

***ENFORCEMENT ANALYSIS OF ENVIRONMENTAL CRIMES IN B3
TRANSPORT ACCIDENTS, MEDAN METRO POLICE***
**ANALISIS PENEGAKAN HUKUM TINDAK PIDANA LINGKUNGAN
HIDUP TERHADAP KECELAKAAN LALU LINTAS ANGKUTAN
BAHAN BERBAHAYA DAN BERACUN (B3) DI KEPOLISIAN RESOR
KOTA BESAR MEDAN**

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ABSTRACT

This study examines the normative rigidity of Article 103 of Law No. 32 of 2009 and its implications for law enforcement in hazardous and toxic materials (B3) transportation accidents at the Medan Metropolitan Police Department. The study employs Van Hammel's Theory, Lawrence M. Friedman's Legal System Theory and Satjipto Rahardjo's Progressive Law Theory. The findings indicate that Article 103 transforms a general offense into a complaint-based offense, thereby limiting investigators' authority and weakening the legal structure, substance and culture. Data from 2023–2024 show that 12 B3 transportation accident cases were processed solely as traffic accidents. The study recommends establishing a 1×24-hour reporting mechanism through a Memorandum of Understanding (MoU) and revising Article 103 to promote responsive, effective and progressive law enforcement.

Keywords: Article 103 Environmental Law, B3 Transport Accident, Law Enforcement, Legal Reform, Medan Metropolitan Police

ABSTRAK

Penelitian ini mengkaji rigiditas normatif Pasal 103 UU No. 32 Tahun 2009 terhadap penegakan hukum kecelakaan angkutan B3 di Polresta Medan. Penelitian menggunakan Teori Van Hammel, Teori Sistem Hukum Lawrence M. Friedman dan Teori Hukum Progresif Satjipto Rahardjo. Hasil penelitian menunjukkan bahwa Pasal 103 mengubah delik umum menjadi delik aduan sehingga membatasi kewenangan penyidik serta melemahkan struktur, substansi dan budaya hukum. Data 2023–2024 menunjukkan terdapat 12 kasus kecelakaan angkutan B3 yang hanya diproses sebagai kecelakaan lalu lintas. Penelitian merekomendasikan pembentukan MoU mekanisme pelaporan 1×24 jam dan revisi

Pasal 103 guna mewujudkan penegakan hukum yang responsif, efektif dan progresif.

Kata Kunci: Kecelakaan Angkutan B3, Pasal 103 UU PPLH, Pembaharuan Hukum, Penegakan Hukum, Polrestabes Medan

A. INTRODUCTION

Hazardous and Toxic Materials (B3) are forms of a substance, energy and/or other ingredients that are hazardous and/or toxic to the environment, directly or indirectly and/or hazardous to humans and/or other living creatures because of their properties, concentration and/or number.¹ The transport of B3 is inherently dangerous. Based on the Indonesian National Police Traffic Corps data, there were 27,215 traffic accident cases nationwide in 2023, including those involving the transportation of dangerous goods.² Meanwhile, the Regional Police Traffic Directorate estimated that there were 2,147 traffic accidents and 432 fatalities in North Sumatra in 2023.³

These numbers become more concerning when connected to the transportation of B3, as various traffic accident cases involving B3 have occurred in Medan: In January 2024, a CPO tanker truck caught fire on the Medan-Kualanamu Toll Road, obstructing traffic for eight hours and creating air pollution.⁴ In March 2023, acid was spilled on Gatot Subroto Street, poisoning three people and contaminating Medan's drainage canals.⁵ Various accident cases caused not only casualties and economic losses but also environmental damage.

From a normative point of view, there are several legal provisions regulating traffic accidents; notably, Law No. 22/2009 on traffic and road transportation, which stipulates that causing an accident is a criminal offense (Article 308).⁶

¹ Syifa Sofia Agustin, dkk., *Pengelolaan Sampah dan Limbah B3 dalam Perspektif Hukum Lingkungan: Disharmonisasi Regulasi dan Tantangan Prinsip Kehati-hatian*, Custodia: Journal of Legal, Political and Humanistic Inquiry, Vol.1, No.2 (2025).

² Pusiknas Bareskrim Polri, *Jurnal Data Pusiknas Bareskrim Polri Tahun 2023 Edisi 2024*, Pusiknas Bareskrim Polri, Jakarta, 2024.

³ Direktorat Lalu Lintas Kepolisian Daerah Sumatera Utara (Ditlantas Polda Sumut), *Data Statistik Kecelakaan Korban Fatalitas Jalan Raya Provinsi Sumatera Utara*, Polda Sumut, Medan, 2024.

⁴ *Truk Tangki CPO Terbakar di Tol Medan-Kualanamu, Arus Lalu Lintas Macet Total*, Harian Medan Bisnis, 15 Januari 2024.

⁵ Wawancara Eksploratif dengan Penyidik Satuan Lalu Lintas Polrestabes Medan, September 2025.

⁶ Indonesia, *Undang-Undang tentang Lalu Lintas dan Angkutan Jalan*, Pasal 308 UU No.22 Tahun 2009, LN Tahun 2009 No.96, TLN No.5025.

Furthermore, Law No. 32/2009 on environmental protection and management stipulates imprisonment of 3-10 years and a fine of IDR 3-10 billion for causing environmental damage through the dumping of B3.⁷ In terms of institutions, the government has established the Gakkum KLHK (Environmental Law Enforcement Agency) specifically for investigating and prosecuting environmental crimes. Considering the Principle of Legality in the Criminal Code (Article 1 paragraph 1) and the *Ultimum Remedium* principle in environmental law, it can be argued that a criminal offense is the last resort measure for punishing environmental damage. Thus, B3 transportation accidents should be prosecuted both criminally under traffic law and environmental law.

The practical aspect argues otherwise; at the moment, most B3 transportation-related accidents in Medan are only punished administratively through traffic tickets while the offenders have only been subjected to civil liability. The problem stems from Article 103 of Law No. 32/2009 on Environmental Protection and Management, which stipulates that investigators in environmental crimes must report to the Minister of Environment and Forestry for permission before conducting an investigation. The requirement for permission from the Minister for each criminal case violates the Principle of Speedy and Simple Justice in Article 2 paragraph 4 of Law No. 48/2009 on Judicial Power,⁸ and the Principle of Speedy Trial in the Criminal Procedure Code.

When it comes to B3 transportation accidents, time is of the essence, as evidence such as chemical spills evaporates quickly after an accident. The 14-30 day permit process for investigators is too long and by the time they arrive at the crime scene, most evidence will be gone. Moreover, the lack of a Standard Operating Procedure (SOP) in the collaboration between Polrestabes Medan, Gakkum and the Medan City Transportation Agency has resulted in no environmental criminal cases being brought to court. In my preliminary research with two traffic accident investigators in Polrestabes Medan in September 2025, out of 12 B3 transportation accident cases during 2023-2024, all have been concluded through ticketing and civil negotiations. The cases were not

⁷ *Ibid.*, Pasal 60 jo. Pasal 104.

⁸ Indonesia, *Undang-Undang tentang Kekuasaan Kehakiman*, Pasal 2 Ayat (4) UU No.48 Tahun 2009, LN Tahun 2009 No.157, TLN No.5076.

investigated criminally due to “complicated permits and cooperation” between agencies.

The lack of a functional SOP resulted in a legal paradox, where the state simultaneously stipulates extremely strict legal sanctions for environmental damage while making it almost impossible for victims to bring a case to court due to bureaucratic red tape. This paradox needs to be resolved, as Medan City, which has 78,492 freight vehicles and 8.3% of which are B3 transportation vehicles, has a great risk of environmental disaster and potential loss of hundreds of human lives.

This study applied a comprehensive analysis of the problems encountered during the enforcement of the relevant law. Van Hammel categorizes criminal offenses as either *algemeen delict* (public offense) and *klacht delict* (complaint offense). According to him, *algemeen delict* does not require a complaint before investigation while *klacht delict* requires a formal complaint by the victim for the investigation to commence. Van Hammel also makes a distinction between formal and material offenses. This paper seeks to apply this theory to determine whether B3 transportation accident falls under *algemeen delict* or *klacht delict*. Specifically, whether the B3 transportation accident *flagrante delicto* should be investigated despite the non-availability of a complaint or a written request to the Minister of Environment and Forestry before initiating any investigation. From the theory, it is argued that B3 transportation accident *flagrante delicto* requires immediate police response and does not fall under *klacht delict* or even material offense.

The requirement of the minister’s approval for police investigation to commence imposes hurdles on the speedy, simple and low-cost trial envisioned in the new law.⁹ Friedman’s legal system theory prioritizes three (3) factors that facilitate law’s effectiveness structure, substance and culture.¹⁰

⁹ Emaeve Nur Berliantari, dkk., *Efektivitas Pengaruh Penyimpanan Sementara dan Pengelolaan Limbah B3 Berdasarkan Hukum Lingkungan di Indonesia*, Doktrin: Jurnal Dunia Ilmu Hukum dan Politik, Vol.2, No.3 (2024).

¹⁰ Chandra Ferdiawan dan Mohammad Fasyehhudin, *Kewenangan Pengawasan oleh Kementerian Lingkungan Hidup dan Kehutanan Republik Indonesia terhadap Izin Dumping Limbah Bahan Berbahaya dan Beracun di Wilayah Kabupaten Bekasi*, Sultan Jurisprudence: Jurnal Riset Ilmu Hukum, Vol.1, No.2 (2021).

1. Structure

Will involve Medan Metropolitan Police's resources, investigative powers and coordination strategies with Gakkum KLHK.

2. Substance

Will involve the relevant law, specifically Article 103 and other sections of Law no 32/2009 concerning B3 transportation accident.

3. Culture

Will focus on the investigators' attitude towards investigating B3 transportation accident.

Progressive law prioritizes people's interest and happiness. Whenever the law hinders or inflicts misery, it needs to be reformed.¹¹ This theory considers law as a dynamic entity and not a dogma. It is ideal for this study since its objective is to propose practical solutions to the enforcement problems of the current law based on the investigators' perception and the nature of the police organization and its environment. Some of the proposed interventions include amending Article 103 of Law no. 32/2009 on Environmental Protection and Management to exempt B3 transportation accident flagrante delicto from the requirement of a police permit and the need for 24-hour electronic memoranda of understanding (MoU) between Polrestabas Medan and Gakkum KLHK for the purposes of investigations.¹²

1. Type and Approach

This research uses normative – empirical legal research methods. This study is normative because it examines positive law or regulations, particularly Article 103 of Law no. 32/2009 concerning environmental criminal law in B3 transport accidents. This research is also empirical because it seeks to investigate or examine how the positive law is enforced by the Medan Metropolitan Police in the area.¹³ The approach used in this research is:

¹¹ Maulana Fahmi Idris dan Rengga Kusuma Putra, *Sanksi Pidana terhadap Pelaku Tindak Pidana Pembuangan Limbah Bahan Berbahaya dan Beracun (B3) tanpa Ijin di Kabupaten Purwakarta*, *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial dan Politik*, Vol.1, No.4 (2024).

¹² Shafa Kamilah dan Neni Ruhaeni, *Penegakan Hukum terhadap Pengelolaan Limbah B3 Tanpa Izin oleh PT. Damai Indah di Kabupaten Bandung*, *Bandung Conference Series: Law Studies*, Vol.3, No.1 (2023).

¹³ Fajar Nur Setiadi dan Emy Rosnawati, *Legal Framework and Issues in Hazardous Waste Management*, *Indonesian Journal of Law and Economics Review*, Vol.19, No.4 (2024).

- a. Statistics Approach: By analyzing legal materials such as statutes and regulations, especially Law no. 32/2009 concerning environmental criminal law article 103, Law no. 22/2009 concerning traffic regulations article 260, 264 and 265 and government regulation no.74/2001 concerning B3.
- b. Conceptual Approach: By referring to concepts and theories such as Van Hammel's theory, Friedman's theory and Satjipto's theory.¹⁴
- c. Case Approach: By analyzing the cases of B3 accidents handled by the Medan Metropolitan Police to examine the police's investigation process and challenges in handling the cases .
- d. Sociological Approach: By evaluating the law's role in society to identify hindering factors and solutions in B3 transport accident handling.

2. Legal Materials

- a. The primary legal materials used in this research are the 1945 Constitution article 28H(1), Law no. 32/2009 article 103, Law no. 22/2009 articles 260, 264 and 265, government regulation no.74/2001 concerning B3 and police regulation no.14/2012.
- b. Meanwhile, the secondary legal materials used are environmental criminal law books, national law journals and several books that discuss Van Hammel's, Friedman's and Satjipto's theories.
- c. In addition, this study also refers to tertiary legal materials, namely legal literature and big indonesian dictionary.
- d. Besides, this study also analyzes the empirical data gathered through in-depth interviews with Medan metropolitan police investigators and the data related to B3 accident cases that have been handled by the Medan Metropolitan Police from 2022–2025.

3. Technique of Data Collection

¹⁴ Mahyza Karindradevi, dkk., *Penerapan Prinsip Strict Liability dalam Kasus Tumpahan Limbah B3 di Kabupaten Bekasi, Jawa Barat*, Terang: Jurnal Kajian Ilmu Sosial, Politik dan Hukum, Vol.2, No.2 (2025).

This research used library and field research techniques. Library research is a technique of collecting data from library materials, such as primary, secondary and tertiary legal materials. Meanwhile, field research is a data collection technique by directly visiting the location and researching in the field. This study conducted field research by interviewing the Medan metropolitan police criminal investigation head, the gakkum KLHK north sumatra investigator and Medan metropolitan traffic police head using a purposive sampling technique.

4. Data Analysis

The data gathered from this research were analyzed descriptively prescriptively. Data descriptive analysis aims to describe or explain legal issues systematically. Meanwhile, prescriptive analysis is a study that seeks to establish a normative assessment and guidance in responding to or solving identified legal problems. The data analysis technique used in this research is data reduction, display data and conclusion based on Miles and Huberman's theory.

5. Location of the Research

This study was conducted at Medan Metropolitan Police Criminal Investigation Unit, Traffic Unit and Gakkum KLHK north sumatra office in medan. Medan was selected as the location of this study because it is one of the busiest cities in sumatra as a logistics distribution center and has the belawan international port where most B3 transport activities occur.

Based on the background described above, the issues to be examined in this research are as follows:

1. How is environmental criminal law regulated in relation to traffic accidents involving hazardous and toxic (B3) transport under Indonesia's positive law?
2. How is law enforcement carried out by the Medan Metropolitan Police (Polrestabes Medan) in cases of traffic accidents involving B3 transport?
3. How the efforts made in law enforcement and what are the inhibiting factors?

B. RESULT AND DISCUSSION

1. Environmental Criminal Law Regulations on B3 Transport Accidents in Indonesian Positive Law

This chapter will examine the regulation of B3 transport accidents by environmental criminal law. The analysis will rely on Van Hammel's Offense Theory as the grand theory to assess whether a B3 crime causing pollution is a public offense, which investigation commences immediately, or a complaint-based offense, which investigation waits until Article 103 of Law No. 32/2009 becomes applicable. This theory will help identify the normative gaps and ambiguities in the legislation.¹⁵

One of the most critical principles of criminal law is the principle of legality: *nullum delictum nulla poena sine praevia lege poenali*. It means that a defendant can only be punished if the law explicitly prohibits the action or omits for which the punishment is imposed. The principle of legality has three purposes:

- a. Protection of the citizens from the state's arbitrariness
- b. Legal certainty
- c. Limitation of judicial discretion¹⁶

The principle of legality holds particular importance for environmental crimes because the formulations of crimes in statutes are often abstract and contain specific terms. Hence, clarity is of particular importance in Law No. 32/2009 regarding the penal provisions for B3-related offenses. The relevance of the principle of legality to the current research is determined by the need to examine whether the requirement for "Minister's permission" (Article 103 of Law No. 32/2009) is a source of (in)certainty for the investigation initiation. In other words, does the requirement for the Minister's permission violate the principle of immediacy (speedy handling of cases) of the Criminal Procedure Code?¹⁷

¹⁵ Muhammad Renaldy Lapaso dan Maria Silvya Elisabeth Wangga, *Penjatuhan Sanksi Pidana terhadap Pelaku Tindak Pidana Dumping Limbah B3 (Studi Putusan Nomor 164/PID.SUS/PN SDA)*, Amicus Curiae, Vol.2, No.2 (2025).

¹⁶ Andi Lala dan Kosim, *Effectiveness of Criminal Sanctions Enforcement against Environmental Pollution by Industrial Corporations in Indonesia*, Journal of Society and Development, Vol.5, No.1 (2025).

¹⁷ Nurul Listiyani dan Rakhmat Nopliardy, *Kajian terhadap UU Cipta Kerja Kluster Lingkungan Hidup atas Dihapusnya Prinsip Strict Liability*, AL-ULUM: Jurnal Ilmu Sosial dan Humaniora, Vol.8, No.2 (2022).

Van Hammel applied to the analysis of environmental crimes regulation, stipulates several technical elements of an offense. These are:

- a. Human Act (*menschelijke gedraging*): active or passive conduct. In the context of B3 transport accident, it may involve the driver's negligence or company's negligence in maintaining the vehicle.
- b. Act threatened by law (*strafbaar gesteld*): indicates that the norm must be formulated as a threat of punishment. It means that the offense must be explicitly defined and prohibited. In the context of B3 accidents, pollution resulting from it is regulated by Articles 98 – 101 of Law No. 32/2009.¹⁸
- c. Unlawfulness (*wederrechtelijk*): refers to the violation of a norm formally and/or substantially. In the context of B3 accidents, the spillage itself constitutes an unlawful act.
- d. Committed by a responsible person (*toerekeningsvatbaar*): refers to the personal liability of the offender.
- e. Fault (*schuld*): can be *dolus* (intentional) or *culpa* (negligence). In the context of B3 accidents, driver's negligence is more likely to be the reason for an incident.¹⁹

Another important aspect of Van Hammel's theory is the classification of offenses into public and complaint-based and formal and material. This classification is relevant to the current research as it will be used to analyze whether a B3-related offense is a complaint-based or public offense. For example, if the B3 accident is a material offense, which has direct and definite harmful effects on the environment, the requirement for the Minister's permission before investigating Article 103 of Law No. 32/2009 would violate the principle of immediacy.²⁰

¹⁸ Indonesia, *Undang-Undang tentang Perlindungan dan Pengelolaan Lingkungan Hidup*, Pasal 98-Pasal 101 UU No.32 Tahun 2009, LN Tahun 2009 No.140, TLN No.5059.

¹⁹ Alya Maya Khonsa Rahayu, dkk., *Legal Counseling on Problems in Hazardous and Toxic Waste Management and Strategies to Overcome Environmental Pollution*, AIWADTHU: Jurnal Pengabdian Hukum, Vol.5, No.2 (2025).

²⁰ Indonesia, *Undang-Undang tentang Perlindungan dan Pengelolaan Lingkungan Hidup*, Pasal 103 UU No.32 Tahun 2009, LN Tahun 2009 No.140, TLN No.5059.

As mentioned above, B3 accidents are flagrante delicto and have direct and definite consequences. Hence, qualifying such an offense as a complaint-based offense and requiring the Medan Metropolitan Police to wait for the Ministry of Environment's permission to initiate the investigation violates the principle of immediacy stipulated by the Criminal Procedure Code. Furthermore, such a condition violates the principle of legal certainty because "Minister's permission" is not explicitly defined (whether a police station or the Ministry of Environment can refuse to grant it and what consequences this refusal will entail).

Secondly, Van Hammel's theory is relevant to this study because findings on legality and offense qualification will serve as a basis for further analysis. In particular, the analysis will focus on examining how the legal ambiguity of the regulation of B3 accidents affects the legal culture of the Medan Metropolitan Police investigators. Thus, the current chapter describes Van Hammel's Offense Theory, which will be used as a grand theory for the current research. In particular, the next section will utilize this theory's requirements to analyze the regulation of B3 transport accidents by Indonesian environmental criminal law.

Class	B3 Classification	Examples
Class 1	Explosives	Dynamite, Fireworks
Class 2	Gases	LPG, Chlorine, Ammonia
Class 3	Flammable Liquids	Gasoline, Diesel, Kerosene
Class 4	Flammable Solids	Sulfur, Phosphorus
Class 5	Oxidizing Substances and Organic Peroxides	Hydrogen Peroxide
Class 6	Toxic and Infectious Substances	Pesticides, Medical Waste
Class 7	Radioactive Materials	Uranium, Cobalt-60
Class 8	Corrosive Substances	Sulfuric Acid, Hydrochloric Acid
Class 9	Miscellaneous Dangerous Substances	CPO, Hot Asphalt, Environmentally Hazardous Materials

Source: Processed Data Researcher, 2026

2. Overview of Hazardous and Toxic Materials (B3)

Based on the normative testing results that have been conducted in Sub A, Sub B will explain the legal object that causes damage to the environment in traffic accidents, namely Hazardous and Toxic Materials (B3). Understanding of B3 is crucial because the characteristics of this object are different from other goods. This difference becomes the basis for implementing specific regulations and explains why the delayed handling of cases by Medan Metropolitan Police investigators can cause more significant damage.

The definition of B3 is a technical legal concept that is initially established in laws and regulations. Basically, B3 is an object that has potential to endanger the environment or human health. The definitions of B3 can be seen in the following legal texts:

a. Law No. 32 of 2009, Article 1 point 21

B3 is waste, energy and/or other components that have the potential to directly or indirectly cause damage, pollution and/or degradation of the environment and/or endanger the environment, human health and the survival of other living creatures because of their nature, concentration and/or number.²¹ This definition explains that there are three factors that make something categorized as B3, namely nature, concentration and impact.

b. Government Regulation No. 74 of 2001, Article 1 point 1

B3 is waste that has the potential to directly or indirectly degrade, damage the environment and/or endanger the health and survival of humans and/or other living creatures due to its nature and/or concentration and/or amount.²² The definition is almost similar to the law's definition, but the government regulation serves as the implementing regulation of the law.

c. Description according to Environmental Science: Characteristics of B3

²¹ *Ibid.*, Pasal 1 Angka 21.

²² Pasal 1 Angka 1 Peraturan Pemerintah Republik Indonesia Nomor 74 Tahun 2001 tentang Pengelolaan Bahan Berbahaya dan Beracun.

According to environmental science, B3 has several hazardous characteristics, including:²³

- 1) Easy to explode by impacting forces, friction and/or heating (examples: Nitocellulose, TNT)
- 2) Easy to corrode living organisms and metals (examples: Sulfuric Acid, Sodium Hydroxide)
- 3) Poisoning can occur due to absorption through the skin, lungs and body fluids with relatively low doses (examples: Cyanide and pesticide)
- 4) Carcinogenic or can cause cancer (examples: Benzene, Asbestos)
- 5) Highly flammable with a Flash Point temperature at risk of causing a fire (examples: Gasoline, Diesel, CPO)
- 6) Reactive with water or other materials causing explosions (examples: Metallic Sodium)

The characteristics of B3 above explain that damage from an accident involving B3 is not limited to the damage caused by vehicles involved in the accident. In addition, road infrastructure and the surrounding environment will also be damaged by the spillage of B3.

3. Overview of Criminal Offenses of B3 Transport Accidents

a. Traffic Accident Offense – Law No. 22 of 2009 Art. 308

Traffic accidents are considered public offenses within the framework of the Traffic Law regime. According to Art. 308: “Any person driving a motor vehicle on the road who violates the traffic regulations causing minor injuries and damage to vehicles or other property shall be punished by imprisonment for a term of 6 (six) months or a fine of IDR 1,000,000 (one million).” If the violations result in serious injuries or fatalities, the punishments would be more severe per Art. 310. The central element of this offense is the causal link between the traffic violation and accident.²⁴

²³ Maria Theresia Tarigan, dkk., *Analisis Yuridis terhadap Tindak Pidana Pengelolaan Limbah B3 Tanpa Izin (Studi Putusan No. 2132K/Pid.Sus-LH/2016)*, Legalitas: Jurnal Hukum, Vol.15, No.1 (2023).

²⁴ Indonesia, *Undang-Undang tentang Lalu Lintas dan Angkutan Jalan*, Pasal 308 dan Pasal 310 UU No.22 Tahun 2009, LN Tahun 2009 No.96, TLN No.5025.

Regarding B3 transport accidents, this is a public and formal offense. That means that the Medan Metropolitan Police can investigate it right away without having to wait for a victim's complaint. In terms of the Criminal Procedure Law Regime, the public and formal characteristics entail the principles of quickness, convenience and accessibility. However, this crime does not penalize environmental damage.²⁵

b. Pollution Offense – Law No. 32 of 2009 Arts. 98-100

Meanwhile, Law No. 32/2009 penalizes pollution resulting from B3 transport accidents through the following provisions:

- 1) Art. 98: 10-year penalty for intentional pollution and 3-year penalty for negligence;
- 2) Art 99: 1-3 years' penalty for exceeding air/water quality standards through negligence;
- 3) Art 100: 3-9 years' penalty for illegal dumping.²⁶

A common characteristic of Arts. 98-100 is that they punish material offenses. To put it another way, the offense is not complete until the occurrence of concrete negative results, i.e., polluted water or poisoned air. From the perspective of Van Hammel's theory, they should be public offenses since they affect the environment, which is a public interest.²⁷

c. Offense Requiring Permission – Law No. 32 of 2009 Art. 103

As mentioned in the introduction, this study's main question is whether the environmental crime regulation of B3 accidents is a normative barrier to law enforcement. This issue is complicated by Art.

²⁵ Ade Venny Darma Putri, dkk., *Pertanggungjawaban Pidana Korporasi dalam Kasus Pencemaran Lingkungan Akibat Dumping Limbah B3*, JEBE: Journal of Environment Behavior and Engineering, Vol.3, No.2 (2025).

²⁶ Indonesia, *Undang-Undang tentang Perlindungan dan Pengelolaan Lingkungan Hidup*, Pasal 98-100 UU No.32 Tahun 2009, LN Tahun 2009 No.140, TLN No.5059.

²⁷ Annisa Rahmi Wijaya, dkk., *Dampak Penghapusan Ketentuan Pidana Pencemaran Limbah B3 Oleh Korporasi Industri Kelapa Sawit dalam Undang-Undang Nomor 6 Tahun 2023 tentang Cipta Kerja*, Delicti: Jurnal Hukum Pidana dan Kriminologi, Vol.2, No.2 (2024).

103 of Law No. 32/2009: “Investigations of environmental crimes can be initiated based on a report and/or complaint and/or upon request of the Minister, governor, or regent/mayor concerned in whose area the violation has occurred.” Within the framework of Van Hammel’s theory, Art. 103 transforms the public offense of Arts. 98-100 into an absolute offense: “An offense which can be prosecuted only upon complaint of the victim.” Based on the same theory, this formulation creates normative barriers because: Even if the Medan Metropolitan Police detects a crime of B3 pollution flagrante delicto, it still has to wait for the request of the “Minister of Environment and Forestry.”²⁸

Therefore, there emerge three normative barriers:

1. Conflict with the legality principle: The Indonesian Criminal Procedure Law requires immediate investigations, while Art. 103 demands that the police should first receive the request for investigations from the minister;
2. Conflict with the material offense: The environmental offenses are material by definition. The delayed investigation will result in the loss of evidence and/or worsening of the pollution;
3. Legal uncertainty: Law No. 32/2009 does not specify who exactly should submit the request, what its form should be and what should the police do if the requesting party does not deliver the documents within a reasonable time frame.
4. Using Van Hammel’s theory, one can conclude that the environmental law regulation of B3 transport accidents in Law No. 32/2009 entails significant normative barriers: Law No. 22/2009 grants the Police full authority, while Art. 103 deprives it of the said authority. This conclusion sets the stage, which will rely on Friedman’s theory to examine how the structural, substantive and cultural law elements of the Medan Metropolitan Police influence its enforcement practices.

²⁸ Indonesia, *Undang-Undang tentang Perlindungan dan Pengelolaan Lingkungan Hidup*, Pasal 103 UU No.32 Tahun 2009, LN Tahun 2009 No.140, TLN No.5059.

4. Interview Excerpts: Structural Barrier “Minister’s Permission”

To investigate the research question about why the structure is unable to operate, the author interviewed several officials. The result of the interviews revealed a wait-and-see attitude imposed by the structural barrier.

“For ordinary accidents, of course, we act immediately. However, if it is a B3 spill, we must first stop because we are afraid. The regulations require us to ask the environment agency, namely KLHK-Jakarta, for permission. How could we take two weeks to obtain it when the crime spot is located in Medan? By that time, the soil has already been paved by the community.” Interview with IPDA R, Leading Office of Accident Police Satlantas Medan Metropolitan Police, 15 January 2025 .²⁹

“The law allows us to investigate. However, once the case files are submitted to the higher authorities, they will certainly ask where is the Minister of Environment’s permission? If it is unavailable, it will be SP3. Therefore, why should we waste time investigating when it will be stalled because of the lack of legal documents? Better deal with common traffic accidents.” Interview with AKP S, Leading Office of Special Crimes Police Satreskrim Medan Metropolitan Police, 16 January 2025 .³⁰ Based on these interview excerpts, it could be suggested that the Police legal structure is not empowered enough. The implementation of environmental crime legislation creates an extra “gate” to be passed, putting the Police in a passive position .³¹ The inability of the Police to function could be explained by the Legal Substance element, Article 103. Friedman refers to this phenomenon as structural overload, which occurs when the system receives more rules than it could cope with.³²

²⁹ Wawancara dengan IPDA R, Kasubnit Penegakan Hukum (Gakkum) Satuan Lalu Lintas Polrestabes Medan, Medan 15 Januari 2025.

³⁰ Wawancara dengan AKP S, Kanit Tindak Pidana Tertentu (Tipidter) Satuan Reserse Kriminal Polrestabes Medan, Medan 15 Januari 2025.

³¹ Gregorius Ricky Yulianto, dkk., *Analisis Hukum Pidana terhadap Tindak Pidana Pencemaran Lingkungan dan/atau Degradasi Lingkungan*, Collegium Studiosum Journal, Vol.9, No.1 (2026).

³² Sri Yunita, dkk., *Peran Pemerintah Daerah dalam Mencegah Pembuangan Limbah Industri Secara Illegal*, International Journal of Studies in International Education, Vol.1, No.4 (2024).

In addition, the Police have developed a defensive Legal Culture, such as “better not to process it than to make a mistake procedurally” .³³ Indeed, empirically it has been revealed that the Medan Metropolitan Police has never processed even a single B3 case as an environmental crime. Its root reason lies in the fact that processing is “unavailable” due to the Legal Substance barrier, Article 103.

5. Law Enforcement Efforts

All efforts below are coherent with the findings in “found the disease in substance” and revealed its damaging effect on “structure and culture”, then the efforts below are grouped into 2 stages; first, short-term measure to “stop the bleeding” and second, long-term endeavor to “operate the cause of disease”.

a. Short-Term Efforts: 1x24 Hour MoU and B3 Rapid Response Team

Short-term efforts are designed to address the structural impediments found in without requiring the long-drawn revision of the Law.

1) Accelerated Handling MoU Signing

Medan Metropolitan Police must sign Memorandum of Understanding (MoU) with Gakkum KLHK North Sumatra Region and Environmental Laboratory Center immediately. The MoU must stipulate:

- a) Online One Gate Approval System: Request for investigation approval via integrated online system.
- b) KLHK 1x24 Hour Response System: Investigation approval must be issued within 1x24 hour from the report received; otherwise, it shall be “deemed approved” based on the principle of certainty in law.
- c) Designated PICs: Designate the Person In Charge in all parties to avoid duplication of functions.

³³ Pudiastuti Citra Adi, *Criminal Liability of Hospitals for Illegal Medical Waste Disposal Based on Strict Liability Theory Within the Perspective of Law Number 32 of 2009 Concerning Environmental Protection and Management*, KnE Social Sciences, Vol.10, No.27 (2025).

This MoU is necessary to “break the bottleneck” of bureaucratic red tape in Article 103. With 1x24 hour response cases of B3 can be processed right away before evidence such as spillage and contaminated soil is washed away. The 1x24 Hour MoU complies with Satjipto’s view that law must be “responsiveness”. When the law becomes rigid, law enforcers must be innovative enough to “break through” so that law does not become an obstacle to justice. Without this MoU, the “better not to process it” culture will prevail.³⁴

C. CONCLUSION

Regarding the Criminal Law Regulations on Environmental Crimes in Relation to Hazardous and Toxic (B3) Transport Accidents. Based on the results of normative research and discussion, it can be concluded that a traffic accident involving B3 transport is a double offense/concurrence. First, it is a traffic offense under Law Number 22/2009 Article 308 that has a nature of *flagrante delicto*, so that it can be directly prosecuted. Second, it is an environmental pollution offense under Law Number 32/2009 Articles 98-100 that needs permission, so that based on Article 103 of Law Number 32/2009, the investigation of this crime can only be conducted upon ministerial written approval from the Minister of Environment and Forestry. Based on this principle, the regulation in Article 103 of Law Number 32/2009 is irrational and even against the rule of law. Although Article 98 of Law Number 32/2009 clearly stipulates environmental pollution as a crime, its punishment is suspended due to bureaucratic red tape, resulting in legal uncertainty.

Based on the results of empirical research and discussion, it can be concluded that the law enforcement by Polrestabes Medan on B3 transport accidents is inefficient. Polrestabes Medan has not yet developed a special SOP or rapid response team in handling B3 transport accidents; the coordination between Polrestabes Medan and the Ministry of Environment and Forestry’s Law Enforcement Division is still done randomly. This is the most influential factor in

³⁴ Ikama Dewi Setia Triana dan Eti Mul Erowati, *Effectiveness of Criminal Law Enforcement on Hazardous and Toxic Waste Pollution (B3)*, Ganesha Law Review, Vol.6, No.2 (2024).

determining the inefficiency of law enforcement. Based on Article 103 of Law Number 32/2009, the prosecution of environmental crimes needs ministerial approval, which may take 14-30 days. Such regulation contradicts the principle of the expeditious trial (*prima facie* hearing) in the Criminal Procedure Law and Law Number 48/2009. Polrestabes Medan's practice in dealing with B3 accidents that occurred in the city of Medan in 2023-2024 shows that 12 out of 12 B3-related cases were not prosecuted under environmental law, due to "pending ministerial approval" and "the spilled evidence had already gone." The law enforcers prefer to solve the B3 accident case under Law Number 22/2009 due to its quick procedure and the absence of the need for ministerial permission. Based on the discussion above, it can be concluded that Polrestabes Medan has been making efforts to enforce the law on B3 transportation accidents. However, the effort failed to produce efficient law enforcement due to the obstacle stipulated in Article 103 of Law Number 32/2009.

In relation to the Inhibiting Factors and Efforts in Law Enforcement. Based on the results of empirical research and discussion in Chapter IV, it can be concluded that the obstacle of law enforcement carried out by Polrestabes Medan on B3 transport accidents is not based on one factor, but rather juridical and non-juridical factors. The biggest juridical obstacle is the law itself, precisely Article 103 of Law Number 32/2009 that does not provide any exception in emergency cases, resulting in the inefficiency of law enforcement on B3 accidents. In relation to non-juridical factors, the obstacle comes from the absence of a Memorandum of Understanding between agencies, a lack of personnel and infrastructure in Polrestabes Medan related to B3 accidents and a legal culture of "peaceful settlement."

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