
Effectiveness Of Permenkes RI Number 85 of 2019 On Dak In The Field Of Physical Health In Puskesmas Randangan

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ABSTRACT

The effectiveness of a rule must be measured as long as the law or rule applies and the extent to which it runs after it is enforced. This is an evaluation step to review the extent to which the law applies. Permits for The Operation of Wastewater Management Installations as stipulated in the Regulation of the Minister of Health of the Republic of Indonesia Number 85 of 2019 point 10 letter (l) which regulates the ownership permit of IPAL permit for Puskesmas. Health centers classified as inpatient health centers are required to have IPAL buildings and must have permission from the Environment Agency. Puskesmas Motolohu is a Puskesmas that is classified as an inpatient health center that must be IPAL. Puskesmas Motolohu has been operating IPAL since 2016 but does not have a permit until 2021. Supposedly since the construction of IPAL in Motolohu Health Center in 2016 already has a permit from the Environment Office of Pohuwato Regency. Because of the violation, the Environment Office of Pohuwato Regency has issued a written reprimand sanction to the Motolohu Health Center. The enactment of administrative sanctions is a step so that the rules on IPAL Permits can be effective as they should be.

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1. INTRODUCTION

The establishment of a state in principle requires the creation of prosperity for all people. This is as stated in the constitution of the Republic of Indonesia in 1945.¹ The law in Indonesia itself has an arrangement from general to special, namely called hierarchy rather than the law, the hierarchy of legislation. Hierarchy or order of laws and regulations refers to article 7 paragraph 1 of LawNo. 12 of 2011 concerning the establishment of laws and regulations consisting of, the Constitution of the Republic of Indonesia year 1954, the Provisions of the People's Consultable Assembly, Laws / Regulations of the Government instead of laws, Government Regulations, Presidential Regulations, Provincial Regional Regulations, and, District / City Regional Regulations.²

The principle of regulations that apply will regulate the overall regulation in general if the rules in force are centralized. Like the rules of the 1945 Constitution, it became the source of the rules and became the basic reference for some of the rules that exist under it. In this study, researchers took a rule that regulates the issue of environmental permits that apply to an institution, namely, Regulation of the Minister of Health of the Republic of Indonesia Number 85 of 2019 concerning Operational Instructions for the Use of Physical Special Allocation Funds in the Field of Health in Fiscal Year 2020. In this Decree, one of the points in chapter III of this regulation, the issue of environmental permits is Point 10 letter (l) which reads "Service providers or Health Centers must take care of IPAL Oprasional permits (liquid waste disposal permits) to the local office / or environmental agency by applicable regulations".³

The rules described above are rules that have been in place since 2019. The purpose of the enactment of the rules in the area is to regulate and require puskesmas in this case as an institution engaged in the field of health. It is deliberately regulated specifically for the health institution itself is as a technical regulation that intends to provide technical direction so that health centers that produce a lot of medical waste can still maintain the environment to avoid pollution of toxic and hazardous material waste which is further in short waste B3.

¹ Sutrisno, fenty Puluhulawa dan Lusiana M. Tijow, *Penerapan Asas Keadilan, Kepastian Hukum, Kemanfaatan dalam Putusan Hakim Tindak Pidana Korupsi*, Jurnal Hukum, Volume3- Nomor. 2- Oktober 2020, (Gorontalo, Universitas Negeri Gorontalo)

² Encik Muhammad Fauzan, *Hukum tata Negara Indonesia*, (Malang, Jatim, 2017) hlm. 30.

³ Lihat Pada Peraturan Menteri Kesehatan Republik Indonesia. Nomor. 85 Tahun 2019

Manahan said a dangerous object is a material that may present hazardous materials to the life of organisms, materials, buildings, and the environment because of explosions or fires, corrosion, destruction for organisms, and decaying akbibat. What is dangerous waste? Although it has been said that "the discussion of the statement has not produced results" then the simple definition of hazardous waste is that it is a substance/substance that has been separated/discarded, not ignored, released, or planned as waste material or something that could be related to other substances to be dangerous. The definition of hazardous waste in a sense is not so and may harm you if you are confronted with it.⁴

Highlighting the problem of B3 waste management in puskesmas must be correlated with the waste contained in puskesmas as well. The production of medical waste puskesmas in Indonesia nationally is estimated at around 376,089 tons/day.⁵ Puskesmas waste itself in general can be grouped into two parts, namely, non-medin and medical waste.⁶ Government's Number 101 of 2014 that medical waste has infectious characteristics. Not only that B3 waste also has a very dangerous impact on the environment and also has an impact on human health and other living creatures if only discarded carelessly in the environment. In addition, B3 waste has different characteristics than waste in general, especially B3 waste has unstable, reactive, and explosive properties and is flammable and contains toxins.⁷

Waste B3 results from medical activities carried out by puskesmas itself is not a waste that can be easily underestimated, but it still needs to be considered so that waste from the results of medical activities puskesmas containing so many harmful substances do not cause environmental pollution and adversely affect the survival of humans living around puskesmas.

Related to waste B3 results from medical activities puskesmas. In this study, researchers raised issues related to the permission of IPAL Puskesmasn to manage medical waste from activities from Puskas. Puskesmas in question is puskesmas in Randangan Subdistrict. Randangan District has five Health

⁴ Manahan dalam Riyanto, 2014, *Limbah Bahan Beracun dan Berbahaya (B3)*, (Yogyakarta: Deepublish, November). Hlm. 19

⁵ Alvionita Ajeng Purwanti, *Pengelolaan Limbah Padat Bahan Berbahaya Dan Beracun (B3) Puskesmas Di RSUD Dr. Soetomo Surabaya*, *Jurnal Kesehatan Lingkungan* Vol. 10, Nomor 3, Juli 2018, (Surabaya, Universitas Airlangga), hlm. 292

⁶ *Ibid.*, hlm. 292

⁷ *Ibid.*, hlm. 292

Centers, one Inpatient Health Center, and four other Auxiliary Health Center.⁸ Puskesmas classified Puskesmas hospitalization as mandatory IPAL while Auxiliary Health Center is not mandatory IPAL.⁹ Puskesmas which is classified as an inpatient health center in Randangan District is Motolohu Health Center. So in this study only examined one Puskesmas namely, Puskesmas Motolohu.

Puskesmas Motolohu is a mandatory Health Center IPAL because it is classified as an inpatient health center. Puskesmas Motolohu since 2016 already has built IPAL and has operated IPAL until now. But based on direct review and interviews conducted with the Puskesmas which in this case is represented by the Head of Puskesmas itself, Puskesmas Motolohu confirmed that it has not had an IPAL Permit since the construction of IPAL in 2016 until 2020. It has also been confirmed directly by the Pohuwato District Environment Office, that the Environment Agency itself has never received an IPAL Operational permit application file from the Motolohu Health Center. It is explained in the Ministry of Health. No. 85 of 2019 Point 10 letter (L) that "Service providers or Health Centers shall take care of IPAL Oprasional permits (liquid waste disposal permits) to the local office / or environmental agency by applicable regulations."¹⁰ based on the explanation of special requirements from IPAL itself Puskesmas must take care of IPAL permits. But until now The Motolohu Health Center does not have the IPAL Permit. Therefore, it is necessary to research the effectiveness of the rules and also the capacity of local governments whether they have conducted enforcement on institutions, agencies, or health centers that produce hazardous waste and have carried out management but do not have a management permit.

2. PROBLEM FORMULATION

The formulation of the problem in this study is to know the effectiveness of the regulation on the obligation to ownership of IPAL permits for Puskesmas in Randangan Subdistrict and intends to know what is the problem so that the rule becomes hampered and ineffective.

3. RESEARCH METHODS

This research is a researcher based on legal research that is empirical juridical research. Empirical Law Research is a method of legal research that uses

⁸ Lihat Data Dasar Puskesmas Provinsi Gorontalo, Kementerian Kesehatan Republik Indonesia Tahun 2014.

⁹ Lihat dalam Peraturan Menteri Kesehatan Republik Indonesia Nomor 85 Tahun 2019.

¹⁰ Lihat dalam Peraturan Menteri Kesehatan Republik Indonesia Nomor 85 Tahun 2019.

empirical facts drawn from human behavior, both verbal behavior derived from interviews and real behavior conducted through direct observation. Empirical research is also used to observe the results of human behavior in the form of physical relics and archives.¹¹ According to Soerjono Soekanto, empirical or sociological legal research is a legal study conducted by researching primary law, which is researching and retrieving data directly from the field.¹²

4. DISCUSSION

4.1 Effectiveness of Regulations on Operational Permits for Wastewater Management Installation (IPAL) Of Puskesmas in Randangan District

The effectiveness of law enforcement is closely related to the effectiveness of the law itself. For the law to be effective, law enforcement must enforce sanctions from the impact of legal abuses resulting from the ineffectiveness of the law. A sanction can be realized only to the community in the form of *compliance*, with these conditions indicating an indicator that the law is becoming effective.¹³

IPAL is one of the most important parts of puskesmas. With the IPAL, Puskesmas can carry out one of the functions and responsibilities of puskesmas itself, namely maintaining the environment to remain clean and affected from pollution. IPAL itself is a structure designed to dispose of biological and chemical wastes that allow the water to be used in other activities. With the presence of operational installation of wastewater management, substances contained in water from disposal from human activities can also have a good impact on humans as well. Because the negative impacts produced by wastewater include health problems, environmental quality reduction, disturbances to beauty, and disruption of object damage.¹⁴

Regulation of the Minister of Health no. 85 of 2019 concerning Operational Instructions for the Use of Physical Special Allocation Funds in the Field of Health in Fiscal Year 2020. Chapter III Of The Special Allocation Fund for Physical Health section letter (l). About the general requirements of the Wastewater Management Plant contained at point 10. The letter (l) reads as

¹¹ Mukti Fajar dan Yulianto Achmad, , *Dualisme Penelitian Hukum Empiris & Normatif*, (Pustaka Pelajar 2010), hlm.280

¹² Soerjono Soekanto dalam Ishak, *Metode Penelitian Hukum, (Penulisan Skripsi, Tesis, serta Disertasi)*, (Alfabeta, Bandung, 2017), hlm. 70

¹³ Soejono Soekanto, *Pokok-pokok Sosiologi Hukum*, (Jakarta, PT. Raja Grafindo Persada, 2017), hlm. 110.

¹⁴ Sugiarto dalam Muhammad Ali Akbar, *Evaluasi Sisten Instalasi Pengelolaan Air Limbah (IPAL) Komunal Berbasis Masyarakat Di Kecamatan Panakukang Kotamadya Makassar*, Skripsi Teknik Sipil, 2015, (Makassar, Universitas Hasanuddin), Hlm. 8

follows: "Service providers or Health Centers must take care of IPAL Oporasional permits (liquid waste disposal permits) to the local office / or environmental agency by applicable regulations".

Puskesmas studied by researchers is puskesmas in Randangan Subdistrict. Randangan District itself has five Health Centers (four Auxiliary Health Centers and one Inpatient Health Center). In the Regulation of the Minister of Health of the Republic of Indonesia Number 85 of 2019 Point 5 General Requirements for the development of Puskesmas, every Puskesmas classified as a maid health center is required to have an IPAL building. So in puskesmas in Randangan district there are only one puskesmas that must be IPAL, namely Puskesmas Motolohu, then researchers only take one sample, namely Puskesmas Motolohu.

The construction of the Wastewater Management Installation (IPAL) in Motolohu Health Center has been since 2016 since the Motolohu Health Center was asked to enter the Puskesmas Accreditation file. From the results of the interview with the Head of Puskesmas Motolohu, Mrs. Triwijayati Djuari. He said that the construction of the IPAL has been since 2016 yesterday, built and completed in 2017. IPAL operations have been running since the beginning of 2018. He added that the results of water treatment from medical waste treated by the IPAL machine were diverted to the disposal of fish ponds. Because the water treated by IPAL produces clean water that can be used to select ornamental fish in the fish. Until 2021 IPAL in Motolohu Health Center still serves to manage wastewater into clean water. But it should be observed together also that until the end of 2019 the IPAL still has not pocketed the Permit as required. If examined into the rules, in Permenkes RI No. 75 of 2014 concerning the Center for Public Health article 10 paragraph (1). Point G reads, "Environmental Health Management". This article provides an affirmation of environmental maintenance for legal entities or not legal entities in the field of health.

The speech obtained from the results of the interview also, the Motolohu Health Center, in this case, was represented directly by the Head of The Motolohu Health Center, that the IPAL was built on the grounds, around the Motolohu Health Center some communal residents become residents' settlements. While inevitably wastewater from medical waste disposal can pollute the environment if left alone. Therefore, it becomes important for the development of IPAL in the Motolohu Health Center area. Then the second reason is; With the existence of this IPAL building becomes one of the prerequisites to meet

accreditation for Puskesmas itself. The third reason; Puskesmas Motolohu is a Health Center that falls into the category of Inpatient Health Center.

The inpatient health center is a health center that is equipped with various adequate facilities including the provision of IPAL which serves to manage medical wastewater from the disposal of medical activities from puskesmas because the provision of IPAL in the minister's regulation is one of the obligations of the Puskesmas. The Environment Agency also complied with the results of a review in the field. Mrs. Herlina said, since the construction of IPAL in The Motolohu Health Center which was built in 2016 until 2017, they did not have to receive files or documents applying for IPAL permits from the Motolohu Health Center. Not only that, Majid Samarang who is also the working team of the Pohuwato Regent who was assigned by the Regent of Pohuwato to directly review the IPAL development project in every Health Center in Pohuwato Regency said, regarding the IPAL permit itself it never received a report on the application for an IPAL Permit at the Motolohu Health Center. The main problem in this study is about operational permits about IPAL. While the IPAL in The Motolohu Health Center has been operating since 2018 but until now has not had a permit at all even though it has been operating for three years. According to information obtained from the results of interviews with the Environment Agency, their party has given a written reprimand to the Motolohu Health Center because it has not entered the IPAL Permit application document. This they do is as a decisive step of the Environment Agency to be able to regulate the building of IPAL Puskesmas that is already operating but does not have an Operational permit. Because after all the presence of sanctions is to provide a deterrent effect for lawbreakers and also enforce what is a certainty to the law itself.

This is explained by Prof. Dr. Fenty U. From the aspect of the instrument "Legal certainty" which is often interpreted as an application in *Letterlijk* or applying rules (laws) by the text of the law, such a stance is influenced by its adherents, namely the legal school of *positivism* that views the law solely as a set of rules, legal principles, and principles more commonly called laws, whereas In fact, there are many laws that live in the community outside the law, such as customs, customs, and religious norms. The rules and norms are alive and recognized by their supporters even though the rules and sanctions are different from the rules and sanctions in positive law. Therefore, Tanski contained in Pohuwato Regency Regulation No. 8 of 2018 and has been

implemented by the Environment Agency because it is a step to establish legal certainty itself.¹⁵

From the data provided from the results of the interview above, the author analyzed, that the Regulation of the Minister of Health of the Republic of Indonesia No. 85 of 2019 concerning Operational Instructions for the Use of Physical Special Allocation Funds in the Field of Health in Fiscal Year 2020. Chapter III Of The Special Allocation Fund for Physical Health section letter (l). The general requirements of the Wastewater Management Plant contained at point (10) have not been effective. Because the Motolohu Health Center is recorded from 2018 has operated the Wastewater Management Plant but has not bagged a permit from the relevant agency until 2021.

4.2 Factors That Inhibit the Effectiveness of Regulations on IPAL Permits in Motolohu Health Center

1. Legal Factors

Regulation of the Minister of Health of the Republic of Indonesia No. 85 of 2019 concerning Operational Instructions for the Use of Physical Special Allocation Funds in the Field of Health in Fiscal Year 2019. Chapter III Of The Physical Special Allocation Fund for Health section letter (I). The Installation of Wastewater Management should go hand in hand with what is the legal ideal based on the understanding of experts. But from the results of the research on the ground based on direct interviews with the Health Center and the Pohuwato District Environment Office that the application of the rules referred to above has not worked as it should. The following factors that hinder the effectiveness of the rule are as follows:

1. The application of the law from government officials who are indifferent to the effectiveness of the rule of law itself, it is proven that until now PUSKESMAS Motolohu has not bagged an IPAL Permit. In fact, according to the facts in the field that IPAL in the Health Center has been operating since 2018 ago.
2. The rules contained in the Decree do not provide sanctions that are coercive for Puskesmas who have not submitted an IPAL Permit application document. Regarding sanctions applied by the relevant environmental agency or the Environment Agency. So far the

¹⁵ Sutrisno, fentyOulawa and Lusiana M. Tijow, *Application of The Principles of Justice, Legal Certainty, Expediency in the Verdict of Judges of Corruption*, Journal of Law, Volume3- Number. 2- October 2020, (Gorontalo, Gorontalo Law Review). Hlm. 169

Environment Agency as a new authorized institution gave a reprimand sanction to the Motolohu Health Center. The law that we know together has a coercive nature as stated in the book *Anthropologic Law* Drs. Beni Ahmad Saebani, M.Si. reads "The law forces man to submit, obey and obey without any *reserve* (bargaining) to the applicable law. The author judged at this point that it appears that the law is less firm so its application is severely hampered.¹⁶

2. Faktor Penegak Hukum

Based on interviews and documentation in the field and the relatedness of the theory put forward by Soerjono Soekanto above, the author will present the results of the research as follows:

1. The legal institution, in this case, is that the Ministry of Health does not give clear instructions to the Environment Agency to strengthen the rule. Whereas the function and capacity of the Environment Agency here is as a government agency tasked with maintaining environmental stability. In the rules also that puskesmas must apply for the permit to the Environment Agency.
2. The Environment Agency is a government agency tasked with maintaining environmental stability. Based on the results of research in the field that the Environment Agency never received an IPAL permit application document from the Motolohu Health Center. The Linking Hidup Office only finished at the stage of giving a written reprimand to the Motolohu Health Center and never again reviewed what was the real problem so that the Motolohu Health Center still did not carry out the ruling order, namely making a permit application to the Environment Agency.
3. Lack of socialization from the Environment Agency that the importance of ownership of IPAL Permit for Puskesmas. Because the requirement to establish puskesmas must maintain the environment.
- 4.

3. Legal Facilities

In the technical framework of the implementation of the applicable rules, the Puskesmas itself must pay attention to the demikan. Technical implementation for the sake of there must be legal facilities and facilities that support the creation of effective and efficient laws. It must also be considered by the Environment Agency itself as one of the implementing elements of the rule. As

¹⁶ Tajul Arifin, *Antropologi Hukum*, (Bandung, Pustaka Setia, 2012), hlm. 22

a structural institution of local government that has the task of maintaining the environmental order, the Environment Agency must pay attention to it as well. By the facts obtained from the results of the interview obtained in the field, then the author will explain the following;

1. Since 2019 Indonesia is among several countries that recorded the spread of Covid-19 is quite widespread to areas far from the Provincial Capital, wabilkhusus Pohuwato Regency. Automatic implementation of government duties must be limited so that the spread of the virus is not widespread. Instead of breaking the chain of the spread of the Covid-19 virus. Local governments should not override their duties and responsibilities in carrying out the rules. So what needs to be done is to provide adequate facilities as an alternative. But the facts found on the ground are not so. Puskesmas has sent *soft files* in PDF form but until now the response to the submission has not been there. Ironically, when I did the research, the Puskesmas only contacted by telephone the Environment Agency regarding the permit. And by the interview conducted at DLH Pohuwatu Regency. Instead, they wait for *Hard Comfy* from the IPAL licensing document submission *file* to be used as an archive of documents for the Environment Agency itself.
2. The Environment Agency did not provide alternative measures for the Motolohu Health Center for the destruction of the permit. It should be with the presence of Imbaun from the Government to carry out duties from home. DLH must provide adequate facilities to provide waivers to the Puskesmas to take care of the application of the IPAL licensing document.

4. Community Factors

Every element of society or group plays an important role in building optimal law enforcement. The problem that often arises is the level of compliance and legal awareness of different communities. The existence of degree values from compliance and public legal awareness becomes an important indicator of the functioning of the law. The better the level of understanding and awareness of public law, the better the law enforcement, the lower the level of understanding and awareness of public law, the more difficult law enforcement will be. Legal

awareness includes knowledge of the law, obedience to the law, and the perception of legal functions.¹⁷

The things that become the next inhibitory factor based on the findings at the location of the study are as follows;

1. Puskesmas apart in addition to being an institution in the field of health they also act as a society. Compliance and awareness of the head of puskesmas as a person responsible for its members are less responsive in terms of the implementation of applicable laws. Even though it is stated in the IPAL development juknis there is an obligation to manage permits against IPAL, so far as I research the Puskesmas only focus on the management of UKL and UPL and seem to waive IPAL permits. Therefore, according to the author himself, the Puskesmas party lacks awareness of the rules.
2. IPAL permit should now have been pocketed by the Puskesmas, considering that the IPAL building has been bediri since 2017. It's now 2021. It has been five years since the building was established by the Puskesmas has not received an IPAL Operational permit.
3. The IPAL building in the Motolohu Health Center, according to the submission from the Head of Puskesmas itself that the building is solely for the fulfillment of getting accreditation for The Motolohu Health Center.
4. The next reason on the part of the Motolohu Health Center is. The head of puskesmas who is currently in office, Mrs. Triwijayanti Djuari said that the construction of IPAL was built when the current Head of Health Center was not in the office. That is, IPAL in Puskesmas Motolohu is built on the authority and responsibility of the Head of The Previous Health Center. And the transfer of this authority is all delegated to the Current Motolohu Health Center. Automatic for IPAL itself has not been managed because it is still in a transition condition or the condition of changing the head of puskesmas. That's the problem with the current head of health. The author analyzes that, for reasons of situation and conditions, definite rules and regulations must be ruled out, meaning that only conditional reasons are ignored.

¹⁷ Aziz Ahmad Sodik, *Penegakan Hukum Di Institusi Pengadilan Dalam Menghadapi Pandemi Covid-19*. Jurnal Hukum. Vol. 2 Nomor 2, (Bandung, UIN Sunan Gunung Djati) hlm. 61

The above is an irony in itself. Because the awareness and compliance of those responsible for the law are still lacking. Even to achieve the perfection of the law, the things described above should be the material of mutual contemplation. The factors presented above are what make the effectiveness of the law in this study hampered.

5. Conclusion

Based on the results of analysis from the research discussed in the previous chapter, the author draws the following conclusions:

That Puskesmas Motolohu is the only Puskesmas that manages and Mandatory IPAL because it is classified as An Inpatient Health Center. But found by researchers at the research site, Puskesmas Motolohu until now does not have permission for IPAL Operations as required by Permenkes RI. No. 85 of 2019 concerning special allocation funds for physical health chapter III Point 10 letter (L) on obligations for IPAL ownership which reads "Service providers or health centers must take care of IPAL's Operational permit (liquid waste disposal permit) to the office / or local environmental agency by applicable regulations". And violate Regulation No. 8 of 2018 Article 16 Paragraph (1) which regulates violations of the ownership of Environmental Permits.

That The Motolohu Health Center which should have had an IPAL Permit since the beginning of construction in 2016 but until 2021 has not been realized in the application for an IPAL Permit until now. Based on Regulation No. 8 of 2018 which regulates Sanctions against violations of Environmental Permits, the Pohuwato District Environmental Office has issued a written reprimand sanction for violations committed by the Motolohu Health Center. But until now the sanctions given by the Pohuwato District Environment Office have not provided a deterrent effect on the violation to the Pohuwato Health Center. So according to the author, the conclusion is, that based on the results of analysis from field data, Permenkes RI. No. 85 of 2019 concerning special allocation funds for physical health chapter III Point 10 letter (L) on liability for IPAL ownership has not been effective.

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