

**THE JURIDICAL ANALYSIS OF SUPERVISION IN THE
DISTRIBUTION OF 3 KG LIQUEFIED PETROLEUM GAS (LPG) BASED
ON REGULATION OF THE MINISTER OF ENERGY AND MINERAL
RESOURCES OF THE REPUBLIC OF INDONESIA NUMBER 28 OF 2021
CONCERNING AMENDMENT TO REGULATION OF THE MINISTER
OF ENERGY AND MINERAL RESOURCES NUMBER 26 OF 2009
CONCERNING SUPPLY AND DISTRIBUTION OF LIQUEFIED
PETROLEUM GAS**

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ABSTRACT

The conversion of kerosene to gas is a policy deemed appropriate by the government. This policy was taken to divert the use of kerosene fuel as a necessity for cooking because approximately in 2025 the kerosene in Indonesia is expected to run out, therefore the government is trying to find a substitute for kerosene, namely Liquefied Petroleum Gas (LPG). Moreover, Indonesian households continue to increase and the amount of kerosene has decreased and it is even difficult for the community to obtain it. In carrying out the policy of using LPG, the government has regulated the distribution of LPG. One of these regulations is the regulation of the Minister of Mineral Resources Number 28 of 2021 concerning amendments to the regulation of the Minister of Mineral Resources Number 26 of 2009 concerning the Supply and Distribution of Liquefied Petroleum Gas. The government has a role to control the process of distributing the 3 kg LPG to the public and the Ministry of Energy and Mineral Resources is responsible for supervising the supply and distribution of 3 kg LPG which involves related agencies such as the regional government. It is intended for the lower middle class elements. The distribution of 3 kg LPG under the government supervision aims to ensure that the 3 kg LPG is right on target, especially for the underprivileged and micro businesses. The supervision of the distribution of 3 kg LPG is very important to ensure smooth and affordable services and meet the needs of 3 kg LPG for the community. It is necessary to supervise and monitor the distribution of 3 kg LPG from distribution deviations, violations of the highest retail price (HET), scarcity and misuse of 3 kg LPG.

Keywords: Supervision, Distribution, 3 Kg LPG

A. INTRODUCTION

1. Background Research

Petroleum is the most significant wealth owned by Indonesia. In 2009, there was a scarcity of kerosene which caused the prices to rise, making it difficult for the public to obtain it. The government solved the shortage by converting kerosene to 3kg Liquified Petroleum Gas (LPG). The launch of LPG was inaugurated by the vice president of Indonesia, M. Yusuf Kalla, in 2007. During this year, it became the peak for the government to launch a new policy, namely converting kerosene to LPG (Liquified Petroleum Gas).¹

The conversion of kerosene to gas is a policy deemed appropriate by the government. For this reason, the government provides and distributes the 3 kg LPG to the public even though this policy

has caused a lot of turmoil in society, both psychologically and economically. The existence of LPG (Liquified Petroleum Gas) has also created a new order in government circles, both in terms of budget, subsidies and targets.

Many people know that the LPG is widely distributed in the forms of 3 kg, 12 kg, 5.5 kg and 50 kg. The presence of 3 kg LPG is one of the solutions provided by the government through Pertamina (a National Energy Company in Indonesia) in order to carry out the kerosene conversion program to LPG.²This can be understood that the existence of 3 kg LPG is a government subsidy intended for certain circles.

In the Regulation of the Minister of Energy and Mineral Resources Number 28 of 2021 Article 1 paragraph (3), it states³:

¹<https://www.merdeka.com/uang/sejak-2007-program-konversi-bbm-ke-lpg-hematsubsidi-rp-197-triliun.html>, accessed on October 1st, 2022 at 19.00.

²http://www.pertamina.com/gasdom/produk_dan_services_elpiji_3kg.aspx, accessed on October 1st, 2022 at 09.00.

³The Regulation of the Minister of Energy and Mineral Resources Number 28 of 2021 Article 3 paragraph 1

“Liquefied Petroleum Gas known as LPG, is a liquefied hydrocarbon gas under pressure to facilitate storage, transportation and handling, which basically consists of propane, butane or a mixture of both”.

In the context of distributing LPG to the public, it has been explained in Article 10 and Article 11 of the Regulation of the Minister of Energy and Mineral Resources Number 28 of 2021 which states:

Article 10

- (1) LPG distribution is carried out by business entities with a license to trade LPG.
- (2) LPG distribution as referred to in paragraph (1) includes the following activities:
 - a. general LPG distributions; and
 - b. specific LPG distributions

Article 11

- (1) Business entities with a license to trade LPG will perform general LPG distributions as mentioned in

Article 10 Paragraph (2) letter a to:

- a. small scale users and customers, transportation and households; and/or
 - b. big scale users through fair, healthy and transparent business competition mechanisms.
 - c. big scale users through fair, healthy and transparent business competition mechanisms.
- (2) LPG for small-scale users and customers, transportation and households as referred to paragraph (1) letter a must be distributed through LPG distributors.
 - (3) LPG for massive users as referred to in paragraph (1) letter b can be distributed directly through the business facilities that are managed and/or owned.

The 3 kg LPG is seen by some people as a very lucrative and profitable business area, but to avoid fraud or monopoly, the Minister of Energy and Mineral Resources Regulation Number

18 of 2018 in Article 13 paragraph (3) states that:

“In ensuring the smooth distribution of specific LPG, business entities with a license to trade LPG may appoint certain sub-distributors of LPG based on the proposals of the LPG distributors.”.

The distribution of 3 kg LPG will affect the survival of the community. If this distribution is not appropriate, it will have a negative impact in the form of misuse and criminal acts, resulting in a scarcity of 3 kg LPG supplies. The LPG is an important material that controls people's lives. Therefore, the government must supervise the distribution. This supervision is intended to guarantee that the distribution of 3 kg LPG is right on target and can provide benefits to the community, especially the lower class. As a result, this supervision must also be in accordance with the principle of LPG distributions.

The Minister of Energy and Mineral Resources Regulation No. 28 of 2021 Article 20 Paragraph (2) states that⁴ :

“Certain LPG users as referred to in Paragraph (1) are household groups, micro business groups, targeted fishermen groups and targeted farmer groups who use certain LPG in 3kilogram LPG cylinders at a price determined by the minister.”

The government has a role to control the process of distributing the 3 kg LPG to the public. The Ministry of Energy and Mineral Resources through the Director General of Oil and Gas is responsible for guidance and supervision. The Regulation of the Minister of Energy and Mineral Resources Number 28 of 2021 Article 32 Paragraph (2) states that⁵:

“This is to carry out the guidance and supervision

⁴*Ibid article 20 paragraph 2*

⁵*Ibid article 32 paragraph 2*

of the provision and distribution as referred to in Article 18 the Director General that may cooperate with the Regional Government.”

Thus, the Regional Government can supervise the distribution of 3 Kg LPG so that it is right on target. As explained in Article 33 of the Minister of Energy and Mineral Resources Regulation Number 28 of 2021 concerning amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009, it states that⁶:

“The Regional Government carries out guidance and supervision over the highest retail price of certain LPG as referred to in Article 24A”.

The government has a role to control the process of distributing the 3 kg LPG to the public. The Ministry of Energy and Mineral Resources is

responsible for overseeing the supply and distribution of 3 kg LPG which involves relevant agencies such as Regional Governments, Independent Institutions, and Business Entities appointed to carry out the supply and distribution of 3 kg LPG to meet the needs of fuel oil for the needs of people's lives.

2. Identification of Problems

Based on what has been described in the background above, the problems in this research can be identified as: How to analyze the juridical supervision of the distribution of 3 Kg LPG based on the Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia Number 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Resources Mineral Number 26 of 2009?

B. RESEARCH

METHODOLOGY

1. Research Design

In this study, the

⁶*Ibid*Article 33

researchers used the normative juridical law research method which was carried out by examining library materials or secondary data or called library law research. This was based on the Minister of Energy and Mineral Resources number 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009 concerning the Supply and Distribution of Liquefied Petroleum Gas.

2. Type of Research

The type of research used by the author in this research is descriptive research. "Descriptive research is a problem-solving procedure investigated by describing the current state of the subject or research object based on the facts that appear"⁷. As a result, the accurate and clear analysis and facts can be obtained regarding the juridical analysis of supervision of the distribution of 3 kg LPG based on the

Regulation of the Minister of Energy and Mineral Resources Number 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009 concerning Provision and Distribution of Liquefied Petroleum Gas.

3. Sources of Legal Materials

The sources of legal materials used in this writing are:

- 1). Primary legal materials are data obtained directly from the source, namely Regulation of the Minister of Energy and Mineral Resources number 28 of 2021 concerning Amendments to Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009 concerning the

⁷ Ibid, page 41

Supply and Distribution of Liquefied Petroleum Gas.

2). Secondary legal materials are data that provide explanations regarding primary legal materials, such as research results, works from legal circles and so on.

3). Tertiary legal materials are in the forms of dictionaries, articles in magazines or newspapers, and the internet that are used to complement and explain primary and secondary legal materials.

4. Collecting Legal Materials

The collection of legal material in this study uses a documentary technique, which is collected from archives or literature studies such as books,

papers, articles, magazines, journals, newspapers or works of experts.

5. Processing Legal Materials

After the legal materials have been collected, processing of legal materials is then carried out by going through several stages as follows⁸ :

1. Editing means to review the legal material obtained so that completeness can be completed. However, if incomplete legal material is found, it is necessary to formulate the legal material that the writer finds into simpler sentences.

2. Systematization means that the researcher selects legal materials, then classifies them according to the

⁸ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2011), p.181

classification of legal materials and compiles the research data in a systematic and logical manner, meaning that there is a relationship and connection between one legal material and another.

3. The researcher describes the results of research based on legal materials obtained and then analyzes them.

6. Analysing Legal Materials

After the legal material is processed, it is then followed by technical analysis of legal material using qualitative analysis. It is by conducting a discussion of the legal material that has been obtained with reference to the existing theoretical basis.

7. Analysis Techniques for Legal Materials

The data obtained from the results of this study were

compiled and analyzed qualitatively. The data obtained through this research were in the nature of descriptions of theories and principles that were arranged systematically, then analyzed qualitatively. It is said to be juridical because this research starts from existing regulations as positive law. Likewise, qualitative data are analyzed from the information. Thus, this research is an analysis of data without using formulas and figures, but it has been done by classifying problems in existing law and analyzing it by using methods of legal interpretation, comparison and construction. This research was conducted by taking into account one regulation with another and should not conflict.

C. RESULTS AND DISCUSSION

Supervision is intended to avoid irregularities in various activities. It has been one of the parties who are responsible for carrying out government duties to supervise the distribution of 3 kg LPG.

In supervising the distribution of LPG in the certain regions based on the provisions in Article 32 paragraph 2 of the Minister of Energy and Mineral Resources Regulation Number 28 of 2021 supervision of the distribution of 3 kg LPG, the Ministry of Energy and Mineral Resources through the Director General of Oil and Gas can cooperate with the Regional Government.

Supervision of the distribution of subsidized 3 kg LPG gas is regulated in the Minister of Energy and Mineral Resources Regulation Number 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009 concerning

the Supply and Distribution of Liquid Petroleum Gas (LPG). Based on these regulations, LPG gas is divided into 2 namely:

1. Liquid Petroleum Gas (LPG) in general is a fuel whose user/use, packaging, volume and price are not subsidized, namely 5.5 kg LPG and 12 kg LPG.
2. Liquid Petroleum Gas (LPG) in the form of 3 kg LPG is a fuel that has specificity due to certain conditions such as its user/use, packaging, volume and/or price which still has to be subsidized.⁹

The Minister of Energy and Mineral Resources Regulation Number 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009 concerning the Provision and Distribution of LPG should carry out supervision in the forms of a commercial business license, the number of actual cylinder distribution of 3 kg LPG, the number of distributors and sub distributors,

⁹ Ibid Article 1 .

the number of recipients and the quality of 3 kg LPG subsidized by the government.

In supervising the distribution of subsidized 3 kg LPG, there are standards guided by the Regulation of the Minister of Energy and Mineral Resources Number 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009 concerning Distribution of 3 kg LPG. To analyze the occurrence of irregularities, we can compare the standard of supervision with the implementation of the distribution of 3 kg LPG. The implementation of measurement activities, supervision of the distribution of 3 kg LPG can run optimally if continuous monitoring is carried out so that the expected results of the supervision can be reached. Hence, there are no more irregularities committed by irresponsible persons. In supervising the distribution of 3 kg LPG, the team for Development and Supervision of Distribution is guided by the Regulation of the Minister of Energy and Mineral Resources Number 28

of 2021 concerning Amendments to Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009. The standards for supervision have been regulated in the regulation in physical, time, and money standards (highest retail price). Based on research by researchers, the cause of irregularities is the lack of firmness in the Team for Development and Supervision of Distribution in imposing sanctions. According to the researchers' understanding, the standards contained in the Regulation of the Minister of Energy and Mineral Resources Number 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009 are effective for the implementation of the distribution of 3 kg LPG.

D. CLOSING

1. Conclusion

Based on the results of the research and discussion on the juridical analysis of Supervision of the Distribution of 3 kg LPG based on the

Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia Number 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009, it can be concluded as follows;

1. The distribution of 3 kg LPG Gas is the responsibility of the Petroleum Business Company called *Pertamina* and the regional government. The regional Government and *Pertamina* appointed distributors and sub-distributors to carry out gas distribution activities and ensure the availability of LPG. Distributors are cooperatives, small businesses, and/or national private business entities, while sub-distributors or 3 kg LPG bases are business

entities or individuals acting on permits issued by *Pertamina* and the local regional government. They carry out activities for distributing the 3 kg LPG to consumers with a selling capacity of less than 1 (one) ton per day.

2. The supervision and distribution of 3 kg LPG are based on the Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia Number: 28 of 2021 concerning Amendments to the Regulation of the Minister of Energy and Mineral Resources Number 26 of 2009, as follows:
 - a. Setting standards as benchmarks in carrying out supervision.
 - b. Measuring performance which aims at achieving

effective and efficient distribution of 3 kg LPG.

c. Measuring the implementation of activities repeatedly.

d. Correcting deviations which aims to determine why the standard was not attainable.

2. Suggestion

Based on the problems in this study, the researchers try to provide recommendations, as follows:

1. Pertamina is responsible for ensuring the availability of 3 kg LPG supplies so that it reaches the right consumers at the right price and volume. In this case, it is necessary to emphasize the need for law enforcement with strict sanctions against business actors who commit violations.
2. The government needs to increase regular supervision of every

activity of business actors who sell the 3 kg LPG. The supervision can be carried out starting at the sub-district level by forming a team whose job is to check agents and bases that sell the 3 kg LPG.

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