

LEGAL RESPONSIBILITY FOR USING OIL FUEL ON PARTALITE DEFENSE (CASE STUDY OF DITPOLAIRUD POLDA BALI)

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ABSTRACT

The purpose of this study is to find out and analyze legal accountability and factors that affect perpetrators in the misuse of Pertalite Assignment Fuel Oil. In a five-year period, from 2019 to 2023, the Bali Regional Police Directorate handled 10 cases of misuse of Oil and Gas Fuel. The authors conclude that the absence of regulation regarding the maximum limit for the purchase of special assignment fuel with jerry cans, thus causing the Blurring of Legal Norms, so that this can cause the abuse of fuel oil. Factors such as low legal awareness and public compliance with the rules, the dominance of individual and group interests, and the lack of knowledge about applicable regulations are the main causes of the misuse.

INTRODUCTION

Indonesia is a country with abundant natural resources, including oil and gas mining which is classified as a strategic resource (Agus, 2019; Arisaputra et al., 2021; Hajad et al., 2023; Riyadi, 2020; Yudha, 2023). Article 33 Paragraphs (1) and (2) of the 1945 Constitution of the Republic of Indonesia states that important branches of production and natural resources are controlled by the state for the prosperity of the people. The government established PT Pertamina (Persero), a state-owned enterprise that manages fuel mining and distribution through petrol stations. However, the limited petrol stations and their location in urban areas make it difficult to access fuel for remote communities. Pertamina receives government subsidies to set fuel prices in accordance with Article 13 Paragraph (2) of RI Law No. 8 of 1971 concerning State Oil and Gas Mining, which regulates the provision and service of domestic fuel needs.

Pertalite, a type of RON 90 fuel, was launched by Pertamina in July 2015 to reduce the consumption of Premium subsidized fuel, as an idea from the Marketing Director at the time, Ahmad Bambang. At the end of 2014, Pertamina's financial statements showed large losses, especially from the subsidized fuel retail business, even though non-subsidized products such as Pertamax experienced a surplus. To overcome this loss, Pertamina launched Pertalite, a fuel with a price more expensive than Premium but cheaper than Pertamax, as an alternative for consumers. This step succeeded in reducing Premium consumption and increasing the use of Pertalite, which in 2017 became the most consumed fuel by the public. Initially not subsidized, Pertalite is now a government-

subsidized Special Assignment Fuel (JBKP). The price of Peralite has varied since its launch, ranging from IDR 8,400 per liter in 2015 to IDR 10,000 per liter in 2022.

Fuel oil is one of the vital elements needed in public services both in poor countries, developing countries and in countries that have developed country status (Ansari & Holz, 2020; Charlier & Legendre, 2021; Ghorashi & Maranlou, 2021; Huang et al., 2020; Yang et al., 2022). Oil and natural gas is a natural resource controlled by the state and is a source of vital commodities that play an important role in the provision of industrial fuels, fulfilling important needs (Aczel, 2022; Hanafie et al., 2023; Kanwal et al., 2022; Siagian et al., 2022; Vasudevan et al., 2023). Hence, its management needs to be carried out as optimally as possible so that it can be utilized for the greatest possible prosperity of the people, where in some developing countries such as Indonesia the need for oil and natural gas is increasing day by day.

The high level of subsidized fuel oil consumption forced the government to issue policies to reduce the level of fuel oil consumption and reduce the amount of subsidies (Dartanto, 2013; Ichsan et al., 2022; Skovgaard et al., 2018). One of the policies carried out by the government is to increase the price of subsidized fuel oil. Based on data from the Ministry of Energy and Mineral Resources (Ministry of Energy and Mineral Resources), it is noted that since 1980, the Indonesian government has increased subsidized diesel fuel several times with the aim of reducing the amount of fuel subsidies that are considered inappropriate. The fuel subsidy that is cut will be diverted to more appropriate sectors such as education, health services, and infrastructure.

In Presidential Regulation Number 191 of 2014, the Type of Special Assignment Fuel is fuel derived from petroleum or biofuel with certain specifications and distributed in the assignment area without subsidies. Presidential Regulation Number 117 of 2021 states that RON 88 gasoline, 50% of the volume of RON 90 gasoline distributed by Business Entities, is considered as Special Assignment Fuel since June 1, 2021. Article 55 of Law Number 22 of 2001 states that the misuse of subsidized fuel transportation or trade is punishable by imprisonment for up to 6 years and a fine of up to Rp 60 billion. Regulation Number 2 of 2023 stipulates that Special Assignment Fuel must be distributed on target and in volume according to recommendations. Fuel abuse, such as smuggling, allocation irregularities, and sales abroad for personal or corporate profits, are subject to basic and additional crimes such as revocation of rights or confiscation of goods.

Within a period of five years, from 2019 to 2023, the Bali Regional Police Directorate handled 10 cases of misuse of Oil and Gas Fuel. In 2019 there was 1 case, in 2020 there were 5 cases, in 2021 there were nil, in 2022 there was 1 case, and in 2023 there were 3 cases, all of which have been resolved. An example of a case occurred on September 12, 2023 in Sekardadi Village, Kintamani, Bangli, where WK and NS were secured for abusing the transportation and trading of subsidized fuel. The evidence seized included cars, jerry cans containing Peralite and Diesel fuel, and fuel transfer equipment. The perpetrator's modus operandi was to buy Peralite at petrol stations at a price of Rp 10,000 per liter, transfer it to a 30-liter jerry can, and sell it for profit.

Based on the background description mentioned above, the author encourages the author to conduct research related to the regulation of the maximum limit for the purchase of special assignment fuel (Peralite) that uses jerry cans, thus causing the Blurring of Legal Norms, so that this can cause the abuse of fuel oil. Therefore, this study aims to find out and analyze legal accountability and factors that affect perpetrators in the misuse of Peralite Assignment Fuel Oil. This research is expected to provide input that is considered useful and useful for the development of legal studies related to Legal Responsibility for the Misuse of Fuel Oil Peralite Assignment as well as factors that affect actors in the Abuse of Fuel Oil Peralite Assignment.

METHODS

The type of research used in this study is a type of normative legal research with a normative juridical approach. Here, through the document study technique, the author uses three types of literature materials: primary legal materials that are binding such as laws and regulations and judges' decisions (for example, the 1945 Constitution, the Criminal Code, Law No. 8 of 1981, Law No. 22 of 2001, and others), secondary legal materials that explain primary materials through doctrines from books, legal journals, and the internet, as well as tertiary legal materials that support these two materials by providing additional understanding. such as the Great Indonesian Dictionary and the Legal Dictionary. The legal materials obtained are both in the form of primary data, secondary data is then processed using qualitative analysis. After qualitative analysis, the data will be presented in a descriptive, qualitative, and systematic manner.

RESULTS

Legal Liability for the Misuse of Fuel Oil for Partalite Assignment

Pertalite Assignment Fuel Oil Purchase Mechanism

The use of Certain Types of Fuel Oil (BBM) (JBT) Diesel and Pertalite Special Assignment Fuel Types (JBKP) must be on target and in the right volume in their distribution. For this reason, the Downstream Oil and Gas Regulatory Agency (BPH Migas) has issued BPH Migas Regulation Number 2 of 2023 as a technical guideline in the issuance of JBT and JBKP purchase recommendation letters, which are explained in detail in a stakeholder communication forum by the Head of BPH Migas, Erika Retnowati. The use of information technology in the issuance of letters of recommendation aims to provide convenience and avoid duplication of letters.

This letter of recommendation is valid for three months and its issuance can be done electronically or manually, and cannot be sold. User consumers who are entitled to submit letters of recommendation include the micro business sector, fishery business, agricultural business, transportation, and public services, with details such as the use of machine tools, fishing boats up to 5 GT, agriculture with a maximum area of 2 hectares, and the use of fuel for crematoriums, orphanages, and hospitals. Each sector has specific conditions that must be met to get the letter of recommendation.

The issuance of a letter of recommendation is carried out by authorities such as the head of the fishing port, the head of the regional apparatus, or the village head, and this process must be in accordance with the provisions of the BPH Migas Regulation. Fuel distribution based on recommendation letters is carried out through PETROL STATIONS, SPBKB, SPBUN, or SPBN and must ensure that fuel distribution is on target and at the right volume. User consumers are prohibited from transferring or reselling the fuel obtained from the recommendation letter, and violations of this provision will be subject to sanctions.

Maximum Regulations for the Purchase of Pertalite Assignment Fuel Oil Using Jerry Cans

PT Pertamina (Persero), through its subsidiary PT Pertamina Patra Niaga, strictly prohibits the purchase of Pertalite subsidized fuel using jerry cans. This step was taken to prevent the resale of subsidized fuel in retail form, which is often sold in stalls under the name Pertamina. This prohibition is regulated in the Circular Letter of the Minister of Energy and Mineral Resources No. 13/2017 and is part of efforts to ensure that subsidized fuel is right on target. Starting July 1, 2022, Pertamina requires consumers of subsidized Pertalite and Diesel fuel to register on the MyPertamina website, although temporarily only for four-wheeled vehicles.

Pertalite has been designated as a Special Assignment Fuel Type (JBKP), which means that its distribution is regulated and compensated by the government. According to Presidential Regulation

Number 191 of 2014, JBKP is fuel that is distributed in assignment areas without subsidies. The provision and distribution of JBKP is carried out by business entities through the assignment of regulatory bodies. This change in Peralite's status, effective from January 1, 2022, requires stricter supervision to ensure that the fuel is used by eligible consumers and not resold.

Further arrangements are regulated in the Decree of the Minister of Energy and Mineral Resources and the Presidential Regulation, which regulates the fuel price and distribution formula. PT Pertamina can only distribute fuel to direct users for transportation and household needs, not for resale. The enforcement of this rule is based on the theory of law enforcement which requires sanctions for violators. This law enforcement is important to ensure justice and social benefits, as well as involving law enforcement officials to realize the will of the law. Public legal awareness is also the key to ensuring that this rule runs effectively.

On September 12, 2023, the Bali Police Directorate arrested Wayan Kodokta Wirasuta and Nyoman Saputra at a rented house in Sekardadi Village, Kintamani, Bangli, Bali, for abusing the transportation and/or trading of subsidized fuel oil (BBM). The evidence seized included a Suzuki Futura car, STNK in the name of I Nengah Gunawan, 22 jerry cans containing 660 liters of Peralite, 5 jerry cans containing 150 liters of diesel, pumps and hoses, and an iron tank containing 800 liters of Peralite. Their modus operandi is to buy Peralite at petrol stations for Rp10,000 per liter, move it to jerry cans, and resell it at a higher price.

Based on the case analysis, there is sufficient evidence that Wayan Kodokta Wirasuta and Nyoman Saputra violated Law of the Republic of Indonesia Number 6 of 2023 concerning Job Creation and Law Number 22 of 2001 concerning Oil and Gas. They are accused of buying subsidized fuel without a permit and reselling it for profit. The Denpasar District Court decided the criminal sentence for the two suspects with Wayan Kodokta Wirasuta sentenced to 4 months in prison and a fine of Rp20,000,000, and Nyoman Saputra sentenced to 3 months in prison and a fine of Rp5,000,000. If the fine is not paid, it will be replaced with imprisonment for one and two months, respectively.

From a legal perspective, criminal liability is based on the fault and legality of the act. The law provides certainty that every criminal act that violates the rules must be acted upon in accordance with the law. This is important to maintain order and justice in society. Legal certainty also includes the need for clear rules that do not give rise to multiple interpretations, as well as consistent law enforcement that is not influenced by subjectivity. In this case, even though there is a legal loophole regarding the maximum limit for subsidized fuel purchases, justice is still upheld through a court decision.

Factors Influencing Perpetrators in the Abuse of Fuel Oil Peralite Assignment

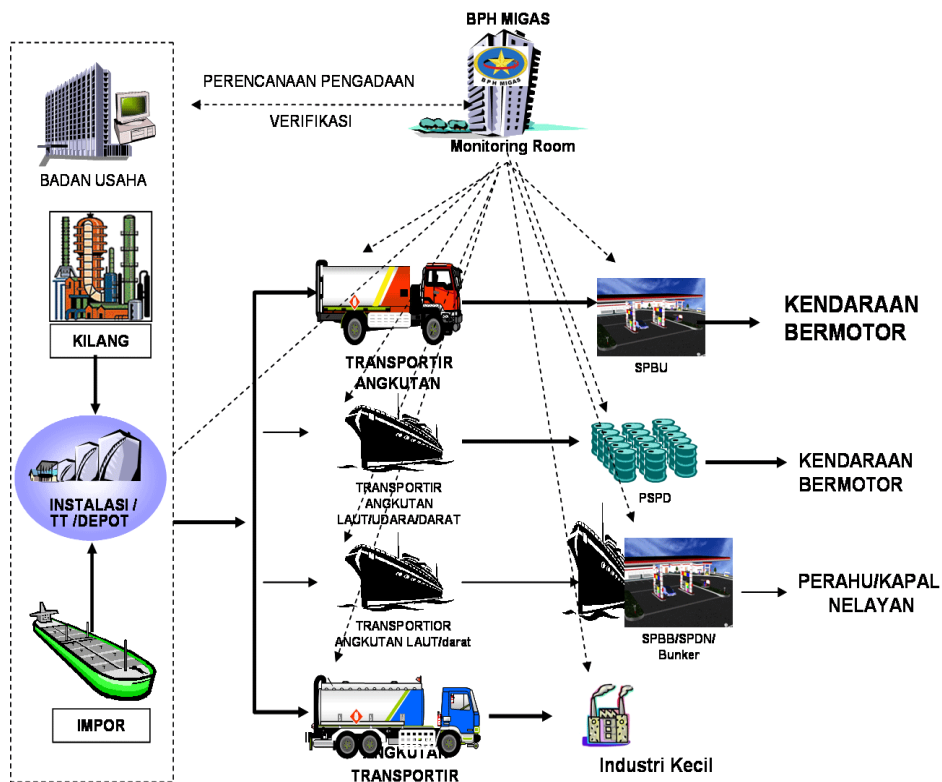
Authority for the Provision of Peralite Assignment Fuel Type

The Indonesian government categorizes fuel oil (BBM) into three types to facilitate its distribution. The first type is Certain Fuel which includes Kerosene and Diesel Oil (Gas Oil). The second type is Special Assignment Fuel, namely Gasoline with a minimum RON of 88 which is distributed in certain areas outside the Provinces of Jakarta, Banten, West Java, Central Java, East Java, Yogyakarta, and Bali. The third type is General Fuel, which includes all types of fuel other than Specific Fuel and Special Assignment Fuel. Only Certain Fuels receive subsidies because they are allocated to certain consumers.

According to the Regulation of the Downstream Oil and Gas Regulatory Agency of the Republic of Indonesia Number 1 of 2022, the assignment of business entities in the supply and distribution of Certain Fuel and Special Fuel for Assignment lasts for five years, with the assignment of volume quotas per handover point every year. This assignment is carried out based on the Decree of the Head of the

Regulatory Agency and includes several obligations for business entities, such as ensuring smooth distribution, preventing supply shortages, reporting distribution plans and realizations, and implementing government policies related to Certain Fuel or Special Assignment Fuel.

Supervision of the assigned business entities is carried out through volume and field verification. Volume verification is based on monthly reports which are then determined in the Committee Meeting. In addition, the assignment of volume quotas per handover point for the following year takes into account the realization of the previous year's distribution. Presidential Regulation of the Republic of Indonesia Number 117 of 2021 also regulates changes related to the supply, distribution, and retail selling price of fuel, with the Regulatory Agency tasked with verifying the volume to ensure compliance with applicable regulations.



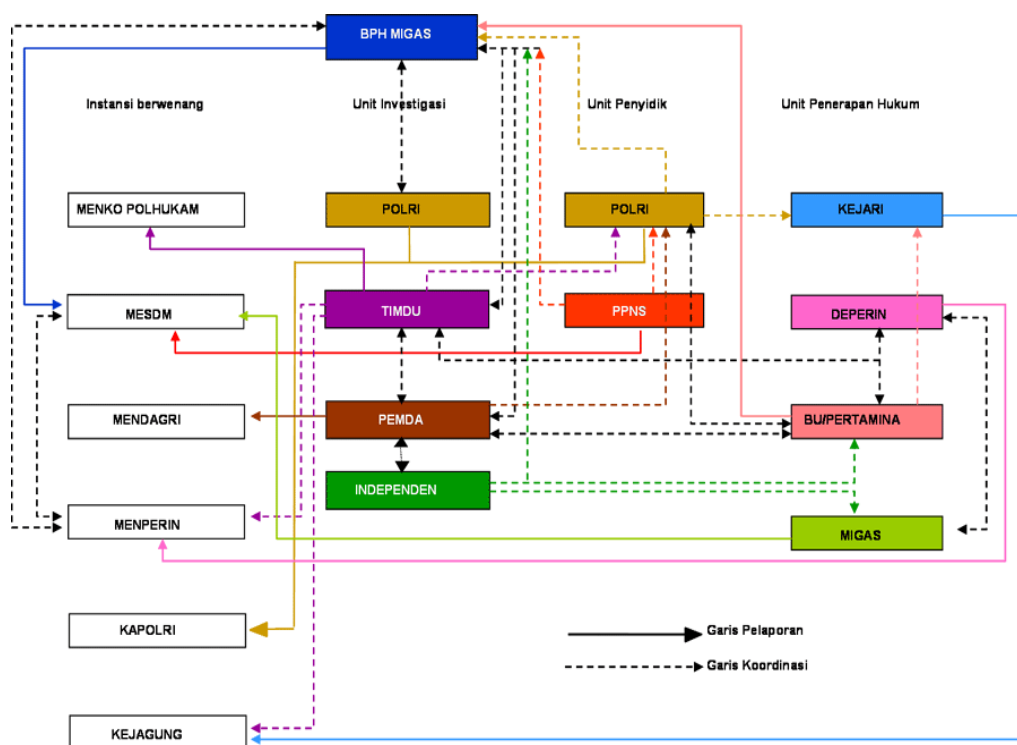


Figure 1. Fuel Supervision for Peralite Assignment

Factors Influencing Actors in Fuel Abuse Miyak Peralite Assignment

Law enforcement is the process of implementing legal norms as a code of conduct in society and the state. According to Soerjono Soekanto, law enforcement includes activities to harmonize the relationship of values listed in methods and actions to create and maintain peace. Factors that affect law enforcement include the law itself, law enforcement, supporting facilities or facilities, and public awareness and compliance with the law.

According to IPDA investigator Bagus Sigit Nugroho, the factor that affects the misuse of government-subsidized Peralite assigned fuel is low public awareness and compliance with the law. Other factors include personal and group interests, lack of knowledge and information about fuel trading rules, and profit motivation from selling subsidized fuel without an official license. The lack of socialization of the rules also causes the public not to understand the prohibitions and procedures for buying fuel correctly.

The author argues that the perpetrators of the abuse of Peralite fuel subsidized by the government only see profits from selling fuel at high prices. The perpetrators bought subsidized fuel at a price of Rp. 10,000 per liter at petrol stations using jerry cans, then sold it without a permit at a high price to consumers such as farmers and fishermen. To prevent this abuse, the government must tighten monitoring and supervision, as well as provide maximum restrictions on the purchase of Peralite fuel at petrol stations.

Government Efforts to Prevent the Misuse of Peralite Assignment Fuel Types

Oil and Gas (Oil and Gas) is a strategic and non-renewable natural resource that is very vital in the national economy. Therefore, its management must be professional and sustainable to provide maximum benefits for the welfare of the people. According to the 1945 Constitution Article 33 paragraph (3), oil and gas is controlled by the state for the prosperity of the people. However, the

misuse of subsidized fuel often occurs, harming the government and people in need. Fuel subsidies are intended to help the underprivileged, and their misuse hampers that goal. Countermeasures against fuel misuse can be carried out through preemptive, preventive, and repressive efforts.

Preemptive efforts involve activities aimed at preventing criminalogen factors as early as possible. This activity includes counseling and information by the police to the community and oil entrepreneurs to prevent fuel hoarding, smuggling, or smuggling. Cooperation with the oil entrepreneurs association and the empowerment of Bhabinkamtibmas is also important in minimizing crime. The Bali Police, for example, held a social approach with the community to deal with fuel abuse.

Preventive efforts aim to prevent the direct occurrence of criminal acts. The Bali Police through the Directorate of Police Airud supervises and monitors the distribution of fuel at petrol stations and SPBN, as well as identifying areas prone to fuel abuse. Regular patrols, reconnaissance, and placement of members at vulnerable points are carried out to prevent crime. The "Friday Curhat" program was also held to listen to fishermen's obstacles related to subsidized fuel.

Repressive efforts are active actions by the police in dealing with fuel abuse. Coordination is carried out with Pertamina, petrol stations, SPBNs, agents, bases, and retailers to supervise and control fuel distribution. Pertamina provides strict sanctions to those who abuse or misuse fuel. Strict supervision and cooperation between related parties are expected to prevent abuse and ensure subsidized fuel reaches those who are entitled.

The support of all elements of society and related parties is urgently needed to ensure that subsidized fuel is distributed correctly. Efforts from various parties must continue to be increased to ensure that the distribution of subsidized fuel does not experience abuse or scarcity, which often worries the community, especially fishermen. Increasing the effectiveness of supervision and law enforcement is expected to create a fair and targeted distribution of fuel.

CONCLUSION

The authors conclude that the absence of regulation regarding the maximum limit for the purchase of Peralite Assignment fuel with jerry cans has the potential to create ambiguity in legal norms, allowing perpetrators to avoid legal liability. Factors such as low legal awareness and public compliance with the rules, the dominance of individual and group interests, and the lack of knowledge about applicable regulations, are the main causes of the misuse of subsidized fuel. The suggestions given include the need for responsible and consistent law enforcement, regulatory revisions to limit fuel purchases with jerry cans, and intensification of supervision and socialization so that subsidized fuel really reaches the right target and is not abused.

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