

THE GOVERNMENT'S REALIZATION IN ENVIRONMENTAL LAW ENFORCEMENT IS REVIEWED FROM THE INDONESIAN STATE ADMINISTRATIVE LAW

**Mariska Jasiaat¹, Rike Ayu Pinastiya Dinar Anggraini², Khansa Adelia Labibah³,
Nunik Nurhayati⁴, Moh. Indra Bangsawan⁵**

^{1,2,3,4,5}Faculty of Law, Universitas Muhammadiyah Surakarta, Indonesia

Email : c100220238@student.ums.ac.id¹

Abstract

The environmental sector is affected by globalization. Indonesia is one of the countries affected by globalization, which results in pollution and degradation of local ecology. Therefore, the government enacted laws, especially Law Number 32 of 2009, which addresses and regulates issues related to environmental protection and management. The author uses a normative juridical analysis approach to determine government accountability and the implementation of Law No. 32 of 2009 through juridical review. The Central Government and Local Government have the responsibility to protect the environment, as stipulated in Law Number 32 of 2009 concerning Environmental Protection and Management. Article 63 of Law Number 32 of 2009 stipulates the responsibilities and authorities of the Central Government and Regional Government. There are two different approaches to prevention: preventive measures and repressive efforts. Environmental law enforcement administratively seeks to avoid pollution and environmental damage, while at the same time seeking to punish those responsible for environmental pollution and damage.

Keywords: Reforms pollution, protection, Environment

INTRODUCTION

In the current era, countries around the world are faced with the problem of globalization which has a worsening impact. According to Malcolm Waters, globalization is a social process that has no geographical boundaries between one society and another in this world. Globalization is divided into several fields, namely economics, science and technology, communication, transportation, and culture. In addition to sharing positive impacts on human survival, it is undeniable that globalization has a bad impact, especially on the environment, for example pollution, bad air pollution, booming plastic waste and extreme climate change. This affects the decline in food production and the depletion of the availability of Natural Resources (SDA) in terms of quality and quantity. In the concept of development projects, there is a risk of environmental pollution that results in increased social burdens and produces complex problems. The environment in Indonesia must be maintained and protected using the principles of state responsibility, the principle of sustainability and the principle of justice. Therefore, environmental policies must be useful and implemented according to principles and reason in order to be able to manage the environment.

To ensure that environmental issues are not ignored and to establish systems for their protection and administration, it is essential to have policies that are widely recognized and implemented in accordance with its guiding principles. It serves as the basis for maintaining

the existence of humans and other organisms. The living environment encompasses the entire space, encompassing all entities, forces, states, and organisms, including humans and their actions, which impact the natural world, survival, and well-being of all living things. Life can be understood as a fundamental ecological system, in which the interdependence between living things and their environment is very important and inseparable. Indonesian citizens have the basic right to obtain a good and quality living environment, as explicitly stated in Article 28H of the 1945 Constitution of the Republic of Indonesia. Poor environmental management can cause a decrease in the quality of the environment. Therefore, firmer legal measures are needed to address environmental problems. The government enacted Law No. 32/2009 on Environmental Protection and Management (UUPPLH) on October 3, 2009.

The House of Representatives, which formulates and presents the law, holds political and legal power behind it. On the contrary, previous meetings indicated that the Ministry of Environment and other law enforcement organizations may be too strict in their approach to the development of the PPLH Bill. In accordance with article 1 paragraph (21) of Law No. 32 of 2009, B3 waste is categorized as waste that has a direct or indirect risk to human welfare and the environment because of its nature, concentration, or volume that can harm the environment, either directly or indirectly. The application of administrative sanctions in the field of environmental management and protection is regulated in the Regulation of the Minister of Environment of the Republic of Indonesia No. 2 of 2013. To obtain a business license, it is necessary to conduct an environmental impact analysis (AMDAL) or UKL-UPL. Individuals who have a legal obligation to do so may apply for environmental permits, which are designed to facilitate the implementation of environmental protection and management measures. The purpose of implementing administrative sanctions is to ensure that individuals who violate environmental protection and management standards, as well as the issuance of necessary permits, are held accountable for their activities.

Aggressive implementation of comprehensive regulations by the government is considered licensing. These requirements are stipulated in norms and regulations governing the evaluation, examination, and granting of environmental permits, as well as the Law on Environmental Protection and Management (UUPPH) No. 32 of 2009 and Government Regulation No. 27 of 2012. The main purpose of the formation and application of law is to fairly enforce one's rights and ensure the fulfillment of one's obligations. In addition, private law and state administrative law regulate the interaction between the two parties. The outcome of the court proceedings will be determined by the exact details of the case. State

administrative law regulates the behavior of government officials and establishes procedures for enforcing penalties for violations. Environmental law enforcement programs require affirmation and regulatory support from law enforcement authorities, given the lack of law enforcement and resolution of environmental issues. Although local governments attach great importance to economic development, they often ignore the environmental capacity of regions and ignore laws and regulations for the utilization of natural resources and the environment to increase DPA.

Based on the description of the discussion above, the author is interested in examining the issue of Government Responsibility in Environmental Law Enforcement in Review of the Concept of State Administration Law. In addition, this makes the author interested in discussing how the government maintains the Administrative Environmental Law and the inhibiting factors of Environmental Law in terms of the State Administration Law and What is the form of juridical review of the enforcement of administrative environmental law according to Law no. 32 of 2009?

RESEARCH METHODOLOGY

The research methodology used in this study is to use juridical-normative writing methods. The writing style we use in its preparation is descriptive-analytical. This technique explains the rules that will be researched and related to the theories and concepts of the legal scholars who will be used. The data used in the preparation of the thesis consists of articles, journals, or reputable sources related to the research topic. The necessary data will be organized and re-selected according to their significance, with careful consideration of the theme and accurate and comprehensive descriptions. The data analysis method used in this article is qualitative descriptive, which examines data by objectively describing symptoms or phenomena observed in the field to answer existing research questions.

RESULTS AND DISCUSSION

The Government in Maintaining Administrative Environmental Law, as well as Factors Inhibiting Environmental Law in terms of State Administration Law.

Law No. 32 of 2009, relating to environmental preservation and management, stipulates that the responsibility for maintaining a healthy environment rests with the central and state governments. The concept of environmental protection is explicitly outlined in Article 3 of Law No. 32 of 2009 (Law of the Republic of Indonesia No. 32 of 2009), and

Article 63 of the same Law further reinforces this by establishing the duties and authorities of central and local governments. The task of supervising is in the hands of the Minister, Governor, or Regent. Administrative penalties that may be imposed for violations of these permits include written reprimands, government pressure, freezing of environmental permits, and revocation of environmental permits. Accepting administrative sanctions does not relieve sanctioners of their responsibility to seek redress and disciplinary action for violations, regardless of the type of sanction imposed. If a local government is found to have intentionally evaded the imposition of administrative sanctions against individuals who commit major environmental crimes, the federal government has the authority to take action in such situations. To reduce adverse environmental impacts, it is imperative to enforce preventive measures through rigorous licensing and careful monitoring. To effectively address pollution and environmental damage, it is necessary to implement strict, significant, and consistent regulations.

The Minister of Environment has issued Regulation No. 2 of 2013, which provides guidelines for the use of administrative penalties in the field of environmental protection and management, with the aim of increasing their effectiveness. Article 84 of Law No. 32 of 2009 provides an explanation of how environmental conflicts can be resolved through both lawsuits and non-litigation. Environmental conflicts can be resolved out of court by devising comprehensive strategies to compensate victims, rehabilitate affected areas, mitigate future hazards, and address other issues related to cleanup and recovery. However, if the environmental violation in question is outside the scope of Law No. 32 of 2009, alternative dispute resolution methods cannot be used to resolve environmental problems. If these remedies are unsuccessful, then legal action may be taken.

In order for administrative sanctions to be imposed, communities must comply with standards set by administrative environmental laws. A government official has the authority to enforce sanctions against individuals or organizations that violate the law, even in the absence of formal proceedings or court proceedings. Business owners or managers may be subject to administrative sanctions as outlined in Articles 76 and 77 of Law No. 32 of 2009. In 2019, the Environmental Agency carried out its obligations in accordance with Law Number 32 of 2009, which stipulates the imposition of administrative sanctions under government coercion as outlined in Article 76 paragraph (2) and further elaborated in Article 80. In 2020, the Environment Agency has issued four warning letters to business actors who do not comply with the standards listed in their business licenses. If a company's waste

management methods deviate from the guidelines specified in its environmental permits, EPA will issue an official notice. In 2020, this activity faced many obstacles due to limited supervision imposed by the government. The government has implemented strict regulations to reduce environmental degradation and ensure environmental preservation and protection for present and future generations. For administrative sanctions to be enforced, communities must comply with standards set by administrative environmental law. Government officials have the authority to enforce sanctions against individuals or organizations that violate the law, even in the absence of formal proceedings or court proceedings. Procedures for imposing administrative sanctions in the field of environmental protection and management, such as issuing written warnings, using government coercion, freezing permits, and revoking permits, are specified in Annex I, number IV of the Regulation of the Minister of Environment Number 02 of 2013.

A written reprimand occurs if it violates laws and regulations and the requirements stipulated in the permission A written reprimand occurs if there are several factors, including: : 1) Threats to the environment and humans. 2) Increased impact of pollution and destruction that cannot be prevented; and 3) More Environmental Damage.

Nevertheless, law enforcement will face many discrepancies between anticipated standards (*das sollen*) and actual circumstances (*das sein*), resulting in intentional or unintentional errors that will impact law enforcement in the administrative environment. In the field of law enforcement, various theories can be used as analytical tools, such as L. Friedman's perspective that includes the substance, structure, and culture of law. The government has set various regulations, but there are still some obstacles in their implementation, which are as follows: 1) Legal Means; 2) Law Enforcement Officers; 3) Facilities; 4) Licensing; 5) Analysis Systems; 6) Legal Awareness

What is The Form of Juridical Review of Administrative Environmental Law Enforcement According to Law No. 32 of 2009 ?

Salim stated that the environment can be understood as objects, conditions, status, and influences contained in a certain location, which have an impact on living things, including humans. Within the constraints of the spatial dimension, the interpretation can be very broad. However, for practical considerations, this is limited by the scope of aspects accessible to humans, including ecological, political, economic, social, and other factors. According to Article 1 point 1 of Law Number 32 of 2009, the environment is the unity of space with all

objects, forces, conditions, and living things, including humans and their behavior, which affect the continuity of life and welfare of humans and other living things. The phrases environment and environment are used synonymously.

Sukanda Husain's book "Indonesian Environmental Law Enforcement" provides information on this topic. Law enforcement of the administrative environment is considered very important. Administrative environmental law enforcement focuses on preventing pollution and environmental damage, with the aim of prosecuting those responsible for such actions. There were two attempts made, which consisted of:

1. Preventive Efforts (Supervision)

Efforts to prevent adverse environmental impacts are essential to implement strict preventive measures through various licensing and supervision initiatives. If repressive measures are to become important, then it is imperative to implement more efficient, impactful, and durable legal measures to enforce laws against environmental pollution and the resulting damage. An effective and well-defined framework for environmental protection and management is essential for conserving and managing natural resources, as well as for other development efforts. Environmental Supervisory Officers conduct surveillance to see if the person in charge of the company complies with regulations. Environmental Supervisory Officer is a civil official who has the authority to monitor and enforce environmental laws in accordance with relevant regulations and guidelines. The authority to conduct supervision is regulated in articles 71-75 of Law No. 32 of 2009. These articles explain that the authority is vested in the minister, governor, or regent/mayor, according to their respective positions. The responsibilities of Environmental Supervisory Officials are outlined in article 3 paragraph (2) of the Regulation of the Minister of Environment. Article 72 of Law No. 32 of 2009 gives the authority to verify compliance with environmental permits to the person in charge of a corporation or other activity :

- a) Monitoring
- b) Enquiry
- c) Make copies of documents and make necessary notes
- d) Entering a specific place
- e) Photographing
- f) Taking a sampel
- g) Checking equipment

- h) Create an audio-visual recording
- i) Stop a specific violation
- j) Providing Inspiration and means of transportation

2. Repressive Measures (Administrative Sanctions)

Environmental law enforcement is carried out through the application of administrative sanctions as outlined in Articles 76 to Article 83 of Law Number 32 of 2009 concerning Environmental Protection and Management. Administrative sanctions serve an important purpose, especially in environmental prevention and control. Administrative sanctions have a remedial nature, with the aim of restoring the situation as it was before the damage occurred. In theory, various forms of administrative sanctions are used in environmental law enforcement:

- a. Government coercion (*besturrsdwang*).
- b. *Forced money (dwangsom)*
- c. *Closure of business premises*
- d. *Temporary suspension of the Company's machinery activities*
- e. Permission revocation.

Efficient administrative penalties to monitor pollution and environmental damage include government-imposed sanctions and mandatory fines. The main purpose of government-imposed sanctions is to restore environmental functions and end violations. In accordance with article 80 (2) of the 2009 UUPPLH, failure to comply with environmental regulations can lead to swift and unexpected penalties imposed by the government. For example, companies that dispose of waste without proper management or intentionally exceed environmental quality standards causing environmental damage may be subject to administrative penalties. Environmental law enforcement by administrative authorities involves revoking permits as punishment for a variety of reasons, such as permit violations, changing policy perspectives, evolving real-world conditions, and other types of revocation that come with consequences.

CONCLUSION

Research findings show that the State Administrative Law effectively enforces Environmental Law, which is indicated by the absence of environmental violations. Based on these data, the author can conclude that the role of the government in protecting the

environment is very impactful, both at the national and local levels. There are two different efforts made to protect the environment, namely preventive efforts carried out by the government and the community, and repressive efforts in the form of administrative sanctions given to business actors who are proven to violate regulations that threaten the environment. The regulation of Law Number 32 of 2009 includes measures aimed at prevention and enforcement. Before granting a permit, a company or industry undergoes a thorough evaluation of their industry's waste disposal standards to reduce potential loss and environmental damage. Therefore, it is very important to carry out repressive and preventive measures harmoniously and fairly.

REFERENCE

Fitrah Faturohman, Y. R. (2022). THE CONCEPT OF DISCRETION IN THE IMPLEMENTATION OF GOVERNMENT . jurnal ilmiah mahasiswa bidang hukum kenegaraan, 207-216.

Juliadi Rusydi, J. S. (2023). TANGGUNGJAWAB PEMERINTAH DALAM PENEGAKAN HUKUM . Jurnal penelitian hukum, 54-63.

Rondonuwu, D. E. (2018). TINJAUAN YURIDIS TERHADAP PENEGAKAN . lex privatum, 9-20.