

Environmental Audit System For Protection Of The Right To A Good Environment As Reviewed From Law Number 32 Of 2009 Concerning Environmental Protection And Management In Indonesia

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ABSTRACT

The environmental audit system serves as a tool to protect the right to a healthy environment, as mandated by Law Number 32 of 2009 concerning Environmental Protection and Management. This includes the declining quality of the environment in Indonesia, which has an impact on public welfare. This study aims to evaluate the effectiveness of the implementation of the environmental audit system and ensure the protection of the right to a healthy environment. The research framework is based on the theory of environmental auditing and sustainable development, with a normative and empirical juridical approach. The implementation of environmental audits highlights the role of regulations, implementation constraints, and their impact on sustainable development. Environmental audits have been shown to encourage compliance with regulations, identify environmental risks, and provide recommendations for improving environmental management. However, obstacles remain, such as a lack of auditor capacity, misalignment between rules and practices, and low transparency in reporting. Recommendations include strengthening regulations, community engagement, and adopting technology to increase transparency and accountability. This document concludes that environmental audits play a crucial role in protecting the community's right to a healthy environment and supporting the Sustainable Development Goals. Key recommendations include strengthening the legal framework, increasing auditor capacity, and actively engaging the community in environmental oversight. With effective implementation, the environmental audit system can become a strategic instrument to maintain the quality of life of the community and the sustainability of ecosystems in Indonesia.

Keywords: Audit, Environment, Rights, Development, Sustainability, Law Enforcement.

I. INTRODUCTION

Law Number 32 of 2009 concerning Environmental Protection and Management explains that a good and healthy environment is a basic right of every Indonesian citizen as stated in Article 1 Paragraph (3) A good and healthy environment is an environment that has the quality to support human life and other living creatures that can fulfill current living needs without sacrificing the ability of future generations to fulfill their living needs.

The provisions in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia provide the right to every person to live in physical and spiritual prosperity, to have a residence, and to have a good and healthy living environment. Based on these provisions, regional governments are obliged to provide public comfort, especially in matters of a decent and affordable living environment in a healthy, safe, harmonious, and sustainable environment throughout Indonesia.

The state, through the government, and all stakeholders are obligated to protect and manage the environment in the implementation of sustainable development so that Indonesia's environment can remain a source and support for the Indonesian people and other living creatures. To ensure its continued operation, Indonesia's environment must be protected and managed effectively based on the principles of state responsibility, sustainability, and justice.

Environmental management must also be able to provide economic, social, and cultural benefits based on the principles of prudence, environmental democracy, decentralization, and recognition and appreciation of local wisdom and environmental wisdom. However, the increasingly declining quality of the environment has threatened the continuity of human life and other living things so that it is necessary to carry out serious and consistent environmental protection and management by all stakeholders. According to Law Number 32 of 2009 concerning Environmental Protection and Management, the environment is defined as a unity of space with all objects, power, conditions, and living things including humans and their behavior that affect the continuity of life and the welfare of humans and other living things" (Article 1 Paragraph 2). This definition includes all elements that affect life and welfare in a space. Meanwhile, in a narrow sense, the environment is defined as the space occupied by a living thing together with living and non-living things in it. (Otto Soemarwoto, 2001)

The sustainable and environmentally conscious development carried out by the Indonesian nation is to improve the welfare and quality of life of the people. This is reflected in Article 33 Paragraph (3) of the 1945 Constitution which states: the earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

The greatest meaning of people's prosperity from a legal perspective is the existence of legal guarantees for the people's socio-economic rights, so that they can live decently as citizens. In realizing the utilization of natural resources for the people's prosperity as mandated by Article 33 Paragraph (3) of the 1945 Constitution, protection of natural resources and the environment is required. This protection can be realized, among other things, through the existence of good legal regulations. Good law is if it contains values of justice for all people. In this context, the law also functions as a tool of justice (law as a tool to reach justice) in the utilization of natural resources and the environment. Such justice is called environmental justice.

The increasing number of environmental issues is a growing concern, particularly in urban areas. The numerous pollution cases caused by poorly managed businesses and activities indicate that the laws, which serve as government instruments for maintaining, safeguarding, and preventing all existing and potential future dangers, are ineffective. (Muhammad Fahrudin, 2019)

Enforcing the law against environmental crimes is an effort to preserve Indonesia's natural environment. Crimes against the environment are constitutional crimes. A good and healthy environment is a human right, as regulated in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

The constitutionality of human rights regarding the environment is further strengthened by the issuance of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH). Based on Article 5 Paragraph (1) of the UUPPLH which states: "Everyone has the same rights to a good and healthy environment." However, in addition to having rights, according to Article 6 Paragraph (1) of the UUPPLH: "everyone is obliged to maintain the sustainability of environmental functions and prevent and overcome environmental pollution and damage."

Law number 39 of 1999 concerning Human Rights, Article 9 paragraph (3) states: "everyone has the right to a good and healthy living environment." This is emphasized and strengthened in Article 28 H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states, "Every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and has the right to receive health services."

In this case, humans, as environmental stewards, have the right to a clean and healthy environment. Without a healthy environment, we may not have access to a decent standard of living. Human rights and the environment are interconnected. A clean and healthy environment is one with clean air, clean water, and clean energy. A healthy and safe environment enables humans to reach their full potential.

In fact, so far most people can certainly feel that the right to a good and healthy environment is still far from what is expected. In this study, it will focus on the fulfillment of rights and the environmental audit implementation system in an effort to enforce environmental law, it is hoped that it can answer the problems that have been raised to the public in the Banten Provincial government area, such as the fire case that was widely reported in the media, the incident of a cooling water pipe leak and gas flaring in the chimney of PT. Chandra Asri Petrochemical, Tbk (PT. CAP) on January 20, 2024, news related to the Banten DLHK Will Propose an Investigation of Alleged Environmental Pollution by PT Raja Gudang Mas to the Center (KLHK RI), and News of the Banten DLHK Lab Testing the Blackened and Sewer-Smelling Ciujung Serang River Water. From the three news items as implemented practically, is there a correlation between the environmental audit system and the protection of the right to a good environment when reviewed from Law Number 32 of 2009 concerning Environmental Protection and Management, considering that environmental audits are regulated in Article 48 of Law Number. 32 of 2009 concerning Environmental Protection and Management which reads: "The government encourages those responsible for businesses or activities to conduct environmental audits in order to improve environmental performance". Furthermore, in the Regulation of the Minister of Environment No. 3 of 2013 concerning Environmental Audits. Article 4B explains: "Mandatory environmental audits". Then Article 17 explains: "Environmental Audits as referred to in Article 15 are audits required by the Minister for: a. Certain businesses and/or activities that pose a high risk to the environment; and/or b. Businesses and/or activities that show non-compliance with laws and regulations in the field of environmental protection and management. (Ulya.aulia, 2023)

Cases that occur in its implementation still show a mismatch between regulations and conditions that occur in the field (Dassein and Das Sollen), environmental conditions that are polluted by business actors/companies either intentionally or not. To realize general welfare in achieving sustainable development that has an impact on good public health, the government bears the responsibility to protect and manage the environment, including air, water and land. The role of the government is in accordance with the scope of its authority. then the government can take anticipatory steps if environmental pollution occurs.

Environmental issues are closely related to human behavior because people have emotional ties and legal claims to the environment. The procedural aspect is one of two factors that determine environmental rights. To achieve substantial fulfillment of environmental rights, this component is described as a derivative of procedural rights to the environment, also known as a supporting element. Significant aspects refer to rights that are relevant or important in this context, such as

the right to justice for all people and for all generations and the right to a living wage. This is regulated worldwide, particularly by the 1998 Aarhus Convention, and is also governed by environmental laws and regulations. Environmental laws are created with the aim of protecting the environment and providing benefits to society. This means that these regulations are made for the benefit of society. (Silvana Adping, 2025)

The description above, which makes the fulfillment of rights to humans and their environment lies in the implementation of an environmental audit system that is oriented towards protecting good environmental rights and in accordance with Law Number 32 of 2009.

Environmental audits are considered an effective way to assess environmental risks arising from industrial cases. Furthermore, environmental audits can be defined as a structured, documented, and objective management or evaluation tool for assessing the performance of an organization, its management systems, and equipment. In the context of sound environmental protection, environmental audits play a crucial role in ensuring compliance with environmental laws and regulations. Governments in various countries have established strict standards regarding emissions, waste, and the use of natural resources. Businesses and/or activities that fail to comply with these regulations can face fines, lawsuits, or even closure. Environmental audits help identify areas that do not meet legal standards, allowing companies to take corrective action before the problem becomes more serious.

This paper discusses how an environmental audit system can protect the right to a healthy environment, as defined by Law No. 32 of 2009 concerning Environmental Protection and Management. The type of research used is normative legal research (doctrinal legal research). Several relevant studies on the recording and completeness of informed consent and legal protection for physicians include:

1. The research of Annisaa Raihan Yunita Putri, I Komang Krisnata Kanaya, Michael Timoteus Oei, Paramasatya Raissa Iskandar (2022) entitled Implementation of Environmental Audits and the Efficiency of the Role of the BPK as an Environmental Auditor in Industries in Indonesia, shows that a number of industries in Indonesia have conducted environmental audits and it was found that Indonesian industrial practices have positive and negative impacts on the environment.
2. Dahlia Kusuma Dewi's (2018) research entitled Environmental Permits in Relation to the Enforcement of Environmental Administration and Environmental Crimes Based on Law No. 32 of 2009 concerning Environmental Protection and Management (UUPPLH), shows that Environmental Permits are State Administrative/State Administrative Decisions, which function as legal instruments and juridical means with the aim of protecting and managing the environment and preventing and basic parts of the issuance of business and/or activity permits based on UUPPLH. (Dahlia, 2018)

A fundamental difference between the two studies is that they are conducted from an administrative law perspective, specifically regarding licensing and the existence of industry in environmental management. The researcher focuses more on the environmental law perspective, examining the evaluation of Law Number 32 of 2009 concerning Environmental Protection and Management, both from a normative and administrative legal perspective.

Based on the description above and looking at the Environmental Audit System in Indonesia, the author is interested in conducting research with the title "ENVIRONMENTAL AUDIT SYSTEM ON THE PROTECTION OF THE RIGHT TO A GOOD ENVIRONMENT AS

REVIEWED FROM LAW NUMBER 32 OF 2009 CONCERNING ENVIRONMENTAL PROTECTION AND MANAGEMENT IN INDONESIA."

II. RESEARCH METHODS

The methods used in this research are normative and empirical juridical methods. Normative legal research uses law as the basis for norms. In this research, law is often conceptualized as what is written in legislation (law in book) or law that is conceptualized as a rule or norm that is a benchmark for community behavior regarding what is considered appropriate. The research specification used is descriptive-analytical, namely by describing the applicable legislation linked to legal theories and the practice of implementing positive law related to the problem. Descriptive analytical research is in accordance with the research conducted by the author, because in this study the author attempts to describe the existing reality or facts and describe a problem that exists in the implementation of the Environmental Audit System for the Protection of Good Environmental Rights in Review of Law Number 32 of 2009 Concerning Environmental Protection and Management in Indonesia.

III. RESULTS AND DISCUSSION

Environmental Audit System Enforcement Concept

Experts believe that the concept of enforcing an environmental audit system provides a strong foundation for supporting better environmental management. With a clear legal basis, such as Law No. 32 of 2009 and Minister of Environment and Forestry Regulation No. 3 of 2013, audits can provide significant benefits in protecting the community's right to a healthy environment. However, successful implementation depends on strengthening regulations, increasing capacity, and implementing modern technology. To assess compliance with environmental regulations, prevent damage, and support sustainable development, AH Millichamp defines an environmental audit as a systematic, documented, and objective evaluation of an organization's performance in managing the environment. The International Chamber (ICC) emphasizes the importance of audits to evaluate the impact of business operations and/or activities on the environment, including air emissions, soil and water pollution, and relationships with surrounding communities. Adisasmito views environmental audits as a tool to ensure compliance with legal standards, such as waste and emission management. The ISO 14000 Series emphasizes a systematic verification process to assess the conformity of environmental management with established criteria. In the context of regulations in Indonesia.

The environmental audit system is supported by Law Number 32 of 2009 concerning Environmental Protection and Management, specifically Article 48, which stipulates the importance of audits to improve environmental performance. Minister of Environment Regulation Number 3 of 2013 further regulates audit implementation, as outlined in Article 4B, which mandates audits for high-risk activities. This concept encompasses essential components such as identifying audit needs, conducting the audit, analyzing findings, reporting, and following up.

Identification of needs, as stipulated in Article 48 of Law No. 32 of 2009, includes an environmental risk analysis to determine audit priorities. The implementation of audits in accordance with Article 17 of the Minister of Environment and Forestry Regulation No. 3 of 2013 must be carried out independently by certified auditors. Analysis of audit findings assesses the level of compliance and effectiveness of environmental management, with follow-up actions

regulated in Articles 15-17 of the Minister of Environment and Forestry Regulation No. 3 of 2013. Experts agree that environmental audits are not only a compliance tool, but also a strategy to support sustainability and protect the community's right to a good environment, as guaranteed by Article 28H Paragraph (1) of the 1945 Constitution. However, its implementation faces obstacles, including a lack of auditor capacity and modern monitoring technology. To increase the effectiveness of enforcement and strengthen auditor capacity, the involvement of digital technology, as well as community involvement in environmental monitoring as stipulated in Article 70 of Law No. 32 of 2009

The integration of expert theory and regulation provides a strong conceptual framework for making environmental audits an effective law enforcement tool, supporting sustainability, and protecting society from the impacts of environmental damage.

Implementation of Environmental Audits that Ensure Good Environmental Protection

Conducting environmental audits is one way to support environmental protection and ensure a healthy environment. Environmental audits aim to evaluate whether business or development activities undertaken by business actors and/or activities comply with existing laws and regulations, and to assess whether the environmental impacts of these activities do not violate human rights. In this context, environmental audits serve not only as an evaluation tool but also as a preventative measure to prevent further environmental damage.

1. Environmental Audit Criteria

Environmental audits are carried out by business actors and/or activities due to two possibilities as explained in Article (4) of the Minister of Environment Regulation Number 3 of 2013 concerning environmental audits which explains two types of environmental audits as follows and their advantages:

- a. Auditvoluntary environmental audits, audits carried out on the business or activity actor's own initiative without any obligation from the government
- b. Auditmandatory environmental audits, audits conducted based on statutory provisions or because they are required by the government.

2. Environmental Audit Implementer or Team

Regulation of the Minister of Environment Number 3 of 2013 concerning environmental audits, Article (5) explains that implementation by the environmental audit team is carried out by a special team which has a clear membership structure and responsibilities as per paragraph (1) which states that environmental audits are not carried out individually, but by an environmental audit team consisting of professionals with certain competencies.

3. Competency Providing Institution (LPK)

In general, business actors and/or activities seek the best auditor consultants and fulfill the criteria and requirements explained in the third part of the competency training institution according to the Regulation of the Minister of Environment Number 3 of 2013 concerning environmental audits, Article 11. Every LPK Environmental Auditor as referred to in paragraph (1) is required to register for competency. Paragraph (3) LPK environmental auditors submit a written registration application to the minister. Meanwhile, in paragraph (4) LPK Environmental Auditors registered as referred to in paragraph (1) are required to fulfill the requirements.

4. Methodology in Environmental Audit

Regulation of the Minister of Environment Number 3 of 2013 concerning environmental audits, Article (6) regarding the use of methodology in this audit requires the audit team to use

appropriate methodology in carrying out environmental audits.

5. Environmental Audit Procedures

The auditor consultant then makes preparations which are outlined in a technical proposal. This technical proposal document becomes the subject of discussion between the consultant and the business owner. If an agreement has been reached between the consultant and the business owner, the work will be carried out. Regulation of the Minister of Environment Number 3 of 2013 concerning environmental audits explains in detail in Chapter III Article 15 the procedures for environmental audits regulated in this Ministerial Regulation only for the required Environmental Audits as referred to in Article 4 paragraph (1) letter b. It is explained that Article 16 paragraph (1) environmental audits are carried out on businesses and/or activities that have environmental documents. Paragraph (2) environmental audits can be carried out on more than 1 (one) Business and/or Activity located in 1 (one) area. Meanwhile, Article 17 explains that Environmental Audits as referred to in Article 15 are audits required by the Minister for:

- a. Business and/or certain activities that pose a high risk to the environment; and/or
- b. Business and/or activities that demonstrate non-compliance with laws and regulations in the field of environmental protection and management.

Certain businesses and/or activities that pose a high risk to the environment as referred to in Article 17 letter a are listed in Attachment I which is an integral part of this Ministerial Regulation.

In general, aspects that must be agreed upon in an environmental audit include the scope of work, the parameters to be examined, the research and assessment methods, and the evaluation methods for the audit to be conducted. These discussed aspects relate to reliability, validity, and compliance with the agreed budget. Auditors, in their respective fields, begin collecting data, primarily secondary data. If the business activity has an Environmental Impact Assessment (EIA) document, this document will contain a wealth of data that can be used for environmental audit purposes. Data will be even more comprehensive if the monitoring activities, which are mandatory for the business, are carried out. With complete data and a time series, trends can be created.

6. Environmental Audit Documents

Field data collection work can be carried out using methods agreed upon between the consultant and the business owner. This data collection can be carried out by inspection, measurement, observation, interviews or sampling for physical and biotic environmental components. Regulation of the Minister of Environment Number 3 of 2013 concerning environmental audits, Article 21 paragraph (1) explains environmental audit documents.

7. Environmental Audit Assessment and Evaluation

The next step is the assessment and evaluation process. This is intended to determine the performance of environmental management. For business activities that are still not good, it is necessary to find ways to mitigate them. Regulation of the Minister of Environment Number 3 of 2013 concerning environmental audits, Article 22 explains that paragraph (1) the Minister carries out an assessment of the implementation of environmental audits.

IV. CONCLUSION

1. The concept of enforcing the environmental audit system in Indonesia is based on Article 48 of Law Number 32 of 2009 concerning Environmental Protection and Management which applies throughout Indonesia, with implementation tailored to the characteristics and needs of each region, as regulated in applicable laws and regulations. The implementation of

environmental audits can be found in various industrial sectors and business activities throughout Indonesia, as listed in Attachment I of the Regulation of the Minister of Environment and Forestry Number 3 of 2013. This implementation can also be seen in cases that occurred in the Banten Provincial government area, such as the case of cooling water pipe leaks and gas flaring in the chimney of PT. Chandra Asri Petrochemical, Tbk (PT. CAP) on January 20, 2024, the investigation of alleged environmental pollution by PT Raja Gudang Mas, and the laboratory test of the Ciujung Serang River water which turned black and smelled of sewage, especially in Article 4 which regulates the

2. Environmental audits that ensure proper environmental protection can be found in various regions in Indonesia, particularly in industrial areas and business activities that pose high environmental risks. For example, environmental audits are conducted in industrial areas in Cilegon, Banten, to ensure waste management and pollution control comply with established standards. Furthermore, environmental audits are also conducted in the mining sector in Serang Regency to monitor reclamation of former mining sites and environmental management. By analyzing environmental risks and Follow-up action in accordance with the provisions of Article 17 of the Minister of Environment Regulation Number 3 of 2013, which regulates audit obligations for businesses that demonstrate non-compliance or pose a high risk to the environment. This audit serves to assess legal compliance, reduce the potential for pollution, and ensure the protection of the community's right to a good environment as stipulated in Article 17 of the Minister of Environment Regulation Number 3 of 2013.

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