

The Urgency of Setting Environmental Quality Standards by the Governor in the Context of Environmental Protection and Management in the Region



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ABSTRACT: The environment is a crucial instrument in human life because it is where human life takes place. The environment is where humans develop and reproduce. Additionally, the environment is also a vital instrument in sustainable development within a country's region. The increasing critical land issues due to surpassing environmental quality standards indicate efforts towards environmental destruction, particularly in terms of wastewater standards. Humans fundamentally need natural resources such as land, water, and air. Therefore, if these components of natural resources are polluted or damaged, they can affect human life sustainability. Regarding wastewater quality standards, the Governor, as the government, is obliged to take action by establishing wastewater quality standards according to laws and regulations. However, if environmental quality standard parameters cannot adjust to the conditions of that region's environment, the Governor is obligated to tighten the determination of environmental quality standard parameters.

KEYWORDS: Environmental Damage, Rising Water, Environmental Quality Standards, Wastewater Quality Standards, Local Government

I. INTRODUCTION

Article 33, paragraph (4) of the 1945 Constitution of the Republic of Indonesia asserts that the national economy and social welfare shall be organized based on economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental awareness, self-reliance, and maintaining the balance of national economic progress and unity. ¹ The essence of this provision, when linked to sustainable development, is that all economic activities must be conducted based on environmental awareness principles. ²

Environmental quality standards based on Article 1 number 13 of Law No. 32 of 2009 concerning Environmental Protection and Management define: "Environmental quality standards are the limits or levels of living organisms, substances, energy, or components that exist or must exist and/or pollutant elements whose presence in a specific environmental resource is tolerable." Environmental quality standards include standards for water quality, wastewater quality, seawater quality, ambient air quality, emission standards, disturbance standards, and other standards in accordance with advancements in science and technology. ³

The environment is considered polluted when it undergoes changes in quality and function. ⁴ Environmental quality standards serve as pollution indicators, defining the permissible limits or levels of pollutants in environmental media to ensure they can still function according to their intended purposes. ⁵

The criteria for environmental damage standards are the limits measuring changes in the physical, chemical, and/or biological properties of the environment that can be tolerated by the environment to sustain its function. ⁶ In Article 21 paragraph (2) of Law No. 32 of 2009 concerning Environmental Protection and Management, the criteria for environmental damage standards include

¹ Haryadi, Dwi, "Kebijakan Hukum Pidana terhadap Dilampauinya Baku Mutu Lingkungan", *Prosiding Seminar Hukum dan Publikasi Nasional (Serumpun) I*, 2019, hlm.65

² *Loc.cit*

³ Haryadi, Dwi, "Kebijakan Hukum Pidana terhadap Dilampauinya Baku Mutu Lingkungan", *Prosiding Seminar Hukum dan Publikasi Nasional (Serumpun) I*, 2019, hlm.67

⁴ Saraya, Sitta, Hidayati, Nanik, Fitriah, Nikmah, Fitriah, Rifai, Anis, dan Handayani, Yusrina, "Hukum Lingkungan", (Klaten : Anggota IKAPI, 2019), hlm. 36

⁵ *Loc.cit*

⁶ *Loc.cit*

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criteria for ecosystem damage and criteria for damage due to climate change. In Article 21 paragraph (3), it mentions that the criteria for ecosystem damage standards include :

- a. criteria for soil damage for biomass production;
- b. criteria for coral reef damage;
- c. criteria for environmental damage related to forest and/or land fires;
- d. criteria for mangrove damage;
- e. criteria for seagrass meadow damage;
- f. criteria for karst damage; and/or
- g. Criteria for other ecosystem damages according to advancements in science and technology.

Mining law is closely related to environmental law because every mining operation, whether it involves general mining or oil and gas mining, is required to preserve the sustainability and resilience of the environment.⁷ Mining law places environmental aspects as crucial because of the dynamics and changes caused by mining activities, necessitating special treatment to ensure that the environment managed as a result of mining activities maintains or potentially improves its function and environmental resilience.⁸

The wastewater quality standards based on Article 1 number 12 of the Minister of Environment Regulation No. 8 of 2009 regarding Wastewater Quality Standards for Thermal Power Plant Business and/or Activities state: "Wastewater quality standards are the limits or levels of pollutant elements and/or the amount of pollutant elements whose existence is tolerated in wastewater that will be discharged or released into water sources from a business and/or activity." In Article 6 paragraph (1) of the Regional Regulation of Central Java Province No. 5 of 2012 concerning Amendments to Regional Regulation of Central Java Province No. 10 of 2004 regarding Wastewater Quality Standards, it explains the scope in determining wastewater quality standards includes:

- a. Wastewater quality standards for business and/or activities for 35 (thirty-five) industries;
- b. Wastewater quality standards for industrial activities producing more than one type of product (mixture);
- c. Wastewater quality standards for Hotels;
- d. Wastewater quality standards for Hospitals;
- e. Wastewater quality standards for Iron Ore Mining Business and/or Activities;
- f. Wastewater quality standards for Oil and Gas as well as Geothermal Business and/or Activities;
- g. Wastewater quality standards for Industrial Zones;
- h. Domestic wastewater quality standards;
- i. Wastewater quality standards for businesses and/or activities whose standards have not yet been determined;
- j. Calculation of maximum wastewater flow rate and maximum pollution load.

Environmental management is an integrated effort to preserve the functions of the environment, encompassing policies for planning, utilization, development, conservation, restoration, monitoring, and control of the environment.⁹ In environmental management, law functions not only as protection and assurance for society (social control) but also as a tool of development (a tool of social engineering) with roles as an agent of development or agent of change. In its role as a tool of development, the law legitimizes policy instruments in environmental management, such as environmental quality standards, Environmental Impact Assessment (EIA), and environmental permits.¹⁰

From the provisions of Article 28 H paragraph (1), Article 33 paragraph (3), (4), and (5) of the 1945 Constitution, there are 5 (five) important aspects that constitute the state's legal policies in environmental management and natural resource utilization :¹¹

1. Environmental management and natural resource utilization must be placed within the framework of recognition, protection, and fulfillment of every citizen's right to a good and healthy environment. In other words, the right to a good and healthy environment cannot be sacrificed due to development and natural resource utilization.
2. Environmental management and natural resource utilization are the responsibility of the state, where through its sovereignty, the state establishes regulations and policies for environmental and natural resource utilization.
3. The welfare of the people forms the philosophical and sociological basis for all activities and efforts in environmental management and natural resource utilization, which are intended for the welfare of the people.
4. Environmental management and natural resource utilization serve as means to achieve sustainable development with environmental perspectives, meaning that the goals of environmental management and natural resource utilization

⁷ Butar, Franky Butar, "Penegakan Hukum Lingkungan di Bidang Pertambangan", *Yuridika* : Vol. 25 – No. 2, 2010, hlm.155

⁸ *Loc.cit*

⁹ Butar, Franky Butar, "Penegakan Hukum Lingkungan di Bidang Pertambangan", *Yuridika* : Vol. 25 – No. 2, 2010, hlm.155

¹⁰ *Loc.cit*

¹¹ Hakim, Dani Amran, "Politik Hukum Lingkungan Hidup di Indonesia Berdasarkan Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup", *Fiat Justicia Jurnal Ilmu Hukum* : Vol. 9 – No. 2, 2015, hlm.120-121

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encompass not only the welfare of the people but also aspects of environmental sustainability and national economic progress.

5. There is delegation of further regulation regarding environmental management through legislation.

Economic activities affect the condition of the environment. This is evident in the numerous industrial activities that produce and release certain wastes, which can negatively impact the stability of the environment and its capacity to support the entire ecosystem.

II. RESEARCH METHOD

The research method used in this study is normative juridical, which is a method of legal research that primarily examines library materials or secondary data. Furthermore, it is adjusted to address the gap between *das sollen* (the normative theory) and *das sein* (the empirical reality), meaning the theory related to the actual situation in the field. Given these issues, this research examines norms, regulations, and legal theories that apply. In other words, this research is also based on the realities observed in the field.

III. FINDING AND ANALYSIS

A. Authority of Regional Government and Regional Legislative Council (DPRD) Regarding Tightening of Coal-Fired Power Plants

Environmental management is a concurrent authority, involving governance matters shared among the central government, provincial government, and district/city governments, forming the basis for regional autonomy implementation. Regarding this, in the Annex of Law No. 23 of 2014 concerning Regional Governments concerning the division of government affairs in the field of environment, Provincial Governments have authority including prevention, mitigation, and restoration of pollution and/or environmental damage across districts/cities within a single province.

In Article 63 paragraph (2) of Law No. 6 of 2023 concerning the Ratification of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation into Law, it explains that in the Protection and Management of the Environment, Provincial Governments are tasked and authorized to :¹²

1. Establish provincial-level policies;
2. Establish and implement Environmental Management Efforts (KLHS) at the provincial level;
3. Establish and implement policies regarding Provincial Environmental Management Effort Plans (RPPLH);
4. Implement policies regarding Environmental Impact Assessment (Amdal) and Environmental Management and Monitoring Plans (UKL-UPL);
5. Conduct inventories of natural resources and greenhouse gas emissions at the provincial level;
6. Develop and implement cooperation and partnerships;
7. Coordinate and implement control of environmental pollution and/or damage across districts/cities;
8. Provide guidance and oversight for policy implementation at the district/city level;
9. Provide guidance and oversee compliance by responsible parties with legal regulations;
10. Develop and apply Environmental Management instruments;
11. Coordinate and facilitate cooperation and resolution of Environmental Disputes;
12. Provide guidance, technical assistance, and oversight to districts/cities in program and activity areas;
13. Implement minimum service standards;
14. Establish policies regarding the recognition of the existence of indigenous legal communities, local wisdom, and indigenous community rights related to environmental protection and management at the provincial level;
15. Manage provincial-level environmental information;
16. Develop and promote the use of environmentally friendly technologies;
17. Provide education, training, mentoring, and awards;
18. Issue business licenses or approvals from the Provincial Government level;
19. Enforce Environmental Law at the provincial level.

Regarding regulations on wastewater quality standards, it has been stipulated in the Minister of Environment Regulation No. 8 of 2009 concerning Wastewater Quality Standards for Thermal Power Plant Businesses and/or Activities. Article 2 letter a states that among the types of businesses and/or activities regulated by this Ministerial Regulation is Steam Power Plants (PLTU).

In Article 114 paragraph (2) of Government Regulation No. 22 of 2021 concerning the Implementation of Environmental Protection and Management, it is explained that water quality standards are drafted and determined by the Governor after receiving

¹² Pasal 63 ayat (2) Undang-Undang No. 6 Tahun 2023

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technical considerations from the Minister and coordinating with the regent/mayor.¹³ Essentially, water quality standards are established by the Minister.

An enterprise or activity that has significant or insignificant impacts on the environment is required to obtain an Environmental Permit. This Environmental Permit is a requirement for Business Licensing or Government Approval issued through the preparation of an Environmental Impact Assessment (Amdal), feasibility test of Amdal, and the preparation of Environmental Management Effort and Environmental Monitoring Effort forms, abbreviated as UKL-UPL as stipulated in Article 24 paragraph (2) of Regional Regulation No. 4 of 2023 concerning Environmental Protection and Management in Central Java.

In Article 25 of Regional Regulation No. 4 of 2023 of Central Java, it is stipulated that every plan for business or activity with environmental impacts must have an Environmental Impact Assessment (Amdal), Environmental Management and Monitoring Effort (UKL-UPL), and a Statement of Environmental Management and Monitoring Capability (SPPL).

An Environmental Impact Assessment (Amdal) document is mandatory for every business plan or activity that has significant impacts on the environment. The Amdal document also serves as the basis for an environmental feasibility study for a business or activity. Upon completion of this feasibility study, the Governor will issue a decision on Environmental Feasibility based on the results of the environmental feasibility study. This Environmental Feasibility Decision is a requirement for obtaining business licenses or government approvals.

B. Actions of Regional Government and Regional Legislative Council (DPRD) in Protecting Areas Affected by the Operation of Coal-Fired Power Plants related to Wastewater Quality Standards Parameters for Thermal Power Plant Businesses/Activities

The word "dapat" in the KBBI (Indonesian Dictionary) means may, can, able, and possible. The word "dapat" is discretionary, indicating freedom to make a decision in specific situations. On the other hand, the word "harus" means should, must, and obligatory according to the KBBI. Therefore, a regulation that uses the word "harus" mandates that something must be done.

In Article 6 paragraph (1) of Minister of Environment Regulation No. 8 Year 2009, it is stated that provincial governments may establish:¹⁴

1. Wastewater quality standards for thermal power plant businesses and/or activities with provisions that are the same or stricter than the standard limits.
2. Additional parameters beyond those listed in the Ministerial Regulation's Annex, subject to approval from the Minister.

In Article 9 of Regional Regulation No. 5 of 2012 of Central Java concerning Amendments to Regional Regulation of Central Java Province No. 10 of 2004 regarding Wastewater Quality Standards, the Governor is required to do the following :¹⁵

1. Include wastewater quality standards for businesses and/or activities in the environmental permit;
2. Provide advice, guidance, instructions, and guidance to the responsible parties of businesses and/or activities;
3. Provide responses or assistance to the responsible parties of businesses and/or activities when they require help in addressing wastewater treatment issues.

The word "dapat" used in Article 6 paragraph (1) of Minister of Environment Regulation No. 8 of 2009, if connected with Regional Regulation of Central Java Province No. 5 of 2012, could become "harus" (must). This can happen, provided that the region monitors whether the discharge of wastewater has the potential to harm the environment or not.

As explained in Article 6 paragraph (1) of Minister of Environment Regulation No. 5 of 2014 concerning Wastewater Quality Standards :¹⁶ "In the event that the governor has not conducted scientific studies and/or established more specific and/or stricter wastewater quality standards as referred to in Article 4, regents/mayors issuing permits for wastewater discharge into water sources must use stricter standards obtained from environmental document studies or studies on wastewater discharge into water sources." Therefore, according to this article, it is stipulated that provincial governments, represented by the Governor, are required to establish more specific and/or stricter wastewater quality standards.

If in reality the discharge of wastewater has the potential to harm the environment of that region, then the Provincial Government must take decisive action. In fact, the local regulations follow the provisions of the Ministerial Regulation where the wastewater quality standards specified by the Minister cannot adjust to the environmental conditions of that different provincial area. Therefore, the Provincial Government must tighten regulations to prevent environmental damage in the province and ensure its preservation.

Regarding the wastewater quality standards, it is necessary to conduct scientific studies as stated in Article 4 paragraph (2) of Minister of Environment Regulation No. 5 of 2014 :¹⁷ "To ensure that the carrying capacity and assimilative capacity are not exceeded, the governor as referred to in paragraph (1) shall conduct scientific studies including at least :

- a. Calculation of water media carrying capacity;

¹³ Pasal 114 (2) Peraturan Pemerintah No. 22 Tahun 2021

¹⁴ Pasal 6 ayat (1) Peraturan Menteri Lingkungan Hidup No. 8 Tahun 2009

¹⁵ Pasal 9 Perda Jawa Tengah No. 5 Tahun 2012

¹⁶ Pasal 6 ayat (1) Peraturan Menteri Lingkungan Hidup No. 5 Tahun 2014

¹⁷ Pasal 4 ayat (2) Peraturan Menteri Lingkungan Hidup No. 5 Tahun 2014

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- b. Parameters established and wastewater quality standards figures;
- c. Characteristics of discharged wastewater;
- d. Characteristics of the business and/or activity;
- e. Disposal impacts;
- f. Related legislation on new wastewater quality standards; and
- g. Recommendations for new wastewater quality standards."

The scientific study shall be conducted at least once every 5 (five) years, as stated in Article 4 paragraph (3) of Minister of Environment Regulation No. 5 of 2014. In Article 4 paragraph (4) of Minister of Environment Regulation No. 5 of 2014, the results of the scientific study are used to declare, among others: ¹⁸

- a. not exceeding the carrying capacity and assimilative capacity; or
- b. Exceeding the carrying capacity and assimilative capacity.

Referring to paragraph (4) of Article 4, then in paragraph (6) it states: ¹⁹ "If the study results indicate that the wastewater quality standards set forth in this Ministerial Regulation have exceeded the carrying capacity and assimilative capacity of pollution loads as referred to in paragraph (4) letter b, the governor, in accordance with his authority, is obliged to establish more specific and/or stricter wastewater quality standards than those in this Ministerial Regulation."

IV. CONCLUSION

Based on the discussions outlined in this writing, it can be concluded that:

1. According to Appendix of Law No. 23 of 2014, Provincial Governments have authority, among others, in the prevention, handling, and recovery of pollution and/or environmental damage across districts/cities within a province. It is also explained in Article 63 paragraph (2) of Law No. 6 of 2023 concerning the Determination of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation as Law, the authority of Provincial Governments regarding Environmental Protection and Management.
2. The use of the word "may" can be changed to "must" if, in reality, the standard parameters for wastewater quality, such as thermal effluent water, cannot adapt to the conditions of a province's territory. This could lead to environmental damage, and therefore the Provincial Government must take decisive action by establishing stricter regulations. The aim is to prevent environmental pollution and mitigate its potential risks.

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- 2) Peraturan Pemerintah (PP) No. 22 Tahun 2021 tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup.
- 3) Peraturan Menteri Lingkungan Hidup No. 8 Tahun 2009 tentang Baku Mutu Air Limbah bagi Usaha dan/ atau Kegiatan Pembangkit Listrik Tenaga Termal.
- 4) Peraturan Menteri Lingkungan Hidup No. 5 Tahun 2014 tentang Baku Mutu Air Limbah.
- 5) Peraturan Daerah Kota Semarang No. 5 Tahun 2021 tentang Perubahan atas Peraturan Daerah Nomor 14 Tahun 2011 tentang Rencana Tata Ruang Wilayah Kota Semarang Tahun 2011-2031.



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¹⁸ Pasal 4 ayat (4) Peraturan Menteri Lingkungan Hidup No. 5 Tahun 2014

¹⁹ Pasal 4 ayat (6) Peraturan Menteri Lingkungan Hidup No. 5 Tahun 2014