



JURIDICAL ANALYSIS OF THE EFFECTIVENESS OF ONLINE SINGLE SUBMISSION (OSS) IMPLEMENTATION RELATED TO LICENSE FOR ENVIRONMENTAL PROTECTION AND MANAGEMENT IN BATAM CITY (RESEARCH STUDY IN BATAM CITY INVESTMENT SERVICE INTEGRATED SERVICES (PTSP))

Titising Indah Wijayanti¹, Fadlan², Laily Washliaty³, Lagat Siadari Parohha⁴

¹Faculty of Law, Universitas Batam

Email: ¹⁾andykhatria12@gmail.com

Abstract

The construction of the journal topic above is: "Juridical Analysis of the Effectiveness of Online Single Submission (OSS) Implementation Related to Licensing for Environmental Protection and Management in the City of Batam", with the formulation of the problem: How to Regulate Law, Implementation, Constraint Factors and Solutions to Juridical Effectiveness of Online Single Implementation Submission (OSS) Related to Licensing for Environmental Protection and Management in the City of Batam?. The type of writing is normative law, using a legal research methodology, on the support of secondary data, and using a qualitative approach, and to obtain secondary data, obtained through library research. research). For grand theory using the theory of legal objectives by Gustav Radbruch of law, middle theory using the legal theory of substance of law by M. Friedman and applied theory using the theory of the law of happiness (utilitarianism) by Jeremy Bentham. The results of the analysis concluded that the Effectiveness of the Implementation of Online Single Submission (OSS) aims to facilitate investment as a framework for accelerating and increasing investment and business, by applying business permits with integrity electronically.

Keywords: Online Single Submission (OSS), Environmental Permits, Protection and Management Environment

1. INTRODUCTION

1.1 Background

Effectiveness of Implementation of Online Single Submission (OSS) which aims to facilitate investment as a framework for accelerating and increasing investment and business, by applying business permits with integrity electronically. Related to permits for environmental protection and management in the context of accelerating and increasing investment and trying so that various permits related to doing business in the environmental sector can become supporters and not conversely become obstacles to the development of businesses and/or activities. With the existence of these regulations, permission basically includes a very complex meaning, namely in the form of things that allow a person or legal entity to do something that according to laws and regulations must have permission first, then the legal basis of the permit can be known. However, the presence of Online Single Submission (OSS) has had an impact on licensing for the preparation of an Environmental Impact Analysis (AMDAL) business because an Environmental Impact Analysis (AMDAL) is only placed as an administrative document that is fulfilled after the permit is issued. This is contrary to the law on the Protection and Management of the Environment (UUPLH) 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 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 the Protection and Management of the Environment (UUPLH) 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 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 the Protection and Management of the Environment

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(UUPLH) 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.

An Environmental Permit is a permit granted to any person who carries out a business and/or activity that is required to carry out an Environmental Impact Analysis (AMDAL) or Environmental Management Efforts and Environmental Monitoring Efforts (UKL-UPL) in the framework of environmental protection and management as a prerequisite for obtaining a business permit. and/or activities. In Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services, environmental permits are 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 Agency (OSS) 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 for issuing environmental permits can be issued even though the Environmental Impact Analysis (AMDAL) or Environmental Management Efforts and Environmental Monitoring Efforts (UKL-UPL) documents have not been completed.

1.2 Literature Sources

Sources of data in this study are primary data and secondary data. Primary data sourced from various policies and regulations issued in the field of environmental protection and management. Secondary data collection was carried out through library research by reviewing books, journals, research results, conventions and laws and regulations as well as through internet media regarding matters related to research problems. Primary data was obtained by conducting field research by interviewing informants and respondents related to the object of this research. As for those who became informants such as the Batam City Environment Licensing Coordinator Sub-Sector.

2. IMPLEMENTATION METHOD

The writing of this research uses a quantitative descriptive research method which is a method that aims to create an image or descriptive of a situation objectively using numbers, starting from data collection, interpretation of the data as well as appearance and results by interviewing informants and respondents related to the object of this research. As for those who became informants, such as the Batam City Environmental Licensing Coordinator Sub-Sector The theoretical basis of legal purposes. The theory used in this study is the theory of legal purposes. Gustav Radbruch, said that there are three purposes of law, namely benefit, certainty, and justice. In carrying out these three legal objectives, priority principles must be used.

3. DISCUSSION

3.1. Legal Regulations on the Effectiveness of Online Single Submission (OSS) Implementation Related to Licensing for Environmental Protection and Management in the City of Batam

Environmental permit arrangements are regulated in more detail in Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management, that environmental permits are a prerequisite for obtaining business licenses and/or activity permits. This Government Regulation regulates the process of Environmental Impact Analysis (AMDAL), Environmental Management and Monitoring Efforts (UKL-UPL) and the process of



issuing 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

With due observance of Government Regulation Number 22 of 2021 Article 3 Paragraph (4) it means that in the process of obtaining an environmental permit, a document for an Analysis of Environmental Impacts (AMDAL) and Environmental Management and Monitoring Efforts (UKL-UPL) must be carried out, an Assessment of the Analysis Regarding Environmental Impact Assessment (AMDAL) or examination of Environmental Management and Monitoring Efforts (UKL-UPL), followed by application and issuance of environmental permits. The process of preparing an 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 Effort (UKL-UPL) must be prepared, then an Environmental Impact Assessment (AMDAL) assessment or examination or Environmental Management and Monitoring Efforts (UKL-UPL) followed by the process of issuing environmental permits. The existence of this Government Regulation has fundamentally changed the system for issuing Government and Regional Government permits which is intended to make it easier for business actors to obtain legality. Trimming the old procedure, where at first the permit applicant had to fulfill the requirements first then they would get a business license including an environmental permit.

This law makes the main provisions for existing environmental regulations (*lex lata*) as well as for further regulations under it (*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 of a planned business and/or activity, to be used as a prerequisite for making a decision regarding the implementation of a business and/or activity as well as contained in a Business Permit, 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 set forth in a standardized form to be used as a prerequisite for decision-making and contained in Business permits, or approval by the Central Government or Regional Governments.

In order to obtain an environmental permit according to Government Regulation Number 22 of 2021, an Environmental Impact Analysis (AMDAL) or Environmental Management and Monitoring Effort (UKL-UPL) must be prepared, then an Environmental Impact Assessment (AMDAL) assessment or inspection or Environmental Management and Monitoring Efforts (UKL-UPL) followed by the process of issuing 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 an Environmental Impact Analysis (AMDAL) or Environmental Management and Monitoring Efforts (UKL-UPL).

- a. Location permission.
- b. Water Location Permit.
- c. Environmental Permit; and/or

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d. IMB, based on Commitment

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

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

Writing this research will examine the position of environmental approval related to business actors in the form of granting business licenses. In accordance with Article 1 point 4 of the Job Creation Law, Business Permits are legal rights owned by Business Actors in order to start and run their businesses 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 for the ownership or implementation 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 an assessment of the potential for a hazard to occur, the risk level and business scale rating of business activities are determined, namely:

- a. Low risk business activities
- b. Medium risk business activities
- c. High risk business activities

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

- a. Identifying business activities
- b. Provide assessment of the level of danger.
- c. Conduct an assessment of the potential for hazard occurrence
- d. Determine the level of risk and rating of business scale; and
- e. Provide determination of the type of Business Permit.

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

- a. Health
- b. Safety
- c. Environment; and/or
- d. Utilization and management of resources

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

1) Low risk business activities

In the category of low-risk business activities, the business actor is only given a business identification number as legality for his business. While the business identification 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 business identification number is also used as proof of registration or registration by Business Actors to carry out business activities and is also used as an identity for Business Actors in the operation of their business activities.

2) Medium risk business activities

For the category of business activities with moderate risk, it is divided into:

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



For low-medium risk business activities, business actors are only given business identification numbers and standard certificates. The same is also given to business activities with medium to high risk. While the Standard Certificate in question is a statement of business actors meeting business standards to carry out their business activities.

The statements made by business actors are in accordance with those made through OSS (Online Single Submission) which is an electronically integrated system. Where the OSS implementing agency is a government agency that deals with investment. Furthermore, the central government or regional government verifies statements made by business actors to issue certificates of standard implementation of business activities.

3) High risk business activities

For high-risk business activities in accordance with Article 10 of the Job Creation law, where business actors are given business identification numbers (NIB) and permits. The permit in question is an approval given by the central government or regional government, before obtaining a permit, business actors can use NIB as the legality of preparing 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 regional government through the Online Single Submission (OSS) system.

In order to improve the investment ecosystem and business activities, the government through the Job Creation Law has simplified the basic requirements for obtaining a Business Permit. that the simplification includes:

- a. Suitability of space utilization activities
- b. Environmental approval
- c. Approval of buildings and certificates of proper functioning.

Based on these provisions, in order to obtain a Business Permit, business actors in carrying out their business activities must comply with spatial planning, have environmental approval and have building approval and a certificate of proper function.

Meanwhile, Comparison of Environmental Approval Business Processes

Before UCC	After UUCK
- Determination of business activities that are mandatory for UKL-UPL or Amdal is carried out by business actors.	- All NIB will have SPPL - Determination of which business activities are mandatory for UKL-UPL or required for Amdal to be planted in the OSS system.
- Business actors are relatively still manual in completing the mandatory Amdal or UKL-UPL requirements at the relevant agency.	- For business activities with medium-low risk that are required to have UKL-UPL, the PKPLH approval will be issued automatically 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 was signed by KaDPMPTSP after receiving a recommendation from the LHK Service.	- Environmental approvals are issued by Ministers/Governors/Regents/Mayors in accordance with their authority. - The authority for environmental approval adjusts to business licensing, for example if it is a PMA, the environmental approval will be issued by the Central Government.

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	- The authority for PKPLH approval is carried out by officials in charge of the Environment.
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Obligation to submit Investment Activity Reports (LKPM), is obliged to make reports on investment activities and submit them to the Investment Coordinating Board. Indicators under supervision include health, safety and/or environmental standards with the aim of:

- a. ensure compliance with the fulfillment of requirements and obligations by business actors;
- b. collect data, evidence, and/or reports of hazards to safety, health, the environment, and/or other hazards that may arise from the implementation of business activities; and
- c. reference to guidance or imposition of administrative sanctions on violations of business licensing.

3.3. Factors Constraints and Solutions to the Effectiveness of Online Single Submission (OSS) Implementation Concerning Licensing for Environmental Protection and Management in the City of Batam

The quality of public services is an important component in the implementation of public services or public services held by government agencies, state-owned enterprises and private companies. In this case, local government as one of the providers of public services has an important role. Since the issuance of the Regulation of the Minister of Home Affairs Number 24 of 2006 concerning Guidelines for the Implementation of the One Stop Service (PTSP), the entire licensing process has been carried out into a One Stop Service (PTSP) or One Stop Service system, namely in the process of obtaining permits only in one place (One Stop Service). In terms of providing licensing services, bureaucratic officers often provide procedures that are very complicated and tend to be convoluted. If the complicated mechanism continues to run, it will automatically make the community lazy and reluctant to process permits. So, the government needs to find a solution to overcome these problems.

Business actors are not involved in deliberating derivative regulations on the Job Creation Law. Ideally, business actors should be given socialization because the nature of local law products is regulations from laws, not born as new regulations. Entrepreneurs need intense assistance and outreach. The needs of business actors are mostly the same, namely assistance and socialization regarding the migration of OSS version 1.1 to OSS RBA to accelerate the integration of licensing services, so that it becomes simpler, faster and cheaper. In addition, strengthening internet infrastructure to support business activities in the regions by regional governments is urgently needed to encourage business process efficiency and minimize the potential for extortion and corruption.

Female MSME entrepreneurs still have difficulties in obtaining permits based on the OSS RBA. One of the obstacles is that female MSME business actors have difficulty determining KBLI for business licensing. One of the sources for this study admitted that he had never received information from the Regional Government regarding the Job Creation Law. The local government has also never provided socialization regarding 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 in the OSS RBA regime. According to several female MSME business actors, socialization of the derivative rules of the Job Creation Law and RBA OSS is lacking. Female MSME entrepreneurs complain that the lack of socialization causes them not to understand the technicalities of migrating from OSS 1.1 to OSS RBA. These business actors expect active outreach from the Regional Government to MSME business actors, especially women MSME business actors.

This OSS RBA socialization is very important so as not to burden MSME business actors in the regions, both in terms of inputting the application and access to processing permits. Female



MSME entrepreneurs also hope that there will be capacity building programs or activities for MSME women entrepreneur groups so that they can increase their capacity in developing businesses in the regions.

4. CONCLUSION

- a. Legal Arrangements for the Effectiveness of Online Single Submission (OSS) Implementation Related to Licensing for Environmental Protection and Management in the City of Batam The birth of Online Single Submission (OSS) plays an important role in the infrastructure development sector in Indonesia. Online Single Submission (OSS) brings a breakthrough in automatic approval that standardizes requirements and does not need a document checking process as long as it meets administrative requirements in the portal, you will immediately get a business license.
- b. The position of the Environmental Approval is one of the requirements for the issuance of a Business Permit 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 license.
- c. Factors Constraints and Solutions to the Effectiveness of Online Single Submission (OSS) Implementation Regarding Licensing for Environmental Protection and Management in the City of Batam, namely there are several aspects that are obstacles such as regulatory aspects of the OSS system, institutional aspects of DPMPTSP staff, aspects of digitizing the OSS system and many more some UMKN and UMK business actors who do not understand the technicalities of using the OSS system are clearly due to the DPMPTSP's lack of socialization.

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