The implementation of administrative sanctions as an instrument of environmental law enforcement in Semarang City - a review

Dewi Fatmawaty¹*, Hartuti Purnaweni², and Yanuar Luqman³

¹Master Program of Environmental Sciences, School of Post Graduate, Diponegoro University Semarang – Indonesia
²Doctoral Program of Environmental Sciences, School of Post Graduate, Diponegoro University Semarang – Indonesia
³Department of Communication, Faculty of Social Science and Political Science, Diponegoro University Semarang – Indonesia

Abstract. The economic growth of the City of Semarang is influenced by the development of the manufacturing/construction industry and construction has an effect on increasing pollution and/or environmental damage. For this reason, one of the Government's efforts to provide protection and living environment management for its citizens is through environmental law enforcement. The main objective of law enforcement in cases of pollution and/or environmental damage is to restore the environmental ecosystem and to improve the quality of the environment. Administrative legal instruments are considered the most appropriate for this purpose, because the characteristics of administrative sanctions are preventive through supervision and licensing and are repressive through the application of administrative sanctions. This study aims to find out how the enforcement of environmental law through administrative law, how the implementation of administrative sanctions as one of the instruments of law enforcement for environmental administration and inhibiting factors in its application. This research uses the literature method by studying books, laws and regulations and other written materials related to the discussion material.

Keywords: pollution, environmental damage, law enforcement, administrative sanction.

1 Introduction

The economic growth of Semarang City was in line with the accelerated development in various sectors by government's. A strategic position with the existence of the Trans Java toll road in this region becomes one of the supporting factors of economic growth in various sectors in Semarang City [1]. The economic growth of Semarang City was most influenced by five categories of business fields, including manufacturing industry, construction service.

* Corresponding author: dewifatmawaty@students.undip.ac.id

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businesses, wholesale and retail trade, information and communication, and financial service businesses as shown in Figure 1 below [2].

![Figure 1: Five categories of business fields with the most contribution of PDRB in Semarang City 2019](image)

The figure above shows that the manufacturing industry and the construction service business were two biggest categories of business field that drive the economic growth of Semarang City. Business is often blamed as one of the main causes of pollution and various environmental damage. But, their existence is inevitable, and even very desirable, because it is considered as the engine of life [3]. But the economic growth has an effect on increasing pollution and/or environmental damage in the City of Semarang. One of the indicators was increased the number of public complaints regarding alleged violations or the potential and/or impact on the environment for the conduct of a business and/or activity to the Department of Environment (DLH) of Semarang City. Semarang City's DLH data shows an increase in the number of public complaints in 2015 to 2017 as can be seen in the following Table 1 below.

**Table 1. Data of oversight duan public on alleged pollution and/damage environment**

| No | Year | Complaint | Complaints handled | Complaints resolved |
|----|------|-----------|--------------------|--------------------|
| 1  | 2015 | 39        | 39                 | 29                 |
| 2  | 2016 | 50        | 50                 | 45                 |
| 3  | 2017 | 62        | 62                 | 54                 |
| 4  | 2018 | 55        | 55                 | 46                 |
| 5  | 2019 | 46        | 46                 | 26                 |

The Government issued the Law of the Republic of Indonesia Number 32 Year 2009 concerning Environmental Protection and Management (UUPPLH) as one of the manifestations of the form of environmental protection and management to its citizens. Siti Sundari Rangkuti stated that environmental law enforcement was an effort to achieve
compliance with regulations and requirements in general and individual legal provisions, through supervision and application (or threatening) of administrative, criminal and civil facilities [4].

In the UUPPLH, environmental law enforcement efforts are classified into three categories, namely law enforcement through administrative law, civil law and criminal law. According to Keraf, the most important goal in law enforcement for cases of pollution and environmental damage is not only to impose sanctions on environmental pollutants or destroyers, but to restore the environmental ecosystem and strive to improve the quality of the environment [5]. Among the three categories of environmental law enforcement above, law enforcement through administrative law is considered most in accordance with the main objectives of law enforcement in the environmental field because administrative sanctions are aimed at preventing and stopping violations, as well as efforts to restore the damaged or polluted environment as a result of the perpetrators' actions [6].

Mas Achmad Santosa said that the used of administrative law in environmental law enforcement has a benefit of strategic compared to the other two fields of law because environmental administration law enforcement can be optimized as a prevention tool, more efficient in terms of financing which only includes financing in conducting field supervision and laboratory testing, and have more ability in inviting community participation that starts from the process of licensing, monitoring, and supervision of filing an objection to ask state administrative officials in imposing administrative sanctions [7].

Complaints from the community as shown in Table 1 above, received orally or in writing were received by DLH Semarang City for further review and classification of complaints, and field verification. If the results of the field verification are proven to have pollution and/or environmental damage, then action was taken in the form of administrative sanctions, civil sanctions, and criminal sanctions [8].

This research aims to find out how the enforcement of environmental law through administrative law, how the application of administrative sanctions as one of the instruments of law enforcement for environmental administration and inhibiting factors in its application. This research uses the literature method, namely by studying books, laws and regulations and other written materials related to the discussion material.

2 Environmental law enforcement through administrative law in Semarang City

Administrative law enforcement efforts in the field of environmental protection and management are based on two important instruments, namely supervision and application of administrative sanctions. Supervision was a preventive law enforcement effort carried out in the context of controlling living environment impacts. Whereas the application of administrative sanctions was a repressive effort carried out in terms of environmental pollution or damage that has occurred due to a permit violation. Between supervision as a preventive effort and application of administrative sanctions as a repressive effort is an integrated process in the enforcement of environmental law through administrative law. When preventive law enforcement does not achieve its objectives and/or violations occur even though strict supervision has been carried out, repressive law enforcement can be done through the application of administrative sanctions [7].

Administrative law enforcement arrangements through supervision were regulated in Article 71 to 75 UUPPLH. In general, supervision was carried out on the compliance of the
person responsible for a business and/or activity on an environmental permit issued for him. The main objective is to take precautions in the event of violations of the provisions that have been required. If the results of supervision indicate a violation of environmental permits, then the DLH of Semarang City applies administrative sanctions to those responsible for the business and/or activity.

Beside from the results of supervision, information about receiving license is obtained from complaints or reports from the community. Community participation through complaints was carried out in the event of an alleged violation or the potential and/or impact on the environment for the conduct of businesses and/or activities. According to Aminah, law enforcement for cases of pollution and/or environmental damage in the city of Semarang was more preceded by community complaints than from the results of licensing supervision. Coordination between the supervising section and the administrative sanction department was not well established, so that the enforcement of environmental cases will went to the field if there were complaints from the community [9].

In contrast to civil and criminal sanctions, the application of administrative sanctions was carried out by administrative officials without having to go through a judicial process (non-judicial), so that the application of administrative sanctions was relatively faster compared to other sanctions in an effort to enforce environmental law. Besides administrative sanctions have the nature of restoring the original state (reparatory). And no less important than the application of administrative sanctions was the opening of space and opportunities for community participation [10]. Community participation is a process involving people to participate in local planning, implementation and management activities [11]. The form of community participation is self-management, because it is formed by itself based on the environmental awareness of the local community [12].

3 The implementation of environmental administrative sanctions in Semarang City

In the event that the results of the supervision show disobedience to the laws and environmental regulations, then the DLH of Semarang City applies administrative sanctions to the person in charge of the business and/or activity. In addition, administrative sanctions can also be applied based on complaints or reports from the public on businesses and/or activities that have been proven to have an impact on the environment or if there are other violations that do not comply with the provisions in the field of environmental protection and management.

The application of administrative sanctions is carried out with several types of sanctions namely written warning, government coercion, license suspension and license revocation which are detailed in detail as follows [13].

a. Written warning

Written reprimand was a sanction that was applied to the person in charge of a business and/or activity in the case of a violation of the requirements and obligations of the permit, but has not yet caused a negative impact on the surrounding environment.

b. Government coercion

Government coercion was sanctions imposed on those responsible for a business and/or activity in the event of a violation of the requirements and obligations of the permit and/or negative impact on the surrounding environment.

Forms of government coercive sanctions in the form of: temporary suspension of production activities; removal of production facilities; closure of sewage or emissions
The implementation of environmental administrative business and/or activity.

The DLH of Semarang City applies administrative sanctions to those responsible for the violations that have been required. If the results of supervision indicate a violation of environmental permits, then administrative sanctions have the nature of restoring the original state (reparatory). And no government coercion, carry out other activities besides the activities listed in the permit, and/or the alleged forgery of permit requirements documents.

c. License suspension

License suspension in the form of an environmental permit and/or environmental protection and management permit is a sanction in the form of a legal action not to temporarily apply a permit resulting in the cessation of a business and/or activity. Applied if the person in charge of the business and/or activity does not carry out government coercion, carry out other activities besides the activities listed in the permit, and/or the alleged forgery of permit requirements documents.

d. Revocation of permission

Revocation of environmental permit and/or environmental protection and management permit is applied if the person in charge of the business and/or activity transfers his business permit to another party without written approval from the business licensor, does not carry out government coercion within a certain time, and/or causes pollution and/or environmental damage that endangers human safety and health.

For example, one of the case of applying administrative sanctions by the City of Semarang was the imposition of government coercient sanctions on CV. Slamet Widodo. This case stems from a community complaint that reported the existence of environmental pollution in the form of a pungent odor from the process of drying shrimp paste belonging to CV. Slamet Widodo. Based on public complaints, the Semarang City DLH conducted clarification and field verification by conducting direct observations to industrial sites. The results of the field verification, DLH imposed administrative sanctions in the form of a warning letter up to government coercion as explained in Table 2 below.
Table 2. The application of administrative sanctions and the effectiveness on CV. Slamet Widodo

| No | Type of violation                                                                 | Administrative sanction | The effectiveness of Administrative sanction |
|----|-----------------------------------------------------------------------------------|-------------------------|---------------------------------------------|
| 1  | Drying the shrimp paste outside the room, causing a pungent odor                   | Warning sanction        | No awareness                                |
| 2  | The appeal from DLH to prepare environmental assessment documents and process permits in accordance with applicable regulations did not implemented | Warning sanction 1     | Drying with electrical drying tools          |
| 3  | Not doing green around the factory, can not show the document of environmental studies | Warning sanction 2     | Plant bamboo trees around the factory        |
| 4  | Do not clean the scattered shrimp paste when drying, if exposed to rain water will cause a pungent odor, can not show documents on environmental studies | Warning sanction 3     | Conduct improvement of Waste Water Treatment Installation |
| 5  | There was still a stinging bolteration and immediately completed the preparation of the environmental study document | Government coercion   | Repair the factory chimney and complete it with a water scrubber |
| 6  | Less than optimal in tackling environmental pollution                              | Government coercion     | Bring in experts to get pollution prevention advice |

The results of further final supervision to the CV. Slamet is considered to have carried out obligations in government coercion even though it was not yet maximized because the smell of shrimp paste still smelled but the level of odor that could be tolerated and was in accordance with air quality standards in accordance with applicable regulations. The effectiveness of administrative sanctions up to government coercion is also felt by the local community who feel that the smell of shrimp paste is no longer stinging [7].

4 Inhibiting factors in applying administrative sanctions

In providing administrative sanctions, DLH of Semarang City still faces obstacles in its implementation. Basically there are "five exact" that need to be fulfilled in terms of the effectiveness of policy implementation, namely policy accuracy, implementation accuracy, target accuracy, environmental accuracy and process accuracy [14]. An analysis of the effectiveness of law enforcement in the city of Semarang is based on the theory put forward by Soerjono Soekanto that the main problem of law enforcement actually lies in the factors that might influence it such as [9]:

a. The legal factor itself (the law);
b. Law enforcement factors, namely those who form or apply the law;
c. Facility factors and facilities that support law enforcement;
d. Community factors, namely the environment in which the law applies or is applied; and
e. Cultural factors, namely the work, creation, and human intention in the association of life.
Barriers to the implementation of administrative sanctions associated with factors that affect the effectiveness of law enforcement in the Semarang City can be described as follows.

b. Legal factors
   The legal basis of law enforcement in Semarang City uses Regional Regulation Number 13 of 2006 concerning Environmental Control, which is still based on Law Number 23 of 1997 concerning Environmental Management, not yet based on a new law, namely Law No. 32 of 2009 [9].

c. Law enforcement factors
   The limited number of personnel in DLH of Semarang City is one of the obstacles in environmental law enforcement. The number of personnel is not proportional to the number of cases handled considering the scope of activities covering all industries in the city of Semarang [9].

d. Facility and infrastructure factors
   The lack of supporting facility and infrastructure such as official cars and limited amount of budget for conducting field verification and law enforcement socialization activities in the community have an effect on the performance of the DLH of Semarang City [7].

e. Community factors
   Lack of awareness of business actors in complying with the environmental regulations, because they were only oriented to business profits without regard to the quality of the surrounding environment. Likewise, the lack of community participation or public awareness to be involved in environmental law enforcement [7].

f. Cultural factors
   The behavior patterns of the people who do not care about the polluted environmental conditions, even take action to aggravate environmental pollution such as disposing of trash improperly [8].

5 Conclusion

Based on the discussion above, it can be concluded that:

a. Enforcement of environmental law through administrative law is preventive as an effort to prevent and control environmental impacts by utilizing monitoring and licensing instruments and is repressive as an effort to stop violations, as well as efforts to restore the damaged or polluted environment as a result of violations by applying sanctions administrative;

b. The application of administrative sanctions is based on the results of supervision and the results of field verification of public complaints

c. In implementing administrative sanctions, the Semarang City DLH still experiences obstacles in the legal factors themselves, law enforcement factors, facility and infrastructure factors, community factors and cultural factors.
References

1. https://www.suaramerdeka.com. Exciting Semarang Economic Growth. BC (2019)
2. CPM. Semarang City in Figures 2020 Series of Provision of Data for Development Planning. BPS Kota Semarang. 96 (2020)
3. H. Purnaweni. Implementation of environmental policy in Indonesia: Obstacles and demands. JIAKP. 1(3), 504 (2004)
4. A. Syaprillah. Enforcement of Environmental Administration Law through the Supervision Instrument. BHL. 1 (1), 101 (2016)
5. RH Wibowo. Effectiveness of Administrative Sanctions Implementation in Tackling Environmental Pollution and Damage. 5 (2014).
6. S. Machmud. Preventive and Repressive Actions of Non-Judicial Administrative Law Enforcement by the Executive. JHMJN. 7 (2), 72-73 (2017)
7. HA Ariefianto. Application of Environmental Pollution Sanctions due to Industrial Activities (Case Study in CV. Slamet Widodo in Semarang). ULJ. 4 (1), 87 (2015)
8. SAG Pinilih. Implementation of Tasks and Environmental Agency of the City of Semarang in Law Enforcement in the Field of Environment. Notarius. 8 (2), 242-250, (2015)
9. Aminah. Creating the Ideal Enforcement of Environmental Law in Semarang. BHL. 2 (1), 91-96 (2017)
10. R. Indonesia. Protection and management of the environment. Constitution. 32, Article 1, 70 (2009)
11. M. Arif Setiawan and F. Muhammad. Stakeholder Analysis in Utilizing of Environmental Services and Natural Attractions in Tuk Semuncar Utilization Zone of Gunung Merbabu National Park: A literature review. E3S Web of Conferences 31, 3 (2018)
12. Diarto, B. Hendrarto and S. Suryoko. Community Participation In The Management Of The Tugurejo Mangrove Forest Area In The City Of Semarang. JIL.10 (1), 7 (2012)
13. R. Indonesia. Guidelines for Implementing Administrative Sanctions in the Field of Environmental Protection and Management. Regulation of the Minister of Environment Rebuplik Indonesia. 2, Article 1, 4-6 (2013)
14. D. Rahmadhani, H. Purnaweni and A. Marom. Implementation of private green space open policy in Kecamatan Pedurungan Kota Semarang. JPPMR. 4 (3), 5-6 (2015)