



# The Impact of Environmental Permitting with a Risk-Based Approach on Investments Based on the Job Creation Law

Ida Bagus Indra Wiratma Pidada<sup>1\*</sup>, I Made Arjaya<sup>2</sup>, I Ketut Kasta Arya Wijaya<sup>3</sup>

<sup>1, 2, 3</sup>. Magister Law Program, Universitas Warmadewa, Denpasar, Indonesia  
wi.indrawiratma@gmail.com\*

**Abstract.** After the enactment of the Law No. 11 of 2020 Concerning the Creation of Jobs (hereafter referred to as the "Job Creation Law"), LN 2020/No. 245, TLN No. 6573, it has impacted environmental licensing activities, particularly in the simplification of permits for business activities in the field of environmental utilization. The Law on Job Creation mentioned changes in environmental licensing from a License Approach to a Risk-Based Approach. Risk-Based Approach (RBA) is a risk-based licensing approach where the level of risk is taken into consideration for each action or business conducted. Bali is one of the small islands located in the Indonesian waters, which is believed to have a significant impact on Indonesia's tourism industry. The attractiveness of Bali lies in its natural beauty, culture, and diverse culinary offerings that distinguish it from other regions in Indonesia. The research methodology to conduct this study is juridical normative, which focuses on secondary data research. The focus of this discussion is limited to the question of the implications of granting environmental permits with a risk-based approach for investment in Bali based on the Omnibus Law. As a result, The development of tourism must consider the preservation of the environmental functions around the tourist areas. As a result, it is possible to efficiently grow tourism while maintaining the environmental functions in the vicinity of tourist destinations. This criteria can be met by employing proper management and operation across sectors and enlisting private partners involved in the development of sustainable tourism.

**Keywords:** Bali; Omnibus Law; Risk-Based Approach; Tourism

## 1 Introduction

According to the 1945 Constitution, every Indonesian person has a basic right to a healthy and safe environment, Article 28 H, sentence 1 which explains that " Every person has the right to a healthy existence, including the ability to be physically and psychologically successful, to live in a suitable environment, and to access medical care." To prevent environmental impacts, there is a need for initiatives to safeguard and manage the environment in accordance with environmental law requirements, while maintaining a balance between economic interests, the maintenance of the ecosystem's function, and social conditions. For the sustainability of environmental func-

© The Author(s) 2023

M. Umiyati et al. (eds.), *Proceedings of the International Conference on "Changing of Law: Business Law, Local Wisdom and Tourism Industry" (ICCLB 2023)*, Advances in Social Science, Education and Humanities Research 804,

[https://doi.org/10.2991/978-2-38476-180-7\\_91](https://doi.org/10.2991/978-2-38476-180-7_91)

tions, protection and management are carried out in an integrated manner, addressing diverse environmental factors. Ultimately, through balance and sustainability, the welfare of the society will be achieved.

Following the publication of Law No. 11 of 2020 regarding Job Creation LN. 2020/No. 245, TLN No. 6573 (hereinafter referred to as the Omnibus Law), it has had an impact on environmental permitting activities, where one form of simplified licensing is applied to business activities in the field of environmental utilization. The Omnibus Law mentions changes in environmental permitting from Risk-Based Approach with a License Approach. RBA, or the Risk-Based Approach is a risk-based licensing system where the level of risk becomes a consideration for any action or business conducted. Bali is one of the small islands located in the Indonesian waters that is believed to have a significant impact on tourism in Indonesia. The attractions of Bali, such as its natural beauty, culture, and unique culinary offerings, differentiate it from other regions in Indonesia. Bali also offers a variety of tourist destinations, including beaches, rice fields, forests, lakes, Mount Merapi, waterfalls, and artificial tourist villages that are well-known worldwide. In addition to preserving Bali's appeal, environmental permit regulations are essential for sustainable development to support the tourism sector. However, there is a perception among the community that the merging of permits and the removal of the word "permit" in favor of "approval" will facilitate investing for individuals to obtain permits without considering the environmental impact. The environmental conditions in Bali still require optimization of friendly protective and management measures. This is a consequence of development activities aimed at improving the quality of life and welfare of the people, but they have been accompanied by a decline in the capacity and depletion of natural resources in the Bali region. Negative environmental impacts of development in Bali have been observed, indicating a close and ambivalent relationship between development and the environment.

Human beings, regardless of the era, have always lived together in groups. Humans are "Zoon Politicon," which means that they fundamentally exist as beings who always seek social interaction and association with fellow human beings, making them social creatures. The desire to live together has always been inherent in humans and is necessary for their survival. The unity of humans that arises from this desire is commonly referred to as society. Society has a responsibility towards the environment, and the responsibility for environmental management lies with the government, meaning it is not entrusted to individual citizens or governed by Civil Law. The responsibility for environmental management rests with the government, which has implications for institutionalization and authority, making environmental management a part of Administrative Law.

In the current government administration, one of the prioritized areas of work is infrastructure development. This is done to facilitate connectivity between production areas and distribution areas, create new job opportunities, and improve access to tourism, ultimately aiming to enhance the economic value of the society. Additionally, the government plans to attract foreign investors to establish their production facilities in Indonesia. The government is making efforts to attract investors to turn Indonesia into

a production hub for major corporations. In preparation for this, the government has prepared new legislation called the Omnibus Law (UU Ciptaker).

The establishment of the Omnibus Law (UU Ciptaker) strives to uphold the right to a good standard of living and employment for the benefit of the Indonesian people as a whole and societal advancement in Indonesia to achieve a fruitful, fair, and equitable society, both materially and spiritually, based on Pancasila and the 1945 Constitution of the Republic of Indonesia. The Omnibus Law introduces several regulatory changes, including the amendment of the affected law, which is Environmental Protection and Management Law No. 32 of 2009. In the Omnibus Law, environmental permits and business permits are merged into one, in order to simplify and streamline the administrative process. Integrating environmental permits into Business Permits eliminates the need for businesses to obtain multiple permits that can be complex and challenging, especially for small-scale enterprises with minimal environmental impact.

Not only does the Omnibus Law simplify the process of issuing permits, but it also streamlines the process of revoking those permits. Because the breach of environmental laws directly affects the business permission, when an environmental permit is withdrawn, the business permit is also automatically revoked. This is different from the previous regulations where revoking the environmental permit did not necessarily result in the cancellation of the business permit. The consequences of environmental violations were only limited to the environmental permit. However, even in the old regulations, it was said that the business permission is also revoked if the environmental permit is. The issuance and revocation of permits are substantially streamlined and accelerated by combining the two permits into a single document. Importantly, the requirements and obligations related to environmental compliance remain an integral part of the requirements and obligations within the Business Permit issued to the business operators.

The Omnibus Law takes an economic approach to create job opportunities and improve the investment climate in a country. This policy can be seen as a package aimed at streamlining regulations for business activities. In order to simplify regulations within a bureaucracy, the law focuses on the simplification of permits across various sectors that are not deemed critical. By streamlining permits, the aim is not only to shorten the processing time but also to provide opportunities for entrepreneurs to conduct business activities more easily, thereby boosting economic growth. One of the aspects of regulatory simplification is the relaxation of various permit requirements. One particular area of regulation that will be simplified is environmental permitting.

The Republic of Indonesia's People's Representative Council has given its approval in a plenary session on October 5, 2021, the Omnibus Law received criticism from various parties. The law was seen as potentially causing legal problems, with many procedural and substantive errors. The public suspected that the formation of the new law only focused on the interests of investors and corporations, and posed a risk of weakening environmental law enforcement. Moreover, changes and deletions to Articles 24, 38, 39 paragraph (2), 40, 76, 88 of the Environmental Protection and Management Law (UU PPLH) sparked protests. Even Moody's Investor Service, an

international company specializing in financial and business analysis, expressed its opinion on the emergence of new regulations in Indonesia. Moody's stated that certain aspects of the Omnibus Law could increase the occurrence of risky activities which have a detrimental effect on the environment.

The new regulations sparked protests from the public, with many people expressing their concerns. For example, there were protests regarding the merging of business permits and environmental permits into environmental approvals. The public believed that this merger and the removal of the term "permit" would make it easier for investors to obtain permits without considering the environmental impact. The removal of the environmental permit was also seen as the elimination of the Environmental Impact Assessment (AMDAL), which serves as the basis for issuing environmental permits.

In response to these interpretations, the government has sought to explain to the public that the environmental permit has not been eliminated but rather consolidated with the business permit. Similarly, the AMDAL will still exist and remain an essential requirement for obtaining environmental approval. Regarding the AMDAL, the previous involvement of the Environmental Impact Assessment Commission (KPA) also faced protests from various groups. The KPA will be replaced by the Feasibility Testing Agency (LUK), which will be centralized, unlike the KPA, which was established and operated at the regional level.

Previously, the handling of AMDAL documents was regulated in Article 29 paragraph (1) of the Environmental Management and Protection Law, which stated:

"(1) The Environmental Impact Assessment Commission (KPA), which was constituted by the Minister, Governor, or Regent/Mayor in accordance with their specific responsibilities, evaluates the AMDAL document."

There are several important points to consider here. First, the delegation of feasibility testing to the central government. Environmental issues are highly site-specific, and it is not feasible for the central government to comprehensively assess environmental issues in different regions with Indonesia's diverse geographic conditions. Second, the appointed expert institutions lack clear criteria and specifications. This has the potential to result in incomplete and misguided assessments that could be harmful to the environment in the long run.

In the pursuit of job creation, environmental permitting is one of the regulatory aspects that will be simplified for business activities. It is crucial to realize that the current legal tools for environmental permitting have an administrative purpose. The administrative aspects of environmental law come into play when the wise decisions of authorities are formalized through administrative orders (*beschikking*), such as licensing procedures, determination of environmental quality standards, environmental impact analysis procedures, and so on. Permits are a type of legal tool used to preventively regulate the behavior of people or institutions. According to Ateng Syafrudin, a permit's purpose is to remove obstacles and transform what is prohibited into what is allowed. The rejection of a permit application requires specific and well-defined limitations.

The implementation of environmental permits until now has been using the "Regulation Approach," often referred to as the "Licensed Approach." Environmental per-

mitting instruments refer to environmental management and protection law (UU PPLH), which consists of various instruments used for business activities. The instruments listed in the UU PPLH aim to prevent pollution and/or environmental damage, including: Strategic environmental assessment, spatial planning, environmental quality standards, criteria for those standards, environmental impact analysis, environmental management and monitoring program (UKL-UPL), licensing, environmental economic instruments, environmental-based legislation, environmental-based budgeting, environmental risk analysis, and environmental audit are just a few of the topics covered.

In the Omnibus Law (UU Ciptaker), it is mentioned about the Risk-Based Environmental Permitting approach. The licensing approach will be replaced from the Licensed Approach to the Risk-Based Methodology. RBA, or risk-based approach is a risk-based permitting approach, meaning that every action or activity becomes subject to consideration based on the level of risk. The greater the potential risk that a specific economic action poses, the stricter the government control and the greater the number of permits required or inspections conducted. In general, permits and inspections are not necessary for low-risk activities.

Environmental permitting that takes a risk-based approach can be adapted to certain company operations and can streamline the prior permit requirements. Standards will be used by the government to determine the likelihood of dangers in commercial activity. The types of permissions that must be secured for a commercial activity, as well as the caliber and volume of inspections necessary to supervise its execution, are determined by the government. The risk-based environmental permitting process is regarded as a regulatory convenience for commercial operations.

The focus of this discussion is limited to the question of the implications of granting environmental permits with a risk-based approach for investment in Bali based on the Omnibus Law.

The primary goal of this study is to fulfill one of the obligations in the Tri Dharma of Higher Education, namely research and development. Research is a process of discovering concepts, theories, and information in the fields of science, technology, and the arts. Research can serve as evidence of understanding in the learning activities of higher education institutions. Specifically, the aim is to understand and analyze the implications of granting environmental permits with a risk-based approach for investment in Bali based on the Omnibus Law.

## 2 Method

Legal normative research approach, which focuses on secondary data research, was employed in this work. The juridical normative approach, which is categorized as a legal research methodology, comprises analyzing legal foundations, legal systematics, and legal synchronization. The research specification in this publication adopts a descriptive-analytical methodology, which offers a broad description but is supplemented by unmistakable constraints that give the described terms special properties. Anal-

yses are used as a normative legal research technique as well. The research's data are processed and examined using the qualitative normative analysis method. Based on existing legislation, the data is qualitatively analyzed to reveal facts and is presented in descriptive form that cannot be formulated through mathematical calculations.

### 3 Discussion

In carrying out business activities, an Environmental Approval is one of the mandatory basic requirements that must be fulfilled. This simplification is according to the Job Creation Law's Article 13, which states that the basic requirements for business activity permits include (a) conformity of land use activities, (b) environmental approval, and (c) building permits and certificates of occupancy. Government Regulation No. 27 of 2012 concerning Environmental Permits and other related Government Regulations has been repealed by the existence of the Law on Environmental Protection and Management (PPPLH), so the regulation on the implementation of environmental protection and management is covered in one regulation, in accordance with the omnibus method.

In the explanation regarding the definition of Environmental Management Efforts and Environmental Monitoring Efforts (UKL-UPL), Environmental Impact Assessment (Amdal), in the PPPLH, there is a sentence stating "as a prerequisite for decision-making and stated in Business Permits or Environmental Impact Assessment (Amdal), Environmental Management Efforts and Environmental Monitoring Efforts (UKL-UPL). This means that in the environmental approval process, the central and regional governments are the parties responsible for granting approval for the feasibility of business activities. Business actors are required to fulfill the requirements by conducting environmental studies.

Risk-Based Business Permits classify risks so that the impacts of those activities can be minimized and calculated. The aspects considered in assessing risks are (a) the type of activity, (b) the scale of establishment, (c) the location of establishment, and (d) compliance history. This classification is carried out by non-ministerial government institutions responsible for statistical affairs and is compiled in the form of the Indonesian Standard Classification of Economic Activities (KBLI). The risk classification in business activities is categorized into low risk, medium risk, and high risk categories. Each level of risk has different requirements that correspond to the business activities to be carried out.

Risk-Based Business Licensing classifies risks in order to minimize the impacts of activities and make them measurable. The aspects considered in assessing risks are (a) the type of activity, (b) the scale of establishment, (c) the location of establishment, and (d) compliance history. This classification will be conducted by a non-ministerial government institution responsible for statistical affairs and is compiled in the form of the Indonesian Standard Classification of Economic Activities (KBLI). The risk classification in business activities is divided into three levels: low risk, medium risk, and high risk. Each level of risk has different requirements that correspond to the business activities to be carried out.

The basic requirement that must be fulfilled in each classification of low risk, medium risk, and high risk is the obligation to have a Business Identification Number (NIB), which is also used to fulfill other requirements. The issuance of the NIB is done through the OSS institution based on (a) Risk Level, (b) Examination of business sector provisions, (c) Minimum investment requirements, and (d) Capital requirements. The Business Identification Number also serves as an assessment of Indonesian National Standards, a halal guarantee statement, and functions as an Environmental Management Statement (SPPL) for low-risk and low-medium-risk activities.

In essence, all business activities require a Business Identification Number, but the function as an SPPL cannot be applied to activities with medium-high and high risks because these activities require further environmental impact studies. In fulfilling the requirements for environmental approval, low-risk activities only require the NIB, which also serves as the SPPL. If the low-risk activity requires an Environmental Management Effort and Environmental Monitoring Effort (UKL-UPL), then the NIB must be accompanied by the UKL-UPL, not the SPPL. The same rules apply to medium-high-risk activities, but they also need to meet standard certificates/product certificates that will be verified by both the central and regional governments. For activities with high risk, they are required to fulfill the NIB as well as an environmental impact assessment (Amdal). Standard certificates/product certificates are also required and must be verified by the central or regional government.

Business licensing for low-risk activities requires a Business Identification Number (NIB), which serves as the identity and legality of the business entity. Once the business entity registers its activities in the Online Single Submission (OSS) system, the NIB will be issued and standardized according to the assessment of Indonesian National Standards (SNI). The NIB also functions as a halal guarantee statement in accordance with the regulations.

Medium-risk business licensing is divided into two risk classifications: Medium-Low Risk Business Licensing and Medium-High Risk Business Licensing. In brief, Medium-Risk Business Licensing requires fulfilling either an Environmental Management Effort and Environmental Monitoring Effort (UKL-UPL) or an Environmental Management Statement (SPPL). These instruments must be fulfilled according to the category of business activities to be conducted, which are divided into two categories: UKL-UPL Required Business Activities and Non-UKL-UPL Required Business Activities. This categorization applies to both Medium-Low Risk Activities and Medium-High Risk Activities.

Licensing for Medium-Low Risk Businesses, the business entity must register its activities and will be issued an NIB and a Standard Certificate. The NIB has a similar function, while the Standard Certificate is a statement and/or evidence of compliance with the standards of business activity implementation. In the process of obtaining Medium-Low Risk Business Licensing, UKL-UPL Required Business Activities must fulfill the UKL-UPL Standard, while Non-UKL-UPL Required Business Activities must fulfill the SPPL. Both UKL-UPL Required Business Activities and Non-UKL-UPL Required Business Activities must have a Letter of Compliance Commitment to meet the standards in order to obtain the NIB and Standard Certificate. The NIB

serves as legal documentation and can be used as an SPPL for business activities. The Standard Certificate and NIB are statements from the business entity and are provided through the OSS system.

For Medium-High Risk Business Licensing, the same requirements must be registered, but the bureaucratic process is different. The Standard Certificate provided to OSS system needs to be re-verified by the central or regional government according to the Indonesian National Standard (NSPK). Medium-High Risk Business Licensing requires an NIB and a Permit. The term "permit" refers to the need that a business entity must satisfy before engaging in its operations an approval from the central or regional government—in order to perform business activities. High-risk activities require an Environmental Impact Assessment (Amdal) as a requirement for obtaining the Permit. The business entity must also verify compliance with the activity standards with the central or regional government to obtain a Standard Business Certificate and a Standard Product Certificate.

The basic principles of Environmental Impact Assessments (Amdal) and Efforts to Manage the Environment and Efforts to Monitor the Environment (UKL-UPL) remain unchanged from previous regulations. Previously, in terms of imposing administrative sanctions, the dispute was limited to Environmental Permits, while Business Permits were not revoked. If the Business Permit is not revoked, the business activities can still proceed, while the environmental permit will continue to be processed until there is a decision from the court. These issues are integrated into one licensing process, which is the Business Licensing process.

In order to facilitate business licensing, the government is obligated to conduct Environmental Supervision and Law Enforcement to ensure compliance with all regulations and planning. If deviations or violations occur in business activities, the business entity will face consequences. The government, as the law enforcer, must act decisively with a step-by-step administrative sanction process and apply the *Ultimum Remedium* guiding concept. *Ultimum Remedium* refers to the application of criminal sanctions as a last resort when absolutely necessary. In the classical sense, *Ultimum Remedium* in criminal law means the last resort when other measures are inadequate, and it must be resolved through criminal law. Article 88 of the Environmental Protection and Management Law (PPLH) has the principle of Absolute Liability changed to read: "Every person whose actions, efforts, and/or activities involve the use of hazardous and toxic materials (B3), generate and/or manage hazardous and toxic waste (B3), and/or pose a serious threat to the environment is absolutely liable for the losses resulting from their efforts and/or activities." The change regarding absolute liability is explained in the academic text matrix of the Draft Law on Job Creation, specifically in the section on environmental protection and management (PPLH), where criminal penalties must be imposed based on proof of wrongdoing. The change regarding absolute liability is considered to provide legal certainty for business activities. The burden of proof regarding absolute liability must be requested by the plaintiff and included in the lawsuit. Absolute liability can be exempted if the business entity proves reasons such as natural disasters or wars, force majeure, or the actions of other parties.

In terms of enforcement, administrative sanctions are the main enforcement mechanism, and criminal sanctions are the last resort after administrative sanctions. The



purpose of implementing these sanctions is regressive and reparatory. Reparatory sanctions are imposed for violations of general administrative law norms, while regressive sanctions are imposed for violations of specific administrative law norms, including provisions and decisions. The application of administrative sanctions must begin with supervision activities conducted by the central government, regional government, and relevant institutions according to their respective areas. These sanctions are applied comprehensively and only apply to specific administrative areas, specifically in the case of business licensing.

In conducting supervision over Risk-Based Business Licensing, the detailed supervision will differ and be tailored to the specific sectors involved, such as the Fisheries and Maritime Sector, Agriculture Sector, Energy and Mineral Resources Sector, and other sectors. The government, in enforcing the law regarding Business Licensing, can act firmly in implementing sanctions. The Business Identification Number (NIB), as one of the requirements issued and must be fulfilled for Risk-Based Business Licensing, can be revoked and declared invalid if:

- a. The business entity engages in business activities that are not in line with the NIB;
- b. The business entity violates the provisions of laws and regulations related to Business Licensing;
- c. The business entity's request for the revocation of the NIB is approved;
- d. The dissolution of the business entity; or
- e. Based on a verdict rendered by a court.

The OSS institution is responsible for revoking the NIB, based on the information provided by the Ministry/Institution, Integrated One-Stop Service and Investment Agency (DPMPSTP) of the Province, DPMPSTP of the District/City, After conducting a review, Special Economic Zone Administrators and/or the Free Trade and Free Port Management Agency (KPBPB). Government control must cover all levels of business activities, from the planning stage to the operation of the business. The Planning Stage refers to the mechanism of preparing the Environmental Approval, which includes documents such as Environmental Management Statement (SPPL), Environmental Management and Monitoring Effort (UKL-UPL), Environmental Impact Assessment (Amdal), as well as certifications from the government. In the Operation and Post-Operation stages, the government can review compliance with Environmental Quality Standards and Environmental Damage Criteria.

Tourism has been proven to stimulate economic growth through investment opportunities, job opportunities, and business opportunities, ultimately improving the welfare of society. One of the main goals of promoting a country as a tourist destination is to generate economic progress. The positive impact of tourism on the economy includes creating employment opportunities for the local population in the tourism sector, such as tour guides, waiters, bellboys, artists, and others. Better infrastructure and facilities are being built, including malls, recreation spaces, and other amenities that may be used by both tourists and residents. Tourism brings in foreign currency through currency exchange. It promotes entrepreneurship, such as craft vendors, surfboard rentals, food and flower suppliers to hotels, food suppliers to restaurants, and

more. It increases both the income of the community and government revenue. It also provides economic benefits to hotels and restaurants.

However, the economic prosperity derived from tourism does not always translate into improvements in terms of social, cultural, and ecological factors. The global expansion of the tourism industry has an impact on many aspects of human existence, including social and economic ones, culturally, and environmentally. These impacts can be both positive and negative. Negative impacts of tourism include high dependence on tourism, increased inflation and land prices, increased imports of foreign goods, especially modern technological equipment for tourist facilities, and the maintenance costs of existing facilities. Seasonal production leads to low return on initial investment. Regional disparities and income inequality among different groups of society may arise. Local communities may lose control over economic resources.

Development projects aimed at enhancing societal wellbeing have had both direct and indirect effects on the environment in the short and long term. Similarly, tourism development can have negative impacts on the surrounding environment. Environmental management and the management of tourist attractions greatly affect the sustainability of both the environment and the tourist sites.

The tourism industry is closely linked to the physical environment. The natural physical environment is an asset of tourism and is directly impacted due to its fragile and inseparable nature. It is delicate because God created the natural world, and if it is harmed, it might not recover or go back to how it was. It is inseparable because humans must visit the natural environment to enjoy it. Trousdale argues that better governance should clearly depict the roles of local, regional, and to minimize the detrimental effects of tourist development and promote its positive aspects, include community input at both the local and national levels. However, in practice, conflicting interests, tokenistic public participation, and strong influence from local governments hinder sustainable tourism development. By providing evidence of the importance of local governance, this research supports the positive effects of local government on tourism.

The main draw of tourism activities is the natural environment. The built environment (culture sites, urban areas, rural areas, and historical heritage) and natural surrounds (flora and fauna, natural landscapes, and natural occurrences) make up the physical environment. In theory, there should be a positive and helpful interaction between the natural environment and tourism. Visitors take in the splendor of nature, and the money made from tourism is used to save the environment and support tourism. However, there are frequently tensions because the connection between the environment and tourism is not always positive and symbiotic. Despite attempts for conservation, appreciation, and education to guarantee a healthy link between the two, tourism often exploits the environment rather than conserving it.

The impact of tourism on the physical environment is easily identifiable and has both benefits and drawbacks, as follows:

1. Water: Tourism contributes to water pollution through the discharge of liquid waste (e.g., hotel laundry detergent) and solid waste (e.g., leftover food from tourists). This waste contaminates the sea, lakes, and rivers. Water pollution also occurs due to the fuel emissions from water transportation vehicles such as

cruise ships. As a result of waste disposal, the environment becomes contaminated, public health is affected, changes and damage occur to aquatic vegetation, the aesthetic value of water decreases (e.g., the color of the sea changes from blue to black), and bodies of water become toxic, posing risks to seafood. Tourists are unable to swim or bathe in polluted water in the sea, lakes, and rivers. Communities and tourists must work together to maintain the cleanliness of water bodies. Environmentally friendly water transportation, such as rowing boats, kayaks, and canoes, can help reduce water pollution.

2. Atmosphere: Air travel is comfortable and efficient, but it has the potential to harm the Earth's atmosphere. Aircraft emissions released into the air contribute to air pollution, while the noise generated by aircraft engines causes noise pollution. Ground transportation vehicles (cars, buses) also contribute to air pollution through their emissions and noise pollution. The detrimental effects of air and noise pollution lower the tourism industry's worth, create unpleasant experiences, and have detrimental effects on vegetation and wildlife. The promotion of eco-friendly vehicles and mass air transportation (e.g., Airbus 380 with a capacity of 500 passengers) is necessary to minimize air and noise pollution. Encouraging the reduction of motor vehicles and promoting cycling tourism can also be effective.
3. Beaches and Islands: Beaches and islands are popular tourist destinations. However, they often experience negative impacts from tourism. The development of tourist facilities, infrastructure (e.g., roads, electricity, water supply), and the construction of airports and ports affect the carrying capacity of beaches and islands. Coastal environments are damaged (e.g., mangrove deforestation for beachfront accommodations), coral reefs are destroyed, traditional coastal lands are lost, and beach erosion occurs as a result of tourism development. Preserving and conserving beaches and marine areas, establishing marine parks and conservation areas, and offering eco-friendly activities to tourists are important steps to prolong the lifespan of beaches and oceans. Some island managers (e.g., the Thousand Islands National Park management) offer environmentally friendly travel packages that include activities such as planting seagrass and mangroves in the sea.
4. Mountains and Wilderness Areas: Mountains are popular destinations for tourists seeking a change of scenery, especially those coming from hot regions. However, activities in mountainous areas can potentially harm the mountains and their wilderness. Examples of potentially damaging developments include the establishment of hiking trails, hotels at the foot of hills, cable cars, and other facilities. These activities can lead to landslides, soil erosion, depletion of mountain vegetation (which serves as the lungs of the community), visual pollution, and excessive flooding due to mountains' reduced ability to absorb rainfall. Reforestation and revitalization efforts are necessary to prevent damage to mountains and wilderness areas.
5. Vegetation: Uncontrolled logging, deforestation, fire hazards (e.g., campfires), collecting flowers, plants, and mushrooms for tourist demands are some activities that harm vegetation. As a result, forest degradation occurs (leading to po-

- tential land erosion), changes in plant structure (e.g., fruit-bearing trees changing their fruiting cycles from every three months to every six months or even ceasing to bear fruit altogether), loss of rare plant species, and habitat destruction. The disruption and imbalance of vegetation ecosystems occur.
6. **Wildlife:** Wildlife is a major attraction for tourists, who are fascinated by animal behavior. However, tourist activities can disrupt the lives of these wild animals. The composition of fauna changes due to hunting for souvenirs, wildlife harassment for photography, exploitation of animals for performances, disruption of animal reproduction (breeding), changes in animal instincts (e.g., Komodo dragons, which were once aggressive animals, become tamed and protected), and migration to better areas. The reduced number of wild animals makes it difficult for tourists to encounter them during their visits.
  7. **Historical, Cultural, and Religious Sites:** Overcrowding due to excessive tourist visits can easily damage historical, cultural, and religious sites. The high density of tourists, alteration of the original functions of sites, and commercialization of tourist areas are examples of negative impacts on the physical environment. Religious sites, which are visited by many tourists, lose their main function as sacred places. Commercial exploitation of cultural sites can lead to excessive exploitation (e.g., overcrowding of tourists beyond capacity) and damage their historical, cultural, and religious significance. The carrying capacity of historical, cultural, and religious sites can be estimated and controlled through visitor management to reduce damage. Conservation, preservation, and renovation efforts can also be implemented to prolong the lifespan of these sites.
  8. In tourist sites, both urban and rural areas must include hotels, restaurants, visitor facilities, gift stores, and other structures. As a result of these developments, the number of vehicles, traffic density, and tourist visits rise. This not only puts pressure on land availability but also leads to a change in land function from residential to commercial use, congestion on the road, air pollution, and aesthetic pollution (particularly when structures are built without following adequate planning guidelines). Negative impacts can be mitigated through visitor management, proper urban and rural planning, and empowering communities to participate significantly in development processes.

The same is true for Bali, where tourism development generally aims to introduce, utilize, preserve, and improve the quality of tourism objects and attractions. The development of tourist attractions and attractions is carried out with consideration for cultural preservation, environmental quality, and the tourism sector's own ability to survive. Therefore, tourism and environmental issues are closely related. Tourism as an activity directly touches and involves the community, thus impacting the local population. The impacts of tourism on the community and tourist destinations include socio-economic impacts, environmental effects as well as sociocultural effects.

The impacts of tourism development on the environment include improper waste disposal (causing unpleasant odors and killing surrounding plants), the disposal of waste from hotels, restaurants, and hospitals that pollute rivers, lakes, or seas, damage to coral reefs due to fishermen no longer having access to the coast to catch fish (as the coast has been paved to build hotels and restaurants), deforestation, and uncon-

trolled destruction of biological resources, resulting in the loss of natural tourism attractions.

These efforts are carried out while maintaining sustainability and also as an effort to promote the improvement of environmental quality, tourism objects, and attractions, as well as the cultural values of the nation that lead to the advancement of manners, the elevation of humanity, ethics, and public order to strengthen the national identity in realizing the national vision. Therefore, the development of tourist objects and attractions must still be carried out by considering the capacity to encourage and enhance development, economic and socio-cultural life, religious values, customs, as well as the perspectives and values that exist in society, cultural preservation, and environmental quality, as well as the sustainability of the tourism industry itself.

The nature of tourism, which is extensive and involves the interests of the community as a whole, requires the integrated implementation of tourism by the government, businesses, and the community. The participation of the community in the broadest sense in this tourism implementation plays a crucial role in achieving equality, income, and equal business opportunities. In relation to community participation, guidance is needed to ensure that various tourism efforts can complement, relate to, and support each other. To achieve this goal, the government provides guidance for tourism activities through regulation, guidance, and supervision. The tourism activities related to development, investment, and policies implemented by the government, as well as the rapid developments in the tourism sector, need to be accompanied by appropriate regulations that align with the aspirations of the Indonesian people.

Just like tourism activities, the management of tourist areas built in various regions involves the surrounding communities to achieve harmony and balance. Comprehensive tourism laws are essential as a legal basis for the development and implementation of tourism, while their implementation is further regulated by government regulations.

Licensing continues to evolve over time, requiring changes to several licensing regulations to become more effective and in line with national objectives. The formulation of Law No. 11 of 2020 concerning Job Creation is not only intended to implement and enforce environmental protection but also to streamline bureaucratic processes and make them faster. This is expected to provide investors with more freedom and confidence to invest in domestic development. The complex bureaucratic processes are considered not reflecting good public services. Based on this principle, it requires simplifying public service procedures, making them easy to understand and implement. Therefore, the government initiates efforts to improve the implementation through the available technology. Government Regulation No. 5 of 2021 concerning Risk-Based Business Licensing was enacted as an implementing regulation for the Job Creation Law. This Government Regulation uses a risk-based approach. A risk-based approach is an approach that takes into account the degree of risk associated with a business's adoption. The calculation of the risk level is done based on two aspects:

1. Hazard level, including aspects of:
  - a. Health
  - b. Safety

- c. Environment
- d. Resource utilization
- 2. Potential hazard value based on:
  - a. Frequent occurrence
  - b. Infrequent occurrence
  - c. Previous occurrence
  - d. Never occurred

By combining these two assessments, business operations are classified and categorized into Low-Risk, Medium-Risk, and High-Risk Business Activities and High-Risk Business Activities within the OSS (Online Single Submission) system. With such assessments, the more dangerous corporate operations are, the more stringent the control measures imposed by the government through various permits required for business operators.

The procedures for applying for environmental permits include:

- a. OSS Registration

The registration process is carried out by individual or non-individual business actors by accessing the OSS website and completing the required registration form. The data provided by individual business actors include names and ID numbers (NIK), etc. After that, business actors are required to obtain a Business Identification Number (NIB). The NIB is the identity of the business actor issued by the OSS Agency after registration. The NIB is mandatory for business actors who want to process business permits through OSS, whether for new or existing businesses before the operationalization of OSS. According to Article 10, paragraph (8) of the BKPM Regulation No. 4 of 2021 concerning Guidelines and Procedures for Risk-Based Business Licensing Services and Investment Facilities, the OSS Agency issues the NIB based on:

- 1) Risk level
- 2) Capital Investment Field provisions
- 3) Minimum Investment provisions
- 4) Capital function provisions of the Business Identification Number (NIB):
  - Company Registration Certificate (TDP)
  - If the business actor plans to engage in import activities, they must obtain an API (import identification number).
  - Customs Access, if the business actor intends to engage in export and/or import activities
- b. Filling out the KBLI

According to Article 1, number (42) of the BKPM Regulation No. 4 of 2021 concerning Guidelines and Procedures for Risk-Based Business Licensing Services and Investment Facilities, the Standard Classification of Indonesian Business Fields, abbreviated as KBLI, is a classification code regulated by non-ministerial government institutions responsible for statistics. The KBLI code functions as a mapping of business permits to be issued to business actors. KBLI also plays a role in economic activities, such as studying economic units' behavior and providing information to monitor the economy's achievements within a specific period.

- c. PKPLH Approval

The Environmental Management Capability Statement (PKPLH) is a standard for environmental management and monitoring of environmental responsibility by business owners and/or activities endorsed by the Central or Regional Government for businesses and/or activities that require Environmental Impact Assessment (UKL-UPL). The business/activity owner submits a screening determination application to the Environmental Agency along with environmental information presentation. Issuance of PKPLH is a requirement to fulfill. According to Article 1, number (15) of Government Regulation No. 5 of 2021 concerning Risk-Based Business Licensing, the Statement of Environmental Management and Monitoring Capability (SPPL) refers to the statement of environmental management and monitoring capability as stipulated in environmental legislation. This statement is obtained after submitting all PKPLH data, signifying a commitment to the environment.

d. Preparation of Pertek Documents

According to Government Regulation No. 5 of 2021 concerning Risk-Based Business Licensing, the Initiator is required to prepare Technical Requirements (Pertek). There are three types of Pertek (Technical Requirements) that must be prepared, namely emission, waste, and hazardous materials (B3), as documents to obtain environmental approval or permits. The regulated Pertek includes:

- 1) Technical Standards: Activity description and quality standards
- 2) Competency Standards for Human Resources
- 3) Environmental Management System: Planning, Implementation, Inspection, and Actions

e. AMDAL or UKL/UPL Document Preparation

According to Article 5 of Government Regulation No. 22 of 2021 concerning Environmental Protection and Management, AMDAL is a significant environmental impact assessment of planned business and/or activities used as a prerequisite for decision-making regarding the implementation of the business and/or activity, stated in Business Licensing or approvals from the Central or Regional Government. On the other hand, Efforts for Environmental Management and Monitoring, abbreviated as UKL-UPL, are a series of environmental management and monitoring processes in the form of standards used as prerequisites for decision-making and stated in Business Licensing or approvals from the Central or Regional Government.

According to Article 5 of Government Regulation No. 22 of 2021 concerning Environmental Protection and Management, the AMDAL document must include:

- a. Types of business and/or activity plans that are required to have AMDAL, based on their scale or magnitude, and/or
- b. Types of business and/or activity plans located inside and/or directly adjacent to protected areas.

Once the preparation stage is complete, and the environmental analysis document is submitted to the environmental agency or ministry, the document will be analyzed and evaluated by the relevant ministry. Based on Article 13, paragraph (3) of Government Regulation No. 22 of 2021 concerning Environmental Protection and Management, the evaluation is conducted by considering:

- 1) The business and/or activity plan has a major environmental impact for scientific grounds,

- 2) Environmental support capacity and capacity at the location of the proposed company or activity,
- 3) Local ecosystem typology that is estimated to have a significant environmental impact, and
- 4) Environmental impact management technology.

f. Environmental Approval

The AMDAL or UKL/UPL documents submitted to the Ministry of Environment will be evaluated by the authorized officials to determine whether the proposed business is deemed environmentally safe or otherwise. Various outcomes or answers can result from the evaluation process, including:

- a) Proposed acceptance: The officials responsible for AMDAL, UKL-UPL, and SPPL issue recommendations to identify to the Minister a business plan and/or activity that isn't needed to have AMDAL as a business plan and/or activity that is.
- b) Proposed rejection: The officials responsible for AMDAL, UKL-UPL, and SPPL issue recommendations to reject the designation of a business plan and/or activity that is not required to have AMDAL as a business strategy and/or activity to the Minister that needs AMDAL. If the evaluation concludes with a rejection, the business owner or operator is required to start the entire process again.

g. Implementation Method

a) Online Method: Business operators complete all stages and procedures online using the system for online single submissions (OSS), which aims to simplify the process of obtaining business permits. The public's knowledge about these business permits is still low, as evidenced by many small business owners who are unaware of these permits. They feel confused when dealing with risk-based business permits due to several reasons. For large businesses, permits and related matters are regulated to support their development. However, small business owners may feel neglected and choose not to register their businesses due to the belief that avoiding the business licensing process is more efficient, as they are reluctant to undergo complex registration procedures.

b) Direct Method: After obtaining PKPLH approval, the remaining stages are carried out directly through conventional or face-to-face meetings between the business operator and the authorized official. The presence of the business owner or responsible team for the Environmental Impact Assessment (AMDAL) or UKL/UPL document is required to participate in direct meetings with the relevant environmental agency, such as the Ministry of Environment, to conduct evaluations of the environmental impacts before, during, and after the implementation of the business, as well as the evaluation of Technical Requirements (Pertek) documents. Direct meetings are necessary to facilitate better explanations and prevent misunderstandings between the parties, fostering good relations between entrepreneurs and the government.

The Law on Job Creation serves as a regulatory instrument for licensing to support ease of doing business. In the implementation process, Complementary rules such as regional regulations, regent regulations, and other laws are required under the Job Creation Law and other derivative regulations governing business licensing services. Consequently, the implementation of business licensing (including digital-based sys-



tems) in regions undergoes changes in terms of procedures, time, and costs. Local governments need to respond and follow up on policy, institutional, and digital platform aspects promptly. Such responses are crucial to achieve the debureaucratization, deregulation, and digitalization of business licensing through the OSS RBA System.

The OSS RBA System is used to assist business actors in getting risk-based business permits. However, public awareness of these business permits remains low. Many small business owners are still unaware of these permits, and they often find it confusing to navigate the process. This can be attributed to several reasons. When it comes to large businesses, it is expected that regulations concerning business permits are well-established to promote better development. However, this aspect seems to receive less attention from small business owners, as not many of them register their businesses or obtain NIB (Business Identification Number). Most micro, small, and medium-sized enterprises (MSMEs) refrain from registering their businesses due to the perceived difficulties and complications associated with the licensing process.

The primary issue in this situation is the lack of legal awareness among business owners. Furthermore, the general public feels that the legal guarantee does not provide sufficient protection for themselves and their business activities. The lack of public knowledge regarding the importance of business permits is often due to inadequate government socialization efforts. Additionally, people are reluctant to learn about complex legal matters. One of the legal issues commonly underestimated by the public is related to business operations. However, laws governing businesses are clearly outlined in the regulations. Nonetheless, many business owners do not comply with existing laws. One of the legal violations committed by business owners is the lack of business permits. Moreover, understanding the legal aspects of business is crucial for facilitating the process of starting a business and ensuring its security. This includes legal matters related to establishing a business entity, creating agreements, obtaining business permits, managing taxes, and more.

## 4 Conclusion

The preservation of the environmental functions close to tourist destinations must be taken into account when developing the tourism industry. As a result, it is possible to efficiently grow tourism while maintaining the environmental functions in the vicinity of tourist destinations. This criteria can be met by employing proper management and operation across sectors and enlisting private partners involved in the development of sustainable tourism. There are both positive and bad effects in terms of the economy, society, and the environment while developing sustainable tourist operations. The development of sustainable tourism operations has both good and bad repercussions on the economy, society, and environment. Obtaining permits is crucial for business. Government Regulation No. 5 of 2021 on the Implementation of Risk-Based Business Permits LN.2021/No.15, TLN No.6617, which introduces a new electronic licensing system called the Online Single Submission Risk Based Approach (OSS RBA) system, implements the Ciptaker Law, which regulates risk-based business permits. Based on Government Regulation No. 5 of 2021 on the Implementation of Risk-

Based Business Permits, the process for requesting an environmental permit starts with the Business Operator registering the business through the Online Single Submission (OSS) website, then choosing the Indonesian Business Classification Code (KBLI), and continuing until the Environmental Management Commitment (PKPLH) is approved. The business owner must then create supporting environmental documents, such as the Technical Requirements (Pertek), the Environmental Impact Analysis Document (AMDAL), or the Environmental Management and Monitoring Effort Document (UKL/UPL), and submit them to obtain environmental approval. After the passage of Government Regulation No. 5 of 2021 on the Implementation of Risk-Based Business Permits, there are two methods used to implement the process for applying for an environmental permit: the online implementation method and the direct implementation method.

## Reference

1. Academic Text of the Draft Law on Job Creation
2. Amiruddin & Zainal Asikin, 2018, *Pengantar Metode Penelitian Hukum*, Cet 10, Jakarta: Raja Grafindo Persada, page 56
3. Ani Sri Suryani, 2020, "Perizinan Lingkungan dalam Undang-Undang Cipta Kerja dan Dampaknya Terhadap Kelestarian Lingkungan", *Kajian Singkat Terhadap Isu Aktual dan Strategis*, Vol.XII. Nomor 20/Oktober/2020, Pusat Penelitian Badan Keahlian DPR I, page 16
4. Ateng Syafrudin, "Perizinan Untuk Kegiatan usaha", dalam *Majalah Hukum, Media Komunikasi UNPAS*, Bandung, Edisi 23 Tahun 1997 page 5
5. Bach Nguyen, 'Does Local Environmental Governance Improve Tourism Companies' Performance? Evidence from Vietnam', *Journal of Travel Research*, 2021
6. Bhwana, Petir Garda, Bali Optimistic of Tourism Bouncing Back in 2023, *Tempo*, 5 Februari 2023, <https://en.tempo.co/read/1687782/bali-optimistic-of-tourism-bouncing-back-in-2023>, accessed on 10 February 2023.
7. C. S. T. Kansil, 1998, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, Jakarta: Balai Pustaka, page 29
8. Helmi, 2012, *Hukum Perizinan Lingkungan Hidup*, Jakarta: Sinar Grafik, page 117
9. I Nyoman Ida Ayu, *Tanggungjawab Pemerintah Dalam Pengelolaan Lingkungan Hidup Berbasis Partisipasi Masyarakat untuk Pembangunan Daerah Bali*, *Jurnal Kertha Wicaksana: Sarana Komunikasi Dosen dan Mahasiswa Volume 14, Nomor 2 2020*, page 97.
10. Ismayanti, 2010, *Pengantar Pariwisata*, Penerbit Grasindo, Jakarta, page 190- 191
11. Juniarso Ridwan dan Achmad Sodik, 2016, *Hukum Tata Ruang Dalam Konsep Kebijakan Otonomi Daerah*. Bandung: Penerbit Nuansa, page 73
12. M. Hadin Muhjad, 2015, *Hukum Lingkungan Sebuah Pengantar Untuk Konteks Indonesia*, Yogyakarta: Genta Publishing, page 36.
13. Nila Amania, 2020, "Problematika Undang-Undang Cipta Kerja Sektor Lingkungan idup", *Jurnal Studi*, Vol-VI/No.-02/November/2020, Syariarti, page 209
14. Ridwan HR, 2016, *Hukum Administrasi Negara*, Jakarta: RajaGrafindo Persada, page 303
15. Soerjono Soekanto, 2007, *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia, page 52

16. Sopiah, Anisa, Bank Dunia: UU Cipta Kerja Sukses Gaet Investor Asing, CNBC Indonesia, 3 November 2022, [cncbindonesia.com/news/20221103153018-4384937/bank-dunia-uu-cipta-kerja-sukses-gaet-investor-asing](https://cncbindonesia.com/news/20221103153018-4384937/bank-dunia-uu-cipta-kerja-sukses-gaet-investor-asing), accessed on 18 January 2023.
17. Tomy Michael, 'Tourism Law (Study On The Dutch Cemetry In Peneleh Surabaya)', *Jurnal Ilmu Hukum*, 2019

**Open Access** This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

