**Law Enforcement Against Environmental Pollution**

**By the Way Kanan District Environmental Service**

**(Law No. 32 of 2009 and Law No. 11 of 2020)**

**Ati Yuniati1, Upik Hamidah2, Marlia Eka Putri3, Eka Deviani4,**

**Sepriyadi Adhan S5, Rodhi Agung Saputra**

**1, 2, 3,,4,5 Faculty of Law, University of Lampung, Bandar Lampung, Indonesia**

**ABSTRACT**

Environmental management and protection is currently a fundamental problem in Indonesia. The form of environmental protection regulation is Law Number 32 of 2009 concerning Environmental Protection and Management. One form of environmental pollution found in Way Kanan Regency is environmental pollution caused by the manufacture of liquid rubber waste. The research method used is a normative-empirical research method, using a statute approach and an in-depth interview approach related to environmental law enforcement against environmental pollution. The problems that will be discussed in this study are How is Law Enforcement by the Environmental Service against environmental pollution in Way Kanan Regency and what are the inhibiting factors for the Environmental Service in implementing environmental pollution law enforcement in Way Kanan Regency.

**Keywords: Law Enforcement, Environmental Pollution**

**A. INTRODUCTION**

Environmental pollution can cause damage to environmental ecosystems. Environmental pollution is a change in the environmental order by human activities or natural processes so that the quality of the environment decreases. The environment as a resource is an asset that can prosper the community. Therefore, the problem of environmental pollution must be quickly resolved by the government. In accordance with Article 63 paragraph (1) of Law no. 32 of 2009 concerning Environmental Protection and Management related to the authority of the government and local governments in managing the environment.

Based on Article 12 paragraph (2) of Law no. 23 of 2014 concerning Regional Government, in this case the Environmental Service which is part of the regional apparatus organization that has the duties and functions to carry out government affairs in the environmental field, one of which is supervising environmental pollution. Thus, the role of supervising environmental management in the regions is the responsibility of the regional government, in this case the Department of the Environment. Enforcement of environmental law can be done by applying instruments and sanctions with the aim of forcing legal subjects who are the targets to comply with environmental laws and regulations. In addition, the participation of the community is also needed in protecting the environment in accordance with Article 70 paragraph (1) of Law No. 32 of 2009 concerning PPLH, for example by conducting social supervision, providing opinions and submitting information or reports related to environmental protection and management.

One form of environmental pollution that occurs in Way Kanan Regency is the disposal of rubber waste in the form of liquid and foul-smelling which is channeled into rivers and lakes and does not have a standard holding pond by rubber business actors, if not monitored it can damage the environmental ecosystem. Environmental management and protection is a fundamental issue. Such as the disposal of rubber waste into rivers and lakes carelessly and without permission. This causes the community to feel disadvantaged, such as not being able to use well water for bathing and drinking, due to rubber waste. It is intended that the environmental damage caused by this rubber waste in Way Kanan Regency is not getting worse. Therefore, the role of the government is needed to regulate its territory according to the authority given by Law 23 of 2014 concerning Regional Government.

Based on the description above, the problem in this study is how is law enforcement against environmental pollution by the Way Kanan Regency Environmental Service and what are the inhibiting factors for the Way Kanan Regency Environmental Service in implementing environmental pollution law enforcement?

**B. RESEARCH METHOD**

The research method used is a normative-empirical research method. by using the statute approach and in-depth interviews related to environmental pollution to those responsible for the environment in Way Kanan Regency. The statute approach is to examine matters relating to legal principles, legal views and doctrines, and laws and regulations related to the environment, and accurate and accountable data. In-depth interviews were conducted in the Planning and Environmental Impact Assessment Division and the Pollution and Environmental Degradation Control Division at the Department of Environment, Way Kanan Regency. In addition, an in-depth examination of the legal facts was also held to then seek solutions to the problems raised present in the symptom in question.

**C. RESULTS AND DISCUSSION**

**1. Law Enforcement Against Environmental Pollution by the Way Kanan Regency Environment Service**

In general, the authority to protect and manage the environment comes from Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH) Article 1 paragraph (2), what is meant by environmental protection and management is a systematic and integrated effort carried out to preserve environmental functions and prevent environmental pollution and damage which includes planning, utilization, control, maintenance, supervision, and law enforcement. One form of environmental pollution that often occurs in Way Kanan Regency is the disposal of rubber waste. This is included in the problems that must be resolved because if the disposal of rubber waste is not monitored then the contents of Article 1 paragraph (2) above will not be achieved related to preserving the environment. Through the PPLH Law, the government gives very broad authority to local governments in protecting and managing the environment in their respective regions because good governance will influence and determine good environmental management.

Environmental management institutions (Department of the Environment) are a key factor in the success of environmental management and natural resources in order to provide optimal benefits, both for current and future generations. Environmental institutions have the authority and affairs of the local government to supervise and at the same time enforce the law in the environmental field, one of which is the issue of rubber waste disposal in Way Kanan Regency in accordance with Article 12 paragraph (2) of Law no. 23 of 2014 concerning Regional Government and Article 63 paragraph (1) and Law no. 32 of 2009 concerning Environmental Protection and Management (UU PPLH) related to the authority of the government and local governments in managing the environment. Therefore, the existence of environmental management institutions both at the center and in the regions has an important role in carrying out environmental management.

Based on article 71 paragraph (2) of the PPLH Law, the Minister, governor, or regent/mayor can delegate their authority in supervising the official/technical agency responsible for environmental protection and management. The environmental supervisory officer (Department of the Environment) is authorized to carry out monitoring, request information, make copies of documents and make necessary notes, enter certain places, take pictures, make audio-visual recordings, take samples, inspect equipment, inspect installations and means of transportation. , and stop certain offences. Based on this regulation, the Way Kanan Environmental Service has the authority to monitor or supervise the disposal of rubber waste by rubber entrepreneurs.

The duties and functions of the Regional Government (Environmental Service) in maintaining the environment have been divided into several fields by the regional head, one of which is the Environmental Impact Assessment and Maintenance Division, which has the task of preventing environmental pollution. If in law enforcement the only concern is legal certainty, then other elements are sacrificed. Likewise, if what is considered is only benefit, then legal certainty and justice are sacrificed. The three elements of environmental law enforcement, namely certainty, expediency, and justice, must be compromised. This means that all three must receive proportional attention in their handling, although in practice it is not always easy to do so. Thus the authority of the regional head is the implementation of regional autonomy given by law through the implementation of regional autonomy, it is hoped that environmental problems can be quickly overcome. This will increase the achievement of community welfare in the region.

Enforcement of environmental law includes supervision and application or threats, use of administrative, criminal or civil instruments to achieve the arrangement of legal provisions and regulations that are generally and individually applicable. Supervision (controle) means government supervision to comply with the provision of regulations that are parallel to criminal law investigations. To ensure the preservation of environmental functions, every company engaged in various fields of activity is required to do the following:

a. Companies are required to have an Environmental Impact Analysis (Article 22 paragraph (1), and (2), Article 23 paragraph (1) and (2), Article 24, Article 25, Article 26 paragraph (1), (2), ( 3) and (4), Article 27, Article 28 (1), (2), (3) and (4), Article 29 paragraph (1), (2) and (3), Article 30 paragraph (1), (2) and (3), Article 31, Article 32 (1), (2) and (3) and Article 33 of Law No 32 of 2009 concerning Environmental Protection and Management). Environmental impact analysis is a study of the major and significant impacts of a planned business and/or activity on the environment which is required for the decision-making process regarding the implementation of a business and/or activity.

b. Every business and/or activity that is not included in the mandatory AMDAL criteria, must have Environmental Management Efforts and Environmental Monitoring Efforts called UKL-UPL (Article 34 paragraphs (1) and (2), Article 35 paragraph (1), ( 2) and (3) Law Number 32 of 2009 concerning Environmental Protection and Management).

c. Companies are required to manage hazardous and toxic materials. Management of hazardous and toxic materials includes: Produce, Transport, Distribute, Store, Use and or Dispose of. Management of Hazardous and Toxic Materials and Hazardous and Toxic Waste (Article 58 paragraphs (1) and (2), Article 59 paragraph (1), (2), (3), (4), (5), (6) and (7) Law Number 32 of 2009 concerning Environmental Protection and Management).

In addition to these obligations, companies are also prohibited from violating the Quality Standards and Standard Criteria for Environmental Damage (Article 20 paragraph (1), (2), (3), (4) and (5), Article 21 paragraph (1), (2) , (3) and (4) Law No. 32 of 2009 concerning Environmental Protection and Management

Enforcement of environmental laws against waste disposal can take the form of supervision. supervision is an effort that includes monitoring the compliance with requirements, technical and administrative provisions by the local government (Environmental Service) to companies and entrepreneurs who carry out rubber latex business activities in Way Kanan Regency. The presence of companies in the community and rubber entrepreneurs in fact not only provides benefits, but also causes problems, as for the resulting impacts, both positive and negative impacts.

 The positive impact for business actors and the community is to provide benefits for these business actors, make it easier for rubber farmers to sell their products from their rubber plantations and provide employment opportunities for workers. The negative impact felt by the community is that the community can no longer use river water for drinking and bathing pets and wells for bathing and drinking or supporting daily needs due to rubber waste. The pollution of the environment by the waste of companies and rubber entrepreneurs will cause the aesthetic value of the environment to decrease, the polluted environment will look shabby and cannot be used for daily purposes. Polluted environment will also disrupt the natural system of the environment and damage the ecosystem and components contained in the environment.

According to Feriose Rizal, the Planning and Environmental Impact Study Section, supervision from the Environmental Service regarding supervision of companies can be carried out by holding permit instruments for rubber entrepreneurs, such as permits to establish businesses and for rubber companies an Amdal or UKL-UPL must be required.

This is in accordance with Article 14 of Law No. 32 of 2009 concerning PPLH related to instruments for preventing pollution and environmental damage including AMDAL, UKL-UPL and permits. Therefore, with the issuance of a permit, at least a permit to establish a rubber stall business, the Environmental Service can carry out integrated supervision of places that are used as rubber businesses as well as on large-scale rubber companies related to rubber production and produce quite a lot of rubber waste, an AMDAL must be required. and UKL-UPL. However, the lack of care for the environment by the rubber entrepreneurs so that this licensing instrument is not obeyed by the rubber business actors.

Regarding the action against perpetrators of environmental pollution due to rubber waste in Way Kanan Regency by the Environmental Service, it cannot be carried out directly, but must go through several stages unless there are complaints from the public regarding environmental pollution caused by waste from business activities.

Based on article 74 of the PPLH Law, the Environmental Service as the supervisory official is authorized to take action against perpetrators of environmental pollution. These include being authorized to conduct monitoring, requesting information, making copies of documents and making necessary notes, entering certain places, taking photographs, making audio-visual recordings, taking samples, inspecting equipment, inspecting installations and means of transportation, and stopping certain violations. However, the facts and practice in the field, environmental law enforcement by the environmental service related to environmental pollution and damage will be carried out after public complaints are carried out instead of carrying out integrated supervision related to rubber waste according to the authority they have. This is proven that not only the District Environmental Service Way Kanan Regency, but in the city of Semarang in the enforcement of environmental law by the Semarang City Environment Service.

The implementation of supervision by the Environmental Service of Way Kanan Regency on rubber waste must be implemented immediately. This is a concrete effort that must be made, because there have been many changes that have occurred in the environment due to rubber waste. As for the form of supervision efforts on the disposal of rubber waste related to rubber rubber companies and entrepreneurs in Way Kanan Regency, the environmental service provides monitoring instruments both preventively and repressively. However, this supervision cannot be carried out optimally due to the large area and the large number of rubber business actors. To follow up on this, the Environment Agency provides a licensing instrument for people who have rubber businesses so that integrated supervision can be carried out.

Preventive supervision is supervision that is preventive in nature, meaning that the rubber stall business activities carried out do not lead to errors or do not comply with the benchmarks and rules that have been set regarding waste disposal. Preventive supervision carried out by the Environmental Service on rubber entrepreneurs is by holding licensing instruments (business establishment permits and environmental permits), conducting socialization and direction to the entire community, especially people who carry out rubber stall business activities and rubber farmers, providing guidance on the importance of protecting the environment. to the public, informing the procedures for processing rubber waste. In addition, preventive supervision carried out on rubber companies is the mandatory AMDAL or UKL-UPL, environmental permits and waste disposal permits that must be owned by the company. It is intended that the Department of the Environment can carry out integrated supervision of rubber companies and entrepreneurs related to waste disposal.

Repressive supervision is an effort made by the Environmental Service to discipline people who pollute and damage the environment due to not paying attention or violating the rules that have been determined in disposing of waste, especially rubber waste and taking action by giving administrative warnings to violators of environmental pollution as a sanction. namely by issuing government coercion, freezing of environmental permits, revocation of environmental permits and closing of business premises. However, preventive and repressive supervision of rubber entrepreneurs has not been carried out optimally and comprehensively.

Enforcement of environmental law on the protection and management of the environment must pay attention to legal principles such as the principles of expediency, certainty and justice which aim to protect the rights of the community. According to Mertokusumo, if the only concern in law enforcement is legal certainty, then other elements are sacrificed. Likewise, if what is considered is only benefit, then legal certainty and justice are sacrificed. Therefore, in enforcing environmental law, the three elements, namely certainty, expediency, and justice, must become one. This means that all three must receive proportionally balanced attention, although in practice it is not always easy to do so.

Supervision of the environment is not only the right of the local government (Environmental Service) but the community also has the same and broadest roles and rights to play an active role in environmental protection and management in accordance with Article 70 of the PPLH Law. Community participation in supervising the disposal of rubber waste by rubber entrepreneurs can take the form of social supervision, such as giving suggestions, opinions, suggestions, objections and complaints (submission of information or reports) related to environmental pollution due to rubber waste. This aims to increase awareness in environmental protection and management, develop community capabilities and pioneers, develop community responsiveness to carry out social supervision and develop and maintain local culture and wisdom in the context of preserving environmental functions, but the role of supervision by the community towards entrepreneurs has not been implemented. due to lack of knowledge, lack of concern for the environment and lack of courage to make reports related to environmental pollution.

It is different with environmental law enforcement in the Job Creation Act. One of the things that is a concern in the Job Creation Law is the environmental licensing rules for business actors. Various regulations in the law have cut a number of bureaucracy in investments that intersect with the environment. Now, investment permits are no longer uniform, but risk-based. Likewise, there have been a number of changes in the EIA assessment procedure. The rules and regulations related to environmental licensing for business actors were previously regulated in Law no. 32 of 2009 concerning Environmental Management and Protection (UUPPLH). Comparison of important points in UUPPLH with the Job Creation Law. UUPLH does not explicitly regulate the legal relationship between environmental permits and business/activity permits, the relationship is still a fragmented scheme (one permit is not related to another permit). Thus, although there are many violations of environmental permits, it is difficult to enforce the law. The government only gives warnings to permit holders to pay attention to environmental sustainability. The government is powerless to give heavier sanctions, for example revocation of business or activity licenses if business actors do not pay attention to the warning. One of the problems is, if one of the permits (eg Environmental Permit) has been violated by a company, then the other permits.

The job creation law contains changes and abolition of articles on environmental management, which are the responsibility of carrying out activities or businesses. The job creation law tries to simplify all existing permits in carrying out activities or businesses that have an impact on the environment. This is very worrying, causing many people to underestimate or even cheat some of the existing procedures. These procedures include environmental impact analysis (Amdal), environmental permits, and UKL-UPL. This is also the result of a systematic change from a regulation-based approach (license approach) to a risk-based approach because the government sees a regulation-based approach as a burden on business activities and making business processes ineffective and inefficient.

One of the changes contained in the Job Creation Law is the abolition of environmental permits. Referring to UUPPLH, an environmental permit is a prerequisite for obtaining a business and/or activity permit. Environmental permits in the Job Creation Act are replaced with environmental approvals. In the Job Creation Law, it is stated that what is meant by environmental approval is an Environmental Feasibility Decree or a Statement of Environmental Management Ability. In the process, both mandatory EIA or UKL-UPL activities are simplified. If in the PPLH Law the criteria for mandatory Amdal activities are clearly defined, the Job Creation Law regulates it in an abstract manner without criteria. The abolition of Environmental Permits in the Job Creation Law is not in accordance with the environmental management regulatory system and has the potential to cause various problems.

a. Without an environmental permit, the government will find it difficult to monitor and enforce the law. If environmental permits are removed, the bureaucracy to carry out supervision is potentially more complicated and uncoordinated. Therefore, environmental permits are important to ensure that the environment and natural resources are managed sustainably to ensure the sustainability of long-term investments.

b. The abolition of environmental permits will have an impact on reducing the opportunity for the community to annul or correct decisions that violate the law relating to environmental aspects. Eliminating environmental permits means reducing opportunities for community participation in the development of an activity.

c. The abolition of environmental permits will reduce aspects of preventing pollution and/or environmental damage. In environmental management, the prevention aspect is prioritized so that there is no harmful impact of pollution and/or damage.

Law enforcement is inconsistent with the imposition of administrative sanctions on business actors and/or activities that are proven to have disobeyed the law. Other problems such as the existence of a violation that is quite serious and followed up with guidance, not sanctions. Looseness in the implementation of sanctions to the imposition of administrative sanctions written warnings repeatedly for a violation without any increase. This will result in many violations that occur because of the lack of strict sanctions, only coaching. Violation of environmental obligations has the potential to have a harmful impact on the environment. Violations are only subject to administrative sanctions. Elimination of criminal sanctions for permit violations is something wrong because it will not provide a deterrent effect and make the permit violators repeat their actions again. Currently we have Law No. 32 of 2009 on the environment. However, in practice, now many business actors still violate the law and do not heed the environmental pollution that occurs. Therefore, the Law on Job Creation was ratified, there is the potential to conflict with Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia. This article emphasizes that the economy in Indonesia must implemented in a sustainable and environmentally sound manner.

It can be concluded that the existence of the Job Creation Law has caused many negative impacts on the environment and the surrounding community. The decline in the quality of environmental protection and management in the vortex of the Job Creation Law contains changes and abolition of articles on environmental management which actually serve as guidelines for business actors in business activities. On the other hand, the government's efforts to simplify all forms of licensing to encourage business actors have a negative impact on the environment. Business actors can easily underestimate the existing procedures and legal consequences (sanctions).

**2. Inhibiting Factors for the Environmental Service in Implementing Environmental Pollution Law Enforcement in Way Kanan Regency.**

In carrying out law enforcement duties related to environmental pollution by companies that can cause environmental pollution and damage, the Way Kanan Regency Environmental Service has various obstacles, including access/distance problems, lack of human resources and lack of facilities and infrastructure, this is in accordance with with the existing geographical conditions in Way Kanan Regency. The Department of the Environment requires qualified human resources as well as adequate facilities and infrastructure, in proportion to its area.

The obstacles faced by the Department of Environment in carrying out supervision of waste disposal in Way Kanan Regency and other areas are the lack of community participation and business responsibility for the importance of the environment. This indicates that public awareness is still lacking in preserving the environment. Basically, community participation in carrying out supervision has been regulated in Law No. 32 of 2009 concerning PPLH. Thus the role of the government should be optimized in conducting supervision.

**D. CLOSING**

Based on the results of the study, the following conclusions can be drawn:

1) Law enforcement against environmental pollution by the Way Kanan Regency Environmental Service is considered less than optimal and less firm, this is because in carrying out supervision it is not carried out either preventively or repressively. This causes the existing environment to be increasingly polluted and community losses for not fulfilling environmental rights that are not obtained. Coupled with the issuance of the Job Creation Law which eliminates the environmental permit instrument and only emphasizes the purpose of facilitating investment which will further aggravate the environment.

2) The inhibiting factors for the Environmental Service in carrying out law enforcement on environmental pollution in Way Kanan Regency. Among them are:

a) Lack of Human Resources (HR).

b) Insufficient Facilities and Infrastructure

c) Access / Distance.

d) Lack of commitment from the person in charge of the business.

e) Lack of community participation and providing reports and information related to environmental pollution.

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