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Environmental Governance under Uzbekistan's Subsoil Law

A comparative legal analysis of the former and current statutory frameworks

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Abstract. Uzbekistan's Law No. O'RQ-987 of 31 October 2024 reorganises the environmental regulation of subsoil use. This article examines whether its principal contribution lies in establishing new environmental duties or in making existing duties more operational. A doctrinal comparison with the former Law on Underground Resources identifies continuity in pollution prevention, land rehabilitation and safe closure, alongside substantial development in environmental assessment, closure planning, financial assurance and post-closure accountability. The analysis proposes three criteria for evaluating the reform: temporal continuity of obligations, financial coverage of foreseeable liabilities, and coherence between subsoil and general environmental legislation. Particular attention is given to the relationship between cost-based security and income-based closure-fund contributions, the qualified pollution-liability regime, and the distinction between the thirty-year closure provision and the specific two-year monitoring mechanism. The article argues that the new framework can improve environmental accountability when planning, funding and verification operate as a connected legal process. It recommends clearer coordination of assessment procedures, documented security reconciliation, risk-based post-closure supervision and public reporting. These are normative conclusions from statutory analysis, not findings of demonstrated environmental improvement.

Keywords: Uzbekistan; subsoil law; environmental assessment; mine closure; financial assurance; biodiversity; post-closure liability.

1 Introduction

Mining law must address two different time horizons. A permit authorises a defined period of economic activity, while disturbed land, waste facilities and contaminated water may require management after production ends. A legal system that concentrates on allocating extraction rights without ensuring that environmental duties remain identifiable and financially supported risks separating private returns from continuing public costs. This article examines how Uzbekistan's new subsoil legislation addresses that problem.

Law No. O'RQ-987, adopted on 31 October 2024 and effective from 2 February 2025, replaced the former Law on Underground Resources. The former statute was adopted in 1994 and substantially restated through Law No. 444-II of 13 December 2002. Environmental protection was already part of that framework. The central research question is therefore how the new statute changes the legal organisation and enforceability of environmental responsibilities, rather than whether environmental obligations appeared for the first time [2; 3].

The constitutional setting is also relevant. Article 49 recognises the right to a favourable environment and reliable information about its condition. Article 68 establishes the public value of natural resources and requires rational use and state protection. These provisions support an

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interpretation of mineral development in which environmental safeguards form part of lawful resource governance [1].

2 Method and analytical framework

The study applies doctrinal legal analysis, textual comparison and systematic interpretation. Its principal sources are the consolidated former subsoil statute before repeal and the current Law No. O‘RQ-987 as available on 5 October 2026. The 2025 Law on Environmental Expertise, Environmental Impact Assessment and Strategic Environmental Assessment is considered where it affects the contemporary assessment framework. English statutory descriptions in this article are analytical translations of the Uzbek texts, rather than an assertion that the quoted English titles constitute official translations [2–4].

The comparison uses three criteria. Temporal continuity concerns whether obligations begin during project design and survive permit termination. Financial coverage concerns whether money can be obtained when an operator fails or exits. Legal coherence concerns the relationship between sector-specific requirements, environmental assessment and administrative decisions. These criteria are proposed here as an analytical framework. They are not a statutory classification or an empirical index of regulatory performance.

The analysis does not audit individual permits, implementation regulations, financial instruments or court practice. Consequently, a statutory requirement is distinguished from evidence that it has been implemented effectively. IFC Performance Standard 6 is used only as an external benchmark for the order of biodiversity mitigation measures; it is not treated as automatically binding domestic law [5].

3 Environmental duties under the former law

The former law contained a substantive environmental foundation. Article 1 included rational and comprehensive subsoil use, environmental protection and operational safety among its objectives. Article 33 required measures to protect the environment and restore disturbed land and other natural objects to a condition suitable for subsequent use. Article 35 addressed pollution prevention and the proper liquidation or conservation of mining operations. Article 37 required environmentally safe extraction technologies. These provisions preclude a characterisation of the old framework as concerned exclusively with production [2].

Article 44 is particularly important for comparison. It required closure or conservation under an approved technical project and the establishment of conditions protecting human life, health and the environment. It also kept obligations and responsibility with the subsoil user until closure or conservation was completed. Continuing responsibility after productive activity was therefore not wholly new. The difference is that the former statute did not contain the same detailed statutory architecture of preliminary and final plans, cost-based assurance, dedicated funds and completion reporting now found in Chapter 15 of the new law [2, Art. 44; 3, Arts. 138–154].

This distinction matters methodologically. The absence of an equivalent mechanism in the former subsoil statute does not prove that no related obligation existed anywhere in the wider legal system or in particular permit conditions. The defensible finding is narrower: the new law places substantially more of the closure and financial-security framework directly within the principal sectoral statute.

4 Prevention and environmental assessment

Article 4 of the new law expressly identifies environmental safety as a governing principle. Article 129 connects subsoil planning and operations to environmental legislation and requires pollution prevention, land rehabilitation and environmentally appropriate placement of waste facilities. Articles

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132 and 133 then specify activities requiring environmental expertise and the matters to be examined. Assessment reaches beyond extraction to relevant exploration, processing, drilling, waste management and underground storage activities [3].

Article 133 requires attention, where applicable, to air protection, noise and vibration, adjacent natural objects, flora and fauna, soil conditions, threatened plants and the health of nearby communities. It also links assessment to closure planning and an environmental management plan. The legal significance is the potential to translate a pre-operation examination into ongoing measures for prevention, monitoring and corrective action. Approval of a report should therefore be understood as one stage in environmental management, not the completion of the operator's environmental obligations [3, Art. 133].

The contemporary assessment framework must also account for Law No. O'RQ-1036 of 24 February 2025, effective from 25 August 2025. It repealed the 2000 Law on Environmental Expertise and regulates environmental expertise, impact assessment and strategic environmental assessment. Articles 39–41 address public hearings and publication of their results; Article 40 places the hearings before state environmental expertise. Articles 30–36 establish a framework for strategic assessment of specified planning documents [4].

The subsoil law's references to the earlier environmental-expertise statute consequently require coordinated legal application. The sectoral requirements should be read together with the current general assessment framework, while inconsistent or outdated cross-references should be addressed through legislative alignment. An applicant should be able to identify which materials are required, which authority assesses them and how the assessment outcome enters the work plan. This is a recommendation for coherent administration, not a claim that one authority may disregard another authority's legally assigned functions.

Article 1 of the subsoil law further distinguishes the sectoral framework from legislation governing land, water, flora, fauna and atmospheric air, subject to its stated exception for industrially significant groundwater. A subsoil permit therefore cannot be treated as a universal environmental authorisation. Equally, Article 129's exception concerning technologically unavoidable groundwater inflow into workings or infrastructure should not be expanded into unrestricted permission to use or divert that water: the following provisions expressly retain the application of legislation to those activities [3, Arts. 1 and 129].

5 Spatial protection and biodiversity

Environmental prevention also operates through spatial rules. Article 34 identifies prohibited and restricted areas, while Article 35 addresses protected natural territories and geological objects. Protected-territory status is connected to the availability of cadastral squares and to the state subsoil cadastre. This creates a legal basis for identifying environmental constraints before rights are allocated, although the practical effectiveness of the approach depends on accurate boundaries and reliable information exchange [3, Arts. 34–35].

Restoration commitments should not be interpreted as a general entitlement to mine in protected areas. A proposal to replant vegetation or rehabilitate land does not itself remove the restrictions governing a particular territory. Article 138 also requires closure measures to address biodiversity and recognises that returning a site to its original condition may not always be possible. Together, these provisions favour scrutiny of ecological impacts before disturbance rather than reliance on a promise of later repair [3, Art. 138].

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IFC Performance Standard 6 provides a useful comparative benchmark by prioritising avoidance, followed by minimisation and restoration, with offsets addressing eligible residual impacts under its conditions. This sequence supports a distinction between preventing damage and compensating for damage. Its value for the present analysis is conceptual: a rehabilitation plan should not replace the prior examination of location alternatives and applicable prohibitions. Whether the standard also binds an individual project depends on the relevant financing and contractual arrangements [5].

6 Closure as a continuing legal obligation

Chapter 15 gives closure a more extensive legal structure. Article 139 provides for preliminary closure or decommissioning planning before the relevant activity begins, including waste, water hazards, stability, estimated costs and land rehabilitation. Subsequent provisions address final plans, approval, amendments and restoration obligations. This sequence allows closure requirements to influence design choices and financing while the project still generates economic value [3, Arts. 139–148].

Article 138 expressly provides that termination of the permit does not terminate closure obligations. Its thirty-year provision must be described carefully: it links the ending of the user's obligation, after thirty years from permit termination, to complete and successful closure and the absence of new environmental obligations. It should not be reduced to automatic discharge after thirty years. Nor should it be presented as an express uniform thirty-year monitoring programme for every operation [3, Art. 138].

Article 150 contains a different and more specific mechanism. It requires notification and a completion report within six months after the planned measures have been implemented. The report must address evidence of completion, monitoring, independent verification, environmental sampling, remaining risks and actual expenditure. The article also provides for measurements and monitoring, at the Centre's written request and under stated conditions, within two years after implementation of the plan. These reporting and monitoring provisions should be distinguished from the longer liability horizon in Article 138 [3, Art. 150].

A key implementation issue is therefore the legal transition between completion of physical works, verification, continuing risks and eventual release from obligations. An administrative record should identify what has been completed, which risks remain, what monitoring is required and what financial coverage must continue. Clearer risk-based procedures could improve this transition without treating a completion certificate as an unrestricted release from all future environmental responsibility.

7 Financial assurance and closure funds

Article 151 requires financial security before extraction activity of the specified kind begins. Its amount is tied to expected impacts, applicable environmental objectives, necessary technical measures and closure and post-closure costs. For permits concerning the main types of solid minerals, an independent qualified assessment must account for unplanned or premature closure. Annual adjustment links the security amount to changing conditions. Article 152 recognises guarantees, pledged bank deposits and insurance as forms of assurance, with safeguards relevant to the continuity and protection of those instruments [3, Arts. 151–152].

Article 153 establishes a complementary closure fund for solid-mineral extraction permit holders. Annual contributions are based on one per cent of the preceding year's net income, subject to the article's commencement and payment rules. The fund uses a dedicated escrow account, and withdrawals require authorisation for approved closure and rehabilitation work. The article also

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provides for reducing the corresponding guarantee, deposit or insurance amount by the sums transferred into the fund [3, Art. 153].

The relationship between these mechanisms is central. Net income is an accounting measure of economic performance; rehabilitation costs depend on physical disturbance and environmental risk. It follows analytically that an income-based contribution cannot, by itself, demonstrate that the entire closure liability is funded. A low-income period may coincide with substantial remaining disturbance. This is a structural inference from the two different calculation bases, not evidence that any particular operator's fund is deficient.

The cost-based security requirement and the accumulated fund should accordingly be reconciled whenever plans, cost estimates or balances change. As an implementation criterion, the combined amount of accessible fund assets and enforceable security should cover the currently assessed obligations, with no double counting. Article 154 expressly addresses supplementary security where the hydrocarbon decommissioning fund is not yet established or is insufficient. Hydrocarbon contribution rules should not be substituted for the separate solid-mineral rules [3, Arts. 151–154].

Published calculation guidance, documented annual reconciliation and clear standards for approving instruments would make this architecture more reviewable. Any proposal concerning automatic access to security must also respect statutory conditions, including the notification and remedy procedures governing the Centre's use of the funds. Faster administration is not a legal basis for bypassing those safeguards.

8 Pollution liability and legal certainty

Article 135 places responsibility for pollution damage on the subsoil user, but it is not an unqualified strict-liability provision. It recognises a defence where the user proves compliance with applicable environmental legislation and that all reasonable measures to avoid the damage were taken. It also addresses specified third parties, judicial determination and circumstances in which liability may be reasonably reduced. Describing the provision merely as an absolute polluter-pays rule would omit material qualifications [3, Art. 135].

Pollution compensation and performance of closure duties must therefore be analysed separately. An operator's defence against a particular damages claim should not simply be assumed to eliminate its independent planning, rehabilitation or financial-assurance obligations. Conversely, a funded closure plan does not resolve every question of compensation for harm to other persons. Courts and regulators need to identify the obligation at issue, its legal basis, the relevant evidence and the statutory conditions for relief.

The same need for precision applies to transfers. Article 111 regulates transfers of permit rights and associated obligations, while Article 152 addresses continuation or replacement of financial instruments. The latter's reference, in its transfer paragraph, to Article 95 warrants legislative clarification when read against the general transfer framework in Article 111. Identifying this textual issue does not establish how a court would resolve it; it indicates why technical alignment matters for environmental security during changes of operator [3, Arts. 95, 111 and 152].

9 Conclusions

Uzbekistan's new subsoil law develops an existing environmental foundation into a more detailed statutory system. Its principal contribution is the connection between assessment, project planning, closure obligations, financial assurance and post-closure verification. The former law already required

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protection and restoration, but the new law provides a more extensive structure for determining when duties arise and how their performance can be supported.

Three priorities follow from the analysis. First, sectoral environmental requirements should be coordinated with the current general assessment statute and outdated references should be corrected. Second, cost estimates, closure-fund balances and enforceable security should be regularly reconciled so that an income-based contribution is never mistaken for proof of full funding. Third, physical completion, monitoring and release from continuing obligations should be distinguished through documented, risk-sensitive decisions. Public access to the relevant assessment and completion information can make those decisions more accountable.

The reform's environmental value ultimately depends on whether this connected process operates in practice. That question requires subsequent empirical study of permit conditions, security instruments, closure decisions and environmental outcomes. The present doctrinal findings establish the legal basis and the principal questions for such research, without attributing unmeasured ecological improvements to statutory change alone.

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