

Granting Business License to Fuel Traders “Pertamini” As a Form of Legal Protection

Nirwan Junus¹
Karlin Zakaria Mamu²
Mohamad Syahnez W. Aditya Cono³

¹ Faculty of Law, Universitas Negeri Gorontalo, Indonesia. E-mail: nirwan.junus@ung.ac.id

² Faculty of Law, Universitas Negeri Gorontalo, Indonesia. E-mail: karlinmamu9@gmail.com

³ Faculty of Law, Universitas Negeri Gorontalo, Indonesia. E-mail: adityasyahnez@gmail.com

Article Info

Keywords:

License; Traders; Legal Protection.

How to cite (APA Citation Style):

Junus, N., Mamu, K., Cono, M.S.W.A. (2021). "Granting Business License to Fuel Traders "Pertamini" As a Form of Legal Protection". *Jambura Law Review*. JALREV 3 (1): 155-170

Abstract

Oil and Gas plays an important role in the fulfillment of fuel needs from both the industrial and transportation sectors. This regulation on Oil and Gas has provided a legal basis in its implementation. The presence of retail fuel businesses "Pertamini" is causing legal problems, this is because the existence of these businesses do not have a formal business license at all.

This paper analyzes the sale of fuel under the brand "Pertamini" which does not have a business license. This research uses normative legal research method with statute approach and conceptual approach. The results showed that, with the increasing number of "Pertamini" fuel traders without a license, it will certainly have implications for the law and uncontrolled management of Oil and Gas. Therefore, the government and related agencies can issue permits to "Pertamini" fuel traders. Because by obtaining a legal business license, in terms of its management can be carried out optimal supervision to prevent the occurrence of fuel misuse. This also includes efforts to provide certainty and legal protection to "Pertamini" Fuel Traders.

© 2021 – Junus, N., Mamu, K., Cono, M.S.W.A.
Under the license CC BY-SA 4.0

1. Introduction

Indonesia is a country that has a wide variety of natural wealth that is abundant. The natural wealth is intended to meet domestic needs, as well as to realize a fair and prosperous society as mentioned in Pancasila and the 1945 Constitution. One of the

largest natural wealth in Indonesia is oil and gas with its nature that is vital for the needs of many people's lives. As stated in the Constitution of the Republic of Indonesia year 1945, Article 33 paragraph (2) "Production branches that are important to the State and that control the lives of many people are controlled by the state"¹ and Article 33 paragraph (3) "The earth, water, and wealth contained therein are controlled by the State and used to the greatest extent for the prosperity of the people".²

The role of oil and gas is very important for the life of the nation, it is necessary in terms of management, distribution and supervision carried out to the maximum. Therefore, the Government has established Law No. 22 of 2001 on Oil and Gas (abbreviated as the MGB Law).

The presence of Law No. 22 of 2001 on Oil and Gas has provided a legal basis for its implementation. Not only that, since its ratification, Indonesia has undergone changes in oil and gas management policy, one of which has changed substantially by ending Pertamina's monopoly in oil and gas activities, both upstream and downstream business activities.³ In order to end Pertamina's role in the regulatory side, Law No. 22 of 2001 established the Oil and Gas Implementing Agency (BP Oil and gas) which is given the authority to carry out control of Upstream Business Activities in the field of Oil and Gas and in downstream activities in the form of Regulatory Bodies that regulate and supervise the provision and distribution of fuel and gas in Downstream Business Activities. However, in carrying out its duties and authorities BP Oil and gas in the decision of the Constitutional Court does not fully want the state on the basis of contingency that states that state control prioritizes as much as possible for the prosperity of the people does not run effectively. So as to fill the legal vacancy, the functions and duties of the Implementing Agency (BP Oil and gas) are carried out by the Government, c.q. Relevant ministries, until the enactment of the latest Law governing the matter.⁴

¹ See Article 33 paragraph (2) of the Constitution of the Republic of Indonesia year 1945

² See Article 33 paragraph (3) of the Constitution of the Republic of Indonesia year 1945

³ Wahyuni Sunarya. (2017). "Introduction to Indonesian Oil and Gas Law". Depok: Wibowo Law Office & Partners. p. 20.

⁴ Read the Decision of the Constitutional Court Number: 36/PUU-X/2012

Oil and gas's business activities itself consist of upstream business activities that include exploration and exploitation; and downstream business activities that include management, transportation, storage, and trade.⁵ Please note that the forms of Business Entities engaged in upstream and downstream oil and gas business activities include⁶: State-owned enterprises; Regionally owned enterprises; cooperatives or small businesses; private business entities. The aforementioned business entities can legally conduct oil and gas business activities if they have obtained a business license from the government that can be separated as follows⁷:

- a) Business License management;
- b) Transportation Business License;
- c) Storage Business License;
- d) Commercial Business License.

The licensing procedure for downstream oil and gas business activities is carried out by business entities that have obtained permits issued by the Minister of Energy and Mineral Resources through the Director General of Oil and Gas. Application will be followed up if it has attached all administrative and technical requirements that have been determined. All application documents will be returned if incomplete. But in this case, the business entity can reapply with the condition of completing all administrative requirements. Administration files that have been completed will be conducted assessment and evaluation by the Directorate General of Oil and Gas.⁸

The emergence of the phenomenon of oil misuse that occurs in people's lives is a problem that needs to be solved. Considering the form of misuse of fuel oil is one of them related to the sale of retail fuel labeled "Pertamini", and this is an unlicensed (illegal) business. As stated in Article 53 and 55 of Law No. 22/2001 which is essentially for everyone conducting downstream oil and gas business activities without a permit, it will be penalized in the form of Imprisonment and pay a number of fines.⁹

⁵ See Article 5 of Law No. 22 of 2001 on Oil and Gas.

⁶ See Article 9 of Law No. 22 of 2001 on Oil and Gas.

⁷ See Article 23 Paragraphs (1) and (2) of Law No. 22 of 2001 on Oil and Gas.

⁸ Meria, G. Wola. (2019). "Law Enforcement Against The Sale of Fuel Oil Without Permission

⁹ See Chapter XI Of Criminal Provisions Article 53 of Law No. 22 of 2001 stating that everyone who commits: Management, Transportation, Storage, Commerce without a business license will be

The existence of criminal provisions contained in the regulation in fact still can not solve legal problems, especially the misuse of fuel. This is strengthened by seeing the number of fuel retailers "Pertamini" dominate the roadside in every region in Indonesia. In Gorontalo Province itself can still be found some businesses "Pertamini", here is a table of data:

Table 1
Data on The Number of Retail Fuel Oil Businesses "Pertamini"
in Gorontalo Province

NO	Territory	Amount of "Pertamini"
1	Kota Gorontalo	6
2	Kabupaten Gorontalo	4
3	Kabupaten Bone Bolango	2
4	Kabupaten Boalemo	5
5	Kabupaten Pohuwato	3
6	Kabupaten Gorontalo Utara	1

Source by Based on Author's Observations

The large number of illegal fuel traders does not mean that the government in this case is just silent, but one of the factors that make the weak enforcement of the law is caused by the trapping of the local government in a dilemma when applying criminal provisions. So the government is more likely to see the social elements. Gorontalo Provincial Government in this case the local government itself only issued policies that are restrictive¹⁰, so that law enforcement officials only give verbal reprimands of "shock therapy" to the seller of retail fuel oil without the (illegal) permit.¹¹

According to Muladi¹² that a legal problem that needs to be resolved, can not depend entirely on the role of the Criminal Justice System as a means of control of violations of the law, because this system is only one of the means in criminal politics that is penal.

penalized; See also Article 55 states that any person who abuses the Transportation and/or Commerce of government-subsidized Fuel Oil will be subject to criminal sanctions.

¹⁰ Gorontalo Governor Circular Letter Number 500/B.P2E/122 concerning Distribution of Fuel Types

¹¹ Haris, (February 13, 2020 edition), "Overcome fuel queues, Gorontalo Provincial Government Issues Governor Circular Letter", Accessed from <https://humas.gorontaloprov.go.id/atasi-antrian-bbm-pemprov-gorontalo-terbitkan-surat-edaran-gubernur/>

¹² Aprillani, Arsyad. (2013). "Criminal Policy on Countering The Misuse of Subsidized Fuel Oil(BBM)." *Innovative*. Number 7 Vol. 6.

Its function is sometimes not running maximum (total enforcement) because to maintain a balance between public order (public order) and individual rights (individual right) then law enforcement is limited by strict provisions. Therefore, prevention efforts are also needed with the concept of a Non penal approach or can also be referred to as prevention without the use of criminal.

Based on the statement if it is associated with the problem of retail fuel sales "pertamini" that has not been resolved even though it has been pouring criminal sanctions on the relevant legislation, the prevention with the concept of non-criminal in question is to give business license to downstream oil and gas business activities. Because if seen from the statement that conducting downstream oil and gas business activities "without permission" is illegal, then it can be ensured that retail fuel sales activities labeled "Pertamini" can be legalized if the business entity obtains a business license which is essentially a license to the business entity to carry out downstream activities with the aim of obtaining profit.¹³

Referring to licensing, Adrian Sutedi argues that a permit (*vergunning*) is an agreement given by the ruler based on a law or government regulation intended for certain conditions that deviate from the legislation. In addition, permission is a form of dispensation or release / exemption from a prohibition. Therefore, a non-penal or non-criminal prevention approach can be applied by granting a business license to the retail fuel seller "Pertamini", this is also an effort to prevent potential misuse of fuel oil. Because by obtaining a license, all downstream oil and gas business activities conducted by businesses "Pertamini" can be controlled by the government so that the distribution, management and supervision can be controlled and not harm the public. Obtaining a downstream oil and gas business license can also provide legal protection for retail fuel traders "Pertamini" as well as provide clarity on legal certainty for the community.

Based on the description of the problem, it is necessary to consider the implications that can arise, so that the government should try to give permission in accordance with the procedure of legislation as a form of preventive policy.

¹³ Adrian Sutedi. (2012). "Mining Law". Jakarta: Sinar Grafika. p. 60

2. Problem Statement

Based on the description above, the main problem that needs to be discussed is how the policy of granting business licenses to fuel traders "Pertamini" as a form of legal protection.

3. Method

This research uses normative legal research method with statute approach and also conceptual approach. The legal material used in this study is primary legal material that has authoritative or binding strength, as well as secondary legal material which is legal material that supports the description and explanation of primary legal materials and object of studies conducted such as book, journals, newspaper and so on. The results of the data obtained are then processed with technical prescriptive analysis.

4. Discussion

Policy of Granting Business License to Fuel Traders "Pertamini" as a Form of Legal Protection

Indonesia is a country that has a wealth of natural resources that are abundant, one of which is oil and gas, thus for its management there is a legal basis to regulate everything related to oil and gas activities as a form of efforts to minimize the occurrence of unwanted problems.

The increase in fuel consumption in Indonesia is very high, based on national data from BP Oil and gas that Indonesia's fuel consumption until 2017 reached 55,400,604,901 Liters. Then the need and sales of fuel oil will also increase. Therefore, there needs to be an increase in the amount of fuel sales to compensate for vehicles on the highway. However, the emergence of the practice of fuel traders labeled "Pertamini" without permission (illegal) is a problem that should be solved by the government. Please note that the legal position of the Fuel Trader "Pertamini" without permission is necessary as stated in the criminal provisions of the Oil and Gas Law which states:

- a) Management as referred to in Article 23 without a business license of Management shall be penalized with a maximum imprisonment of 5 (five) years and a maximum fine of Rp. 50,000,000,000 (fifty billion rupiah);

- b) Similarly, transportation carried out by merchants without a transport business license shall be punishable by a maximum imprisonment of 4 (four) years and a maximum fine of Rp. 40,000,000,000 (forty billion rupiah);
- c) Storage carried out by traders without a storage business license shall be punishable by a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 30,000,000,000 (thirty billion rupiah);
- d) Commerce as referred to in Article 23 without a Commercial business license shall be penalized with a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 30,000,000,000 (thirty billion rupiah).

Criminal provisions in Article 53 that mention related to Article 23, namely downstream oil and gas business license, include:

- a) Business License management;
- b) Transportation Business License;
- c) Storage Business License;
- d) Commercial Business License.

Business entities carrying out downstream oil and gas business activities are allowed after obtaining a permit, as stipulated also in Article 2 PP No. 30 of 2009 changes to PP No. 36 of 2004 concerning Downstream Oil and Gas Business Activities that:

"Downstream Business Activities are carried out by Business Entities that have had a Business License issued by the Minister and organized through a reasonable, healthy and transparent business competition mechanism".

Based on the description of the Article, it can be ensured that the sales activities of fuel ecer "Pertamini" can be legalized by forming a business entity to obtain a license.¹⁴ An expert in State Administrative Law, I Made Arya Utama¹⁵ said that by establishing a permit is a form of legal instrument from the government as an effort to prevent and instrumental preventive character in order to control and limit community activities so as not to harm others. Therefore, solving problems with the concept of Non-Penal

¹⁴ Pebrianto, E. Wicaksono. (March 28, 2016 edition). "Government Requirements for Legal Retail Fuel Sales". Accessed from <https://liputan6.com/bisnis/read/2469499/syarat-pemerintah-agar-penjualan-bbm-ritel-legal>

¹⁵ Damang, A. Al-Khawarizmi. (June 12, 2014 edition). "Constitutional Law of The Definition of Licensing". Accessed from <https://www.negarahukum.com/hukum/sense-licensing.html>.

approach or prevention of violations of the law without the use of criminal is an offer of solutions with the form of granting "Business License" to business actors ecer fuel traders "Pertamini". This is important because given that the criminal provisions and their application in tackling are still not maximized, it would be better for the government to maximize the licensing procedures for downstream oil and gas businesses as an administrative policy by paying attention to¹⁶:

- a) Granting permission should be facilitated both the process of granting permission and ease of access to the destination area. The rationale is the inventory of resources that are expected to be new deposits so that the existence of the oil and gas industry continues.
- b) Apply conservation principles at every stage of oil and gas activities with the aim of preventing excessive exploitation.
- c) Increase the added value of oil and gas products so that the influence of forward and backward linkage is greater.

Related to the policy of granting permits, BPH Oil and gas provides opportunities for the public to be able to open downstream oil and gas businesses with minimal capital, this aims to overcome the illegal sale of fuel oil.¹⁷ The policy was realized by BPH Oil and gas issuing BPH Oil and gas Regulation No. 6 of 2015 concerning Distribution of Special Types of Fuel Assignments in Regions Where There Are No Distributors. Downstream Oil and Gas Businesses, namely retail fuel traders in the provision referred to as sub-dealers. This sub-channel is a representative of from a group of consumers who use a certain type of fuel.¹⁸ Sub-distribution is carried out and approved by the local government.¹⁹ Business Actors who wish to become Sub-Suppliers must meet the requirements as stated in Article 6 of per BPH Oil and gas No. 6 of 2015, including²⁰:

¹⁶ Muhammad, Ariyon. (2012). "Studi Kebijakan Migas Di Indonesia". *Jurnal Of Eart, Energy, Engineering. Nomor 1 Vol. 1*

¹⁷ Kar. (August 21, 2015 edition). "It's a Legal Way to Sell Fuel With Minimal Capital". Accessed from <https://hukumonline.com/berita/baca/lt55d6fb22c5d13/ini-cara-legal-jual-bbm-dengan-modal-minim/>

¹⁸ See Article 1 (7) of BPH Migas Regulation No. 6 of 2015 concerning Distribution of Special Types of Fuel Assignments in Regions Where There Are No Distributors.

¹⁹ See Article 4 and 5 of BPH Migas Regulation No. 6 of 2015 concerning Distribution of Special Types of Fuel Assignments in Regions Where There Are No Suppliers.

²⁰ See Article 6 of BPH Oilgas Regulation No. 6 of 2015 concerning Distribution of Special Types of Fuel Assignments in Regions Where There Are No Suppliers.

- a) The member in question is a community representative who will be a sub-dealer and has business activities in the form of Trade Business and/or business unit managed by a Village Owned Enterprise.
- b) The location of the establishment of sub-suppliers meets the standards of Occupational Safety and Environmental Protection in accordance with the provisions of the laws and regulations.
- c) Have storage facilities with a maximum capacity of 3,000 (three thousand) liters and meet the technical requirements of work safety in accordance with the provisions of legislation.
- d) Own or control a fuel transport that meets the standards of fuel transportation in accordance with the provisions of the laws and regulations.
- e) Have distribution equipment that meets technical and safety requirements in accordance with the provisions of the laws and regulations.
- f) Have a location permit from the local government to build Sub Channel facilities.
- g) Predetermined the location to be built facilities for sub-dealers in general which is 5 (five) km from the location of the Dealer.
- h) Have consumer data of users whose needs have been verified by the Local Government.

Business actors who want to apply for a license for downstream oil and gas business activities must submit an application to the Minister of Energy and Mineral Resources through the Director General of Oil and Gas which will be followed up if it has been attach all administrative requirements and technical requirements that have been set, including²¹:

- a) Deed of establishment of the company and its amendments that have obtained ratification from the authorized institution;
- b) Company Profile;
- c) Taxpayer Identification Number (NPWP);
- d) Company Registration Certificate (TDP);
- e) Certificate of Domicile of the Company;

²¹ See Article 24 of Law No. 22 of 2001 on Oil and Gas; See also Article 4 of Regulation of the Minister of Energy and Mineral Resources No. 7 of 2005 concerning Requirements and Guidelines for the Implementation of Business Licenses in Downstream Oil and Gas Business Activities.

- f) Statement letter in writing and stamped containing the ability to meet aspects of operational safety, occupational health and environmental management as well as the development of local communities;
- g) A written statement on stamp duty concerning the ability to comply with the provisions of the laws and regulations;
- h) Approval of the principle of the local government regarding the location to be used as a location for the construction of facilities and facilities;
- i) Statement letter in writing on stamp duty on the willingness to conduct inspections in the field;
- j) Statement letter above stamp about the ability in terms of carrying out and carrying out transportation.

All permit application documents submitted may be returned if incomplete. But in this case, the business entity can reapply with the condition of completing all administrative requirements. Administrative files that have been declared complete will be assessed and evaluated by the Directorate General of Oil and Gas.

Business actors who have obtained a business license as a Sub Dealer, it can be ensured security and honesty in sales practices. Efforts made by the government to ensure this is by conducting surveillance so that there is no abuse or violations so that consumers are also protected.²² According to Andrian Sutedi that Licensing is a form of implementation of regulatory functions that are controlled by the government to the activities carried out by the community. With the granting of permission, the government automatically allows any individual or entity who asks him to carry out certain activities that are actually prohibited, in order to safeguard the public interest, there needs to be supervision.

Referring to supervision, S.P Siagian²³ explained that supervision is an effort and action in order to measure the extent of the implementation of tasks performed according to the provisions and facilities to be achieved. This supervision is carried out completely

²² Haris, Suyanto. (2019). "The Number of Fuel Sales Using Mini Pom Without Permission In Muara Wahau District, East Kutai Regency". *Journal of Legality*, Number 2 Vol. 4.

²³ Victor, M. Situmorang, et.al. (1998). "Aspects of Surveillance Law Inherent in the Government Apparatus Environment". Jakarta: PT. Rineka Cipta. p. 19.

to avoid the possibility of unauthorized or irregularities committed by businesses or workers.

Supervision of Downstream Oil and Gas Businesses that have obtained a license as stipulated in the Oil and Gas Law include:

Article 8 Paragraph (4) :

"The government is responsible for the regulation and supervision of business activities as referred to in paragraphs (2) and (3) whose implementation is carried out by the Regulatory Agency".

Article 41 Paragraph (3) :

"Supervision of the implementation of downstream business activities based on Business License is carried out by the Regulatory Agency".

BPH Oil and gas has the authority in carrying out supervision of downstream oil and gas business activities ranging from management, transportation, storage, and commerce. In addition to BPH Oil and gas, the government also through the Director General of Oil and Gas Ministry of Energy and Mineral Resources conducts supervision on downstream business activities. The forms of supervision referred to as stipulated in the Oil and Gas Law include²⁴:

- a) Conservation of Oil and Gas resources and reserves;
- b) Data management in Oil and Gas;
- c) Application of good technical rules;
- d) Distribution of types and quality of refined oil and gas products;
- e) Distribution and allocation of Fuel Oil and Raw Materials;
- f) Occupational safety and health;
- g) Environmental management;
- h) Utilization of goods and services, technology, and engineering and design capabilities in the country;
- i) Use of foreign workers;
- j) Development of Indonesian workforce;
- k) Development of the environment and local communities;
- l) Mastery, development, and application of Oil and Gas technology;

²⁴ See Article 42 of Law No. 22 of 2001 on Oil and Gas.

- m) Other activities specifically in the field of Oil and Gas business activities as long as it concerns the public interest.

In this case, the government also gives authority to the Local Government through the Department of Industry and Trade (*Disperindag*) in carrying out supervision. Disperindag authority in downstream business activities, namely in terms of oil and gas metrology, supervise the retail selling price of oil and gas, as well as other authorities related to the oil and gas industry in the region.

Referring to the determination of the retail price of Oil and Gas that will be demonstrated by downstream oil and gas businesses, hereinafter referred to as Sub Distributors. In accordance with the provisions mentioned that in the implementation of price policy does not reduce the social responsibility of the Government to certain groups of people.²⁵ Businesses that have obtained a license must also run their business in accordance with the prevailing laws and regulations, the pricing policy that will be set by the government is also very important, considering the purpose of supervision to keep no party harmed. Please note that supervision is carried out in order to ensure the provision and distribution of oil throughout the region and improve the utilization of natural resources. However, such supervision can only be limited to business entities or businesses that have obtained a formal license from the government.²⁶

Based on the statement, in this case of course the role of the relevant licensing agencies is very decisive. However, the complexity of procedures and requirements in the application of oil and gas business licenses is an obstacle in the implementation of licensing. This is due to:

- a) The existence of various laws and regulations governing the licensing, either in the form of Laws, Regional Regulations, Ministerial Regulations, Decisions of governors/mayors, and other regulations so that government officials interpret it widely.
- b) Such complicated management must be bypassed by licensing procedures that take a long time, convoluted and high costs.
- c) Defects in bureaucratic practice in the form of overlapping authority so as to

²⁵ See Article 28 Paragraphs (2) and (3) of Law No. 22 of 2001 on Oil and Gas.

²⁶ See Article 41 Paragraph (3) of Law No. 22 of 2001 on Oil and Gas.

slow down the formulation of policies.

The bureaucratic defect is caused by the many people assessing the duties and authorities of BPH Oil and gas overlaps with the Directorate General of Oil and Gas, thus complicating the licensing process. The authority held by BPH Oil and gas and the Directorate General of Oil and Gas also resulted in a lack of coordination caused by the institutions' selfishness in formulating policies. As a result, vital policies in the framework of oil and gas development are late formulated. This kind of bureaucratic practice should be abolished because it will affect the lack of credibility of the government and harm the nation and the State. Therefore, it would be nice if BPH Oil and gas can be combined with the Directorate General of Oil and Gas under the Ministry of Economy and Human Resources in order to streamline the bureaucracy. The concept of one-stop bureaucracy needs to be considered and is expected to facilitate coordination in policymaking and eliminating the ego of institutions so that strict policy formulation related to oil and gas development can be published immediately.²⁷

Good governance must be practiced in order for the country's objectives to be achieved. Therefore, reform and supervision in aspects of the state administration system in a strict and principled manner should be implemented. Reform should include the following areas of change²⁸:

- a) Institutional. Targeted organization.
- b) Organizational culture. Instilling bureaucracy and organizational individuals to have integrity and high performance.
- c) Implementation. clear, effective, efficient, measurable, and in accordance with the principles of good governance.
- d) Bureaucratic regulation. Regulation that is orderly, does not overlap, and is conducive.
- e) Human Resources that are honest, competent, professional, high performance, and prosperous.

²⁷ Sahat, A.F Silalahi, et.al. (2011). "Kebijakan Sektor Hulu Dan Hilir Gas Bumi Dalam Rangka Memenuhi Kebutuhan Dalam Negeri". *Jurnal Ekonomi & Kebijakan Publik. Nomor 1 Vol. 2*.

²⁸ Marwandy. (Published 2016). "Juridical-Sociological Analysis of Violations of Fuel Transportation Permits by Bondong Motorcycles (Case Study In Sintang District)". *Engineering*. Accessed from <https://www.semanticscholar.org/paper/analisis-yuridis-sosiologis-terhadapviolation-di-marwandy/bfd4fb4f1ebf075b5b33a4d8885c48a27f68a0a5>.

The presence of the Oil and Gas Law that has liberalized the downstream oil and gas sector in Indonesia should further open public access to these energy sources. Given limited employment and bumps with increasing economic needs, the function of government in regulating downstream oil and gas activities by obtaining these benefits can reduce the unemployment rate and increasing the economy with the emergence of business actors in downstream oil and gas businesses.²⁹ Therefore, the licensing procedure for downstream oil and gas business activities should be simplified. It is also an effort to prevent potential misuse of fuel oil. Because by obtaining a license, all downstream oil and gas business activities conducted by businesses "Pertamini" can be controlled by the government so that the distribution, management, and supervision can be controlled and not harm the public. Obtaining a downstream oil and gas business license can also provide legal protection for retail fuel traders "Pertamini" as well as provide clarity on legal certainty for the community.

5. Conclusion

Based on the description in the discussion related to the policy to legalize the activities of retail fuel traders labeled "Pertamini" in the form of a license issued by the Minister of Energy and Mineral Resources through the Director-General of Oil and Gas. Fuel retail traders "Pertamini" are allowed to conduct downstream oil and gas business activities after obtaining a downstream business license as a Sub Distributor. Sub Channel itself has been regulated in BPH Oil and gas Regulation No. 6 of 2015 concerning Distribution of Special Fuel Types assignments in Regions Where There are No Distributors issued by BPH Oil and gas and is a form of efforts by BPH Oil and gas to tackle illegal fuel sales. The granting of a business license is also a form of government policy to provide legal protection to retail fuel traders "Pertamini". Therefore, the government in carrying out licensing procedures should pay attention: First, granting permission should be facilitated both the process of granting permission and ease of access to the destination area. Second, Apply conservation principles at every stage of oil and gas activities with the aim of preventing excessive exploitation; Third, Increase

²⁹ Yoga, B. Lispaduka. (2013). "Effectiveness of Policy Implementation of Downstream Oil and Gas Regulatory Agency (BPH Migas) in Ensuring The Availability of Subsidized Fuel Oil In Samarinda City. Public Administration Network. Th V. Number 2. Accessed from <http://journal.unair.ac.id/download-fullpapers-admp48d9c50eaefull.pdf&ved=2ahUKEwj64Pyou6zpAhXEXSsKHareBy4QFjABegQIAxAI&usg=AOvVaw3FyDKIU0IGeFIOINbHHIyJ>.

the added value of oil and gas products so that the influence of forwarding and backward linkage is greater.

References

Books:

- Situmorang M., Victor, (ed). 1998. *"Aspek Hukum Pengawasan Melekat Dalam Lingkungan Aparatur Pemerintah"*. Jakarta: PT. Rineka Cipta.
- Sunarya, Wahyuni. 2017. *"Pengantar Hukum Minyak dan Gas Indonesia"*. Depok: Kantor Hukum Wibowo & Rekan.
- Sutedi, Adrian. 2012. *"Hukum Pertambangan"*. Jakarta: Sinar Grafika.

Articles/ Journals

- Ariyon, Muhammad. (2012). "Studi Kebijakan Oil and gas Di Indonesia". *Jurnal Of Eart, Energy, Engineering*. Nomor 1 Vol. 1.
- Arsyad, Aprillani. (2013). "Kebijakan Kriminal Penanggulangan Penyalahgunaan Bahan Bakar Minyak (FUEL OIL) Bersubsidi". *Inovatif*. Nomor 7 Vol. 6.
- Suyanto, Haris. (2019). "Banyaknya Penjualan FUEL OIL Dengan Menggunakan Pom Mini Tanpa Dilengkapi Izin Di Kecamatan Muara Wahau Kabupaten Kutai Timur". *Jurnal Legalitas*. Nomor 2 Vol. 4.
- Silalahi A.F, Sahat. (ed). (2011). "Kebijakan Sektor Hulu Dan Hilir Gas Bumi Dalam Rangka Memenuhi Kebutuhan Dalam Negeri". *Jurnal Ekonomi & Kebijakan Publik*. Nomor 1 Vol. 2.
- Wola G., Meria. (2019). "Penegakan Hukum Terhadap Pernjual Bahan Bakar Minyak Tanpa Izin Menurut Undang-Undang Nomor 22 Tahun 2001 Tentang Minyak Dan Gas Bumi". *Lex Et Societatis*. Nomor 6 Vol. 7.

Laws

- Constitution of the Republic of Indonesia of 1945.
- Law No. 22/2001 on Oil and Gas, Supplement to Statute Book No. 4152
- Regulation of the Minister of Energy and Mineral Resources No. 7 of 2005 concerning Requirements and Guidelines for the Implementation of Business Licenses in Downstream Oil and Gas Business Activities.
- Government Regulation No. 30/2009 concerning Amendment to Government Regulation No. 36/2004 concerning Downstream Oil and Gas Business Activities, Supplement to Statute Book No. 4996.
- Regulation of the Downstream Oil and Gas Regulatory Agency No. 6 of 2015 concerning Distribution of Certain Types of Fuel Oil and Types of Special Fuel Assignments

In Regions That Have Not Been Channeled, Supplement to the State Gazette of the Republic of Indonesia year 2015 Number 763.

Online references

- Al-Khawarizmi A., Damang. (edisi 12 Juni 2014). "Hukum Tata Negara Pengertian Perizinan". Diakses dari <https://www.negarahukum.com/hukum/pengertian-perizinan.html>
- KAR. (edisi 21 Agustus 2015). "Ini Cara Legal Jual FUEL OIL Dengan Modal Minim". Diakses dari <https://hukumonline.com/berita/baca/lt55d6fb22c5d13/ini-cara-legal-jual-fuel-oil-dengan-modal-minim/>
- Lispaduka B., Yoga. (2013). "Efektivitas Implementasi Kebijakan Badan Pengatur Hilir Minyak Dan Gas Bumi (BPH Oil and gas) Dalam Menjamin Ketersediaan Bahan Bakar Minyak Bersubsidi Di Kota Samarinda. Jejaring Administrasi Publik. Th V. Nomor 2. Diakses dari <http://journal.unair.ac.id/download-fullpapers-admp48d9c50eaefull.pdf&ved=2ahUKEwj64Pyou6zpAhXEXSsKHareBy4QFjABegQIAxAl&usg=AOvVaw3FyDKIU0IGeFIOINbHHIyI>
- Marwandy. (Published 2016). "Analisis Yuridis-Sosiologis Terhadap Pelanggaran Izin Pengangkutan Bahan Bakar Minyak Oleh Motor Bondong (Studi Kasus Di Kabupaten Sintang)". Engineering. Diakses dari <https://www.semanticscholar.org/paper/analisis-yuridis-sosiologis-terhadap-pelanggaran-di-marwandy/bfd4fb4f1ebf075b5b33a4d8885c48a27f68a0a5>
- Wicaksono E., Pebrianto. (edisi 28 Maret 2016). "Syarat Pemerintah Agar Penjualan FUEL OIL Eceran Legal". Diakses dari <https://liputan6.com/bisnis/read/2469499/syarat-pemerintah-agar-penjualan-fuel-oil-eceran-legal>