



# A Review of Research on the Legal System of Environmental Auditing in China

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**Abstract.** The construction of an ecological civilisation is an important part of the construction of socialism with Chinese characteristics and is related to the well-being of the people and the future of the nation. Environmental auditing is an important guarantee for the construction of ecological civilization, and the legal framework of environmental auditing is the foundation and fundamental of environmental auditing. This paper provides an overview study of the development of China's legal system for environmental auditing from two perspectives: the historical evolution and current status of environmental auditing and the current legal development of environmental auditing, and further reviews it in a macro perspective.

**Keywords:** Environmental Auditing · Audit law · Literature review

## 1 Introduction

Environmental auditing is one of the new types of public auditing carried out by the State Audit Office, with the aim of promoting the implementation of national sustainable development strategies, as well as being responsible for the assessment, certification and authentication of related economic activities of public administrations and their affiliated departments, enterprises and institutions, and other legal persons and organisations that fall within the scope of auditing. Environmental auditing in China is still in the exploratory stage, and the main contradiction at this stage is the requirement for accelerated development and the lack of an appropriate legal framework. Based on the current situation and characteristics of environmental auditing in the Chinese government, this paper examines the salient cruxes of the current legal regime for environmental auditing that limit the practice of auditing, and proposes concepts and methods for building a comprehensive legal regime for environmental auditing in the Chinese government.

## 2 Review of the Literature on Environmental Audit Law

### 2.1 History and Current Status of Environment Auditing

Ye (2008) in his *A Preliminary Exploration of China's Environmental Audit Legislation* [1] suggests that at present, China's regulations on environmental auditing are mainly

in the form of policies, while there is basically a gap in the law. In the past two decades, although China has promulgated a series of laws and regulations on environmental protection, it lacks regulations that specifically and explicitly endorse or regulate environmental auditing work. The environmental audits currently carried out by auditing authorities are still limited to the traditional financial audits on the use of environmental protection funds, which is far behind the international environmental audits of today, and the audit targets are limited to state government agencies and institutions and state-owned enterprises. As a result, the role of environmental auditing is not as effective as one might expect. Environmental audits need to be backed up by laws and regulations, and if they are not complete, it will be difficult to achieve real audit supervision. Therefore, on the one hand, we need to improve the legal system through legislation, so that audit organisations have specific audit authority in environmental supervision and management, and give full play to the role of audit; on the other hand, we need to develop operational environmental audit work rules, so that the scope, content, procedures and methods of environmental audit are institutionalised, so that the practical operation of environmental audit can be standardised, thus improving the quality of environmental audit work. The quality of environmental audit work should be improved.

Gao (2011) defines environmental auditing as an extension of traditional auditing that originally arose within enterprises in developed Western countries in the 1970s [2]. In the 1980s, countries such as the United States and Canada began to implement different forms of national environmental audits to help enterprises save resources and energy and strengthen environmental management. In the early 1990s, the establishment of the World Auditing Organisation's Environmental Audit Working Group in 1992 marked the formal introduction of environmental issues into the operations of most national supreme audit institutions.

By combing through the government environmental audit projects in China over the past 10 years, Xu (2015), in her *Legislative Concepts for Government Environmental Audits in China* [3], suggests that during the 10 years from 2005 to 2014, the Audit Office organized a total of 15 environmental audit projects, showing the following characteristics: First, the selection of projects is focused on major social concerns and livelihood areas; second, the audit objectives of projects have undergone a process from single-point inspection to comprehensive reflection. Secondly, the audit objectives of the projects have gone through a process from single-point inspection to comprehensive reflection, especially the projects in recent years have been extensive, reflecting the state's attempt to reflect the problems in resource use and environmental protection at a national level; thirdly, the projects were basically implemented in the conventional way of auditing from funds to projects, focusing on the legality, compliance and effectiveness of the use of environmental protection funds with funds as the main line.

## 2.2 Development of Domestic Environmental Audit Law

In an analysis of China's legal environment, Jin & Zhang (1999) show that, compared to the Western concept of "law above all", it is not uncommon for China's executive power at all levels to intervene directly in auditing activities beyond the legal process, thus making the authority and dignity of the law suffer [4]. The authority and dignity of the law has been greatly affected. Wang & Lu (2002) mention that China's legal environment

is characterised by lagging legislation and inconsistent regulations, and that there is more arbitrariness in the implementation and interpretation of the regulations formulated by the relevant departments [5]. In contrast, Dong & Chen (2002) and Wang & Chen (2010) mention the problem of inadequate application of auditing standards [6, 7]. Among them, the former pointed out that the determination of legal liability for audit failures is problematic because the specific operation of auditing standards cannot be directly observed in the actual operation process. The latter points out that the legal status of auditing standards is not recognised, which makes it difficult for the courts to reasonably define cases as the “only technical basis” for determining whether a CPA is negligent.

Ye (2008), in *A Preliminary Exploration of Environmental Audit Legislation in China* [1], suggests that environmental audit legislation in China is feasible.

According to Liu (2011), the problems in the legal system of environmental auditing at the present stage in China include: weak awareness of environmental protection, the awareness and concept of environmental auditing has not been firmly established; the construction of the legal system of environmental auditing is not yet perfect, and the implementation of relevant regulations is not strong enough; the lack of basic environmental accounting standards and systems, the lack of environmental accounting information disclosure; the lack of unified, reasonable and effective performance evaluation index system; the subject is excessively single and lacks the independent audit power of social third parties; the audit object and content are single and the audit scope is narrow; the audit method is backward; it is difficult to obtain relevant environmental evidence; and the environmental audit results lack binding force [8].

Li (2011) argues that the construction of environmental auditing standards should conform to the principles of extensibility, objectivity, effectiveness and hierarchy [9]. Wang (2012) argues that government environmental performance audit legislation should conform to the legislative process reflecting the principles of advancement and operability, and the outcome of the law reflecting the principles of environmental law and audit law [10].

Xu (2012) argues that the Constitution is the fundamental law of the state, which is formulated and amended by the highest authority of the state through a specific procedure, stipulating the fundamental issues of the state, society and citizens, and has the highest legal effect. Unfortunately, the expression “environmental auditing” does not appear in the Constitution [11]. Laws are legal norms that are formulated and amended by the National People’s Congress and its Standing Committee in accordance with the law, and that stipulate and regulate fundamental issues or social relations in a particular aspect of the life of the state, society and citizens. There are two main categories of laws related to environmental auditing in China: the first category is environmental laws and the second category is accounting and auditing laws. Administrative laws and regulations are the normative legal documents concerning administration and management that are formulated and amended by the State Council in accordance with the law. For example, the *Regulations for the Implementation of the Audit Law* specify the duties and powers of the audit authority and the scope of audit supervision, but the content of the audit is still focused on the truthfulness, legality and effectiveness of financial funds, and there is no direct regulation of “environmental auditing”. Administrative regulations include departmental regulations and local government regulations, with the focus here

on departmental regulations, which refer to the various administrative regulatory legal documents formulated by departments under the State Council within the scope of their authority, in accordance with laws and administrative regulations. In recent years, with the changing situation of China's resources and environment, and the gradual establishment and implementation of the "scientific outlook on development", the legislative regulation of environmental auditing in departmental regulations has been effective.

In *A discussion on the improvement of the legal system of environmental auditing in China* [12], Chen (2013) suggests that there are still many shortcomings in the legal system of environmental auditing in China: the legislative system is not perfect, there are deficiencies in the content of legislation, and the legal practice is not sufficient. Zhang (2014) argues that the legal system of environmental auditing is a system that systematically audits and presents audit reports on environmental management activities such as environmental protection planning, testing, management and coordination carried out by environmental protection departments of governments and enterprises at all levels in order to legalise environmental auditing and thus make objective and fair evaluations [13]. Its objectives are to establish a sound environmental protection management system, to implement environmental protection measures and to evaluate the effectiveness and scientificity of environmental protection measures.

Zhang & Wang (2014) argue that China's audit legal environment is characterised by problems such as arbitrary legislation and enforcement, and insufficient application of auditing standards, which affect the accuracy and appropriateness of the determination of the legal liability of CPAs and lead to a situation of low legal risk [14]. Although these existing legal literatures have mentioned the phenomena existing in China's audit legal environment, the analysis of China's current audit legal environment has not been discussed in a specific and systematic manner, and most of them only give a general account of some of the problems existing.

Gong (2019) argues that among the existing laws and regulations, China has formulated some of the relevant legal supervision of ecological environmental protection and auditing, and the legal supervision system of ecological environmental auditing has taken shape, but a clear legal definition of ecological environmental auditing and specific implementation methods and assessment standards are still lacking [15].

### 3 Overall Review and Outlook on Research Directions

The above findings describe the current state of environmental auditing, the current state of environmental auditing legislation and its theoretical foundations, and propose measures to improve the current legal framework for environmental auditing in China. Although the existing legal literature refers to a number of phenomena in China's audit law environment, it does not provide a specific and systematic discussion, and mostly only describes some issues in general terms. In order to promote the transformation of environmental auditing from post-facto auditing to comprehensive auditing and the implementation of new types of auditing: source auditing, main auditing, enhanced follow-up auditing and enhanced comprehensive auditing, the author suggests establishing a systematic and complete theoretical framework, summarising the scope and practical experience of foreign environmental auditing and focusing on the dilemmas in

the environmental auditing process, with the aim of promoting the transformation of environmental auditing from post-facto auditing to whole process environmental auditing and implementing The aim is to promote the transformation of environmental auditing from post-facto auditing to whole-process environmental auditing, implement a new environmental auditing model of “focusing on source auditing, highlighting key auditing, strengthening tracking auditing and improving whole-process auditing”, protect the interests of China’s resources and environment, safeguard resources and environmental security, promote the implementation of environmental auditing and establish and improve the legal system of environmental auditing with Chinese characteristics.

Environmental issues have become a serious challenge for all mankind. Environmental auditing is an essential part of a comprehensive monitoring tool to solve environmental problems and strengthen environmental protection and management and implement sustainable development strategies. Only with the establishment of a sound legal system for environmental auditing can we ensure the complete and effective operation of the environmental protection system in China, and only with the effective monitoring tool of environmental auditing can we make an accurate evaluation of the environmental activities of the government and enterprises, and disclose the necessary information to the public. The need for a legal system of environmental auditing is self-evident.

China has a system in which government auditing is the main focus, with internal and social auditing gradually developing, and government auditing is under the jurisdiction of the government, resulting in a situation where auditing at all levels is subject to local government and lacks independence. We should start from the basic national conditions, follow the principle of audit independence and supervision, and learn from the legal regulation of ecological and environmental auditing in foreign countries to build up the legal regulation of ecological and environmental auditing in China, so as to effectively guarantee the ecological and environmental auditing.

## 4 Conclusions

The relevant regulators should introduce supplementary legislation on environmental audit supervision as soon as possible, with a particular focus on expanding the authority of environmental auditors, coordinating central and local rules and policies on environmental auditing, and developing operational rules for environmental auditing work. It is recommended that the research and development of environmental resource auditing guidelines be accelerated and a set of scientific and feasible evaluation criteria for issuing audit opinions be established as part of an environmental auditing system in China, with government auditing as the main axis and private and internal auditing co-existing and each having its own role to play. Establish a system of ex ante supervision, ex post and ex post supervision and auditing, and regulate the subjects of environmental auditing - government environmental auditing, internal environmental auditing and social environmental auditing - from a legal perspective. Accountability and incentive mechanisms co-exist, with accountability mechanisms referring to the supervision and accountability of those responsible for the implementation of audited issues before, during and after the audit. Accelerate the development of the environmental audit team. Environmental auditing requires a variety of interdisciplinary expertise, and auditors need to have knowledge of environmental economics, environmental science, environmental and resource

law, management, accounting, ecology, sociology and so on. Only in this way can the country's economy and environment develop in harmony so that people can fully enjoy the benefits of development as they rise to wealth.

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