

CHAPTER I

INTRODUCTION

1.1 Background

Industry is one of the sectors that play an important role in the growth and development of the region. In general, industrial activities are able to ensure the continuity of the development process of a region. So that industrial activities become one of the compulsions in the development and growth of the region.

The negative impact of declining environmental quality either due to pollution or the depletion of natural resources is the emergence of threats or negative impacts on health, decreased aesthetic value, economic losses (economic costs), and disruption of natural systems (natural systems).¹

The impact of industry and technology on human life is indirect. These indirect impacts are generally related to social problems in the community, or are more often expressed as psycho-socioeconomic impacts. Indirect impacts due to industry and technology, among others, can be seen from:

a. Urbanization

Rural people who originally work in agriculture, but because of the attractiveness of industry in urban areas, move to industrial areas.

b. Behaviour

¹ Takdir Rahmadi. 2018. Hukum Lingkungan Di Indonesia. Jakarta: PT. Raja Grafindo Persada, halaman 3.

While still living in the village, the community lived in an atmosphere of mutual help, mutual cooperation. After moving to the city, the behaviour that was originally like to help turned into indifferent and individualistic, and so on².

In addition to the above indirect impacts, industrial growth also have direct impacts, including:

1. The occurrence of air pollution;
2. The occurrence of water pollution;
3. The occurrence of land pollution.³

The three kinds of pollution will reduce the carrying capacity of nature. Air, water and land pollution need to be avoided as part of an effort to preserve the environment.

As administrative law with its instrumental nature, the prominent function in environmental administrative law is preventive in nature in the form of prevention of pollution and/or environmental damage. In Article 13 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH), it is stated that the control of environmental pollution and/or damage is carried out in the context of preserving environmental functions. Then in paragraph (2) states that the control of environmental pollution and/or damage as referred to in paragraph (1) includes:

² Wisnu Arya Wardhana. 2001. Dampak Pencemaran Lingkungan. Yogyakarta: Andi, halaman 20-21.

³ Ibid., halaman 24-25.

- a. Prevention;
- b. Countermeasures; and
- c. Recovery.

The implementer of the control referred to in paragraph (3) that the control of environmental pollution and/or damage as referred to in paragraph (1) is carried out by the Government, Regional Government, and the person in charge of the business and/or activity in accordance with their respective authorities, roles and responsibilities, respectively.⁴

There are 2 (two) types of permits in UUPPLH, namely first, environmental permits are permits given to everyone who carries out a business and/or activity for which Environmental Impact Analysis is required, hereinafter referred to as AMDAL or Environmental Management Efforts and Environmental Monitoring Efforts. hereinafter referred to as UKL-UPL in the context of environmental protection and management which is a prerequisite for obtaining a business license and/or business activity. Second, a business and/or activity license is a permit issued by a technical agency to conduct a business and/or activity.

To find out the types of business plans and/or activities that must be accompanied by an AMDAL, see the Regulation of the State Minister of Environment Number 5 of 2012 concerning Types of Business Plans and/or Activities Required to be Completed with Environmental Impact Analysis.

⁴ M. Hadin Muhjad. 2015. Hukum Lingkungan Sebuah Pengantar Untuk Konteks Indonesia. Yogyakarta: Genta Publishing, halaman 36-37.

In the attachment to the decree, several types of businesses must be accompanied by an AMDAL, namely:

1. Multisectoral field
2. Defence sector
3. Fisheries and marine sector
4. Forestry sector
5. Communication sector
6. Satellite technology sector
7. Industrial sector
8. Public works sector
9. Housing and residential area sector
10. Energy and mineral resources sector
11. Tourism sector
12. Nuclear sector

Without an AMDAL it is impossible to apply for an environmental permit. Furthermore, environmental permits are a prerequisite of submitting applications for (sectoral) business permits. Thus, without having the AMDAL document, you cannot apply for both permits.

Administrative law enforcement instruments include supervision and enforcement of sanctions. Supervision is a preventive measure to enforce compliance while sanctions are a repressive measure to enforce compliance. Administrative sanctions mainly have an instrumental function, namely

controlling prohibited acts. In addition, administrative sanctions are primarily aimed for protecting the interests guarded by the violated provisions.

The palm oil industry is one of the strategic industries in the agricultural sector (agro-based industry) which is widely developed in tropical countries such as Indonesia, Malaysia and Thailand. The prospects for the development of the palm oil industry are currently very rapid, due to an increase in the amount of palm oil production in line with the increasing needs of the community. Currently, Indonesia is the largest producer of Crude Palm Oil (CPO) throughout the world.

The existence of a palm oil processing factory is absolutely necessary to support the palm oil industry, both within companies and farmers. Even today, the number of palm oil mills with an area of oil palm plantations is very unbalanced, so it is necessary to build a large number of palm oil mills for the entire territory of Indonesia. The cost of setting up a palm oil mill is quite expensive, not to mention how difficult to get a permit.

Starting an oil palm plantation business and building a palm oil mill requires various preparations, in addition to the initial readiness factor for the business to be established, the sustainability of a palm oil mill business is also influenced by the presence of elements of legality (legally recognized) in the form of permit ownership. By having a permit, palm oil mill companies are more comfortable operating because it is a means of legal protection. The licensing aspect is crucial to the success of the construction of a palm oil mill. Prior to construct a palm oil

mill, the company applied for a permit from The government regarding the plan to build a palm oil mill.

The challenge behind this rapid development is the emergence of problems and negative issues in oil palm production, including land conflicts that occur between oil palm companies and the community, biodiversity damage and environmental damage issues. Environmental damage caused by forest fires for plantation land clearing carried out by irresponsible parties has become the object of attacks by developed countries and Non-Governmental Organizations (NGOs), under the pretext of causing the increase in Greenhouse Gases (GHG).

The permits must be owned to legalize the construction of factories in oil palm plantations include:

1. Permit from Environmental Management Efforts and Environmental Monitoring Efforts (UKL-UPL).
2. Permits from the Environmental Management Plan (RKL) and Environmental Monitoring Plan (RPL). RKL is a document that contains efforts to prevent, control and overcome significant negative environmental impacts and maximize the positive impacts that occur as a result of an activity plan. RPL is a monitoring effort to see the performance of the management efforts carried out. These efforts are formulated based on the results of the basic direction of impact management resulting from the AMDAL study, which aims to prevent pollution and environmental damage and waste of natural resources more

broadly and avoid conflicts with communities and other surrounding activities.

3. Trade Business Permit (SIUP). A permit to establish a business issued by a government agency through the Department of Industry and Trade in the Region according to the domicile of the company.
4. Business Domicile Permit (SITU). Every existing company needs and must manage SITU for the sake of security and the smooth running of its business, issued by the district or municipal government as long as the provisions of the nuisance law require it.
5. Building Use Rights (HGB), as the right to construct and own buildings on land that is not its own for a certain period of time.
6. Factory Building Permit (IMB).
7. Housing Building Permit (IMB).
8. Distraction Permit.
9. WWTP Construction Permit (IPAL).
10. Radio Permit, Land Permit Application, Factory Machinery Permit, and Scale Permit.

Problems and issues of environmental damage facing the palm oil industry and government regulations on sustainable palm oil, then it is necessary to have a systematic approach method to analyse. There are several methods used in analysing environmental impacts, including Reducing Emissions from Deforestation and Forest Degradation (REDD), Carbon Footprint (CF),

Environmental Impact Analysis (AMDAL), Life Cycle Assessment (LCA) and so on. The four methods have different purposes and calculation methods respectively. REDD aims to slow down climate change by compensating to the development countries to protect their forests. CF aims to calculate greenhouse gas emissions produced in an activity. AMDAL is a study on the significant impact of a planned business and/or activity on the environment which is required for the decision-making process regarding the implementation of a Business and/or Activity. LCA aims to identify environmental impacts, sources of pollution and greenhouse gas emissions which can then determine the potential impacts on global warming, climate change, eutrophication, acidification, and human health.⁵

One of the methods used in analysing environmental impacts is the AMDAL method. As stipulated in Article 1 point (11) of Law Number 32 of 2009 concerning Environmental Protection and Management, AMDAL is a study of the significant impact of a planned business and/or activity on the environment which is required for the decision-making process regarding the implementation of a business and/or activity. This is in line with the definition of AMDAL as stated in Article 1 number (2) of Government Regulation Number 27 of 2012 concerning Environmental Impact Analysis.

Observing the urgency of AMDAL related to protection and environmental management, the author wants to conduct research that specifically examines the

⁵ Hisyam Mustafa. 2013. Life Cycle Assessment (Lca) Produksi Crude Palm Oil (Cpo) Kebun Dan Pabrik Kelapa Sawit Pelaihari PT. Perkebunan Nusantara XIII (Tesis). Yogyakarta: Universitas Gadjah Mada, halaman 4-5.

AMDAL issue and its problems at PT. Sapta Sentosa Jaya Abadi. As for the consideration of researcher conducting research at PT. Sapta Sentosa Jaya Abadi, the company is a national private company that engaged in processing palm fresh fruit bunches into crude palm oil (CPO) and palm kernel. This palm oil mill (PMKS) is administratively located in Lubuk Pinang Village, Lubuk Pinang Subdistrict, Mukomuko Regency, Bengkulu Province. Ecologically, the palm oil mill of PT. Sapta Sentosa Jaya Abadi is located in the Sarik Sub-River Basin.

Palm oil mill PT. Sapta Sentosa Jaya Abadi has the capacity to process 30 tons of oil palm fresh fruit marks per hour which is obtained from the purchase of fresh fruit bunches from community gardens. To process 30 tons of oil palm fresh fruit bunches, 12 m³/hour of waste is generated (4060% of the processed fresh fruit bunches).

With the existence of this palm oil processing factory, it has had positive and negative impacts on the socio-economic life of the community. The positive impacts include opening up job opportunities for residents around the factory, repairing and building supporting infrastructure for companies and the community, such as roads and health facilities and others. In addition, it will also have negative impacts, such as decreased water quality and decreased air quality as well as pollution due to waste generated from the factory, either it solid waste, gas or liquid waste, which often becomes a conflict between the company and the community around the factory area..

From the cases mentioned above, the author is interested in conducting research entitled "**Implementation of Law Number 32 of 2009 concerning Environmental Protection and Management of The Company's Obligation to Have an Impact Analysis Environment (Amdal) (Research at PT. Sapta Sentosa Jaya Abadi)**".

1.2 Problem Identification

From the above background, it can be understood the various problems contained in an environmental impact analysis (Amdal) publication. From these various problems can be identified as follows:

1. The reduction in forest area caused by the conversion to oil palm plantations.
2. The rampant of development of palm oil mills.
3. There is a decrease in the quality of water and air.
4. The occurrence of waste pollution generated from palm oil mills.
5. Lack of role in environmental impact analysis (Amdal) as an instrument for preventing pollution and environmental destruction.
6. The number of problems in compiling an analysis of the environmental impact (Amdal) on the operation companies.

1.3 Scope of Problem

Based on the many problems that have been identified above, it is necessary to limit the problems carried out in this study in order not growing anywhere and focused more on the matter in question. Thus, the limitations of the problem in this thesis are:

1. The function of environmental impact analysis (Amdal) as an instrument for preventing pollution and environmental destruction.
2. Stages of preparation of environmental impact analysis (Amdal) PT. Sapta Sentosa Jaya Abadi based on the prevailing laws and regulations in Indonesia.

1.4 Problem Formulation

The problem is the basis of a framework of thought concerning with these problems, therefore several problems are formulated which are the main topics of discussion in this thesis. These problems are as follows:

1. How are the stages of preparing an environmental impact analysis (AMDAL) at PT. Sapta Sentosa Jaya Abadi based on the prevailing laws and regulations in Indonesia?
2. How the function of environmental impact analysis (AMDAL) as an instrument in preventing pollution and environmental destruction?

3. How to implement Law Number 32 of 2009 concerning Environmental Protection and Management towards Obligations Companies in Having AMDAL in PT. Sapta Sentosa Jaya Abadi?

1.5 Research's Objectives and Benefits

1.5.1 Research's Objectives

As for the objectives of this research are as follows:

1. To find out and analyse the stages of preparing an environmental impact analysis (AMDAL) at PT. Sapta Sentosa Jaya Abadi based on the prevailing laws and regulations in Indonesia.
2. To find out and analyse the function of environmental impact analysis (AMDAL) as an instrument in preventing pollution and environmental destruction.
3. To find out and analyse the implementation of Law Number 32 of 2009 concerning Environmental Protection and Management against the Company's Obligation to own an AMDAL at PT.Sapta Sentosa Jaya Abadi.

1.5.2 Research Benefits

The existence of this research is expected to provide benefits both theoretically and practically.

1. Theoretically, this research is expected to become material for the development of legal insight and further studies for those who want to

know and deepen about environmental impacts and the issuance of environmental impact analysis documents (Amdal).

2. Practically, this research is expected to contribute juridical thoughts on legal developments that increase scientific understanding of environmental impact analysis.

CHAPTER II

LITERATURE REVIEW

3.1 Company

3.1.1 Definition of Company

Various scholars put forward an understanding of the company, such as Molengraaff, as quoted by Ramlan, stating that the company is a whole act that is carried out continuously, acting outward to earn income, by doing commerce/trading, delivering goods or entering into trading agreements.⁶

In line with Molengraaff is the opinion expressed by Polak, as quoted by Ramlan, which states that it can only be said that there is a company if it is needed to calculate profit and loss that can be estimated and recorded in the bookkeeping.⁷

⁶ Ramlan. 2009. *Intisari Pengantar Hukum Dagang I*. Medan: CV. Ratu Jaya, halaman 13.

⁷ Ibid

Companies, according to the legislators, are actions that are carried out uninterruptedly, openly, in certain positions and seeking for profit. Activities carried out with the intention of seeking profit include economic activities.

Law Number 3 of 1982 concerning Company Registration Compulsory defines a company as "any form of business that runs every type of business that is permanent and continuously and is established, works and is domiciled within the territory of the Indonesian state with the aim of obtaining earning and or profits".

The definition given by Molengraff can be concluded that a company must have the following elements:

1. Continuous or uninterrupted;
2. Overtly (because of dealing with third parties);
3. In certain quality (because in the field of commerce);
4. Handing over the goods;
5. Entering into trade agreements;
6. Must intend to make a profit.⁸

Law Number 8 of 1997 concerning Company Documents in Article 1 paragraph (1) explains that "a company is any form of business that carries out activities permanently and continuously by obtaining earnings and or profits, whether organized by individuals or business entities that in the form of a legal

⁸ Ibid

entity or not a legal entity, which is established and domiciled within the territory of the Republic of Indonesia”.

When both definitions mentioned in the two laws are compared, there are differences as follows. Law No. 3/1982 uses the formula “run every type of business”, while Law No. 8/1997 uses the formula “to carry out activities” (activities means containing a very general and broad definition, without any limitation in the economic field).

Although the formulation of the company as referred to in Law Number 8 of 1997 is very general and broad, but because the law relates to companies, it can be interpreted that the word "activities" is also interpreted / intended in the economic field.

3.1.2 Types of Companies

Viewed from the perspective of capital ownership, companies can be classified into private companies and state companies or State-Owned Enterprises (BUMN). Private companies are companies that are founded and wholly owned by individuals or private individuals, while state companies are companies that are established and whose capital (wholly or largely) is owned by the state, which is commonly referred to as a State-Owned Enterprise (BUMN).

1. Private Company

The legal form of a private company can be in the form of a sole proprietorship, a partnership company that is not or is not a legal entity and a partnership company that is a legal entity, while a state company is established in

the form of a legal entity. This form of company is generally always associated as a form of business that aims to seek profit, so that the measure of its success is also seen from the number of benefits obtained from the results of its business.

There is no official form of sole proprietorship, but in the Indonesian trading community there has been one form of individual company accepted by the public, namely the Trading Company (PD) or Trading Business (UD) and also the Auto bus Company (PO). This form of company is not a legal entity and does not include a partnership or association, but is included in the commercial law environment. Trading Companies, Trading Businesses and Auto bus Companies are formed in a civil law setting and run a company, so that from these bodies, civil agreements arise.

2. State Owned Company (State Owned Enterprise)

State-Owned Companies or State-Owned Enterprises (BUMN) as described in Article 1 paragraph (1) of Law Number 19 of 2003 concerning State-Owned Enterprises (hereinafter abbreviated as BUMN Law) are business entities that wholly or mostly the capital is owned by the state through direct participation originating from separated state assets.

BUMNs have various kinds or types of forms based on the Law of the Republic of Indonesia Number 19 of 2003 concerning BUMN, State-Owned Enterprises consist of two forms, namely corporate business entities (Persero) and general business entities (perum).

3. Regional Company

According to Article 1 of Law Number 5 of 1962 concerning Regional Enterprises, what is meant by regional companies are all companies established under this law whose capital is wholly or partially separate regional assets, unless otherwise stipulated by or based on the law. In Article 4 paragraph (1) of Law Number 5 of 1962 concerning Regional Companies, it is stipulated that regional companies are established by regional regulation (PERDA) with the power of this law. A regional company is a legal entity whose position as a legal entity obtained by the enactment of the relevant regional regulation.

According to the provisions of Article 5 paragraph (1) and paragraph (2) of Law Number 5 of 1962 concerning Regional Enterprises, regional companies are business entities that provide services, provide public benefits, and generate income. The purpose of regional companies is to participate in carrying out regional development in particular and national economic development in general in the framework of a guided economy to meet the needs of the people by prioritizing industrialization and peace and tranquillity of work within the company, towards a just and prosperous society.

3.2 Environmental Impact Analysis (AMDAL)

3.2.1 Definition of Environmental Impact Analysis (AMDAL)

Environmental Impact Analysis, hereinafter referred to as AMDAL, is a study of the significant impact of a planned business and/or activity on the

environment which is required for the decision-making process regarding the operation of a business and/or activity.

The term of AMDAL means the result of a study on the impact of a planned activity on the environment, which is required for the “Decision Making Process”⁹. According to Article 3 paragraph (2) PP29/86, the significant impact of an environmental activity is determined by:

- a. Number of people to be affected
- b. Area of impact distribution
- c. Duration of the impact lasts
- d. Impact intensity
- e. The number of other components to be affected;
- f. The cumulative nature of the impact; and
- g. Reversal or non-reversal of impact.

Article 3 Government Regulation no. 27 of 1999 mentions major and significant impacts which include:

- a. Changing the shape of nature and landscapes;
- b. Exploitation of natural resources, both renewable and non-renewable;
- c. Processes and activities whose results can affect the natural environment, the artificial environment, as well as the social and cultural environment;

⁹ Daud Silalahi (1). 2001. Hukum Lingkungan Dalam Sistem Penegakan Hukum Lingkungan Indonesia. Bandung: Alumni, halaman 50.

- d. Processes and activities that have the potential to cause waste, pollution and environmental damage, as well as degradation of natural resources and their utilization;
- e. Processes and activities whose results will affect the preservation of natural resource conservation areas and/or the protection of cultural heritage;
- f. Introduction of plant species, animal species and micro-organisms;
- g. Manufacture and use of biological and non-biological materials;
- h. The manufacture of technology that is estimated to have great potential to affect the environment;
- i. Activities that have a high risk, and/or affect National Defence.

In accordance with paragraph (2) of this article, the types of businesses and/or activities that are required to have an AMDAL are determined by the Minister who is responsible for environmental management after receiving and taking into account the suggestions and opinions of other Ministers and/or the Heads of Non-Departmental Government Institutions, which are related.¹⁰

AMDAL is part of the Indonesia environmental management system , whose basic principles are contained in the explanation of the 1982 Environmental Law. Therefore, to understand how the AMDAL applies, it cannot be separated from the environmental legal system adopted by Law Number 32 of 2009 concerning

¹⁰ Ibid., halaman 51

Environmental Protection and Management, which among other things explains in a general explanation as follows.

This law (meaning Law Number 32 of 2009 concerning Environmental Protection and Management) will serve as the basis for assessing and adjusting all laws and regulations that contain provisions on environmental aspects that have now come into force, namely the legislation concerning irrigation, mining and energy, forestry, nature preservation, residential industry, spatial planning, land use, and others.¹¹

Environmental Impact Analysis or in other languages an environmental impact assessment is: "An activity designed to identify, predict, interpret and communicate information about the impact of an action, on man's health and well-being of ecosystem on which man's survival depends". Broadly speaking, this general definition can be translated as follows: "an analysis on environmental impacts (Amdal) is an activity (study) conducted to identify, predict, interpret and communicate the effect of a planned activity (project) on the environment".¹²

AMDAL itself is a study of the positive and negative impacts of a planned activity/project, which is used by the government in deciding whether an activity/project is environmentally feasible or not. These positive and negative impact studies are usually prepared by taking into account the physical, chemical, biological, socio-economic, socio-cultural and public health aspects. An activity

¹¹ Daud Silalahi (2). 2010. AMDAL dalam sistem hukum lingkungan di Indonesia. Bandung: Penerbit Mandar Maju, halaman 6.

¹² Ibid., halaman 23.

plan can be declared environmentally unfeasible, if based on the results of the AMDAL study, the negative impacts that arise cannot be overcome by the available technology. Likewise, if the costs needed to overcome the negative impacts are greater than the benefits from the positive impacts that will be generated, then the planned activity is declared environmentally unfeasible.

An activity plan that is determined to be environmentally unfeasible cannot continue its construction. The form of the results of the AMDAL study is in the form of an AMDAL document consisting of 5 (five) documents, namely:

1. Document of Terms of Reference for Environmental Impact Analysis (KAAMDAL)

Terms of Reference for Environmental Impact Analysis (KAAMDAL) is a document containing the scope and depth of the AMDAL study. The scope of the AMDAL study includes determining the significant impacts that will be studied in greater depth in the AMDAL and the boundaries of the AMDAL study. Meanwhile, the depth of the study relates to the determination of the methodology that will be used to review the AMDAL. The determination of the scope and depth of this study is an agreement between the Activity Initiator and the AMDAL Assessment Commission through a process known as the scoping process.

2. Environmental Impact Analysis (AMDAL) Document

AMDAL is a document that contains a careful study of the significant impacts of an activity plan. The significant impacts that have been identified in the KA-AMDAL document are then analysed more carefully using the agreed methodology. This study aims to determine the magnitude of the impact. After the magnitude of the impact is known, then the determination of the significance of the impact is carried out by comparing the magnitude of the impact against the criteria of significant impact that have been determined by the government. The next stage of the study is an evaluation of the relationship between one impact and another. This impact evaluation aims to determine the basics of impact management to be carried out to minimize negative impacts and maximize positive impacts.

3. Environmental Management Plan (RKL) Document

Environmental Management Plan (RKL) is a document that contains efforts to prevent, control and mitigate significant negative environmental impacts and maximize the positive impacts that occur as a result of an activity plan. These efforts are formulated based on the results of the basic direction of impact management resulting from the Amdal study.

4. Environmental Monitoring Plan (RPL) Document

Environmental Monitoring Plan (RPL) is a document that contains monitoring programs to see environmental changes caused by impacts originating from the activity plan. The results of this monitoring are used to evaluate the effectiveness of environmental management efforts that have been carried out, the

proponent's compliance with environmental regulations and can be used to evaluate the accuracy of impact predictions used in the AMDAL study.

5. Executive Summary Document

The Executive Summary is a document that briefly and clearly summarizes the results of the AMDAL study. The things that need to be conveyed in the executive summary are usually a brief description of the magnitude of the impacts and the significance of the impacts assessed in the AMDAL and the environmental management and monitoring efforts that will be carried out to manage these impacts.¹³

3.2.2 Elements of Environmental Impact Analysis (AMDAL)

The following are some things that must be included in the AMDAL document within the scope of the AMDAL Study Scope:

1. Scoping

Scoping is a process to find or determine the significant impact or main problem of an activity on the environment. The scoping process is carried out from the beginning of the activity which is intended to determine the scope of the problem and identify hypothetical significant impacts related to the planned activity.

The initial step to identify potential impacts is to compile a list of activity components as sources of impact in the form of a simple test list (Check List

¹³ http://www.academia.edu/5282185/AMDAL?login=&email_was_taken=true, Diakses Tanggal 18 Juli 2018.

Method). To determine the interaction between the activity component and the affected environmental component, an interaction matrix between the planned activity and the environmental component can be used. The process of the occurrence of impacts is explained by a flow chart of the planned stages of activities that cause impacts.

2. Scoping Process Results

Determination of the hypothetical impact is intended to determine the type of hypothetical significant impact with the degree of importance due to the planned activity according to the results of the scoping and an informal approach is also carried out through the opinions of experts, community leaders and related agencies, as well as by looking at other similar activities. The results of determining the hypothetical impact are as follows:

- a. Air Quality and Dust
- b. Noise Intensity
- c. Receiving Water Bodies Quality
- d. Receiving Water Bodies Quantity
- e. Run-Off
- f. Erosion
- g. Traffic Generation/Pull.
- h. Traffic Smoothness
- i. Inter-Regional Accessibility
- j. Reduced Transportation Costs

- k. Land Use Change
- l. Reduced Vegetation
- m. Livelihood
- n. Employment Opportunity
- o. Business Opportunity
- p. Social jealousy
- q. Community Income
- r. Public Perception
- s. Public unrest
- t. Loss of Livelihoods and Shelters
- u. Comfort and Tranquillity
- v. Public health.¹⁴

3. Classification and Priority

Classification and priority are the process of determining certain significant impact groups that need to be studied more deeply in relation to the planned activities to be carried out. The determination process is carried out by examining the relationship and the level of magnitude and importance between hypothetical impacts. The classification and priority of the hypothetical significant impacts are as follows:

- a. Land Use Change

¹⁴ <http://www.anneahira.com/dokumen-amdal.htm>, Diakses pada tanggal 18Juli 2018.

- b. Traffic Smoothness
- c. Increased Accessibility Between Regions
- d. Decreased Air Quality and Dust
- e. Increased Noise Intensity
- f. Run Off
- g. Erosion
- h. Public Perception

4. Scope of Study Area

This project boundary is the total land boundary, i.e. the land used for the development plan. For example, the boundaries of the project area are to the north (rice fields and mixed gardens), to the south (residential settlements and mixed gardens), to the west (residential settlements and mixed gardens), and to the east (population settlements and mixed gardens).

3.2.3 Parties within the Issuance of an Environment Impact Analysis Document (AMDAL)

The parties involved in the issuance of the AMDAL document are the Government, the initiator, the community concerned. The roles of each of these stakeholders in more detail are as follows:

1. Government

The government is obliged to make a decision whether or not an activity plan is environmentally feasible. This environmental feasibility decision is

intended to protect the interests of the people and conformity with sustainable development policies. To make decisions, the government needs information that can be accounted for, both from the owner of the activity/initiator and from other interested parties. The information is arranged systematically in AMDAL documents. This document is assessed by the AMDAL. The document is assessed by the AMDAL Assessment Commission to determine whether the information contained in it can be used for decision making and to assess whether the planned activity can be declared feasible or not based on an environmental feasibility criterion set by a Government Regulation.

2. Initiator

The person or legal entity responsible for a business plan and or activity to be implemented. It is the initiator who obliged to carry out the AMDAL study. Although the initiator may appoint another party (such as an environmental consultant) to assist in carrying out the AMDAL study, the responsibility for the results of the study and implementation of the AMDAL provisions remains with the activity initiator.

3. Interested community

The Interested community is the community that is affected by all forms of decisions in the AMDAL process. The community has a very important position in the AMDAL which is equal to the position of other parties involved in the AMDAL. In the AMDAL study, the community is not the object of the study but is the subject who participates in the decision-making process on matters relating

to the AMDAL. In this process the community conveys their aspirations, needs, values owned by the community and proposals for solving problems to obtain the best decision. In the AMDAL process, the community is divided into two categories, namely;

- a. Affected communities: community who will feel the impact of the planned activity (beneficiary groups), and at-risk groups.
- b. Observer community: community that is not affected by a planned activity, but has concern for the activity and its environmental impacts.

3.3 Environment and Environmental Pollution

The definition of the environment according to Law Number 32 of 2009 concerning Environmental Protection and Management (hereinafter abbreviated as UUPPLH) in Article 1 number (1), namely "Unity of space with all objects, power, circumstances, and living things, including humans and their behaviour, which affects nature itself, the continuity of life, and the well-being of humans and other living creatures."

The formulation of the environment according to the opinion of experts is as follows:

1. RM. Gatot P. Soemartono, the environment is defined as all objects, conditions, circumstances and influences contained in the room we occupy, and affect living things including human life;

2. Soejono, defines the environment as a physical or physical environment that includes and covering all physical elements and physical factors contained in nature. In this case the environment is defined to include the living environment of humans, animals, plants in it;
3. Prof. Dr. Ir. Otto Soemarwoto, environment is the sum of all objects and conditions in the space we occupy that affect our lives;
4. Prof. Dr. St. Munadjat Danusaputro, S.H., defines the environment as all objects and conditions, including humans and their actions, which are contained in the space where humans are located and affect the life and welfare of humans and other living bodies.¹⁵

Environmental law is a juridical instrument that contains rules on environmental management. Environmental law aims to prevent the shrinkage and deterioration of the quality of the environment. That environmental law is a concept of environmental studies that specializes in legal science, with the object of the law being the level of public awareness and understanding of the aspect of protection as a necessity of life.¹⁶

3.3.1 Definition of Environmental Pollution

Law Number 32 of 2009 concerning Environmental Protection and Management Article 1 number 14 states that, environmental pollution is the entry or inclusion of living things, substances, energy, and/or other components into the

¹⁵ Syahrul Machmud. 2012. Penegakan Hukum Lingkungan Indonesia. Yogyakarta: Graha Ilmu, halaman 77-78

¹⁶ Ibid., halaman 78.

environment by human activities so that they exceed the environmental quality standard that has been determined.

There are several opinions of environmental scientists related to the definition of the environment, namely:

1. Prof. Dr. Ir. Otto Soemarwoto, environment is the sum of all objects and conditions in the space we occupy that affect our lives;
2. Prof. Dr. St. Munadjat Danusaputro, S.H., defines the environment as all objects and conditions, including humans and their actions, which are contained in the space where humans are located and affect the life and welfare of humans and other living bodies.¹⁷

The term pollution must be distinguished from contamination. Contamination is a change in the quality of resources as a result of mixing other materials without interfering with their designation or use.¹⁸ Pollution is defined as a form of environmental impairment, a disturbance, change, or destruction, even the presence of foreign objects in it that cause environmental elements unable to function properly.¹⁹

To determine whether pollution has occurred, five categories must be considered:

- a. Pollution as any changes to the environment;
- b. Pollution as a territorial sovereign right;

¹⁷ N.H.T. 2004. Hukum Lingkungan dan Ekologi Pembangunan. Jakarta: Erlangga, halaman 4.

¹⁸ *ibid.*, halaman 280.

¹⁹ *Ibid.*, halaman 283.

- c. Pollution as destructive;
- d. Pollution as mixing with other uses of the environment;
- e. Pollution as exceeding the ability to accept foreign elements/substances by the environment.²⁰

3.3.2 Elements of Environmental Pollution

The environment can be called polluted if it has several elements, namely:

- a. If a substance, organism, or other elements (such as gas, light, energy) have been mixed (introduced) into a certain resource/environment;
- b. Hence obstructing or interfering with the function or designation of these environmental resources.²¹

Scientifically, according to Otto Soemarwoto, pollution is caused by 4 (four) things, namely:

- a. Due to the rate of production of a substance is greater than the rate of its use or physical chemical degradation. Synthetic materials, for example, in the process of environmental degradation often run very slowly, therefore they are foreign and new materials where no organism able to use them;
- b. Biological processes that form or concentrate certain pollutants. Types of microbes, for example, can form toxic substances such as bongrek acid in bongrek tofu in some foodstuffs of humans or livestock;

²⁰ Ibid., halaman 283-284.

²¹ Ibid. halaman 280

- c. Based on non-biological physics-chemical processes. This process occurs without any (direct) influence by humans such as pollution from volcanoes. As well as noise from factories or vehicles;
- d. The occurrence of accidents that can release certain substances in the environment. This can happen slowly. For example, an accident or leak of an offshore tanker that releases oil into the surrounding waters.²²

Environmental pollution is different from environmental destruction.

Environmental destruction basically includes:

- a. The existence of a human action;
- b. The occurrence of direct or indirect changes to the physical and/or biological characteristics of the environment;
- c. The occurrence of result in the form of the environment to support sustainable development.²³

3.4 Thinking Framework

The thinking framework is a narrative (description) or statement (proposition) about the problem-solving concept framework that has been identified or formulated. Based on the problems that have been identified in the previous chapter, the thinking framework is needed that can answer these problems.

²² Ibid

²³ Ibid

As for the framework of this research is that the company's activities today are growing rapidly. Starting from the electronics industry sector to the human food processing industry, such as the palm oil processing industry into goods needed in everyday life. This palm oil processing process requires a very long process, starting from a land clearing for oil palm plantations as a source of raw materials, processing palm fruit into CPO oil, and managing it into safe materials for consumption.

Palm oil processing is based on facts on the site, causing various social problems, especially environmental problems, such as reduced water and air quality, contamination of the community's living environment due to the waste from processing the palm oil mill and other social problems. Before starting industrial activities, companies must first go through the stages of providing AMDAL documents. The AMDAL document is a document that contains information on the results of testing and the safety of industrial activities on the environment.

Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) requires that every industrial activity must have the AMDAL document mentioned above, the site facts are found that there are still many industries that do not have an AMDAL document and continue to carry out their activities.

As for the theory used in writing in this thesis is the theory of legal effectiveness, which is a theory that examines whether or not a law is effective.

According to the theory of legal effectiveness, whether or not a law is effective determined by 5 (five) factors, namely:

1. The legal factor itself (law).
2. Law enforcement factors, namely the parties that form and apply the law.
3. Factors of facilities or facilities that support law enforcement.
4. Community factors, namely the environment in which the law applies.
5. Cultural factors, namely as a result of work, creativity and taste based on human initiative in social life.²⁴

Effectiveness implies the effectiveness of the effect of success or efficacy, discussing the effectiveness of the law certainly cannot be separated from analysing the characteristics of two related variables, namely: the characteristics/dimensions of the target object used. When talking about the extent to which the law is effective, it must first be able to measure the extent to which the rule of law is obeyed or not. If a rule of law is obeyed by most of the targets that become the object of obedience, it will be said that the rule of law in question is effective.²⁵

Based on the theoretical basis used in this study, namely the theory of legal effectiveness, it can be known that the implementation of Law No 32 of 2009 concerning Environmental Protection and Management (UUPPLH) is not effective because there are still companies that do not have the AMDAL

²⁴ Soerjono Soekanto. 2008. Faktor-faktor yang Mempengaruhi Penegakan Hukum. Jakarta: PT. RajaGrafindo Persada, halaman 8.

²⁵ Soerjono Soekanto. 2008. Faktor-faktor yang Mempengaruhi Penegakan Hukum. Jakarta: PT. RajaGrafindo Persada, halaman 8.

document. Therefore, it is important to conduct an in-depth study on the effectiveness of the implementation of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH).

3.5 Hypothesis

Research conducted for the purpose of scientific writing generally requires a hypothesis, because the hypothesis is a temporary answer to the formulation of the research problem. Therefore, research problem formulations are usually arranged in the form of temporary question answers because the answers given are only based on relevant theories, not based on empirical facts through data collection.²⁶ The hypotheses of this research are:

1. Stages of preparation of AMDAL PT. Sapta Sentosa Jaya Abadi is in accordance with the provisions of the legislation in force in Indonesia, namely the mandatory AMDAL screening stage, the announcement process stage, the scoping process stage, the preparation and assessment stage of the Environmental Impact Analysis's Terms of Reference (KA-ANDAL). , preparation and assessment of Environmental Impact Analysis, Environmental Management Plan (RKL), and Environmental Monitoring Plan (RPL), and the environmental feasibility approval stage.
2. AMDAL functions as an instrument for preventing pollution and environmental destruction because in issuing the AMDAL document, it

²⁶ Sugiono. 2002. Metode Penelitian Ilmu Administrasi. Bandung: Alfabeta, halaman 39.

must first meet such comprehensive requirements, one of which is the existence of expert studies on the impact of activity for healthy and safe environment.

3. Implementation of Law Number 32 of 2009 concerning Environmental Protection and Management of the Company's Obligation to have an AMDAL at PT. Sapta Sentosa Jaya Abadi has been carried out in accordance with applicable regulations.

CHAPTER III

RESEARCH METHODS

3.1 Type, Characteristic, Location and Time of Research

3.1.1 Types of Research

This research is an Empirical Legal Research, namely a research that aims to examine the application of statutory provisions (positive law) in the context of realizing justice, as well as its relation to the implementation of environmental laws on the company's obligation to have an AMDAL document (Research on PT. Sapta Sentosa Jaya Abadi).

3.1.2 Characteristic of Research

The Characteristic of this research includes descriptive research, which is a study that only describes the state of an object or event without an intention to draw general conclusions. The approach method applied in this research is empirical juridical.

3.1.3 Research Sites

This research will be conducted at the Head Office of PT. Sapta Sentosa Jaya Abadi whose address is at Jl. Candiborobudur No. 1 Medan - North Sumatra. While the location of the palm oil mill office of PT. Sapta Sentosa Jaya Abadi is located in Lubuk Pinang Village, Mukomuko Regency, Bengkulu.

3.1.4 Research Time

The time of the research was carried out around July until February 2018.

The research table is as follows:

Table 3.1 Research Implementation Plan

No	Activity	Month/Weeks																Description
		Juli				Agustus				Oktober				Februari				
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	
1	Title Submission	■	■	■	■													
2	Title Accepted				■													
3	Proposal Making					■	■	■	■									
4	Proposal Submission								■									
5	Proposal Seminar										■	■	■					
6	Proposal									■	■	■	■					

This method is carried out by the author by directly visiting the company PT. Sapta Sentosa Jaya Abadi to collect documents and direct interviews with the company personnel who authorized to process Company AMDAL documents

3.3 Data Analysis

The collected data, either from writing or documents, ways of thinking, opinions will be analysed by descriptive analysis with inductive thinking patterns. The type of analysis used in this study is a qualitative analysis which describes the results of the study in sentences so that it can solve the problem.

CHAPTER V

CONCLUSIONS AND SUGGESTIONS

5.1 Conclusion

1. Stages of AMDAL preparation at PT. Sapta Sentosa Jaya Abadi based on the provisions of the legislation in force in Indonesia, among others, the initiator submitted a letter of application for direction of environmental documents accompanied by a description of the activity plan including the scale of the activity to the Head of the Bengkulu Province BPLHD. Based

on the results of the BPLHD evaluation, PT. Sapta Sentosa Jaya Abadi does not require AMDAL, but UKL and UPL are required. In the management of the UKL and UPL, the Initiator submits a request for an assessment of the UKL-UPL draft document to the Bengkulu Provincial KPA Secretariat as well as environmental permits, the KPA Secretariat conducts administrative checks, the KPA Secretariat schedules and invites coordination meetings and implements them by making meeting minutes. If the draft of the UKL-UPL document is appropriate and submitted to the KPA secretariat, the Secretariat will make a draft of the UKL-UPL recommendation letter which is submitted to the Head of the Bengkulu Province BPLHD. The Head of the Bengkulu Province BPLHD signs the UKLUPL recommendation letter for the said business/activity plan. Environmental feasibility/infeasibility recommendation letter from KPA is one of the requirements for submitting SKKLH and Environmental Permits.

2. The function of the AMDAL as an instrument in preventing pollution and environmental destruction, among others, is to provide clear information regarding a business plan, along with the environmental impacts it will cause, to accommodate the aspirations, knowledge and opinions of the population, especially in environmental issues when a project plan is to be established or business, accommodate local information that is useful for the initiator and the community in anticipating impacts and managing the

environment, preventing the potential of natural resources being managed from being damaged, especially natural resources that cannot be renewed, avoiding side effects of processing resources on natural resources other,, other projects, and the community in order conflicts do not arise, prevent environmental damage due to pollution so that it does not interfere with the health, comfort and safety of the community, and in order its effective and effective benefits can be known for the nation, state and society.

3. Implementation of Law Number 32 of 2009 concerning Environmental Protection and Management of the Company's Obligation to have an AMDAL at PT. Sapta Sentosa Jaya Abadi has been carried out in accordance with the mandate of Law Number 32 of 2009 concerning Environmental Protection and Management as well as Government Regulation Number 27 Year 2012 concerning Environmental Impact Analysis and Regulation Minister of Environment Number 5 of 2012 concerning Types of Plans Businesses and/or Activities That Must Be Equipped with Environmental Impact Analysis, namely PT. Sapta Sentosa Jaya Abadi has conducted scientific studies as stated in the company's UKL and UPL documents regarding considerations and efforts to prevent pollution and environmental damage, both from the aspect of climate, air quality, water, noise, socio-economic and public health levels.

5.2 Suggestions

1. It is recommended to the Government to re-evaluate the function of monitoring the prevention of pollution and environmental destruction so that environmental pollution and destruction are well maintained and preserved.
2. It is recommended to the Minister of the Environment to be more careful and aware in granting operational permits for companies that are vulnerable to environmental destruction and pollution by evaluating each stage passed in issuing Environmental Impact Analysis Documents (AMDAL), so that there are no more companies operating causing environmental impacts. damage to environmental ecosystems.
3. It is recommended to PT. Sapta Sentosa Jaya Abadi for continuing to conduct studies on the impact of environmental damage due to its business activities even though the company's UPL-UKL document is exist, for the safety of the surrounding community..

PROOFREADING

1.	the technical age	:	the technological age
2.	foremen	:	supervisors
3.	founded a company called PT. Herfinta	:	founded PT. Herfinta
4.	is carried out starting from layout planning and	:	from layout planning and
5.	efforts that are environmentally friendly	:	environmentally friendly
6.	company that is engaged	:	company engaged
7.	has the capacity to process	:	can process
8.	per hour which is obtained from	:	per hour, obtained from
9.	by making the preparation of the Amdal	:	by preparing for the Amdal
10.	are in the field of palm oil mills	:	are in palm oil mills
11.	which has been approved	:	approved
12.	documents for the construction of a palm	:	documents to construct a palm
13.	stages that are passed	:	stages passed
14.	carrying out the announcement of its planned	:	announcing its planned
15.	the initiator is assisted by a consultant	:	a consultant assists the initiator
16.	request for discussion of the revised	:	request to discuss the revised
17.	which was attended by the Proponent	:	attended by the Proponent
18.	Secretariat makes a draft the KA-ANDAL	:	Secretariat drafts the KA-ANDAL
19.	After the issuance of	:	After issuing
20.	accepted and has been published	:	accepted and published
21.	everyone to maintain the preservation of environmental	:	everyone to preserve environmental
22.	even seen as a commodity that is monopolistic in nature	:	seen as a monopolistic commodity
23.	The Amdal is prepared by the Initiator	:	The Initiator prepares the Amdal
24.	position in an effort to provide	:	position to provide
25.	an activity which is environmentally friendly	:	an environmentally friendly activity
26.	planning is able to achieve	:	planning can achieve