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## APPLICATION OF ADMINISTRATIVE SANCTIONS ON ENVIRONMENTAL MANAGEMENT IN BOGOR REGENCY

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**Abstract:** The maintenance of the ongoing function of the environment is in the interest of the people, thus demanding responsibility, openness and the role of community members, which can be channeled through individuals, environmental organizations, such as non-governmental organizations, indigenous peoples' groups and others, in order to maintain and increase the carrying capacity and accommodating capacity of the environment on which sustainable development depends. Therefore, the Indonesian environment must be managed with the principle of preserving harmonious, harmonious and balanced environmental functions to support sustainable development with an environmental perspective for improving the welfare and quality of life of present and future generations.

**Keywords:** Administrative Sanctions, Environmental Management

### INTRODUCTION

The Indonesian environment bestowed by God Almighty to the people and nation of Indonesia is His gift and mercy that must be preserved and developed in order to remain a source and support of life for the people and nation of Indonesia and other living beings for the survival and improvement of the quality of life itself.

This is in accordance with Law Number 32 of 2009 concerning environmental protection and management which is based on good governance because in every process of formulating and implementing instruments for the prevention of pollution and / or environmental damage as well as countermeasures and law enforcement requires integrating aspects of transparency, participation, accountability, and justice.

Then in Law Number 32 of 2009 concerning Environmental Protection and Management there are several important points, including the following:

1. Integrity of environmental management elements;
2. clarity of authority between the center and the regions;
3. Strengthening environmental control efforts;
4. Strengthening instruments to prevent pollution and / or environmental damage, Utilization of permits as control instruments;
5. Utilization of ecosystem approach;
6. Certainty in responding and anticipating global environmental developments;
7. Strengthening environmental democracy through access to information, access to participation, and access to justice as well as strengthening community rights in environmental protection and management;
8. Enforcement of civil, administrative, and criminal laws more clearly;
9. Strengthening institutions for environmental protection and management that are more effective and responsive;
10. Strengthening the authority of environmental supervisory officials and environmental civil servant investigators.

A very important factor in environmental problems is the rapid growth of the human population, so the need for food, fuel, residential areas, and domestic waste is also increasing rapidly. This population growth has resulted in enormous changes to the environment, especially Indonesia where the economic and ecological levels are still very low. In addition, the carrying capacity of the environment may decrease.

In connection with the growing and many environmental problems in the form of violations such as air, water and soil pollution that arise in various regions, especially in the Bogor Regency area, matters related to the application of administrative sanctions are increasingly important. This is because Law Number 32 of 2009 also, the Government gives very broad authority to local governments in carrying out environmental protection and management in their respective regions that are not regulated in Law Number 23 of 1997 concerning Environmental Management, even though the existence of the means of coercive authority of the government is very necessary for the Regent / Mayor / Regional Head in overcoming various cases of violations that arise in the field of environment

### **Problems**

Based on the description above, the problems discussed in this study are as follows:

1. What is the policy of the Bogor Regency Government in managing the environment in its area?
2. How is the mechanism for implementing administrative sanctions carried out by the Bogor Regency Government c.q. DLH Bogor Regency against violators of environmental law provisions, is it accompanied by coordination and/or synchronization with Central Government policies?
3. Are the administrative sanctions applied by the Bogor Regency Government c.q. DLH Bogor Regency against companies that violate the provisions in terms of law?
4. Have the administrative sanctions imposed on the companies that commit violations been effective?

### **Purpose**

Based on the background and problems described above, the objectives of this research are as follows:

1. Knowing the policies of the Bogor Regency Government in managing the environment in its area;
2. Know the mechanism for implementing administrative sanctions carried out by the Bogor Regency Government c.q. DLH Bogor Regency;
3. Knowing whether the administrative sanctions applied by the Bogor Regency Government, c.q. DLH Bogor Regency, are in accordance with applicable legal provisions and the General Principles of Good Governance (AAUPB):
4. Determine whether the implementation of administrative sanctions has been effective

### **Theoretical**

The environment in the ecological sense does not know territorial boundaries, both state territory and administrative areas. However, the environment related to management must be clear about the boundaries of its management authority. The environment in question is the environment of Indonesia. By law, Indonesia's environment includes the space where the Republic of Indonesia exercises its sovereignty and sovereign rights and jurisdiction. In this case, Indonesia's environment is nothing but a region, which occupies a cross position between two continents and two oceans with a tropical climate and weather and seasons that provide natural conditions and positions with a high strategic role in value as a place for the people and nation of Indonesia to carry out the life of society, nation and state in all its aspects. Thus, the insight in organizing Indonesia's environmental management is *Wawasan Nusantara*.

Indonesia's environment as an ecosystem consists of various subsystems, which have social, cultural, economic, and geographical aspects with different patterns that result in different environmental carrying and accommodating capacities. Such a situation requires the development and development of an environment based on the state of the carrying capacity and accommodating capacity of the environment will increase the harmony, compatibility, and balance of one subsystem will affect the other subsystem, which in turn will affect the resilience of the ecosystem as a whole. Therefore, environmental management requires the development of a system with integration as its main characteristic. For this reason, a national policy on environmental management is needed that must be implemented in accordance with the principles and consequently from the center to the regions.

### **METHOD**

This research is a descriptive research, which is a study that aims to provide a clear, systematic, real and precise picture and description of the application of administrative sanctions against violators of environmental law provisions. This legal research is a type of normative-empirical legal research, namely an existing study that will analyze the application of administrative sanctions imposed by the Bogor Regency Environmental Agency.

The type of data used in this study is secondary data. Secondary data in this case is obtained through literature studies, namely by using written legal sources in the form of laws and regulations, books, newspapers or mass media and other writings and the results of research that has been carried out before, as well as official documents from relevant agencies related to environmental issues, especially regarding the application of administrative sanctions.

The data produced from this study is qualitative data, meaning that it is described in words so that it is a sentence that can be understood and understood, then the data obtained is analyzed qualitatively which is ultimately used to draw a conclusion.

As a location, research was carried out at the Environmental Service (DLH) of Bogor Regency.

## DISCUSSION

### Bogor Regency Condition and Population Growth

The condition of Bogor Regency with an area of 266,382,366 Ha which is located between 6° 19' - 6° 47' South Latitude and 106° 1' - 107° 103' East Longitude. Geographically, Bogor Regency is bordered by: 1 North: Tangerang Regency, Bekasi Regency and City, Depok City 2 South: Sukabumi Regency and Cianjur Regency 3 East: Cianjur Regency and Karawang Regency 4 West: Lebak Regency and Banten Province 5 Central Region: Bogor City Administratively, Bogor Regency consists of 40 sub-districts, 15 sub-districts and 427 villages. The population of Bogor Regency in 2021 is 5,489,536 people<sup>1</sup>

### Outline of the duties of the Environment Agency

The Strategic Plan (Renstra) of the Bogor Regency Environmental Office for 2018-2023 has been aligned with the policies contained in the Preliminary Draft of the Bogor Regency Regional Medium-Term Development Plan for 2018-2023. Efforts to be able to support the achievement of the vision and mission of the Regent of Bogor Regency are concretely described in the form of programs, activities and sub-activities that are directed and coordinated and pay attention to all existing potentials for the development and improvement of environmental management to improve the quality of the environment.<sup>2</sup>

### Maintenance mechanism

In order to encourage the improvement of the capacity of Provinces and Districts / Municipalities in the implementation of good environmental *governance* (*good environmental governance*) is carried out through the Environmental Governance program, Civil Citizen Program, and cooperation programs with the Regional People's Representative Council (DPRD) in sustainable development which began in 2002. The Main Environment is carried out using the State-Pressure-Response (S-P-R) method which is linked to social, economic, cultural and community conditions in Bogor Regency.

Along with the alignment between the National Policy, the West Java Provincial Government and the Bogor Regency Government, in 2022 the preparation of the Environmental Agency Work Plan continues to focus on efforts to achieve regional performance indicators that have been set out in the 2018-2023 Bogor Regency RPJMD. In addition, all programs and activities targeted for achieving 2022 performance targets are produced through a series of predetermined planning processes, namely by taking a participatory, technocratic, political, bottom up and top down approach while still being guided by the indicative ceiling of regional instruments as a reflection of regional financial capabilities. As part of the third year planning series, the medium-term planning period of Bogor Regency is 2018-2023. The 2022 Environmental Agency Work Plan is the result of a technocratic approach combined with political, participatory, top-down, and bottom-up proposals integrated with the Bogor Regency Local Government Work Plan (RKPD). In an effort to carry out its duties and functions, the Bogor Regency Environmental Office in 2022 Bogor Regency Environment implements synergistic regional policies inseparable from the policies of the Provincial and Central Governments. Activities to be carried out by the Bogor Regency Environmental Office are expected not to conflict with the public interest, the regulations above it, have a sense of justice, equity and are directed so that their implementation will have an impact on the progress of Realizing Equitable, Just and Sustainable Regional Development of Bogor Regency.<sup>3</sup>

## CHAPTER SECTION

### A. Bogor District Government Policy in Managing the Environment

Bogor Regency Government policy in order to manage the environment in the Bogor Regency area is realized by carrying out activities to reduce pollution and environmental destruction that may occur this is carried out in accordance with Article 6 paragraphs 1 and 2, Bogor Regency Regional Regulation Number 6 of 2016 concerning Environmental Protection and Management states:

- (1) Environmental protection and management policies as referred to in Article 5 paragraph (1) shall be implemented to: a. protection of watersheds and sub-watersheds in the Region; b. protection of protected areas bordering springs, river boundaries, reservoir boundaries, situ

<sup>1</sup> <https://bogorkab.bps.go.id/indicator/12/29/1/jumlah-penduduk.html>

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[https://ppid.bogorkab.go.id/?d=29303&page\\_title=RENCANA\\_STRATEGIS\\_DINAS\\_LINGKUNGAN\\_HIDUP\\_KABU\\_PATEN\\_BOGOR\\_2018-2023](https://ppid.bogorkab.go.id/?d=29303&page_title=RENCANA_STRATEGIS_DINAS_LINGKUNGAN_HIDUP_KABU_PATEN_BOGOR_2018-2023)

<sup>3</sup> [https://ppid.bogorkab.go.id/media/RENJA\\_2022\\_41-22082022095809.pdf](https://ppid.bogorkab.go.id/media/RENJA_2022_41-22082022095809.pdf), p. 10-11.

boundaries, karst areas, ancient sites and areas that have slopes of more than 40% (forty percent); c. protection of green open spaces and water use; d. protection of springs and their catchment areas; e. increase agricultural production by developing environmentally friendly agricultural systems; f. control due to mining activities; g. control of environmental pollution due to business and/or industrial activities, trade, services, domestic waste, agricultural waste and livestock waste, especially due to B3 and B3 waste; and h. adaptation and mitigation to increase resilience to climate change vulnerability.

(2) The policy as referred to in paragraph (1) shall be carried out through efforts to: a. issuance of environmental permits; b. institutional strengthening by increasing the quantity and quality of human resources, infrastructure facilities and providing adequate funds; c. provision of urban green open space of at least 30% (thirty percent) of the area of the detailed spatial plan; d. forest, soil, and water conservation; e. inventory and control of sources of pollution, environmental damage and greenhouse gases; f. maintain productive agricultural land and/or increase organic farming; g. preservation and development of local wisdom; h. land reclamation in mining activities; i. regulation of mining activities without permits; j. development of environmentally friendly technology and new renewable energy; k. inventory and preservation of rare species of flora and fauna typical of the region; l. strengthening community participation; m. improvement and development of inter-regional cooperation in environmental protection and management; n. partnerships with various parties effectively, efficiently and mutually beneficial in efforts to preserve the environment and reduce the impact of global warming; o. coordination and improving cooperation with agencies outside local government; p. regional environmental laboratory services that meet the competency requirements; q. provision of waste management facilities and infrastructure and community-based waste management; r. provision of domestic wastewater management facilities and infrastructure centrally; s. recovery of pollution and/or environmental damage; t. law enforcement; and u. development of environmental information systems.

#### **Coordination, Synchronization and mechanisms**

This working procedure relationship is in relation to environmental management within the scope of the Bogor Regency government To support the achievement of the vision and mission, the Environmental Office in accordance with its duties is to assist the Regent in implementing the Environmental sector, and in carrying out these main duties the Bogor Regency Environmental Office has the following functions: a. Policy formulation in the field of environment; b. Implementation of policies in the field of environment; c. Implementation of monitoring, evaluation, and reporting in the field of environment; d. Implementation of official administration; e. Implementation of other functions assigned by the Regent in accordance with their duties and functions. In terms of environmental tasks, in general, the duties of the Environmental Office are related to the achievement of the vision and the entire mission of the Regional Head and Deputy Regional Head, but in particular, the duties and functions of the Environmental Office contribute directly to supporting the achievement of Realizing Equitable, Equitable and Sustainable Regional Development The Ministry of Environment of the Republic of Indonesia in general has set environmental development targets to be achieved, namely realizing improvement of the environmental function of the Bogor Regency Environmental Office in 2022 natural resource management which leads to mainstreaming the principles of sustainable development. The specific targets to be achieved are: a. Controlled pollution and environmental damage to rivers, lakes, coastal and marine as well as groundwater; b. Protected sustainability of land functions, biodiversity and forest ecosystems; c. Improved air quality and waste management as well as hazardous and toxic waste (B3); d. Integrated management of natural resources and the environment. The policy direction of KLH or 2018-2023 will be achieved with the following strategies: a. Handling and reduction of Household Waste and Similar Household Waste b. Development of climate change mitigation and adaptation, as well as biodiversity conservation c. Pollution load reduction and B3 waste management; d. Increasing community capacity in Environmental Protection and Management e. Licensing and regulation of business actors in carrying out administrative order; f. Strengthening the function of the test laboratory<sup>4</sup>

In accordance with the mandate of Law Number 25 of 2004, there are 5 (five) objectives of implementing the system in the field of national development environment, namely: a) to support

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<sup>4</sup> [https://ppid.bogorkab.go.id/media/RENJA\\_2022\\_41-22082022095809.pdf](https://ppid.bogorkab.go.id/media/RENJA_2022_41-22082022095809.pdf), p. 45

coordination between development actors; b) ensure the creation of integration, synchronization and synergy between regions, between spaces, between times, and between government functions, as well as between the central and regional governments; c) ensure linkages and consistency between the fields of environment, budgeting, implementation and supervision; d) optimize community participation; and e) ensure the efficient, effective, equitable and sustainable use of resources.

**B. Suitability of the Application of Administrative Sanctions by the Regional Government of Bogor Regency c.q. ENVIRONMENTAL OFFICE OF Bogor Regency with Applicable Provisions and General Principles of Good Governance (AAUPB).**

Basically, the application of an administrative sanction is part of administrative law enforcement efforts. Therefore, to find out whether the application of administrative sanctions carried out by the Regional Government of Bogor Regency *c.q.* DLH Bogor Regency is in accordance with applicable regulations and General Principles of Government

From a positive legal point of view, the legal basis that authorizes the government to impose administrative sanctions is contained in Bogor Regency Regional Regulation Number 6 of 2016 concerning Environmental Protection and Management, stating:

**Article 106:**

- (1) The Regent applies administrative sanctions to the person in charge of a business and/or activity if violations of the following violations are found under supervision of:
  - a. Environmental Permits;
  - b. Environmental Protection and Management Permit (IPPLH); and/or
  - c. laws and regulations in the field of environmental protection and management.
  
- (2) Administrative sanctions consist of:
  - a. written reprimand;
  - b. government coercion;
  - c. freezing of environmental permits; or
  - d. revocation of environmental permits.

**Article 107.**

Administrative sanctions as referred to in Article 106 do not release the person responsible for the business and/or activity from recovery and criminal responsibility.

**Article 108.**

- (1) The imposition of administrative sanctions in the form of freezing or revoking environmental permits as referred to in Article 106 paragraph (2) point c and letter d is carried out if the person in charge of the business and/or activity does not carry out government coercion.
- (2) Government coercion as referred to in paragraph (1) in the form of:
  - a. temporary suspension of production activities;
  - b. transfer of means of production;
  - c. closure of sewerage or emissions;
  - d. Demolition;
  - e. confiscation of potentially infringing goods or tools;
  - f. temporary suspension of all activities; or
  - g. other measures aimed at stopping violations and restoring environmental functions.
  
- (3) The imposition of government coercion may be imposed without preceded by a reprimand if the violation committed causes:
  - a. A very serious threat to people and the environment;
  - b. Greater and wider impact if not immediately stopped pollution and/or destruction; and/or
  - c. Greater losses to the environment if pollution and/or destruction is not immediately stopped.

**Article 109.**

Any person responsible for a business and/or activity that does not carry out government coercion may be fined for any delay in implementing government coercive sanctions.

**Article 110.**

- (1) The Regent is authorized to force the person in charge of the business and/or activity to carry out environmental restoration due to environmental pollution and/or destruction carried out.
- (2) The Regent is authorized or can appoint a third party to carry out environmental recovery due to environmental pollution and/or destruction committed by him at the expense of the person responsible for the business and/or activity.

As a state based on Pancasila, and in accordance with the objectives of statehood as formulated in the fourth paragraph of the Preamble to the 1945 Constitution, which among others states:

*"Then from that to form an Indonesian State Government that protects the entire Indonesian nation and all Indonesian bloodshed and to promote general welfare, educate the life of the nation, and participate in implementing world order based on independence, lasting peace and social justice, it was drafted"*

So associated with the concepts of the state of law, it is clear that the concept of the state of law adopted by the Indonesian state is a state of law in a material sense, namely a state that not only maintains the order of its people, but is also active in organizing the lives of its people or often referred to as the *welfare state*. And to realize the welfare of the people, the state through the existing state equipment or government apparatus carries out the duties assigned to it accompanied by broad authority oriented to the public interest. So not only within the scope of executive and legislative power, but also freedom in exercising government power based on unwritten legal norms, which in government practice in the Netherlands is known as *sébutan algemene beginselen van behoorlijk bestuur* and in the practice of State Administrative Court in Indonesia known as the General Principles of Good Governance (AAUPB).

**C. The Effectiveness Of The Application Of Administrative Sanctions Against Companies That Violate The Provisions Of Environmental Law.**

If we talk about the effectiveness or absence of the application of an administrative sanction, then we have actually entered the field of the technical one. Effectiveness, meaning that the activity must hit the goals or objectives that have been set or planned.

The cause of the ineffective application of administrative sanctions is the limited number of technical personnel and technical skills of law enforcers. This can only be overcome by conducting education and training, both for people who are interested in the environment and for law enforcement themselves, for example by attending the Diploma Program in Environmental Education. In addition, facilities such as libraries must be available, so that with the library it is expected to be able to read and understand everything related to environmental law enforcement. Attend scientific meetings, such as art, workshops and so on. These efforts need to be effective for the success of environmental law enforcement. Because of the success of environmental law enforcement, especially in terms of the application of administrative sanctions, especially in terms of pollution and / or environmental destruction. Regulation of strict sanctions (criminal and civil) for violations of quality standards, AMDAL violators (including officials who issue permits without AMDAL or UKL-UPL), violations and distribution of genetically modified products without rights, B3 (Toxic Hazardous Materials) waste managers without permits, dumping without permits, entering waste into the Republic of Indonesia without permits, burning forests, Arrangements regarding environmental supervisory officials (PPLH) and civil servant investigators (PPNS), and make it a functional position.

**CONCLUSION**

In order to implement the development policy of the environmental management sector, the Bogor Regency Government has carried out activities including:

- a. Implementation of Environmental Impact Analysis (AMDAL)
- b. Clean Times Program
- c. Environmental Impact Control Program

- d. Monitoring Activities
- e. Statement Letter B-3 (Hazardous and Toxic Materials)
- f. Small Industry Pollution Development
- g. ADIPURA
- h. Etc.

From the results of the author's research, it shows that the application of administrative sanctions carried out by the Bogor Regency Government against violators of environmental law provisions, the government coordinates with officials from related agencies/agencies in Bogor Regency.

The steps to implement administrative sanctions by DLH Bogor Regency are not coordinated in advance with the Central DLH, except in terms of technical coordination, namely in the form of consultations asking for expert assistance etc.,

The application of administrative sanctions carried out by the Regent from the point of view of AAUPB, basically still in accordance and / or not contrary to AAUPB, because although from a juridical point of view there are legal provisions that are violated and set aside, the essence of the action is carried out in order to fulfill the obligation to prevent and end violations, carry out rescue, countermeasures and / or recovery actions which if not immediately overcome or overcome will Serious impact in the form of environmental damage.

The application of sanctions for companies that violate environmental law provisions in the Bogor Regency area has not been effective. This can be measured from several companies that have been sanctioned apparently showing that their legal awareness is still relatively low, namely those that have made suggestions as much as 40.74%, while those that have not followed up as much as 59.26%, With indications of the low level of legal awareness, it can be concluded that the application of administrative sanctions against business persons responsible for violating environmental law provisions in the Bogor Regency area is still ineffective.

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