



JURIDICAL ANALYSIS OF THE EFFECTIVENESS OF ONLINE SINGLE SUBMISSION (OSS) IMPLEMENTATION RELATED TO LICENSING OF ENVIRONMENTAL PROTECTION AND MANAGEMENT IN BATAM CITY (Research Study at the Batam City One Stop Integrated Service Investment Service (PTSP))

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Abstract

friedman and applied theory using the theory of the law of happiness (utilitarianism) by Jeremy Bentham. The results of the analysis concluded, the Effectiveness of the Implementation of Online Single Submission (OSS) which aims to facilitate investment as a framework for accelerating and increasing investment and business, by implementing electronic business licensing with integrity.

Keywords : ***Online Single Submission (OSS), Environmental Permit, Protection, Environmental Management***

1. INTRODUCTION

Effectiveness of the Online Single Submission (OSS) implementation which aims to facilitate investment as a framework for accelerating and increasing investment and business, by implementing electronic business licensing with integrity. Regarding licensing of environmental protection and management in the context of accelerating and increasing investment and trying so that various permits related to business in the environmental sector can be a support and not vice versa become an obstacle to the development of businesses and/or activities. With the existence of these regulations, permits basically include a very complex understanding, namely in the form of things that allow a person or legal entity to do something that according to the laws and regulations must have permission first, then the legal basis of the permit can be known. However, the Online Single Submission (OSS) has an impact on the licensing of the Environmental Impact Analysis (AMDAL) business preparation because the Environmental Impact Analysis (AMDAL) is only placed as an administrative document which is fulfilled after the permit is issued. This is contrary to the Law on Environmental Protection and Management (UUPH) which states that the Environmental Impact Analysis (AMDAL) document is the basis for determining environmental feasibility decisions, which in turn is a requirement for obtaining business and activity permits. Environmental Permit is a permit granted to every person who conducts a business and/or activity that is required to have an Environmental Impact Analysis (AMDAL) or an Environmental Management Effort and Environmental Monitoring Effort (UKL-UPL) in the context of environmental protection and management as a prerequisite for obtaining a business license. and/or activities. In Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services, Environmental permit is one of the permits that can be processed using the Online Single Submission (OSS) system and this is in accordance with the contents of Article 32 Paragraph (2) which states that "Online Single Submission (OSS) Institutions issue Business Permits based on Commitments to Business Actors who requires infrastructure to run a business and/or activity but does not yet own or control the infrastructure as referred to in Article 31 paragraph (3) letter b, after the Online Single Submission (OSS) Institute issues: Location Permit, Water Location Permit, Environmental Permit; and/or IMB based on Commitment".

Since the enactment of Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing, the process of issuing environmental permits can be issued even though the Environmental Impact Analysis (AMDAL) or Environmental

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Management Efforts and Environmental Monitoring Efforts (UKL-UPL) documents have not been completed.

2. IMPLEMENTATION METHOD

Writing this research using descriptive quantitative research method is a method that aims to create a picture or descriptive about a situation objectively using numbers, starting from data collection, interpretation of the data and appearance and results by interviewing informants and respondents related to the object of this research. As for the informants, such as the Batam City Environmental Licensing Coordinator Sub Division. The theoretical basis for legal purposes. The theory used in this research is the theory of legal objectives. Gustav Radbruch, said that there are three objectives of law, namely expediency, certainty, and justice. In carrying out these three legal objectives, the principle of priority must be applied.

3. RESULTS AND DISCUSSION

Legal Arrangements on the Effectiveness of the Implementation of Online Single Submission (OSS) Regarding Licensing for Environmental Protection and Management in Batam City

Number 22 of 2021 concerning the Implementation of Environmental Protection and Management, that environmental permits are a prerequisite for obtaining business permits and/or activity permits. This Government Regulation has regulated the Environmental Impact Analysis (AMDAL) process, Environmental Management and Monitoring Efforts (UKL-UPL) and the issuance of Environmental Permits. The stages for obtaining an environmental permit according to Article 2 Paragraph (2) are through the stages of activities which include:

- a. Preparation of Environmental Impact Analysis (AMDAL) and Environmental Management and Monitoring Efforts (UKL-UPL);
- b. Assessment of Environmental Impact Analysis (AMDAL) and examination of Environmental Monitoring Efforts (UKL-UPL);
- c. Application and issuance of Environmental Permit

By taking into account Government Regulation Number 22 of 2021 Article 3 Paragraph (4) means that the process to obtain an environmental permit, must be carried out in the preparation of Environmental Impact Analysis (AMDAL) documents and Environmental Management and Monitoring Efforts (UKL-UPL), assessment of Environmental Impact Analysis (AMDAL) Environmental Impacts (AMDAL) or examination of Environmental Management and Monitoring Efforts (UKL-UPL), followed by the application and control of environmental permits. The process of preparing Environmental Impact Analysis (AMDAL) or Environmental Management and Monitoring Efforts (UKL-UPL) is carried out by the initiator (company/business entity),

To obtain an environmental permit according to Government Regulation Number 22 of 2021, an Environmental Impact Analysis (AMDAL) or Environmental Management and Monitoring Efforts (UKL-UPL) must be prepared, then an Environmental Impact Analysis (AMDAL) assessment or examination or Environmental Management and Monitoring Efforts (UKL-UPL) followed by the process of controlling environmental permits. The existence of this Government Regulation of course fundamentally changes the system of issuing permits for the Government and Regional Governments which are intended to make it easier for business actors to obtain legality. Trimming the old procedure, where at first the permit applicant must meet the requirements first then he will get a business license including an environmental permit.

This law makes basic provisions for existing environmental regulations (*lex lata*) as well as for further regulations under them (*lex ferandai* or organic provisions) on the environment. In the Law on the Implementation of Environmental Protection and Management, there are 2 (two) licensing concepts, namely:



- a) Article 1 point 5 that the Environmental Impact Analysis (AMDAL) is a study of the significant impacts on the environment from a planned business and/or activity, to be used as a prerequisite for making decisions regarding the implementation of a business and/or activity and contained in a Business license, or approval from the Central Government and Regional Governments;
- b) Article 1 point 6 that Environmental Management and Monitoring Efforts (UKL-UPL) is a series of environmental management and monitoring processes that are set forth in standard form to be used as a prerequisite for decision making and are contained in Business permits, or approval from the Central Government or Regional Governments

To obtain an environmental permit according to Government Regulation Number 22 of 2021, an Environmental Impact Analysis (AMDAL) or Environmental Management and Monitoring Efforts (UKL-UPL) must be prepared, then an Environmental Impact Analysis (AMDAL) assessment or examination or Environmental Management and Monitoring Efforts (UKL-UPL) followed by the process of controlling environmental permits. However, according to Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services, OSS Institutions can issue environmental permits based on commitments even though an environmental feasibility study has not been carried out for the preparation of Environmental Impact Analysis (AMDAL) or Environmental Management and Monitoring Efforts (UKL-UPL).

- a. Location permission;
- b. Water Location Permit;
- c. Environmental Permit; and/or
- d. IMB, based on Commitment
- e. Implementation of the Effectiveness of Online Single Submission (OSS) Related to Environmental Protection and Management Licensing in Batam City

Environmental approval is given to business actors for every business and/or activity that has an important or insignificant impact on the environment. In addition, environmental approval is also given to the government in the context of carrying out development activities by government agencies.

The writing of this research will examine the position of environmental approvals related to business actors in the form of granting business permits. In accordance with Article 1 point 4 of the Employment Creation Law, that Business Licensing is a legality owned by Business Actors in order to start and run their business and/or activities. Licensing is a policy tool of the central government and/or local government in the context of implementing control over negative externalities that may arise as a result of social and economic activities. In addition, permits are also a tool for legal protection for business actors over the ownership or operation of their business activities.

Based on the provisions of Article 7 of the Job Creation Law related to the assessment of the level of danger and the assessment of the potential for hazards to occur, the risk level and business scale rating of business activities are determined, namely:

- 1) Low risk business activities
- 2) Medium risk business activities
- 3) High risk business activities

As stated in Government Regulation Number 5 of 2021 concerning Implementation of Risk-Based Business Licensing, that risk is the potential for injury or loss that originates from a hazard or a combination of possibilities and consequences of danger. The implementation of Risk analysis is carried out by the Central Government, namely:

- 1) Identifying business activities
- 2) Provide an assessment of the level of danger;
- 3) Carry out an assessment of the potential for hazards
- 4) Determine the level of risk and business scale rating; and

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5) Provide determination on the type of Business Licensing.

Meanwhile, to provide an assessment of the level of danger, on several aspects, namely:

- 1) Health
- 2) Safety
- 3) Environment; and/or
- 4) Resource utilization and management

From these provisions, to measure the level of danger of a business activity and/or activity several aspects. To find out the criteria for the level of risk and the rating of the business scale, it can be described as follows:

1) Low risk business activities

In the category of low-risk business activities, business actors are only given a business registration number as a legality for their business. While the business registration number in terms of business activities carried out by small and medium enterprises (UMK), also applies as the Indonesian National Standard (SNI) and a statement of halal assurance.

In addition, the position of the main number Business actors are also used as proof of registration or registration by Business Actors to carry out business activities and are also used as identities for Business Actors in the operation of their business activities.

2) Medium risk business activities

The category of business activities with medium risk is divided into:

- a. Medium low risk business activities
- b. Medium high risk business activities

For medium to low risk business activities, business actors are only given a business registration number and standard certificate. The same is also given to business activities with medium to high risk. While the Standard Certificate is a statement that business actors meet business standards to carry out their business activities.

As for statements made by business actors in accordance with those made through OSS (Online Single Submission), it is an electronically integrated system. Where the OSS implementing agency is a government institution that takes care of investment. Furthermore, the central government or local government verifies statements made by business actors to issue standard certificates for the implementation of business activities.

3) High risk business activities

For business activities with high risk in accordance with Article 10 of the Job Creation Act, where business actors are given a business identification number (NIB) and a permit. The permit in question is the approval given by the central government or local government, before obtaining a permit, business actors can use the NIB as the legality of preparation for their business activities.

Because business activities are classified as high risk, business actors must obtain a business standard certificate and product standard certificate based on the results of verification carried out by the central government or local government through the Online Single Submission (OSS) system.

In order to improve the investment ecosystem and business activities, the government through the Job Creation Act simplifies the basic requirements for obtaining a Business Licensing. that the simplification includes:

- a) Suitability of space utilization activities
- b) Environmental approval
- c) Building approval and function-worthy certificate.



Based on this provision, in order to obtain a Business Licensing, business actors in carrying out their business activities must comply with the spatial layout, have environmental approvals and have building approvals as well as a certificate of proper function.

Meanwhile, Comparison of Environmental Approval Business Processes:

Before UUCK	After UUCK
The determination of business activities for which UKL-UPL or EIA is required is carried out by business actors.	All NIBs will have SPPL Determination of which business activities are required UKL-UPL or mandatory Amdal are planted in the OSS system.
Business actors are still relatively manual in completing the mandatory EIA or UKL-UPL requirements at the relevant agencies.	For business activities with medium low risk that are required to be UKL-UPL, the PKPLH approval will be automatically issued by the system.
There is no positive fictitious mechanism for documents that have been submitted completely.	There is a positive fictitious mechanism in the event that PKPLH or SKKL exceeds the SLA without any notification/omission.
The environmental permit is signed by the KaDPMPTSP after receiving a recommendation from the LHK Service.	Environmental approval is issued by the Minister/Governor/Regent/Mayor in accordance with their authority. The authority for environmental approval is in accordance with business licensing, for example, if PMA, the environmental approval is issued by the Central Government. The authority to approve PKPLH is carried out by officials in charge of the Environment.

Obligation to submit Investment Activity Report (LKPM), is obliged to make a report on investment activities and submit to the Investment Coordinating Board Indicators under supervision, one of which is health, safety, and/or environmental standards with the aim of:

- a. Ensuring compliance with the requirements and obligations of business actors;
- b. Collect data, evidence, and/or reports on the occurrence of hazards to safety, health, the environment, and/or other hazards that may arise from the implementation of business activities; and
- c. Referrals for guidance or imposition of administrative sanctions for violations of business licenses.

Constraint Factors and Solutions to the Effectiveness of Online Single Submission (OSS) Implementation Regarding Environmental Protection and Management Licensing in Batam City

The quality of public services is one of the important components in the implementation of public services or public services organized by Government Agencies, State-Owned and Private Enterprises. In this case, the local government as one of the providers of public services has an important role. Since the issuance of the Minister of Home Affairs Regulation Number 24 of 2006 concerning Guidelines for the Implementation of One Stop Integrated Services (PTSP), the entire licensing process is carried out into a One Stop Integrated Licensing Service (PTSP) or One Stop Service system, namely in the licensing process only carried out in one place (One Stop Service). In terms of providing licensing services, bureaucratic officers often provide very complicated procedures and tend to be convoluted, if the complicated mechanism continues to run, it will

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automatically make the community lazy and reluctant in taking care of permits. So, the government needs to find a solution to overcome these problems.

Business actors are not involved in the discussion of derivative regulations of the Job Creation Law. Ideally, business actors should be given socialization because the nature of regional legal products is a regulation of the Act, not born as a new rule. Business actors need intensive assistance and socialization. The needs of business actors are mostly the same, namely assistance and socialization related to the migration of OSS version 1.1 to OSS RBA to accelerate the integration of licensing services, to make it simpler, faster and cheaper. In addition, the strengthening of internet infrastructure to support business activities in the regions by local governments is urgently needed to encourage efficiency in the business process and minimize the potential for illegal levies and corruption.

Women MSME business actors still have difficulty in managing RBA OSS-based licensing. One of the obstacles is that female MSME business actors have difficulty in determining the KBLI for business permits. One of the sources for this study admitted that he had never received information from the local government regarding the job creation law. The local government has also never provided socialization related to OSS RBA. The implication is that information related to OSS RBA is very limited and is only based on information from MSE colleagues in the conversation application group. Business actors are also confused about the level of business risk which is now the basis for licensing services for the OSS RBA regime. According to several female MSME business actors, the socialization of the derivative rules of the Job Creation Law and the RBA OSS is very lacking. Women MSME entrepreneurs complained that this lack of socialization caused them not to understand the technicalities of migration from OSS 1.1 to OSS RBA. These business actors expect active socialization from the local government to MSME business actors, especially female MSME business actors.

The OSS RBA socialization is very important so as not to burden MSME business actors in the regions, both in terms of inputting applications and access to take care of permits. Women MSME entrepreneurs also hope that there will be capacity building programs or activities for groups of MSME female business actors so that they can increase capacity in developing business in the region.

4. CONCLUSION

- a. Legal Arrangements on the Effectiveness of the Implementation of Online Single Submission (OSS) Related to Licensing of Environmental Protection and Management in Batam City The birth of the Online Single Submission (OSS) plays an important role in the infrastructure development sector in Indonesia. Online Single Submission (OSS) brings breakthrough automatic approval that uniform requirements and there is no need for a document checking process as long as it meets the administrative requirements in the portal, so you immediately get a business license.
- b. The status of Environmental Approval is one of the conditions for the issuance of Business Licensing by the government. So that the position of environmental protection and management provides a strong position because business permits will not be issued without environmental approval. This also has an impact on the implementation of business activities, if there is a violation of environmental management standards and procedures, it will also have an impact on violations of business licensing as the main permit.
- c. Constraints Factors and Solutions to the Effectiveness of the Online Single Submission (OSS) Implementation Regarding Environmental Protection and Management Licensing in Batam City, namely there are several aspects that become obstacles such as the regulatory aspect of the OSS system, institutional aspects of DPMPSTP staff, aspects of digitizing the



OSS system and many more. several UMKN and UMK business actors who do not understand the technical use of the OSS system clearly because DPMPTSP lacks socialization.

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JURIDICAL ANALYSIS OF THE EFFECTIVENESS OF ONLINE SINGLE SUBMISSION (OSS) IMPLEMENTATION RELATED TO LICENSING OF ENVIRONMENTAL PROTECTION AND MANAGEMENT IN BATAM CITY

(Research Study at the Batam City One Stop Integrated Service Investment Service (PTSP))

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