



Environmental Agreement as the Object of State Administrative Disputes*

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Abstract

The implementation of state administrative law is presently undergoing considerable changes due to modifications in environmental law regulations. A significant alteration is the shift from a business license framework to a business approval framework, which has generated ambiguity in environmental law enforcement, particularly incorporating ecological approvals under the purview of disputes in the State Administrative Court (PTUN). This alteration presents new difficulties in ascertaining the authority of the PTUN and the interpretation of environmental legislation within the framework of state administration. This study employs a qualitative research methodology utilising two primary approaches: the literature approach and the legal approach. The literature approach examines several academic sources, journals, books, and legal documents pertinent to the evolution of the corporate licensing and approval system and its implementation in environmental law. This literature study elucidates the theoretical framework and legal advancements pertinent to ecological conflicts in the PTUN. The legal analysis involves scrutinising relevant laws and regulations, particularly state administrative and environmental law, including Law No. 30 of 2014 on Government Administration and Law No. 32 of 2009 on Environmental Protection and Management. The study's findings indicate that transitioning from a business licensing system to a business approval system has generated ambiguity within PTUN authority, particularly on environmental approvals. The State Administrative Court, as a crucial judicial body under the Supreme Court, possesses autonomy in adjudicating administrative disputes and plays a key role in the enforcement of environmental law. Yet, this alteration necessitates an urgent and more explicit elucidation of ecological and state administrative law interplay. This article seeks to examine the function of the PTUN within the Indonesian legal system concerning the enforcement of environmental law and to provide solutions for addressing the issues stemming from this regulatory alteration.

Keywords: Environmental Law Enforcement; Job Creation into Law; State Administration

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A. INTRODUCTION

Environmental approval as an object of dispute in the state administrative system has become a crucial and complex issue in Indonesia's ecological law context. (Wahyuni, 2023) This study aims to compare the roles of two Laws (Laws) that are the subject of debate, namely Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH Law) and Law No. 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (Ciptaker Law).

The PPLH Law has been an essential legal framework in Indonesia for over a decade (Laily, 2022). It focuses on environmental approvals for development projects that can damage nature and the environment and emphasises the involvement of the public and stakeholders in the ecological agreement process. On the other hand, the Ciptaker Law aims to stimulate investment and economic growth by streamlining rules and procedures, with environmental approval as a key component (Hayati, 2023). Some see this revision as an economic development step, while others are concerned about the decline in public engagement and environmental sustainability risks.

In regulating the Ciptaker Law, several substances of the PPLH Law have been changed, such as those related to environmental permits, as explained in Article 1 number 35 of the PPLH Law. ([UU No. 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup, LN No. 140 Tahun 2009, TLN No. 5059](#)) Article 1 Number 35 of the PPLH Law explains environmental permits as the culmination of laws and regulations developed by lawmakers to preserve the environment in Indonesia. Environmental permits are mechanisms used to monitor, manage, and guarantee that actions taken by organisations or individuals do not impact the environment. In the Ciptaker Law, there was a change in environmental law arrangements marked by the amendment of Article 1 number 35 of the PPLH Law, which is regulated in Article 1 number 35 Paragraph 3 of the Ciptaker Law. Where the two articles have different phrases and legal substance, environmental approval is defined as a decision issued by the central government or local government after a statement of ability to manage the environment by issuing an environmental feasibility decision. ([Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang, LN.2023/No.41, TLN No.6856](#)) Meanwhile, environmental permits have a definition, namely permits issued by the government to every business actor with the prerequisite of attaching an Environment Impact Analysis (AMDAL) or Environmental Management Effort – Environmental

Monitoring Efforts(UKL-UPL) to get activities, where AMDAL and UKL-UPL are used as protection and management of the environment.[Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang, LN.2023/No.41, TLN No.6856](#)

The PPLH Law has regulated the cancellation of environmental permits granted or obtained by entrepreneurs before running their businesses. As for the cancellation listed in Article 37 paragraph (2) of the PPLH Law, the cancellation can be submitted when the application for an environmental permit is found to be a matter in the form of errors, incorrectness, misuse, falsification of data and documents and information, legal defects in that case.[Nurhayati, 2017](#) All of this is also a manifestation of the protection provided by law to citizens from state agencies or officials who issue State Administrative Decrees (KTUN or call decree) arbitrarily that can objectify human beings so that strict legal procedures are formed.[Alauddin, 2022](#) Before the existence of the Ciptaker Law, the environmental permits contained in the PPLH Law could be used as an object of decree by the State Administrative Court (PTUN), which could be cancelled, but after the existence of the Ciptaker Law, the cancellation of the authority of the state administrative court has been eliminated.

There is a difference in administrative law enforcement between the PPLH Law and the Ciptaker Law, where, in the past, the object of the cancellation of the decree rested on environmental permits. At the same time, the Ciptaker Law, it was reregulated in Government Regulation No. 22 of 2021 concerning the Implementation of Environmental Protection and Management (PP No. 22 of 2021). Government Regulation No. 22 of 2021 regulates seven requirements that entrepreneurs must possess. *First*, every entrepreneur must have environmental approvals. *Second*, both business actors and government agencies can be given ecological approval. *Third*, environmental approval is essential to obtaining a business license and government approval to run a business. *Fourth*, the preparation of AMDAL and the feasibility test of AMDAL or the preparation of the UKL-UPL form and UKL-UPL form checks to obtain environmental approvals are required. *Fifth*, ecological approvals can be terminated when business licenses and government approvals have expired. *Sixth*, when the business license has ended, the business license can be extended by attaching prior approval. *Seventh*, the evidence must be submitted by the government and business actors when terminating environmental management activities using post-operative ecological management. [PP No. 22 Tahun 2021 Tentang Penyelenggaraan Perlindungan Dan Pengelolaan Lingkungan Hidup, LN No. 32 Tahun 2021, TLN No. 6634](#)

The difference related to the object of the dispute in the state administrative court between environmental permits and environmental approvals can be seen from the object of the dispute that has been regulated. The object of the PTUN dispute on the previous environmental license is related to when the business actor or government agency states in the application for an environmental permit that there is a mistake, incorrectness, misuse, or falsification of data and documents and information, legal defects where the PTUN can cancel the environmental permit. However, it is different after changes are made when the object of the PTUN dispute becomes environmental approval, whereas the object of the ecological approval dispute will dwell on the seven prerequisites contained in Government Regulation No. 22 of 2021.

Based on this background, this study examines the comparison of the role and process of environmental approval in the PPLH Law and the Ciptaker Law. Both laws aim to control and safeguard the environment, but differences in environmental approval methodologies and processes remain a significant problem. The study addresses the information and policy gaps in the two laws. The study aims to build more inclusive, equitable, and ecologically sustainable policies. This study will make theoretical and practical contributions to the discussion of environmental policy and comparative law and serve as a valuable reference for practitioners, policymakers, and academics in dealing with complex issues in the environment and state enterprises.

B. METHODS

This legal research is carried out with the stages of identifying legal problems, reasoning, analysing, and solving problems. Doctrinal law research examines the concepts, rules, principles, and constructions of laws and regulations through several interpretation methods. ([Hutchinson & Duncan, 2012](#)) Doctrinal legal research seeks to solve practical problems by making new arguments, theories or concepts as a prescription in solving these problems. ([Hutchinson, 2016](#)) The main characteristic of the doctrinal method is that it involves a critical conceptual analysis of all relevant laws and legal cases. This legal research is carried out with the stages of identifying legal problems, legal reasoning, analysing problems, and solving these problems. ([Marzuki, 2005](#))

C. RESULTS AND DISCUSSION

1. The Position of Environmental Consent as a Decree and Object of State Administrative Dispute

a. The Difference Between the Concept of Permits in the PPLH Law and the Concept of Environmental Approval in the Ciptaker Law

Indonesia is one of the countries with the most abundant natural resources in the world. The importance of regulating this is realised in the 1945 NRI Constitution in Article 33 paragraph (3), which gives authority to the state to control and be used for the prosperity of the people. [\(2015\)](#) commitment as a state of law, so as a consequence, the government's authority is given by law as a follow-up to Article 33 of the 1945 Constitution of the Republic of Indonesia to regulate, organise and control the use and also designation in the management of natural resources. [\(Prianto, 2019\)](#)

Rules and provisions related to environmental licensing for business actors are regulated in the PPLH Law. According to Sadjipto Rahardjo, forming a law and regulation is inseparable from the legal politics of interested parties. The content materials in it look neutral, but its implementation and enforcement are carried out in the interest of the constituents. [\(Prianto, 2019\)](#) This can be seen in the PPLH Law, which does not provide strict regulations related to environmental permits with business licenses. Where the existence of environmental permits and business licenses still do not have a relationship with each other, the enforcement of violations that occur is difficult to enforce.

If business actors find a violation of environmental permits, the PPLH Law only provides administrative sanctions as in Article 76. Ministers, governors, or regents/mayors who have the right to apply administrative sanctions to the person in charge of business and activities have violations in the form of written warnings, government coercion, suspension of environmental permits, or revocation of environmental permits. [\(Undang-Undang No. 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup, LN No. 140 Tahun 2009, TLN No. 5059\)](#) In granting sanctions during the enactment of the PPLH Law, the government only provides administrative sanctions to every entrepreneur who holds a permit to pay attention to the environmental sustainability that they have polluted but cannot give severe sanctions such as revocation of business licenses or activities against business actors who have been declared not heeding the reprimands given by the government. Therefore, there is an obstacle to environmental permits, where when an environmental

permit is obtained in violation of existing provisions and has been agreed upon, the company can still run its business because there are still other permits. [\(2011\)](#)

In solving the existing problems, the government issued the Ciptaker Law, which was presented to provide simplification in the licensing process by integrating environmental permits into business licensing. The existence of the integration of ecological licensing, which is a business license, has implications where when a violation occurs, for example, in terms of standardisation or environmental management procedures carried out by a business entity, it will have an impact on its business license. It seems to be formed by regulators because of the consistency between the simplification of licensing to facilitate investors and the basic understanding of the environment that "everything is connected to everything else" and "everything must go somewhere". [\(Phillips, 2023\)](#)

The PPLH Law states, "An environmental permit is a permit given to every person who conducts a business and/or activity that is subject to an AMDAL or UKL-UPL in the context of environmental protection and management as a prerequisite for obtaining a business and/or activity license."[\(Undang-Undang No. 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup, LN No. 140 Tahun 2009, TLN No. 5059.\)](#) While the formulation of Article 22 number 35 of the Ciptaker Law related to Environmental Approval reads, "Environmental Approval is an Environmental Feasibility Decision or Statement of Environmental Management Capability that has received approval from the Central Government or Regional Government."[\(Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang, LN.2023/No.41, TLN No.6856\)](#)

In the environmental permit contained in the PPLH Law, there is a concept of business licensing, which, with the AMDAL, is used as a tool to measure or become a basis that can be clearly explained regarding the follow-up of permits that will be given to business actors who request business licenses. After the government issues the permit, a business license or business activity will be provided. This indicates that the AMDAL is the primary basis for determining whether the business activity is good or bad and whether it is of good quality for environmental and activity permits. [\(Saleng, 2007\)](#) In addition, ecological permits are the primary requirement in applying for sectoral business licenses. Without an AMDAL, entrepreneurs cannot apply for business licenses or ecological permits themselves.

Administrative law enforcement instruments are related to the supervision and enforcement of sanctions, where supervision is a preventive step to provide coercion in complying with a predetermined provision. In contrast, sanctions are repressive steps to force someone. Compliance with administrative sanctions has an instrumental function, including controlling prohibited acts aimed at permit holders. [\(Marbun, 2012\)](#)

b. Environmental Approval as Decree

Article 93 of the PPLH Law is a legal basis that is used as material for filing environmental disputes in the area of state administrative or state administrative courts, where Article 93 of the PPLH Law provides an explanation related to the parties who can be parties to the case in the State Administrative Court. In contrast, the formulation of Article 93 paragraph (1) broadly provides space to file a lawsuit to obtain a decree when business actors do not attach the AMDAL and UKL-UPL, Business licenses are not equipped with environmental permits. [\(Undang-Undang No. 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup, LN No. 140 Tahun 2009, TLN No. 5059\)](#)

The submission of cases in the state administrative court is then explained and guided by the procedural law of the state administrative court, namely Law Number 5 of 1986 concerning the State Administrative Court (PTUN). The parties mentioned in the PPLH Law are in line with the formulation of Article 53 paragraph (1) of the PTUN Law, which explains, "A person or a civil legal entity whose interests are harmed by a decree may file a written lawsuit to the competent Court containing a demand that the disputed decree be declared null or invalid, with or without a claim for compensation and rehabilitation." [\(Undang-Undang No. 5 Tahun 1986 Tentang Peradilan Tata Usaha Negara, LN No. 77 Tahun 1986, TLN No. 3344.,\)](#)

The procedure for state administrative lawsuits over decisions in the form of environmental approvals has been removed. In addition, the nomenclature was also changed to environmental approvals, which weakened the right to sue owned by the community. [\(Satryanegara, 2022\)](#) The change in the PPLH Law's substance related to environmental permits converted into environmental approvals is seen as a form of pleonasm against administrative law. The difference between environmental permits and environmental approvals is a norm that is said to be the same because the substances possessed have similarities and resemblances. Dutch Jurists, namely N.M Spelt and J.B.J.M, have noted that "permission" is approval from authorities based on government regulations or even from

statute/laws where, in some circumstances, they diverge from the statutory prohibition provisions. On the other hand, Van Der Pot explained that “permission” in a broad sense, is a decision to allow action carried out that, in principle, is not prohibited by the regulations.[\(2018\)](#) This is as expressed by W. Riawan Tjandra: a permit is a decision of an authorised official on the application for approval by community members for something.[\(Tjandra, 2018\)](#)

The existence of licensing, according to J.B.J.M ten Berge, is a tool the authorities use to control the community to carry out an arbitrary act.[\(HR, 2011\)](#) As stated by Philipus M. Hadjon, the position of permission or approval is included as a government decision related to whether or not it is allowed to do something, so it is classified as an object of state administration.[\(HR, 2011\)](#) It can be concluded that permits and approvals in the environment have a major role that government services must carry out (*bestuurzorg*).

Article 13, letter b of the Ciptaker Law, normatively explains the simplification of basic requirements in business licensing in the field of environmental approval. Furthermore, the phrase environmental approval is referred to explicitly verbally in Article 21 Paragraph 3, which explains that ecological approval is a form of service the government provides to facilitate the community in the licensing process.[\(Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang, LN.2023/No.41, TLN No.6856.\)](#) This indicates that the Ciptaker Law not only revises the old rules in the PPLH Law but also regulates new regulations related to several business licensing provisions previously regulated in the PPLH Law.

Definitively, environmental approval is defined as a statement by a business actor or activity to utilise the environment and obtain eligibility as a business actor or activity to use the environment by providing a statement of the ability of the entrepreneur to manage the climate after receiving approval from the government or to the region. Let's examine the theoretical environmental law experts Alexandre Kiss and Dinah Shelton. [\(Kiss & Shelton, 1997\)](#)

Providing opinions and positioning between approvals is a standard power of the government's attitude towards a permitance or license and certification. [\(Wibisana, 2018\)](#) Approval is a permit that can also be interpreted as a process to issue and regulate development engineering and to be used as a material for state revenue. The Ciptaker Law also abolishes the provisions on the right of liability that was once controlled in the PPLH Law, where the right of liability is related to environmental permits. Thus, it is clear that ecological approval can be used as an object of dispute to obtain a decree litigated in the state administrative court.

c. Integration of Environmental Approvals in the Nomenclature of High-Risk Business Licenses

Risk-based business licensing is regulated in Articles 7 to 12 of the Ciptaker Law, specifically explained in Government Regulation 5 of 2021 concerning the Implementation of Risk-Based Business Licensing. Business licensing is a new regulation formed by the government to minimise the potential that occurs in the future after business actors carry out their activities. This risk-based business licensing is considered to start an approach to assessing the level of potential risk in running its business, whether it will provide losses or dangers or a combination of the two in the implementation of business licensing, especially the impact that will endanger the environment, ecosystem and human safety that will occur in the running of business activities and in this case the government is maintaining and improving the investment ecosystem and business losses. [\(Husin, 2020\)](#) The things done by the government include:

- a. To maintain the effectiveness and simplicity of business licensing, the government organises risk-based licensing;
- b. The laws and regulations state that the government will supervise business activities transparently, structuredly, and responsibly.

Risk-based business licensing can be carried out by determining risk levels or potential risks adjusted to the rating of the business scale or activities to be carried out by business actors. The determination of the risk level is based on the results of the risk analysis that will occur when running business activities. This level of risk will undoubtedly determine the type of business license granted by the government that business actors must comply with and fulfil. [\(2022\)](#) According to Stephanus Munandjat Danusaputro, this licensing needs legal certainty that can be coercive for business actors in environmental management that can ensure environmental protection both temporarily and after business activities. [\(2020\)](#)

Business actors who carry out high-risk business activities need to pay attention to the fulfilment of business and product standards to obtain a verified business and product standards certificate. [\(Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang, LN.2023/No.41, TLN No.6856,\)](#) Risk analysis carried out by the government can be carried out in several ways, including [\(Devara et al., 2021\)](#) First, identification of business activities; *Second*, assessing the level of danger of business activities; *Third*, assessing the potential for hazards in business activities; *Fourth*, Providing

determination of the level of risk and rating of the scale of business activities;
Fifth, Providing a determination of the type of business license.

d. Cancellation of Environmental Approval by PTUN

In the PPLH Law, environmental permits are regulated as a detail that can be cancelled. Article 37, paragraph 2 of the PPLH Law states that if the proposed requirements for submitting a license application contain legal defects, errors, misuse or untruths, as well as falsification of data, documents, and information, then a request for cancellation of the license can be requested where the cancellation is regulated in Article 38 of the PPLH Law which provides opportunities for the cancellation of environmental permits under the authority of the PTUN. However, Article 38 of the PPLH Law has been deleted and abolished in the Ciptaker Law.

Article 93 of the PPLH Law was also omitted when formulating the Ciptaker law. The article permits anyone to apply for the cancellation of environmental permits against business actors or state officials who clearly state that they do not have an AMDAL to apply for permits or run their business in the environmental space. However, currently, environmental licenses can still be disputed, and a lawsuit has been filed with the PTUN, as revealed by the Minister of Environment and Forestry, Siti Nurbaya that a lawsuit can be filed against the business license company and is a state administrative authority to issue a decree. This is because, in the Ciptaker Law, environmental approval is the basis for issuing business licenses.[\(Rosana, 2021\)](#)

In Article 53 of Law Number 5 of 1986 concerning the State Administrative Court, legality is provided to the public to file a lawsuit to the PTUN related to business approval. Article 53, paragraph 1 reads: "A person or a civil legal entity whose interests are harmed by a decree may file a written lawsuit to the competent Court containing a demand that the disputed decree be declared null or invalid, with or without being accompanied by a claim for damages and rehabilitation." The existence of legality related to a lawsuit that can be filed with the state administrative court against environmental approvals or business approvals owned by a person is a form of legality against the right to sue people who feel aggrieved by policies issued by the government or the government that cancels the business of a person who has a business license. Article 3 of Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management regulates the existence of 7 prerequisites and restrictions related to Environmental approval, including: [\(PP No. 22 Tahun 2021](#)

Tentang Penyelenggaraan Perlindungan Dan Pengelolaan Lingkungan Hidup, LN No. 32 Tahun 2021, TLN No. 6634,)

1. Business actors with an important or unimportant impact must have environmental approvals determined by the central or regional government.
2. Government agencies must issue business approvals for business actors and activities.
3. The issuance of business licenses and government approvals must accompany environmental approvals.
4. To obtain environmental approval, business actors or activities are required to attach: a. AMDAL and AMDAL feasibility test; or b. UKL-UPL Formulation and UKL-UPL Inspection.
5. With the expiration of business licensing and government approval, environmental approval is also declared.
6. The previous Environmental Approval can be reused when the business license has expired and there have been no changes to the business and its activities.
7. Business actors are required to prove their accountability through environmental management after conducting business or activities.

There are seven prerequisites or restrictions used as a reference to obtain environmental approval, which can be interpreted as a permit. Considering that ecological approval is a prerequisite or limitation to obtaining a business license, the PTUN can also sue for environmental approval. The judicial power, in this case, the PTUN that cancels the rule of law on constitutional grounds implies that the executive review is inappropriate, or the existence of the PTUN in the enforcement of environmental law is an order from ecological law in the administrative field. ([Harrison, 2016](#)) Lawsuits that can be filed with the PTUN related to environmental approval must be proven to violate, among others, community rights contrary to laws and regulations, the general principles of good governance, and the public interest. In addition, environmental approval has concrete, individual, and final properties that can be said to be the same and similar to the ecological permit itself. So, environmental approval can be concluded as a matter that can be disputed or sued by the PTUN.

2. Comparison of Administrative Law Enforcement in the Environmental Sector in Law 32 of 2009 concerning PPLH and Law No. 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law

a. Conceptual Differences in Environmental Approval in Business Licensing

In the journal, Stefano Berteza, entitled "Towards a New Paradigm of Legal Certainty", explains that *"Law and certainty are widely regarded as conceptually connected. By subjecting action to normative standards, the law limits the range of permissible conduct, thus reducing social contingency and superimposing an order on human interactions that would otherwise be less predictable and even potentially chaotic"* (Berteza, 2008), which means that law and certainty are broadly considered to be conceptually connected. By subjecting to normative standards, the law limits the range of permissible behaviours, thereby reducing social contingencies and layering orders on human interactions that would otherwise be less predictable and potentially chaotic. Therefore, it is essential to have a law to provide certainty to the community regarding using all forms of resources regulated by the government and considered to belong to the common community.

In the Job Creation Law, analysis related to environmental impacts commonly referred to as AMDAL, is a unit of the licensing application process to try to avoid threats that continue to threaten the environment. However, after the enactment of Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management, the rules related to the AMDAL have undergone significant changes, especially changes in the word of consent with the permit in the law.

In the Ciptaker Law, regulations related to AMDAL are used as the main prerequisite for making decisions in forming or granting business licenses or activities to business actors. In Article 3 paragraph (3), Article 4, and Article 5 of PP No. 22 of 2021, it has been clearly explained that there are several prerequisites for obtaining environmental approval, including the requirement for AMDAL and UKL-UPL documents that must be prepared and owned by business actors before obtaining approval so that when they apply for approval, they must prepare an AMDAL and UKL-UPL documents. If a business actor has obtained environmental approval, it can be further processed to get a business license or activity. Still, if the business license has expired, the ecological approval will not be valid. ([PP No. 22 Tahun 2021 Tentang Penyelenggaraan Perlindungan Dan Pengelolaan Lingkungan Hidup, LN No. 32 Tahun 2021, TLN No. 6634](#))

b. Implementation of Risk-Based Business Licensing in the Environmental Sector

The Ciptaker Law has formed a new business licensing system where previously permit-based licensing had become risk-based. This change in licensing can be seen from three perspectives: carrying out a business activity, which consists of establishing a business entity, starting a business, and implementing a business. Article 6 of the Ciptaker Law describes the improvement of the investment ecosystem and business activities, including:

1. Implementation of Risk-Based Business Licensing;
2. Simplification of Basic Requirements for Business Licensing;
3. Simplification of Sector Business Licensing; and
4. Simplification of Investment Requirements.

Risk-based business licensing is defined as licensing that is carried out based on the level of risk in the business activities being carried out. The Online Single Submission (OSS) page, which serves business actors to find out the risks of their business activities, provides information on where to access the risks of an activity or business. OSS classifies businesses in several forms: Micro Small Enterprises (UMK) and Non-Micro Small Enterprises (Non-UMK).

Risk-based businesses can be categorised into low risk (R) and low, medium risk (MR). In registering for licensing, business actors can access OSS, where OSS does not require verification or approval from various state institutions, either ministries or governments, but businesses that are included in the classification of Medium High Risk (MT) and High Risk (RT), registration is carried out on the OSS page by attaching the results of verification obtained from the ministry or government. Business Licensing in the environmental and forestry sectors must go through the determination of the results of risk analysis of business activities, where the activities that must be determined include forest utilisation, management of hazardous and toxic waste, wastewater management, utilisation of environmental services in conservation areas, utilisation of plants and wildlife, forest plant seeds. ([PP No. 5 Tahun 2021 Tentang Penyelenggaraan Perizinan Berusaha Berbasis Risiko](#), LN No. 15 Tahun 2021, TLN No. 6617)

c. Environmental Feasibility Test

An environmental feasibility test is a process by the central and regional governments to provide analysis related to business activities submitted by

business actors to obtain environmental approval, which is contained in the AMDAL. In the AMDAL Document, several documents must be attached, including the Submission of Environmental Information (PIL), Framework of Reference Document (KA), Environmental Monitoring Plan Document (RPL), and Environmental Management Plan Document (RPLH). The Feasibility Test was previously carried out by the AMDAL Assessment Commission, which the Feasibility Assessment Team has now replaced, formed at the Central, Provincial, Regency/City levels.

When the AMDAL feasibility test results are obtained, they are submitted to the minister, governor, or regent/mayor, who will issue an environmental approval letter. The requirements and environmental approval letters issued by either the Minister, Governor, or Regent/Mayor are part of the mandatory requirements that business actors or activities must possess to obtain business licenses that business actors will obtain. It should be noted that the feasibility study institution's feasibility test team will involve various elements of experts or competent experts in the central and regional governments. To be more apparent, the AMDAL is based on several principles of assessment of the universal tenets in environmental law, which include the principle of intergenerational equity, the principle of justice within one generation, the precautionary principle, and the principles of biodiversity protection. ([Sipayung et al., 2023](#))

d. Violations of Environmental Approvals Both Administrative and Criminal Sanctions (Comparative Analysis of the PPLH Law and the Ciptaker Law)

The Ciptaker Law has changed many provisions contained in the PPLH Law. In the past, in the PPLH Law, environmental crimes could be charged with criminal or civil sanctions, but now in the Ciptaker Law, environmental crime sanctions have been changed to administrative sanctions. The Ciptaker Law gives administrative sanctions authority to the central government or local governments on business actors who under supervision commit violations of business licensing or approval by the central/regional government. Previously, this authority was given explicitly to the Minister or regional head. In addition, additional norms such as administrative sanctions are imposed on parties who carry out business activities without business licensing or approval from the central/regional government and carry out business activities not in accordance with business licensing obligations or approval from the central/regional government. Corrective actions for negligence that destroys the environment so that it threatens humans are also required for these business actors. When business actors prepare an AMDAL without having a certificate of competence to prepare the AMDAL,

they can be subject to administrative sanctions as well. ([Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang, LN.2023/No.41, TLN No.6856](#)) However, there are penalty instruments that are still valid even after the Ciptaker Law as stated in Article 81 of the PPLH Law. In addition, there are criminal sanctions not based on damaging and/or polluting the environment but for not paying fines sanctions or another administrative form of sanctions. ([Nasikhin & Ihsan, 2022](#))

D. CONCLUSIONS

Environmental approval is a decision issued by the central government or local government after a statement of ability to manage the environment by issuing an environmental feasibility decision. After the description of the environmental approval, the Ciptaker Law also abolishes the provision of the right of liability regulated in the PPLH Law, where the right of liability is related to environmental permits. This implicitly provides clarity that environmental approval is part of the decree, which can usually be the object of a lawsuit in state administrative courts; this is because ecological approval has concrete, individual, and final properties that can be said to be the same and similar to the environmental permit itself.

When issuing Environmental approvals, several AMDAL requirements must be attached, including the PIL, KA, RPL, and RPLH. The AMDAL Assessment Commission formerly carried out the feasibility test for AMDAL Documents, which has now been replaced by the Feasibility Assessment Team formed at the central, provincial, Regency, or City level.

Several articles of the Ciptaker Law change the provisions of law enforcement in the PPLH Law, consisting of Article 76 of the PPLH Law, which is amended into Article 22 number 28 of the Ciptaker Law, and Article 77 of the PPLH Law, which is amended into Article 22 number 29 of the Ciptaker Law. The above article stipulates law enforcement in the form of administrative sanctions, while the coercive money in Article 81 of the PPLH Law remains valid.

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