

The Licensing Transformation in Small and Medium Industries Affecting Environment Following the Establishment of the Law on Job Creation: A Case Study of the Washing Industry in Bandung Regency

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DOI: <https://doi.org/10.22304/pjih.v11n3.a2>

Submitted: November 9, 2023 | Accepted: August 16, 2024

Abstract

The Law on Job Creation and its derivative regulations have shifted the licensing paradigm from a license-based approach to a risk-based one, focusing its primary consideration on risk. The Government Regulation Number 5 of 2021 on the Implementation of Risk-Based Business Licensing regulates the division of risks into four types: low, medium-low, medium-high, and high. The purpose of the Law on Job Creation is to provide ease of doing business. Unfortunately, business certainty has not been fully achieved due to various difficulties. This study aims to describe (1) the industrial conditions in Bandung Regency, especially in the washing industry, on the small and medium scales, and (2) the regulations of small and medium industries whose business activities have the potential to cause pollution. This study concludes that Industrial regulation in small and medium-sized enterprises requires collaborative governance between the government, business actors, and the community. Consistent law enforcement and penalties for violations are essential so that business activity continues to increase and the environment remains sustainable.

Keywords: law on job creation, regulation, small industry.

A. Introduction

Various factors have caused environmental pollution (especially water pollution) in Bandung Regency. One of the factors is industrial waste. The condition in Bandung Regency is that there are many illegal washing industries (the business scale is minor, and permits are not taken care of because the business premises do not comply with the spatial planning of the area). On the other hand, the enactment of the Law on Job Creation makes it easier for investment and business activities to process permits.

PADJADJARAN Journal of Law Volume 11 Number 3 Year 2024 [ISSN 2460-1543] [e-ISSN 2442-9325]

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The licensing paradigm changed after the Law on Job Creation. Initially, the license-based approach paradigm became the risk-based (Risk-Based Approach/RBA) paradigm. In RBA, the primary consideration is the risk. This new paradigm aims to provide ease of business and certainty that can increase regional competitiveness.

The Law on Job Creation mandates derivative regulations, as well as government and presidential regulations. There are two regulations covering the ease of doing business and services in the regions: (1) the Government Regulation Number 5 of 2021 on the Implementation of Risk-Based Business Licensing and (2) the Government Regulation Number 6 of 2021 on the Implementation of Business Licensing in the Regions. Regional readiness in implementing risk-based licensing includes the components of policies, institutions (human resources and organizations), and digital service instruments (internet networks and infrastructure). Regional challenges exist in implementing the Law on Job Creation and its derivative regulations, especially the Online Single Submission Risk-Based Approach (OSS RBA) in business licensing services.¹

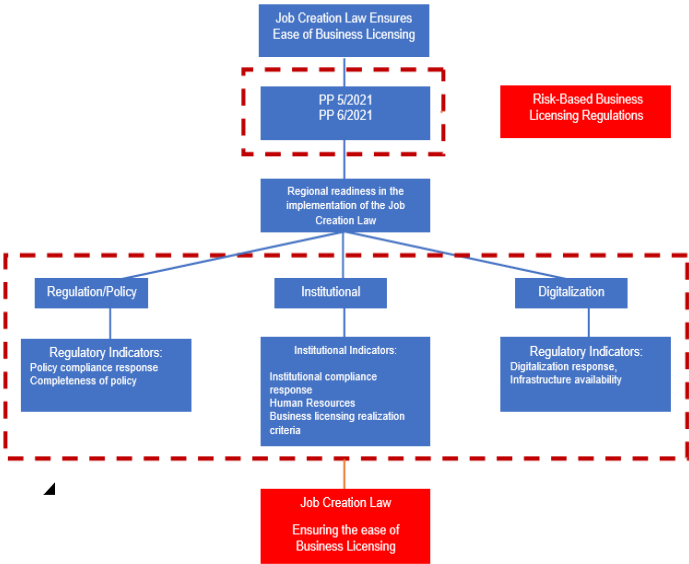


Figure 1. Visualization of the Law on Job Creation

The Law on Job Creation can solve problems, including relatively complicated licensing issues. For example, the Law on Job Creation Does not eliminate environmental permits. It integrates their purpose and function into business

¹ Herman N. Suparman (et.al.), *Implementasi OSS RBA di Daerah Tantangan dan Kebutuhan Pemda* (Jakarta: Komite Pemantauan Pelaksanaan Otonomi Daerah, 2021), 16.

permits. The reintegration of environmental permits into other permits aims to strengthen the position of environmental protection. Environmental requirements and obligations can still be required to be fulfilled because they are contained in an integrated manner within business permits.² Unfortunately, according to the public and activists voicing environmental issues, the Law on Job Creation is not environmentally friendly and does not guarantee the preservation of nature.³ This study covers how small and medium industries are regulated in Bandung Regency, especially in small and medium industries that affect and can potentially cause environmental pollution.

The Law on Job Creation reforms the issuance of business licenses. In determining the type of business licensing in Indonesia using an RBA, The RBA mechanism after the Law on Job Creation is implemented in Government Regulation 5 of 2021 on the Implementation of Risk-Based Business Licensing. The implication is that local governments implementing digital-based business licensing have changed procedures, time, and costs.⁴

B. Risk-Based Business Licensing

Traditionally, environmental licensing is considered to have a central role in environmental management.⁵ In the *risk-based approach*, the risk level is considered. The higher the level of risk caused by business activities, the tighter the control from the government is, and the more licenses or checks are needed. The legal document for licensing each business licensing activity determines the level of risk of the business activity.

Some factors pose or create risks. They are, among others, (1) type of activity, or the possibility of damage caused by an activity, the higher the level of risk; (2) the size of the establishment, based on the view that large establishments have a proportionately higher negative impact in the event of an accident; (3) the location of establishment: business premises located near sensitive resources or adjacent to densely populated areas are at high risk; and (4) history of compliance: the more frequent the experience of violations on an activity, the higher the level of risk.

² Ministry of Environment and Forestry Broadcast, "Integration of Environmental Approvals in Business Licensing," accessed on December 7, 2020, <https://ppid.menlhk.go.id/berita/siaran-pers/5736/integrasi-persetujuan-lingkungan-dalam-perizinan-berusaha>.

³ Public Discussion, "Izin Lingkungan Hidup UU Ciptaker," accessed on January 11, 2021, <https://leip.or.id/diskusi-publik-izin-lingkungan-hidup-uu-ciptaker/>.

⁴ Set at Article 7 until with Article 11 JCL to be further applied in determining the type of business licensing for each business activity in Indonesia.

⁵ Andri Gunawan Wibisana, "Pengelolaan Lingkungan melalui Izin Terintegrasi dan Berantai: Sebuah Perbandingan atas Perizinan Lingkungan di Berbagai Negara," *Jurnal Hukum dan Pembangunan* 48, no. 2 (2018): 222, 10.21143/jhp.vol48.no2.1662.

The classification of business activities consists of (1) business activities with low risk, (2) medium risk, and (3) high risk. Business activities with medium risk levels are further divided into medium low-risk and medium high-risk levels.

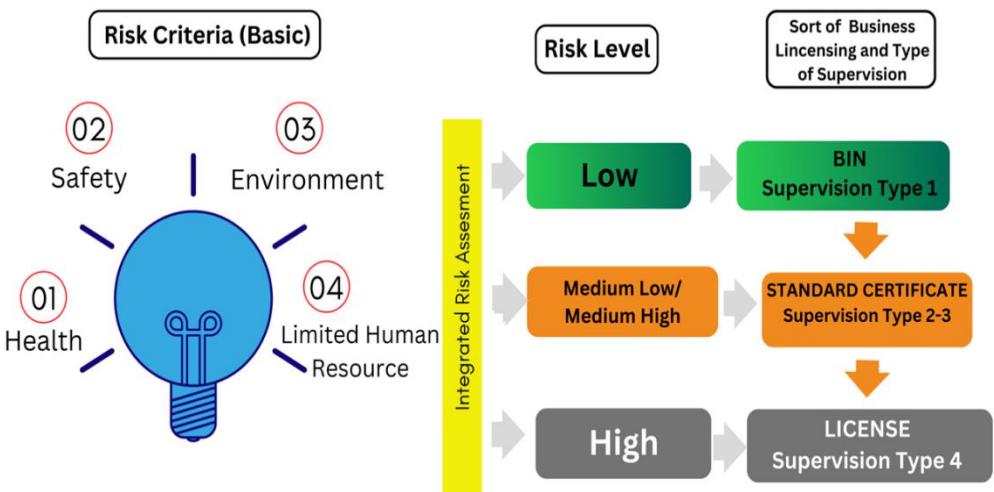


Figure 2. Risk Analysis

Business licensing for low-risk medium business activities includes a Business Identification Number (BIN) and Standard Certificates (SC). The SC, which allows business activities to proceed, is a declaration by business operators stating their compliance with business standards submitted through the OSS System. For high-risk medium levels, business licensing also consists of BIN and SC. For this level, The Central or Regional Government issues SCs for these activities following verification of adherence to the necessary norms. Business actors who receive a BIN then use the OSS System to submit a declaration attesting to their adherence to business activity norms. This compliance is confirmed by the Central or Regional Government, and the OSS institution issues an unconfirmed SC. The business actor can prepare for their business activities with the help of this unconfirmed SC. Verified’s SC and BIN act as business licenses, enabling the company to conduct operational and/or commercial operations.

Business licensing for high-risk business activities includes Business Identification Number (BIN) and Permissions. A license is an approval granted by the Central or Regional Government, which business operators must obtain before starting their business activities. While awaiting the license, business operators can use the BIN to prepare for their business operations. The combination of a BIN and a license is the official business license, allowing business operators to conduct operational and/or

commercial activities. The Central or Regional Government issues Business Standard Certificates and Product Standard Certificates based on verifying compliance with the required standards.

1. Government Regulation No. 6 of 2021 (the Government Regulation Number 6 of 2021) on the Implementation of Business Licensing in the Regions

In this law, the management of business licensing in the regions is regulated electronically, starting from the application stage to the issuance of documents, which are carried out in an integrated manner in one door. This provision becomes the legal capital for business actors to start and run their businesses and/or activities. The Provincial licensing agencies, or the Investment and Integrated One-Stop Services Agency (DPMPTSP – *Dinas Penanaman Modal Pelayanan Terpadu Satu Pintu*), implement business licensing in provincial areas. In contrast, the implementation of business licensing in district/city areas is carried out by the district/city licensing agencies.

The law mandates that regional business licensing services must be implemented through the OSS (Online Single Submission) system, which the central government manages. Article 11 specifies that OSS services for regional business licensing must be conducted independently by business actors. These actors can either use their own devices and facilities or those provided by the DPMPTSP (Investment and One-Stop Integrated Services Office). If business actors are unable to use the OSS system independently, DPMPTSP will offer assisted and/or mobile services. Assisted services involve interactive support between DPMPTSP and business actors, while mobile services bring service accessibility closer to business actors through transportation or other means.

The "Trust but Verify" principle in risk-based business licensing is new. It shifts from the ex-ante licensing model (where requirements must be met before business activities begin) to an ex-post licensing model (where verification occurs after the requirements have been met). This concept particularly applies to low-risk business activities or those governed by standards. After business actors begin operations in accordance with these standards, the government, as the regulatory authority, verifies their compliance. While business license applicants benefit from streamlined procedures for obtaining legal status, post-license supervision must remain a transparent and accountable process.

2. Mechanisms and Procedures of RBA's OSS-Based Licensing System

Online Single Submission – Risk Based Approach (OSS RBA) is a platform for every business actor who will start and run their business activities. The Law on Job Creation mandates that the RBA OSS must be workable. On August 9, 2021, the RBA

OSS was officially released (precisely 10 months after the Law on Job Creation was passed on October 5, 2021). The implementation of licenses is carried out digitally by issuing licenses based on the risk level of business activities divided into low risk, medium-low risk, medium-high risk, and high risk.⁶

The procedure for applying for a business license OSS 1.1 does not use risk classification in determining the degree of licensing. Business actors must obtain a Business Identification Number (BIN) as the identity of business actors issued by the OSS Institution. After business actors register, BIN is issued in the form of thirteen digits of random numbers that are secured and with electronic signatures. According to the Government Regulation Number 24 of 2018 on OSS, BIN applies as a Company Registration Certificate (TDP), Importer Identification Number (API), and customs access. There is no difference in the BIN application process at OSS for individual companies, business entities, and legal entities. The next stage is to obtain a business license and commercial or operational license, including fulfilling the requirements for business and commercial or operational licenses.

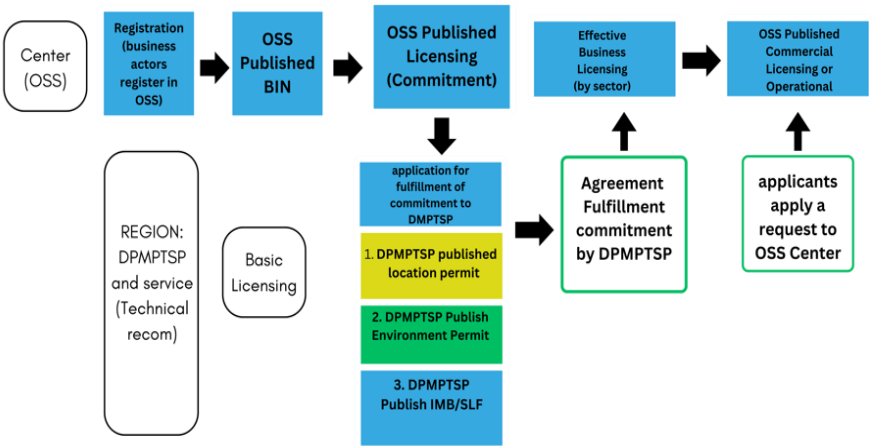


Figure 3. The Flow of OSS 1.1 Business Licensing Services Based on the Government Regulation Number 24 of 2018

In OSS RBA, the issuance of business licenses is given according to the types of business risks, which include the following.

1. Business actors with a low-risk level obtain BIN automatically applies as legal entities to carry out business (Article 12 paragraph (1) the Government Regulation Number 5 of 2021). The BIN also applies as an Indonesian national standard (SNI –*Standar Nasional Indonesia*) and a halal guarantee statement

⁶ Government Regulation Number 5 of 2021 on Implementation of Risk-Based Business Licensing.

under statutory provisions for MSE business actors (Article 12 paragraph (1) the Government Regulation Number 5 of 2021);

2. Business actors with medium low-risk levels obtain business licenses in the form of BIN and standard certificates in the form of statements to meet business standards (Article 13 paragraph (1) the Government Regulation Number 5 of 2021)
3. Business actors with a medium high-risk level obtain BIN as a business license and a standard certificate issued by the central government or local government (Article 14 paragraph (1) the Government Regulation Number 5 of 2021)
4. Business actors with a high level of risk obtain BIN and permits that must be fulfilled before carrying out business activities (Article 15 paragraph (1) the Government Regulation Number 5 of 2021)

The higher the level of danger of a type of business, the more safety requirements must be met so as not to distort the existing environmental, economic, and social quality. The degree of danger is measured by considering the level of danger, the potential for hazard, the level of risk, and the business scale rating of business activities.

C. Industry in Bandung Regency

Both central and regional governments carry out development and empowerment to create competitive small and medium industries, play a significant role in strengthening the national industrial structure, and play a role in poverty alleviation through expanding employment opportunities and producing industrial goods and/or services for export.⁷ Local governments formulate policies, strengthen institutional capacity, and provide facilities to realize this.

Local governments make efforts to develop industries. That is, the government makes directed and planned efforts to create and improve sustainable industrial development based on aspects of economic, social, and environmental development so that it becomes industrial and product development that is increasingly useful to enhance and create better quality.⁸

Some of the industrial sector policies of the Bandung Regency Government in the development of small and medium industries are as follows. First, providing IPR, Halal, and expertise competency certification to encourage business growth and development. Second, collaborate with research institutions and universities to identify appropriate technologies and support the development of the industrial sector. Third, human resource training by organizing training programs and

⁷ Law Number 3 Year 2014 on Industry.

⁸ In line with Bandung Regent Regulation Number 79 of 2022 on Amendments to Bandung Regent Regulation Number 22 of 2022 on Duties, Functions and Work Procedures for Trade and Industrial Services.

workshops for industrial workers to have skills that are in accordance with current industry needs. Fourth, standard certification. Fifth, monitoring and evaluation through data collection and analysis related to industrial sector development, business growth, technology improvement, and labor quality. Sixth, build partnerships with industry associations, educational institutions, and other institutions to ensure smooth implementation and effective collaboration.

Bandung Regency does not yet have an industrial estate due to factors that have influenced it, including the availability of natural resources and industrial estates, based on Law No. 142 In 2015, Article 7 states that industrial estates are built with a land area of at least 50 hectares in one stretch. Second, good infrastructure, such as highways, power grids, telecommunication networks, and transportation facilities, is needed to support industrial estates.

Third, regulation and licensing are time-consuming. Regulatory and licensing processes can hinder the development of industrial estates. Fourth, labor- the availability of a qualified workforce that matches the needs of the industry- is an essential factor. Fifth, investors and capital. Significant capital investment is needed to develop an industrial estate.

Sixth, economic and market conditions: Industrial estates usually develop in places with considerable market potential. Seventh, environmental and social factors. If local communities or environmental organizations protest or are concerned about industrial estate development's environmental or social impacts, this can slow down the development process. Eighth, competition with other Regions. Competition with other regions that already have an established industrial area. This competition can make it challenging to attract new companies to the area. Ninth, the time and stages of development. Industrial estate development is a process that requires time and specific stages.

Table 1. Industrial Licensing Authority:⁹

BUSINESS CRITERIA	BUSINESS CAPITAL	AUTHORITY
Micro	Up to IDR1 Billion	Regency/City
Small (domestic investment))	> IDR 1 M to 5 M	Regency/City
Intermediate (domestic investment)	>IDR 5 M to IDR 10 M	Regency/City
Large (domestic investment)	>IDR 10 M	Province
Foreign investment status industry and strategic industries		Central Government

⁹ Criterion effort by Regulation Government Number 7 Year 2021 about Protection and Empowerment Cooperation and Business Micro Small and Intermediate Article 35 verse (3).

Develop industrial areas and comply with the Regional Spatial Plan (RTRW – *Rencana Tata Ruang dan Wilayah*). Based on Regional Regulation Number 27 of 2016 on Bandung Regency Spatial Plan 2016-2036, areas used for industrial activities include Industrial estate with an area plan of about 3,950 hectares. The planned industrial allotment area covers an area of about 5,543.03 hectares, and the planned industrial zone covers an area of about 1,593.03 hectares.¹⁰

As for small industrial activities located outside the industrial designation zone, in accordance with RTRW Regional Regulation Number 27 of 2016 Article 99 letter c paragraph (4), activities are allowed and limited to zoning Residential areas, one of which is for non-polluting and small-scale industrial development. Meanwhile, the washing industry is polluting because it uses raw chemical materials and a lot of water in the production process. Hence, it produces output in the form of liquid waste. If not processed per applicable quality standards, this will affect the condition of the surrounding environment.

The washing industry is not a hallmark of the Bandung Regency area because it is a service that is an advanced process in the production process of the denim clothing industry. Whether a product is a regional flagship is determined by meeting measurable criteria and studies based on the Minister of Home Affairs Regulation of the Minister of Home Affairs Number 9 of 2014. It will undoubtedly get more facilities and attention for hallmark products because superior products can boost and improve the regional economy.

Supervision activities carried out by the Trade and Industry Office on washing industry activities include 1) the implementation of supervision carried out to the Company related to reporting; 2) directing The Company to update the old license to the OSS-RBA licensing; 3) advising the Company located not in its designation to adjust in place/zone designation immediately; and 4) to sanction The enforcement of local regulations has the authority of the Municipal Police.¹¹

In terms of supporting the washing industry, the government adds additional facilities for small and medium industry players through facilitating the construction of communal Wastewater Treatment Plants (WWTP) that can used for joint liquid waste management. However, it is technically constrained because the locations of the washing industry are far from each other, and they are not in one stretch. This communal WWTP facility manages the generated liquid waste, aiming to reduce production costs. In addition, the Government also needs to provide incentives for

¹⁰ Material Exposure FGD Service Trade and Industrial Regency Bandung on 13 February 2023 in Bandung.

¹¹ Satpol PP is an instrument of the Regional Government in maintaining peace and public order and enforcing Regional Regulations.

washing industry business actors who comply with regulations and manage their waste in accordance with the new standards set.

Management of washing permits is based on the mandate of the Law Number 11 of 2020 on job creation, which has now changed to the Law Number 6 of 2023 on job creation and in accordance with Government Regulation Number 5 of 2021 on risk-based business licensing. Related to the Company's licensing and registration process carried out by the Trade and Industry Office, starting from the company applying for a business license through OSS-RBA to obtain their BIN, after that, the Verification Team carried out a field survey of the Company by using three basic requirements, namely: 1) suitability of space utilization activities; 2) approval environment; and 3) Building Approval (PBG – *Persetujuan Bangunan Gedung*) and Certificate of Feasibility of Function (LSF – *Sertifikat Laik Fungsi*). There is no difference between small, medium, and large industries regarding the flow of Standard Operations and Procedures (SOP) for licensing management. The difference is the level of risk scale.¹²

D. Environmental Pollution in Bandung Regency

Environmental pollution is one of the most severe problems facing the world. The pollution of the Citarum River and the rivers in Indonesia, in general, is closely related to public awareness and government firmness in preventing river pollution.¹³ Riani conveyed that river pollution sources are household domestic and industrial waste. Every industry must have a WWTP in accordance with the type of waste it produces. However, waste treatment requires costs that are not cheap.

Riani stated that detergent waste consists of Linear Alkyl Benzene Sulfonate (LAS) and Alkyl Benzene Sulfonate (ABS).¹⁴ ABS is an environmentally unfriendly surfactant and is difficult to decompose. ABS waste, if consumed in small amounts and accumulated for a long time, can potentially cause cancer and degenerative diseases such as kidney failure and so on in humans. Sunardi also confirmed that dangerous heavy metals have polluted the water content of the Citarum River.¹⁵ This pollution can cause health problems, and handling is not cheap.¹⁶

¹² Interview Writer with Service Trade and Industry on October 14, 2023.

¹³ Prof Etty Riani "Stresses Importance of Environmental Awareness and River Pollution," accessed on August 24, 2023, <https://msp.ipb.ac.id/prof-etty-riani-tekanan-pentingnya-kesadaran-lingkungan-dan-pencemaran-sungai/>.

¹⁴ Interview conducted by authors with Prof Etty Riani, lecturer at Department of Water Resources Management Institute Pertanian Bogor, on August 21, 2023.

¹⁵ Research conducted by Prof Sunardi in 2022 Known terbiasa two Elements metal heavy that dangerous that exceed standard. Lead and mercury its concentration exceed reciprocally quality. Still not yet known certainly source from where because activities that associated with River Citarum very complex.

¹⁶ Interview conducted by authors with Prof Sunardi, lecturer of Ecology and Water Pollution, Faculty of Mathematics and Sciences Padjadjaran University, on 26 October 2023.

A Case Study of the Washing Industry in Bandung Regency

Many industries do not realize that their waste is hazardous waste, so when managing their waste, they do not refer to hazardous waste management rules.¹⁷ Pollution will cause environmental damage and disruption of the ecosystem. The cost of environmental damage and disruption of public health must reduce the economic gains generated from industry. Meanwhile, many small businesses do not perceive their environmental impacts as significant when set against those of larger operators.¹⁸ Most water pollution is caused by chemicals and other materials that use dissolved oxygen in lakes and streams.¹⁹

1. Washing Industry in Bandung Regency

The following is the data that the author obtained related to industrial activities in Bandung Regency. This article focuses on the washing industry and the fabric refinement industry. Bandung Regency Industrial Company Data, individual industries in 2023.²⁰

Table 2. Industrial Company Data (Per Person) in 2023 Bandung Regency Trade and Industry Department

NO	Business Registration Number	COMPANY NAME	STATUS	DISTRICT	INVESTMENT
1	8120106971444	CV HAWILA	Domestic investment	Majalaya	1.645.000,000
2	8120313191662	FRANS LIMANJAYA	Domestic investment	Majalaya	1.763.000.000
3	1512210025927	WAWANG TEDJALAKSANA	Domestic investment	Majalaya	4.500.000.000
4	0311220044947	JUNJUN SUBHAN JAMALLUDIN	Domestic investment	Majalaya	1.000.000.000
5	2001230000222	ACA	Domestic investment	Kutawaringin	425.000.000
6	2601230000222	SANDI RUSTANDI	Domestic investment	Kutawaringin	50.000.000
7	1309220093164	EDI HERMAWAN	Domestic investment	Ibun	1.500.000.000
8	9120410080439	M. NURHIMAT	Domestic investment	Paseh	800.000.000

¹⁷ Arif Jumari, "Potensi Pelanggaran Pengelolaan Limbah Bahan Berbahaya dan Beracun," *Jurnal Bestuur* 7, no. 2, (2019): 80, <https://doi.org/10.20961/bestuur.v7i2.40414>.

¹⁸ Ruth Hillary, *Small and Medium-Sized Enterprise and the Environment Business Imperatives* (Sheffield: Greenleaf Publishing, Sheffield UK, 2000), 10.

¹⁹ Stephen Breyer, *Regulation and Its Reform* (Cambridge: Harvard University Press, 1982), 261.

²⁰ Service Trade and Industrial Regency Bandung Year 2023, Processed by Authors.

9	2501220002828	RIDWAN	Domestic investment	Solokanjeruk	23.000.000
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According to the table, in the individual industry in Majalaya district, there are four domestic investment (PMDN – *Penanaman Modal Dalam Negeri*) status companies with nominal investments above IDR1 billion. Of the four companies in the Majalaya District, there are three companies with the status of small industry business criteria and one company with the status of micro industry business criteria. This is followed by the Kutawaringin District, which has two companies with nominal investments above IDR50 million and below IDR500 million, which are included in the status theory of micro industry business criteria. Ibun district has one company with a nominal investment value of IDR1.5 billion, including in small industries. There is one company in the Paseh District with an investment of IDR 800 million. Finally, one company in the Solokanjeruk District with an investment value of IDR 23 million is included in the status of micro industry business criteria. From the table above, the investment value in the category of companies per individual is at least IDR23 million (micro-industry) and at most IDR4.5 billion (small industry).

Data on Bandung Regency Industrial Company, an industry incorporated by PT in 2023, is as follows:²¹

Table 3. Industrial Company (PT) Data in 2023 Bandung Regency Trade and Industry Department

No.	Business Registration Number	Company Name	Status	District	Investment
1	8120105921243	PT. AKTEK	Domestic investment	Majalaya	200.0000.000
2	8120108850236	MAJU AMAN SENTOSA TEKSTIL	Domestic investment	Majalaya	22.993.479.254
3	8120000702419	ANGGREK MAS TEXTILE	Domestic investment	Majalaya	90.000.000.000
4	8120017011582	INDOBUANA MAKMUR TEXTILE	Foreign Investment	Majalaya	33.046.697.628
5	8120212261294	NASIONAL SANDANG TEXTILE	Domestic investment	Majalaya	5.000.000.000

²¹ Service Trade and Industrial Regency Bandung Year 2023, Processed by Authors.

6	8120117262176	GUNAJAYA SANTOSA	Domestic investment	Majalaya	5.000.000.000
7	8120118251186	KORIESTER TEXTILE INDONESIA	Foreign Investment	Majalaya	52.540.000.000
8	9120302181904	UNGGUL BUKIT KENCANA	Domestic investment	Majalaya	7.535.000.000
9	0220204691554	CITABAHANA INTIPERSADA	Domestic investment	Majalaya	29.560.000.000
10	8120018021268	MULTITEX SARANA USAHA	Domestic investment	Majalaya	40.000.000.000
11	8120111220454	RUBI BERKAT SEJAHTERA	Domestic investment	Majalaya	500.000.000
12	8120004841815	TRIBINTANG LOKAWARNA	Domestic investment	Majalaya	9.276.372.234
13	8120006801251	HAKATEX	Domestic investment	Dayeuhkolot	155.670.000.000
14	9120207120675	ANUGRAH TRIMULIA TEKSTIL	Domestic investment	Dayeuhkolot	4.500.000.000
15	8120314191595	GRACIA MEGA KARYA	Domestic investment	Dayeuhkolot	8.750.000.000
16	9120404252107	IDAR BUANA	Domestic investment	Dayeuhkolot	8.000.000.000
17	9120301140999	SUMBER SANDANG FISNISHING	Domestic investment	Dayeuhkolot	3.000.000.000
18	8120104800181	FAMATEX TEXTILE AND INDUSTRY	Domestic investment	Dayeuhkolot	312.122.000.000
19	8120201810617	ANUGRAH MEGAH LESTARI TEXTILE	Domestic investment	Dayeuhkolot	9.967.982.000
20	8120003891788	GODIVA ASTREA TEXTILE	Domestic investment	Dayeuhkolot	6.500.000.000
21	8120317101699	KANTI SEHATI SUKSES	Domestic investment	Dayeuhkolot	1.000.000.000

22	8120206921425	EXINDO RAYA	Domestic investment	Dayeuhkolot	17.477.510.000
23	8120003782989	MAHUGI JAYA SEJAHTERA	Domestic investment	Baleendah	10.000.000.000
24	8120312190151	TRIDAYAMAS SINARPUSAKA	Domestic investment	Baleendah	131.643.918.341
25	8120001810749	INDO HASASI TEXTILES	Domestic investment	Baleendah	50.342.780.000
26	8120107912313	SURYA USAHA MANDIRI	Domestic investment	Banjaran	39.912.375.000
27	8120013100373	CEMARA KWANGJIN TEXTILE	Foreign Investment	Banjaran	102.156.250.000
28	8120002850835	GRAHA SURYA ANGKASA	Domestic investment	Banjaran	39.000.000.000
29	9120403711975	SAFILINDO PERMATA	Domestic investment	Pameungpeuk	15.083.529.354
30	0224010131716	PINANG JAYA ABADI TEKSTIL	Domestic investment	Pameungpeuk	385.000.000
31	1222000652254	DWI MULIA AGUNG SENTOSA	Domestic investment	Paseh	5.000.000.000
32	8120014102951	WARNA ASLI INDAH TEXTILE	Domestic investment	Katapang	9.900.000.000
33	1290000151249	BANDUNG PERKASA JAYA	Domestic investment	Solokanjeruk	4.650.000.000
34	2412210023745	GOBUS SEJAHTERA INDONESIA	Domestic investment	Bojongsoang	1.000.000.000
35	8120000840055	BUDI AGUNG SENTOSA	Domestic investment	Rancaekek	4.000.000.000
36	8120004920284	KORIN JUNG WOO	Foreign Investment	Cicalengka	2.350.000.000

From the table above, it is known that Majalaya is the district with the largest number of companies in the form of PT, namely 12 companies with PMDN status, as many as 10 companies, and two companies with PMA status. Of the 12 companies, it consists of 2 micro industries, 2 small industries, 2 medium industries, and 6 large industries. In Dayeuhkolot district, there are 10 companies, all of which have PMDN status. The status criteria for industrial classifications indicate that a micro industry is defined by a single company, a small industry consists of two companies, and a

medium industry includes four companies. Three companies characterize a large industry.

There are 3 PMDN companies in Baleendah District, all large industries. In the Banjaran district, there are 2 PMDN-status companies and 1 PMA status company, all of which are large industries. Pameungpeuk District has 2 companies with PMDN status of micro and large industries. Paseh, Katapang, Solokanjeruk, Bojongsoang, Rancaekek, and Cicalengka districts each have one PMDN company, except in the Cicalengka district, the status is PMA, all of which include small industries.

Bandung Regency Industrial Company Data, CV legal entity industry in 2023.²² From Industrial Company (CV) Data in 2023, Bandung Regency Trade and Industry Department is known Majalaya District dominates with most companies in Bandung Regency in the form of CVs with domestic investment status. Of the 12 total CV companies located in Majalaya, 8 consist of 3 micro industries, 2 small industries, and 3 large industries. They are followed by Baleendah, Cikancung, Rancaekek, and Solokanjeruk, each 1 company, all micro industries—the investment from IDR10.000.000,00-165.582.059,00.

The wells in the Majalaya area have been polluted. One source of pollution is industrial wastewater that goes into the river. This can be seen from the water's turbidity, color, and acidity (pH). Majalaya District is one of the industrial areas with a high pollution level.

Heavy metals are one of the pollutants that pollute the Citarum River. Pollution due to industrial activities can cause major losses because generally, waste/waste contains toxic substances, including mercury (Hg), cadmium (Cd), chromium (Cr), lead (Pb), copper (Cu), which are often used in the production process of industry either as raw materials or primary materials. The investment value of a CV starting from IDR10.000.000,00 shows that small capital can become an entrepreneur. This means that the local government supports the sustainability of business activities. However, because the washing industry produces waste, entrepreneurs must comply with environmental regulations to prevent or reduce environmental pollution.

E. The Role of Government

1. The Role of Government in Establishing Environmental Regulations

Esty and Porter have empirically tested the hypothesis regarding how much a country's regulatory regime can influence environmental quality. The results of this research, based on examining regulatory intensity and environmental quality in some developed and developing countries, show that economic development and

²² Data from the Bandung Regency Trade and Industry Service in 2023, Processed by Authors.

environmental protection go hand in hand with improvements in a country's institutions and especially the environmental regulatory regime.²³

They believe that regulations particularly impact environmental performance and law enforcement. This result is similar to the previous opinion expressed by Becker and Stigler's findings regarding the enforcement of environmental regulations and the enforcement of environmental criminal law.²⁴ Empirical evidence shows that a developing country can gain environmental benefits from economic growth and the rule of law and strengthen its governance structure. They have proven that countries that adopt strict regulatory regimes impact economic development. Namely, they can increase people's income, not slow it down.²⁵

Countries that adopt strict environmental regulations will accelerate economic growth, not hinder it. On the contrary, countries that do not adopt strict environmental regulations will likely face the risk of slowing financial development. Support for developing countries to improve effective regulation through appropriate training, policy reform, information gathering, and environmental education for the public.²⁶

Preparing effective environmental regulations for developing countries also requires the same thing: policymakers (regulators) must pay serious attention to the legal, economic, political, and social aspects in which environmental regulations must function.²⁷

The washing industry is a polluting industry that uses chemical raw materials and uses a lot of water in the production process to produce output in the form of liquid waste, which, if not obtained in accordance with applicable quality standards, will affect the condition of the surrounding environment. Washing industry activities are included in high-risk activities; the Regional Government, in this case, the Trade and Industry Office, provides guidance, explanations, and suggestions to business actors to move to locations in accordance with industrial designations. But of course, moving their place of business/activities is not easy for business actors. If the state wants to control, say, the pollution of a river, it may approach the issue in several ways.²⁸

Implementation of guidance and direction carried out by the Trade and Industry Office on washing industry activities that do not have permits. For the washing

²³ Michael G. Faure and Roy A. Partain, *Environmental Law and Economics* (Cambridge: Cambridge University Press, 2019), 296.

²⁴ Michael G. Faure and Roy A. Partain, 296.

²⁵ Michael G. Faure and Roy A. Partain, 297.

²⁶ Michael G. Faure and Roy A. Partain.

²⁷ Michael Faure, Morag Goodwin, and Franziska Weber, "Bucking the Kuznets Curve: Designing Effective Environmental Regulation in Developing Countries," *Virginia Journal of International Law* 51, no. 1 (2010): 95.

²⁸ Robert Baldwin, Martin Cave, and Martin Lodge, *Understanding Regulation Theory, Strategy, and Practice*, (Oxford: Oxford University Press, 2012), 106.

industry that does not have a license and the location is according to the designation, it is advisable to stop its activities temporarily until all the required permits are completed. However, suppose the washing industry is in a location unsuitable for its designation. In that case, it is recommended to move to the area of the place of activity according to the designation of the industry.²⁹

The Trade and Industry Office also provides advice and input to the relevant Office for existing activities if it is still possible when there are changes or preparation of a Detailed Spatial Plan (RDTR) for industry. The existing one can be adopted in changes in the spatial layout of industrial designations.

The study found that law enforcement failed to take action against those who violated regulations. Administrative sanctions should be imposed on business actors operating without permits. However, the guidance provided to violators has been misguided. Repeated coaching is often interpreted as overlooking permit violations. Additionally, there is a misconception among law enforcers that administrative sanctions apply only to those with permits, which is both a misunderstanding and an incorrect perception.

Various environmental regulations and environmental standards, which portray an excellent reference for the use of command-and-control instruments, can be divided into³⁰ (1) Target standard or environmental quality standard or ambient quality standard³¹; (2) Emission standard or emission limit values; and (3) Specification or productions standard. Kiss and Shelton have classified another type of standard: the product standard.³²

Some of the problems found in Bandung Regency are the number of business actors, especially those with small and medium industrial scales, who do not take care of their licensing documents. Often, business actors feel it is not important to take care of licensing until finally exposed to law enforcement and will take care of financing to the bank. Another problem is the location of industrial activities in areas not intended for it. Another critical problem is that business actors do not have the right WTPP.

In Europe, researchers investigated Eurobarometer data and found that 97% of SMEs surveyed complied with environmental regulations, 22% of companies exceeded regulatory requirements, and 27% considered doing so in the future. More than half of the companies that have exceeded environmental requirements say it is because environmental issues are one of the company's priority goals. The same

²⁹ Interview with Service Trade and Industry on October 14, 2023.

³⁰ Michael Faure and Goran Skogh, *The Economic Analysis of Environmental Policy and Law: An Introduction*, (United Kingdom: Edward Elgar Publishing, 2003), 189-192.

³¹ Anthony Ogus, *Regulation: Legal Form and Economic Theory* (Oxford: Clarendon Press, 1994), 150.

³² Alexandre Kiss and D. Shelton, *Manual of European Environmental Law, 2nd Edition* (Cambridge: Cambridge University, 1997), 114-116.

study also found something important: companies that exceeded environmental requirements had more significant sales increases than those that did not.³³

In ASEAN countries, SMEs are often unaware of financially attractive opportunities if they have made environmental improvements. There is a widespread misconception that protecting the environment is associated with technical complexity, burden, and costs.³⁴

As a group, SMEs are very heterogeneous. They can be found in almost every sector of the economy and thus have very different levels of environmental risk. Even though the company's size is relatively smaller, this does not mean that the environmental impact it produces tends to be much smaller than that of large companies. The environmental impact of SMEs per unit may be higher than that of large companies, and many companies together may be significant. Overall, this creates a challenging environmental regulatory situation. Regulating SMEs is difficult because the number and variety of SMEs are diverse. Compliance with environmental regulations is complex for SMEs due to insufficient resources and awareness.³⁵

SMEs must be given the tools to understand and enact environmental improvements, including having the human resources to react proactively to regulatory incentives. In Vietnam, SMEs operating in the textile and garment sector benefitted from the confluence of three factors determining their ability to respond to environmental regulations: human resources, organizational development, and institutional development. These three factors drive SMEs' ability to adapt to environmental requirements and achieve better results.³⁶

Responsive regulation is a regulatory approach that emphasizes the importance of tailoring regulatory interventions to the specific conditions of the regulated entity. This involves a gradual response to non-compliance, with increasingly severe

³³ Saez-Martinez, F., C. Diaz-Garcia and A. Gonzalez-Moreno, "Factor Promoting Environmental Responsibility in European SMEs: The Effect on Performance," *Sustainability* 8, no. 9 (2016): 898, <http://dx.doi.org/10.3390/su8090898>.

³⁴ Walker and Redmond, "Changing the Environmental Behaviour of Small Business Owners: The Business Case," *Australian Journal of Environmental Education* 30, no. 2 (2014): 254-268, <http://dx.doi.org/10.1017/aee.2015.6>.

³⁵ Stephen Brammer, Stefan Hoejmose, and Kerry Marchant, "Environmental Management in SMEs in the UK: Practices, Pressures and Perceived Benefits," *Business Strategy and the Environment* 21 (2012): 423-434, <https://onlinelibrary.wiley.com/doi/10.1002/bse.717>.

³⁶ Nguyen, N. R Beeton and A. Halog, "A Systems Thinking Approach for Enhancing Adaptive Capacity in Small and Medium Sized Enterprises: Causal Mapping of Factors Influencing Environmental Adaption in Vietnam's Textile and Garment Industry," *Environment Systems and Decisions* 35, no. 4 (2015): 490-503, <http://dx.doi.org/10.1007/s10669-015-9570-5>.

regulatory interventions as non-compliance continues. This approach is often used when flexibility is required in the regulatory process.³⁷

In small industries, responsive regulation can effectively ensure regulatory compliance while minimizing the burden on small businesses. Small businesses often have limited resources and may struggle to comply with complex regulations. Responsive regulation can help address this problem by providing a more flexible regulatory approach tailored to small businesses' specific conditions.³⁸

For example, in Australia, the Australian Securities and Investments Commission (ASIC) has implemented a responsive regulatory approach to help small companies to comply with financial regulations. This approach involves providing guidance and support to small businesses to help them understand their regulatory obligations and develop a compliance program tailored to their circumstances.³⁹

Due to a lack of awareness, small businesses may not be aware of the regulatory requirements that apply to them. This can make it difficult for them to develop a compliance program tailored to their circumstances.⁴⁰

Controlling pollution and environmental destruction is an essential agenda, both through prevention and law enforcement, if there are violations. The preventive potential of administrative law enforcement is characterized by supervisory activities aimed at encouraging and ensuring improvements and compliance, which are the dominant elements of administrative law enforcement.⁴¹

Law enforcement serves as the final link in the regulatory policy chain, which includes (1) legislation, (2) standard setting, (3) licensing, (4) implementation, and (5) law enforcement.⁴² In environmental law enforcement, various instruments have been regulated, the application of which depends on the needs—the types of instruments referred to include administrative, civil, and criminal actions.⁴³

Economic and environmental conditions must be balanced. The sustainable development paradigm expects the economy to bring benefits and not cause social problems. Development must not damage the environment. There should be

³⁷ Jeroen van der Heijden, "Responsive Regulation in Practice: A Review of the International Academic Literature," (Victoria University of Wellington, State of the Art in Regulatory Governance Research Paper 2020): 21.

³⁸ Robert Baldwin, Martin Cave, and Martin Lodge, *Understanding Regulation, Chapter 12 Responsive Regulation* (United Kingdom: Oxford University Press, 2011), 259-280.

³⁹ Paulo de Sousa Mendes, "Responsive Regulation, Enforced Self-Regulation, and Corporate Liability," *Criminal Law Forum* 33 (2022): 285-321.

⁴⁰ William D. Eggers (et.al.), "Regulation that Enables Innovation," accessed on March 22, 2023, <https://www.deloitte.com/global/en/our-thinking/insights/industry/government-public-services/government-trends/2023/regulatory-agencies-and-innovation.html>.

⁴¹ Mas Achmad Santosa, *Nature also Needs Law and Justice* (Jakarta: Prima Pustaka, 2016), 89.

⁴² Andi Hamzah, *Environmental Law Enforcement* (Jakarta: Sinar Grafika, 2005), 52.

⁴³ P. Joko Subagyo, *Environmental Law Problems and Their Management* (Jakarta: Rineka Cipta, 2005), 81.

attention from industry for society and the environment, for example, making a good WWTP according to its designation.

Enforcing regulations against small and medium enterprises differs from law enforcement against large companies. Rules are normatively unlikely to be effective in influencing the behavior of small and medium-sized businesses without credible law enforcement. Compliance of small and medium enterprises is pursued with strict regulation and control.

As stated by the OECD (Organisation for Economic Co-operation and Development), for a regulatory design to be complied with, it must be complemented by monitoring and enforcement oriented towards regulatory system compliance. Regulators are beginning to decide when and where to inspect with data analysis where the risk of non-compliance is highest.

A tiered regulatory system needs to be considered. The most substantial industries categorized as polluting industries must obtain permits, medium-category polluters require registration, and small-category polluters are submitted to another mechanism within local governments that deals with health, safety, and the environment. It has been implemented in Western Australia.⁴⁴

The threat of legal sanctions is still significant to create regulatory compliance. How can a general precautionary message from formal sanctions be a stimulus for compliance efforts for businesses compared to more intense monitoring and inspection stimuli? How close is social pressure on formal legal rules and sanctions? Do formal rules, controls, and sanctions trigger other pressures and motivations, or do other motivations arise independently? To what extent and under what conditions can informal pressure from industry associations and market forces supersede formal rules and threats? To what extent do violations arise from ignorance, organizational overload, and confusion compared to economic calculations? Are company motivations and compliance rates predictable based on size, profitability, or characteristics of a particular industry sector?⁴⁵

2. Optimal Environmental Regulation for Developing Countries

Legal and economic experts pay close attention to the issue of optimal regulation for developing countries.⁴⁶ Schafer formulates some interesting observations regarding the choice between rules and standards for developing countries that may have

⁴⁴ Neil Gunningham, "Regulating Small and Medium Sized Enterprises," *Journal of Environmental Law* 14, no. 1, (2002): 23.

⁴⁵ Neil Gunningham and Robert A. Kagan, "Regulation and Business Behavior," *Law and Policy* 27, no. 2 (2005): 213.

⁴⁶ Michael G. Faure, Roy A. Partain, *Environmental Law and Economics*, 302. Also see Michael Faure, Morag Goodwin, and Franziska Weber, "Bucking the Kuznets Curve: Designing Effective Environmental Regulation in Developing Countries."

important implications for environmental law. Schafer claims that a rules-based system may be preferable in developing countries because the concentration of decision-making at the central government level answers the problem of limited human resources.

Faure analyzes the reasons for the poor quality of environmental legislation in developing countries. The general problem is that environmental laws that emerge in developing countries (either on the initiative of specific developing countries or initiated by international organizations) do not consider local situations and are due to the country's lack of administrative capacity.

Sophisticated environmental instruments, such as public participation, integration of environmental permits, decentralization, and environmental impact assessment, are derived from Western theoretical models. It is undoubtedly practical and valuable for a solid environmental policy. However, for this instrument to be effective, a solid administrative structure must be established to guarantee the implementation of these more sophisticated instruments.

Apart from lacking administrative capacity, in developing countries, there is a problem of corruption, which can make it challenging to implement environmental laws. The combination of inadequate administrative capacity and corruption problems can be disastrous for implementing environmental law.

The solution suggested by Schafer and Dam is that there is no need to impose Western-type standards-based environmental law that assumes that administrative institutions guarantee the effective implementation of environmental instruments. Developing countries need to consider administrative institutions at the local level by establishing substantive and procedural environmental laws to resolve problems that occur.

New collaborative environmental governance initiatives ⁴⁷ require "new government" in environmental protection by involving a group of characteristics: participatory dialogue and deliberation, devolution of decision-making, flexibility compared to uniformity, inclusivity, transparency, and institutionalized consensus-building practices. There has been a shift from top-down command and control rules to more decentralized rules and a consensus approach that seeks coordination at multiple levels and is polycentric. This approach provides greater scope for non-state actors to exercise administrative, regulatory, managerial, and mediating functions previously exercised by states. Normatively, new governance is claimed to be more responsive, legitimate, and effective than the top-down approach due to deliberation, cooperation, and learning at the local level can generate responses that are more considerate of local conditions based on local knowledge and capacity and

⁴⁷ Neil Gunningham, "The New Collaborative Environmental Governance: The Localization of Regulation," *Journal of Law and Society* 36, no. 1 (2009): 165.

generate stakeholder ownership and "participation" greater interests. It can be argued that this approach is also more capable of transcending jurisdictional boundaries than traditional approaches.

The state delegates decision-making to the local level. Its success can be enhanced by retaining specific roles. At least there are three essential roles for the state. They are definitional guidelines, participatory incentives, and law enforcement capabilities. The definitional guidelines involve the state explaining and defining the nature of collaborative governance arrangements. This may cover various aspects. For instance, it may address important issues, such as the eligibility of participants, geographical limitations, the legal framework, expected performance outcomes, funding arrangements, operational procedures, and relationships with existing institutional structures. The coverage of the definitional guide can be interpreted broadly or narrowly and can be prescriptive, flexible, or expansive. It depends on the specific conditions and cases involved. On the other hand, the business licensing provisions in the Law are centralized. It diminishes the role and authority of regional governments.

Participatory incentives refer to countries that provide incentives, which can be positive (in the form of various inducements) or negative (in the form of punitive sanctions), for perpetrators who are targeted, whether companies, communities, individuals, or NGOs, to participate in certain forms of collaborative governance that are being built.

Law enforcement capability refers to states providing law enforcement roles to ensure collaborative governance arrangements meet their obligations. The role applies to each party in a collaborative governance arrangement. It is necessary to have performance indicators or criteria used to assess success and failure. The state does not need to play an active role in governance if actors at the local level share an interest in achieving mutually beneficial outcomes. Without external intervention and coordination, there is much potential and opportunity to achieve constructive results. The government's critical policy coordination role is encouraging, facilitating, and rewarding. As the state begins to retreat from its traditional regulatory function and hierarchical control, there is an opportunity for the state to establish a new role, coordinating private institutions and utilizing actors and resources to advance public policy. However, in more general situations, where win-wins are very rare, it can be argued that the state should take a more interventionist role if new environmental governance initiatives are to be implemented.

The transition to a new government is not replacing a new mechanism for the state but rather a hybrid approach that involves shifting away from a situation where the state takes on broad governance responsibilities. In Osborne and Gaebler's terms, driving and rowing still play essential yet distinct roles. It is crucial to empower

NGOs and civil society so that the government ensures collaborative governance initiatives can be implemented.

To achieve sustainable development, anti-environmental development must be replaced with environmentally friendly development in both the physical and socio-cultural environment. Large-scale businesses and small and medium-scale businesses both need to be considered. The SME industry and large companies are components of an interdependent ecosystem.⁴⁸

Priorities for environmental preservation and economic progress often go in different directions. An integrative strategy that permits the simultaneous consideration of environmental and economic issues is essential to balance these two objectives. Sustainable development requires establishing a balance, or trade-off, between these objectives.⁴⁹

F. Conclusion

The Law on Job Creation aims to facilitate corporate operations and offer legal certainty with more transparent regulations. However, it has generated various problems, such as conflicting business license laws. Centralization has delayed licensing services, which has prevented the initial purpose of facilitating commercial operations in the regions from being accomplished.

In small and medium industrial activities with the potential to pollute the environment, strict enforcement of regulations by the government is essential. Every business must possess the appropriate licensing documents, and supervision should focus on identifying potential sources of pollution. Business actors must understand their environmental obligations and start to view them as administrative requirements and essential responsibilities.

Moreover, the government's firm stance as a law enforcer is crucial in imposing sanctions on violators. Environmental offenders should not be overlooked, especially those who cause pollution.

Small and medium industries need collaborative governance to grow while maintaining environmental sustainability. The government, business actors, and the community must share a common understanding of the importance of environmental protection. No business activity should be allowed to harm the environment. In addition, consistent enforcement of sanctions is vital to prevent violations and environmental degradation.

⁴⁸ Otto Soemarwoto, *Self-Regulation: a New Paradigm for Environmental Management* (Yogyakarta: Gadjah Mada University Press, 2004), 152.

⁴⁹ Addinul Yakin, *Resource Economics and the Environment* (Jakarta: Akademika Presindo, Jakarta, 1997), 12.

Acknowledgments

Gratitude is expressed to HIBAH PUTI Universitas Indonesia for funding this research and to Prof. Andri Gunawan Wibisana for his invaluable input and suggestions for improvement. Appreciation is also extended to the anonymous reviewers and editors for their contributions to the manuscript revision process.

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