violated is very large. The effect of criminal sanctions on mining entrepreneurs in addition to providing a deterrent effect, also prevents the possibility of repeating violations in terms of not carrying out reclamation and post-mining activities. The issuance of criminal sanctions is a form of seriousness from the government to make efforts to save the environment as a

result of mining activities. In an additional article, namely Article 123A, it is explained that the holders of IUP and IUPK Production Operations before shrinking/returning a WIUP/WIUPK are required to carry out reclamation and post-mining to achieve a success rate of 100 percent. Likewise, ex-IUP/IUPK holders who have expired are required to carry out reclamation and post-mining until they reach a 100% success rate and place a mining guarantee fund.

4.4 Implementation of Good Mining Rules and Environmental Supervision

Mining is a business activity that is directly in contact with the Environment, mining activities including rock minerals have a relatively large negative impact on the environment if not managed properly, and this impact can arise from the early stages of activities to post-mining. *Good mining practice* (GMP) is one of the solutions and obligations of the company to minimize the negative impact of mining activities. GMP Mining is a mining activity that complies with regulations, is well planned, applies appropriate technology based on effectiveness and efficiency, carries out conservation of minerals, controls and maintains environmental functions, ensures work safety, accommodates the wishes and participation of the community, generates added value, improves community capabilities and welfare. environment and create sustainable development. Although there are strict rules regarding the obligations of companies and individuals to implement GMP, there are still many violations committed by companies holding IUPs. So far, there have been several problems related to the implementation of good mining governance, namely

- a. the tendency of increasing social conflicts among the actors involved in mining activities;
- b. The mechanism for granting permits so far carried out by regional governments does not refer to the provincial/district/city Regional Spatial Planning (RTRW) and abandons the principles of good licensing governance;
- c. Allegations of overlapping permits, land conversion and environmental damage are high;
- d. The limited capacity of government human resources, especially the presence of mining instructors;
- e. There are allegations of illegal levies in the area outside the mechanism of the law;
- f. Late payment/deposit of Non-Tax State Revenue (PNBP) to the State treasury and regional treasury by companies that have pocketed permits;
- g. The low compliance of the IUP owner in carrying out the company's obligations;
- h. The lack of transparency and accountability in governance has the potential to cause state losses for environmental damage.

Regarding the legal rules of GMP, the regulation is also regulated in Article 96 of Law 4/2009 and its amendments, namely UU3/2020 which states "In the application of good mining engineering principles, IUPK holders are required to implement:

1. Mining safety provisions;
2. Management and monitoring of the mining environment, including reclamation and/or post-mining activities;
3. Mineral and Coal conservation efforts; and
4. Management of mine residue from a mining business activity in solid, liquid, or gas form until it meets environmental quality standards before being released into the environmental media.

Meanwhile, further implementation arrangements related to good mining rules are contained in the Minister of Energy and Mineral Resources Regulation 26 of 201 concerning the Implementation of Good Mining Rules and the supervision of coal mining and minerals which regulates:

- a) General Provisions;
- b) Implementation of good mining technical rules;
- c) Implementation of mineral and coal mining business governance;
- d) Supervision of mining business management;
- e) Supervision of mining business activities;
- f) Sanctions *Administrative*.

In the *Sustainable Development Goals* (SDGs), namely bringing the basic principles of balancing the economy, social and environment, among others, because the following are closely related to the sustainability of good mining rules, namely *People* as the subject who does mining, *Planet* as the object of mining sustainability, *Prosperity* is an economic goal the implementation of mining, *Peace* is the principle that mining is carried out with the environment and *Partnership* is the relationship that is built between the Government, Business Entities and the Community for the alignment of mining objectives in reducing environmental damage.

Regarding environmental losses, in addition to regulations that have a direct impact on the local community, there are also articles in which they are not pro-environmental normalization, but instead benefit mining companies if they can still operate even though they are proven to damage the environment around the mine. This is enough to cause an imbalance in the alignments provided by the law between the existing parties. It is easy for companies to escape their responsibilities in improving the ex-mining land they have explored. The rules for improving ex-mining land consist of two separate activities, namely reclamation and post-mining activities. Referring to the previous regulation, namely Law Number 4 of 2009, mining companies are required to carry out all Reclamation and Post-mining activities as well as deposit Reclamation and Post-mining guarantee funds. Even though there are rules like this, in fact in the field there are still many violations in the form of ex-mining holes that are left gaping and open and forming a giant lake which also often takes the lives of local people. Instead of reaffirming the rules for Reclamation and Post-mining Activities, instead of criminalizing companies that do not repair ex-mining land, miraculously, the government has actually made a new rule that liberates the obligations of mining entrepreneurs who destroy the environment by changing the contents of the law. As written in the Minerba Law Article 96 letter b, the company's obligation to repair ex-mining land now only needs to do one of the repair obligations. Mining companies can freely choose between Reclamation Activities or Post-Mining Activities. Not only that, companies that are proven to be negligent and do not carry out reclamation or post-mining activities can still extend their contract permits. In fact, in accordance with Article 169A of the Minerba Law, under the pretext of increasing state revenues, the government even guarantees contract extensions in the form of KK and PKP2B for 2 times 10 years.

By using an analytical knife, namely the theory of natural resource management described by Robert Malthus who briefly stated that because the level of human satisfaction with goods and services is unlimited, the optimization of the depletion of natural resources is carried out without ever caring about limited natural resources. As a result, the environmental degradation process in the form of environmental damage and pollution is getting worse and worse. The government should have tightened and confirmed the rules related to environmental restoration resulting from mining exploration

with *lists of obligations* that must be obeyed by mining entrepreneurs, not even relaxing the rules related to it, even reducing them for the sake of increasing investment in ease of doing business in areas that have high natural resources. The government must revive the rules regarding the obligations of mining companies to carry out their obligations, namely Reclamation Activities and Post-mining Activities. Thus, the management of natural resources as intended by Robert Malthus will be achieved and the environmental damage he fears will be avoided.

4.5 Supervision of Mineral and Coal Mining

As a consequence of the issuance of the IUP, the next step is to supervise the implementation of the permit. Supervision is one element in the activities of the Government to monitor the obligations of Business Entities for the issuance of IUPs. Supervision in principle is carried out as a preventive effort whether the activities carried out are in accordance with existing provisions. Supervision of mining business management in principle aims to make IUP holders more focused in carrying out mining chain activities and implementing good mining principles, so they do not deviate from the orders and prohibitions set out in the permit. In theory put forward George Terry argues that supervision is intended to determine what has been achieved, evaluate and implement corrective actions if necessary, to be able to ensure the results are in accordance with the plan.

Table 2. Legislation and Responsible Institution

No	Legislation	Agency
1.	Law 32/2009 concerning Protection and Management	of the Environment Ministry of Environment
2.	Law 32/2004 concerning Regional Government	Ministry of Home Affairs and Local Government
3.	Law 4/2009 concerning Mineral and Coal Mining as amended by Law 3/2020 of	the Ministry of Energy and Mineral Resources
4.	Law 5/1990 concerning conservation of SDA	KLH Ministry of Forestry, Maritime Affairs, Fisheries, Forestry
5.	Law 5/1999 amended by Law 19/2004 concerning Amendments Law 41/1999 concerning Forestry	Ministry of Public Works
6.	Law 26/2007 concerning Spatial Planning	of the National Land Agency
7.	Law 5/1960 concerning Basic Agrarian Provisions	(BKPM)
8.	Investment	Regional Government
9.	<i>Hinder Ordonantie</i> (HO)	Local Government

Source: Maharani S Sophia "Records of legal injustice to the environment", *Jenitra legal journal*, Ed.18, Year IV.

In the provisions of the Regulation of the Minister of Energy and Mineral Resources, the mining supervision scheme and good mining rules are also regulated in the Minister of Energy and Mineral Resources Regulation 26/2018 which is presented in the form of a table as follows:

Table 3. Scope of Supervision of the Implementation of Mining Business Management

Scope	of Objects of Minister's Supervision of the Governor	Obligations of the Governor
Supervision to the implementation of mining business management by the Governor.	<ul style="list-style-type: none"> a. Determination and granting of non-metal mineral WIUP and rock WIUP; b. Granting of metal mineral WIUP and coal WIUP; c. Issuance of IPR; d. Issuance of IUP; e. Issuance of Mining Business License (IUP) for Production Operation specifically for processing and/or refining; f. Issuance of Production Operation IUP specifically for transportation and sales; g. Issuance of mining service business license; and h. Implementation of guidance and supervision of activities carried out by holders of IPR, IUP, Special Production Operation IUP for processing and/or refining, Production Operation IUP specifically for transportation and sales related to the implementation of mining business governance; i. management of Mineral and Coal Mining Business data; and j. preparation of a blueprint for community development and empowerment; 	<ul style="list-style-type: none"> a. Report the implementation and implementation of mining business activities at least once in 6 (six) months to the Minister; b. Carry out management of mineral and coal mining business data; and c. Develop and establish a blueprint for community development and empowerment.

Table 4. Comparison of Good Mining Engineering Principles and Mining Business Activities and the Implementation of Mining Business Governance

Supervision of the Implementation of Good Mining Engineering Principles	Supervision of the Implementation of Mining Business Governance
<ul style="list-style-type: none"> • Supervision is carried out by Mining Inspectors • Supervision is carried out through Inspection Investigation, and Testing • Mining inspectors are authorized to: <ul style="list-style-type: none"> a. enter a mining business activity site at any time; b. temporarily stop, part or all of mining activities if deemed to be dangerous; and c. proposes a temporary suspension to become a permanent termination. 	<ul style="list-style-type: none"> • Supervision is carried out by the Minister or Governor in accordance with their respective authorities and can be carried out by a Designated Official. • Supervision is carried out through: <ul style="list-style-type: none"> • Evaluation of periodic reports and special reports; • Periodic inspection or at any time if necessary; and • Assessment of the successful implementation of programs and activities.

4.6 Implementation of Sanctions on the Implementation of Good Mining Rules

In the implementation of licensing supervision of IUPs and the application of good mining rules so that every Business Entity complies with the provisions of obligations to laws and regulations, there are sanctions that are set, namely administrative sanctions in the form of revocation of exploration IUPs, Production Operations IUPs, IUPK Exploration/IUPK Production operations, are imposed on holders of IUP Exploration, IUP Production Operations, IUPK Exploration, IUPK Production Operations who do not fulfill

their obligations until the end of the period of imposition of sanctions for temporary suspension of part or all of mining activities.

V. Conclusion

1. The changes that have occurred in Law 3/2020 are the presence of centralization in terms of licensing and supervision, where the previous authority stated in Law 4/2009, local governments can provide benefits to communities around mining areas. Other changes contained in Law 3/2020 article 123A, it is stated that for reclamation and post-mining activities, IUP/IUPK holders must be carried out until they reach 100% success and place a reclamation and post-mining guarantee fund, with the guarantee fund, the company does not eliminate the obligation to carry out post-mining activities. With the very risky environment that will receive a direct impact from post-mining exploration activities, it has become a concrete obligation as a form of responsibility from mining companies to maintain the environment.
2. The new mineral and coal creates a centralized authority in the management of natural resources. Law No. 4/2009 has given authority to the Regional Government in the management of Mineral and Coal as a manifestation of the spirit of decentralization and regional autonomy in the management of natural resources. However, changes to the Minerba Law weaken this. It is better to be given authority, especially in the area of environmental obligations, because many local people feel the impact. Supervision related to mining corporations in the regions should also be divided and partially handed over to the provincial and district/city governments where the mining corporations are located, considering that the intensity and effectiveness are much better than the supervision that is only focused on the central government as regulated in the provisions of the law - new law.

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- Peraturan Pemerintah Nomor 96 Tahun 2021 tentang Pelaksanaan Kegiatan Usaha Pertambangan Mineral dan Batubara;
- Undang Undang Nomor 4 tahun 2009 tentang Pertambangan Mineral dan Batubara;

Undang-Undang Nomor 3 tahun 2020 tentang Perubahan atas Undang-Undang Nomor 4
Tahun 2009 Tentang Pertambangan Mineral dan Batubara;
Undang-Undang Nomor 32 tahun 2009 tentang Pengelolaan Lingkungan Hidup;