

## Legal Protection Related to Coal Ash Pollution in Marunda

**Rio Djajatmadja\*, Diah Aju Wisnuwardhani**  
Master of Laws, Postgraduate University of Merdeka  
JL. Terusan Dieng No. 62-64 Malang, 65146, Indonesia

*\*Corresponding Author: [riodj78@gmail.com](mailto:riodj78@gmail.com)*

### Abstract

Coal pollution has occurred in Marunda, particularly caused by coal ash or better known as Flying Ash Bottom Ash (FABA). This pollution occurs especially in the Rusunawa Marunda area and its surroundings. This pollution is becoming more and more frequent and disturbing, especially since 2018. This paper wants to explain how the regulations related to coal ash pollution (FABA) in Indonesia and how legal efforts have been taken by the Government in responding to the occurrence of coal ash pollution (FABA) in Indonesia. Marunda. In general, in the above regulations, the imposition of sanctions is administrative in nature. In Article 21 of DKI Jakarta Governor Regulation Number 76 of 2009 concerning the Implementation of Hazardous Waste Management, it is stated that the imposition of sanctions can be in the form of written warnings, forced efforts, and license revocation. But apart from that, the same rules open space if the violation is in the form of a crime, it will be subject to sanctions in accordance with the provisions of the applicable laws and regulations. Independent state institutions such as the Indonesian Child Protection Commission (KPAI) have participated in overseeing this process, considering that many children are also victims of the pollution that occurs, even to the point that there are children whose eyes have pus and keep leaking water, so their corneas must be replaced at the RSCM. The Marunda Health Center has also come down to the flats in Marunda to check on the exposed residents. In addition, the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) DKI Jakarta has carried out an assessment of children suffering from injuries to their corneas.

**Keywords:** Coaslashpollution, FABA, FABAMarunda, Marunda

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### 1. Introduction

The Unitary State of the Republic of Indonesia (NKRI) is a very large country. It has abundant natural wealth. One of the natural resources that our country has is coal. Coal itself is an accumulation of plant remains that died and did not have time to decompose completely, which is then well preserved in oxygen-free (anaerobic) conditions, for example at the bottom of a lake or in very fine grained sediments. Coal is the second largest source of energy after oil. Indonesia itself is one of the 10 (ten) largest coal-producing countries in the world. The coal produced is used for industry both for domestic needs and for export needs. However, there is also a downside to coal itself, as happened in the Marunda area. Coal pollution has occurred in Marunda, particularly caused by coal ash or better known as Flying Ash Bottom Ash (FABA) (Tengkyu, 2019). This pollution occurs especially in the Rusunawa Marunda area and its surroundings. This pollution has been happening for a long time, but it is getting more and more frequent and disturbing, especially since 2018. In the 2018-2019 period, Marunda residents have demonstrated at Marunda Port. Unfortunately, there is no solution and it is left for now. Based on data from the manager (UPRS) of Rusunawa Marunda, there are 10,158 residents in five towers, with details of toddlers as many as 344 people, children aged 5-13 years as many as 1,457 people, teenagers aged 14-17 years as many as 762, and adults aged 18 years and above as many as 7,595 people (Januarti, 2020).

Even the Indonesian Child Protection Commission (KPAI) also highlighted this problem. The Indonesian Child Protection Commission (KPAI) after conducting surveillance in the area said that environmental pollution due to coal dust had an impact on children. There are so many residents, even children who have acute respiratory infections, itching and skin problems, until then there are children who have to have their corneas replaced from donors because their eyes are always oozing pus and watering. In addition, due to the pollution, it also interferes with face-to-face learning activities in several schools in the area. Based on the foregoing, the Republic of Indonesia, which is a state of law, should have regulations that regulate this and provide protection for affected communities. Therefore, some things that need to be disclosed are how are the regulations related to coal ash pollution (FABA) in Indonesia? Then what are the legal measures that have been taken by the Government in responding to the occurrence of coal ash pollution (FABA) in Marunda?

## **2. Literature Review**

To make this research better and as accurate as possible, the author tries to examine the previous writings as follows: The journal written by Indriyati et al. (2015), this research on the utilization of FABA waste in construction for road pavements. Where the base layer mixture is made in five variations. Variations I and III FABA were used as a substitute material, while in variations II, IV and V FABA was used as an additive. Variations I and II with the composition of FABA 55%FA and 45%BA resulted in CBR values of 114% and 162%, respectively. In variations three and four with different treatments by curing which resulted in CBR values, namely variations of 117% and 252%. While in variation V the composition of FABA 75%FA 25%BA the CBR value obtained is 100%, so that all soaked CBR values are included in the standard and FABA is suitable for use in the mixture of road pavement layers.

The fundamental difference in this journal is the focus on the utilization of coal ash waste (FABA), while the authors focus on the effects produced by FABA waste which are aligned with government efforts on FABA waste pollution and the regulations that govern it. Journal written by Januarti Jaya Ekaputri and M. Shahib Al Bari entitled "Comparison of Fly Ash Regulations as Hazardous Waste in Indonesia and Several Countries". This journal discusses several regulations related to FABA waste in Indonesia and several other countries. The fundamental difference with this paper is that this journal compares FABA regulations in Indonesia and several other countries, while the author attempts to analyze regulations related to coal ash pollution and government legal remedies if there are violations.

## **3. Methods**

This study uses normative juridical research methods, especially to examine the laws and regulations relating to the force of law governing B3 waste, especially coal ash waste or flying ash bottom ash (FABA). This study also uses the approach of laws or regulations that apply in Indonesia. The focus of this research is the regulation related to coal ash waste in Indonesia and the government's legal remedies in the event of a violation.

## **4. Results and Discussion**

As we know that the government has issued the Job Creation Law Number 11 of 2020. This law also contains several changes in Law 32 of 2009 concerning Environmental Protection and Management. This law is the basis for environmental management, especially if there is coal ash pollution in Indonesia. The derivative regulations are then further regulated in Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management. At the local government level, in particular the Provincial Government of the Special Capital City Region (DKI) of Jakarta, it is also further regulated in the Regulation of the Governor of DKI Jakarta Number 76 of 2009 concerning the Implementation of Hazardous Waste Management (Ryan, 2021). In Article 508 of Government Regulation Number 22 of 2021, it has been regulated the application of administrative sanctions in the form of written warnings, government coercion, administrative fines, freezing of business licenses, and revocation of business licenses. Furthermore, Article 518 of the Government Regulation above also states that administrative fines for violation of obligations are imposed according to levels from light, medium and severe, with a minimum value of Rp. 1,000,000,000 (one billion rupiah) up to a maximum value of Rp 25,000,000,000 (twenty five billion rupiah). Then Article 523 also stipulates that the Minister can apply administrative sanctions if the regional government intentionally does not apply administrative sanctions for serious violations in the field of environmental protection and management.

In general, in the above regulations, the imposition of sanctions is administrative in nature. In Article 21 of Regulation of the Governor of DKI Jakarta Number 76 of 2009 concerning the Implementation of Hazardous Waste Management, it is stated that the imposition of sanctions can be in the form of written warnings, forced efforts, and revocation of permits. But apart from that, the same rules open space if the violation is in the form of a crime, it will be subject to sanctions in accordance with the provisions of the applicable laws and regulations. Regarding the coal ash waste that occurred in Marunda, the Government in this case through the DKI Jakarta Provincial Government, has conducted an investigation. An investigation was carried out by the DKI Jakarta Environmental Agency, an investigation was carried out in 2019 to follow up on public complaints. Then it was only resumed in March 2022, by placing a mobile air quality monitoring station around Rusunawa Marunda. They found there was air pollution, especially PM 2.5 particles or fine dust. Based on the results of the investigation, it was stated that PT Karya Citra Nusantara (KCN) was proven to have polluted the environment from coal ash at Marunda Port, North Jakarta. KCN was proven to have violated the laws and regulations in the environmental field.

Some of the violations that occurred and were carried out by KCN were as follows: (1) Enabling areas that should not be used for loading and unloading materials that have the potential to cause pollution; (2) Not constructing a 4 m high embankment in the stockpile area to prevent coal dust from being carried; (3) The coal stockpile area is not covered by tarpaulin; (4) Ineffective watering frequency and scope to prevent sewage dust; (5) There is backfilling of pier land using spilled coal; (6) Coal spills were found to be spilled into the sea during loading and unloading; (7) Business activities do not provide truck wheel wash basins and do not hand over spilled coal to third parties.

Apart from the existing regulations regarding B3 waste or more specifically regarding coal ash waste, there are other interesting facts to discuss about this coal ash waste (FABA). When the Employment Copyright Act was passed, FABA was excluded from the category of Hazardous and Toxic Waste (B3 Waste). This sparked a polemic in society. Various groups of civil society also protested. Civil society considers this regulation rash, and is bad news for the environment, public health and the future of the renewable energy transition in Indonesia. Reflecting on the rash decision, the government is considered to have neglected to consider the risk of coal ash pollution and made a decision only by considering benefits social risk, environment and health is borne by citizens and nature. What is also a concern for the community is that criminal snares will become blurred or even disappear (Umboh, 2020).

However, this was denied by the government, in this case the Ministry of Environment and Forestry. According to the government, there are indeed things that are released from B3 waste intonon B3, but only for those using a pulverized coal boiler or chain grate stoker combustion system. The Ministry of Environment and Forestry as a technical agency said that they had reasons based on scientific based knowledge. Another consideration, the PLTU with the combustion system uses a high temperature until the FABA produced is minimum and is more stable when stored. This causes FABA and coal combustion products (CCP) to be used as building materials, cement substitution, roads, underground mining, and mine restoration. Meanwhile, industries that still use stoker boilers or industrial furnaces, the waste category is still B3 with the waste code B409 for fly ash and B410 for bottom ash.

In addition, the government also stated that although FABA using a pulverized coal boiler system is not included in B3 waste, industry players must meet the standards and technical requirements set out and listed in the environmental document approval. There are technical requirements and procedures for stockpiling FABA, as well as technical requirements and standards for FABA utilization. Thus, the precautionary principle for environmental protection remains the responsibility of the producer or waste manager. Such waste should not be disposed of carelessly and scattered. How business actors must process it is in the environmental agreement, for example technical requirements, BAFA collection, BAFA utilization standards and so on.

According to the government, in Government Regulation Number 22 of 2021, it has been regulated that waste management must implement the precautionary principle by producers or processing services for all types of waste, both B3 waste and non-B3 waste (Pambudhi, 2021). These principles include efforts to reduce waste or waste minimization, management from cradle to grave, management with circular economy principles or from cradle to cradle, producer is responsible for pollution or polluter pay, proximity of waste management to the processing location or proximity and environmentally sound management (Bokong, 2021). B3 waste management is also carried out based on Technical Approval (Pertek) and equipped with Operational Eligibility Letter (SLO), in principle, in existing regulations, the imposition of sanctions is indeed more administrative in nature. However, in the DKI Jakarta Governor Regulation Number 76 of 2009 it is opened space if the violation is in the form of a crime, it will be subject to sanctions in accordance with the provisions of the applicable laws and regulations.

Regarding the government's legal efforts, where coal ash pollution has occurred in Marunda, based on the results of the investigation it was stated that PT Karya Citra Nusantara (KCN) was proven to have polluted the environment from coal ash at Marunda Port, North Jakarta. KCN was proven to have violated

the laws and regulations in the environmental field. This is known based on the results of environmental compliance monitoring by the Regional Environmental Supervisory Officer (PPLHD). The DKI Jakarta Environmental Service also imposed administrative sanctions in the form of government coercion on KCN. The sanctions are stated in the Decree of the Head of the North Jakarta LH Sub-Department Number 12 of 2022 dated March 14, 2022. Then on Monday, June 20, 2022, the DKI Jakarta Provincial Government through the DKI Jakarta Provincial Environmental Service imposed a weighting on the application of administrative sanctions by revoking the environmental permit for loading and unloading activities by KCN through the Decree (SK) of the Head of the Environment Sub-department of the North Jakarta City Administration Number 21 of 2022. This sanction was carried out based on the results of supervision from administrative sanctions in the form of government coercion last March which was not obeyed by KCN. Two weeks later, the operation of the KCN Terminal was temporarily suspended by the Minister of Transportation through the Letter of the Minister of Transportation of the Republic of Indonesia Number: AL.026/1 PHB 2022.

In addition, the Marunda Health Center has also come down to the flats in Marunda to check on the exposed residents. In addition, the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) DKI Jakarta has conducted an assessment of children suffering from corneal injuries and it is hoped that the DKI Jakarta Health Office can also provide free treatment so as not to burden the affected residents. The DKI Jakarta Health Office has also come down to open a checking service there, but because of the lack of socialization, not many residents come. In this case, the DKI Jakarta Regional Government has indeed given a weighting sanction by revoking the environmental permit for loading and unloading activities which resulted in the operation of the KCN terminal being temporarily suspended. Indeed, this case should have been resolved more quickly, considering that this problem has been going on for more than 2 (two) years, but the government in this case the DKI Jakarta Regional Government can be more proactive and respond quickly to this problem, especially since there is an obligation to report routinely on handling activities waste from companies and the government can carry out unannounced inspections to control whether the handling of waste carried out by the company is in accordance with the provisions. In addition, for the protection of citizens, legal breakthroughs can also be made, so that not only administrative sanctions are obtained by the related company, but it can be explored further whether there is a criminal element in this matter, even related to child protection efforts, considering that many victims are aged children. It should be noted that in Article 76C of the Child Protection Law it is stated that everyone is prohibited from placing, letting, committing, ordering to do, or participating in committing violence against children, if they fulfill the elements referred to, then based on Article 80 of the Child Protection Act, Violators can be penalized. And it doesn't stop there

## **5. Conclusion**

Despite the concerns of several parties, in general regulations from both the central government and the provincial government have regulated the management of B3 waste. In it there is a supervisory function that should be carried out by the Government, both Central and Provincial. In addition, there are administrative sanctions for those who violate, as well as an open space for criminal sanctions if proven to be a crime. The government, in this case the DKI Jakarta Environmental Service, has taken legal action after finding a violation and has given administrative sanctions in the form of government coercion to PT. KCN in accordance with the Decree of the Head of the North Jakarta LH Sub-dept. Number 12 of 2022 dated March 14, 2022, then imposed the Weighting of the Application of Administrative Sanctions by revoking the environmental permit for loading and unloading activities by KCN through the Decree (SK) of the Head of the Environmental Sub-dept. of the North Jakarta Administration No. 21 of 2022. And there are already two other companies that are suspected of being responsible for the pollution and have also been given administrative sanctions. The Indonesian Child Protection Commission has also taken part in overseeing this issue. However, it is necessary to put forward surveillance and preventive measures so that this does not need to happen, let alone cause casualties. Legal breakthroughs also need to be made to investigate whether there are criminal acts that can be imposed on KCN, even including in terms of Child Protection considering that many children are victims. This is solely to provide a deterrent effect for the violator.

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