

**AMENDMENT TO REGULATION OF THE MINISTER OF
TRADE NUMBER 44/M-DAG/PER/9/2009 CONCERNING
PROCUREMENT, DISTRIBUTION, AND
SUPERVISION OF HAZARDOUS MATERIAL
(Regulation of the Minister of Trade RI
Number 23/M-DAG/PER/9/2011, Dated September 7, 2011)**

WITH THE BLESSING OF THE ONE AND ONLY ONE
MINISTER OF TRADE OF
THE REPUBLIC OF INDONESIA,

Considering:

- a. that in the context of improving effective supervision over hazardous material specifically originating from import, it is necessary to stipulate port of destination for hazardous material and conduct technical verification or review on imported hazardous material at the port of loading;
- b. that based on the consideration referred to in letter a, it is necessary to amend Regulation of the Minister of Trade Number 44/M-DAG/PER/9/2009 concerning Procurement, Distribution and Supervision of Hazardous Material;
- c. that based on the consideration referred to in letter a and letter b, it is necessary to stipulate Regulation of the Minister of Trade;

In view of:

1. Bedrijfsreglementerings Ordonnantie 1934 (Staatsblad 1938 Number 86);
2. Ordonnantie Hazardous Chemical Substance

(Staatsblad 1949 Number 377);

3. Law on Emergency Number 7 Year 1955 concerning Examination, Taking Action, and Judiciary Act on Economic Crime (Statute Book of the Republic of Indonesia Year 1955 Number 27, Supplement to Statute Book of the Republic of Indonesia Number 801), as amended several times and lately amended by Government Regulation in Lieu of Law Number 26 Year 1960 concerning Amendment to Article 27 and Article 28 of Law on Emergency Number 7 Year 1955 (Statute Book of the Republic of Indonesia Year 1960 Number 74, Supplement to Statute Book of the Republic of Indonesia Number 1910);
4. Law Number 1 Year 1970 concerning Occupational Safety (Statute Book of the Republic of Indonesia Year 1970 Number 1, Supplement to Statute Book of the Republic of Indonesia Number 2918);
5. Law Number 3 Year 1982 concerning Obligatory Registration for Company (Statute Book of the Republic of Indonesia Year 1982 Number 7, Supplement to Statute Book of the Republic of Indonesia Number 3214);

GOVERNMENT REGULATIONS

6. Law Number 7 Year 1994 concerning Agreement Establishing The World Trade Organization (Persetujuan Pembentukan Organisasi Perdagangan Dunia), (Lembaran Negara Republik Indonesia Year 1994 Number 57, Supplement to Statute Book of the Republic of Indonesia Number 3564);
7. Law Number 10 Year 1995 concerning Customs Matter (Statute Book of the Republic of Indonesia Year 1995 Number 75, Supplement to Statute Book of the Republic of Indonesia Number 3612) as amended by Law Number 17 Year 2006 (Statute Book Year 2006 Number 93, Supplement to Statute Book Number 4661);
8. Law Number 7 Year 1996 concerning Good (Statute Book of the Republic of Indonesia Year 1996 Number 99, Supplement to Statute Book of the Republic of Indonesia Negara Number 3656);
9. Law Number 6 Year 1998 concerning Agreement of Convention On The Prohibition Of The Development, Production, Stockpiling And Use Of Chemical Weapons And On Their Destruction (Konvensi Tentang Pelarangan Pengembangan, Produksi, Penimbunan, dan Penggunaan Senjata Kimia Serta Tentang Pemusnahannya), (Statute Book of the Republic of Indonesia Year 1998 Number 171, Supplement to Statute Book of the Republic of Indonesia Number 3786);
10. Law Number 5 Year 1999 (BN No. 6284 pgs. 11B-16B) concerning Prohibition from Practising Monopoly and Unfair Business Competition (Statute Book of the Republic of Indonesia Year 1999 Number 33, Supplement to Statute Book of the Republic of Indonesia Number 3817);
11. Law Number 8 Year 1999 (BN No. 6311 pgs. 5B-11B) concerning Consumer Protection (Statute Book of the Republic of Indonesia Year 1999 Number 42, Supplement to Statute Book of the Republic of Indonesia Number 3821);
12. Law Number 32 Year 2004 (BN No. 7152 pgs. 9B-18B) concerning Regional Administration (Statute Book of the Republic of Indonesia Year 2004 Number 125, Supplement to Statute Book of the Republic of Indonesia Number 4437) as amended several times and lately amended by Law Number 12 Year 2008 (BN No. 7661 pgs. 11B-18B) (Statute Book of the Republic of Indonesia Year 2008 Number 59, Supplement to Statute Book of the Republic of Indonesia Number 4844);
13. Law Number 29 Year 2007 (BN No. 7565 pgs. 3B-10B) concerning Jakarta Capital City of Special Provincial Region of the State of the Republic of Indonesia (Statute Book of the Republic of Indonesia Year 2007 Number 93, Supplement to Statute Book of the Republic of Indonesia Number 4744);
14. Law Number 9 Year 2008 concerning Use of Chemical Substance and Prohibition from Using Chemical Substance as Chemical Weapon (Statute Book of the Republic of Indonesia Year 2008

GOVERNMENT REGULATIONS

- Number 49, Supplement to Statute Book of the Republic of Indonesia Number 4834);
15. Law Number 17 Year 2008 (BN No. 7669 pgs. 1B-10B) concerning Services (Statute Book of the Republic of Indonesia Year 2008 Number 64, Supplement to Statute Book of the Republic of Indonesia Number 4849);
 16. Law Number 32 Year 2009 concerning Protection and Management of Living Environment (Statute Book of the Republic of Indonesia Year 2009 Number 140, Supplement to Statute Book of the Republic of Indonesia Number 5059);
 17. Law Number 36 Year 2009 concerning Health (Statute Book of the Republic of Indonesia Year 2009 Number 144, Supplement to Statute Book of the Republic of Indonesia Number 5063);
 18. Government Regulation Number 69 Year 1999 concerning Label and Advertisement on Food (Lembaran Negara Republik Indonesia Year 1999 Number 131, Supplement to Statute Book of the Republic of Indonesia Number 3867);
 19. Government Regulation Number 58 Year 2001 concerning Management and Supervision in the Implementation of Consumer Protection (Statute Book of the Republic of Indonesia Year 2001 Number 103, Supplement to Statute Book of the Republic of Indonesia Number 4126);
 20. Government Regulation Number 74 Year 2001 concerning Management of Hazardous and Toxic Material (Statute Book of the Republic of Indonesia Year 2001 Number 138, Supplement to Statute Book of the Republic of Indonesia Number 4153);
 21. Government Regulation Number 28 Year 2004 concerning Food Security, Quality, and Nutrient (Statute Book of the Republic of Indonesia Year 2004 Number 107, Supplement to Statute Book of the Republic of Indonesia Number 4424);
 22. Government Regulation Number 38 Year 2007 concerning Distribution of Administration Affairs between the Government, Regional Government of Province, and Regional Government of Regency/Municipality (Statute Book of the Republic of Indonesia Year 2007 Number 82, Supplement to Statute Book of the Republic of Indonesia Number 4737);
 23. Presidential Decree Number 260 Year 1967 concerning Confirmation of Duty and Responsibility of the Minister of Overseas Trade;
 24. Presidential Decree Number 65 Year 1998 concerning Sanction of International Convention on the Safety of Life at Sea 1974;
 25. Presidential Decree Number 84/P Year 2009 concerning Establishment of Indonesia Bersatu II Cabinet;
 26. Presidential Regulation Number 47 Year 2009 concerning Establishment and Organization of the State Ministry;
 27. Presidential Regulation Number 24 Year 2010 concerning, Capacity, Duty, and Function of the State Ministry and Organizational Structure of Echelon I of the State Ministry;

GOVERNMENT REGULATIONS

28. Decision of the Minister of Industry Number 148/M/SK/4/1985 concerning Security of Hazardous and Toxic Material in Industrial Company;
29. Regulation of the Minister of Health Number 239/Men-kes/Per/V/1985 concerning Particular Coloring Substance Declared as Hazardous Material;
30. Regulation of the Minister of Health Number 722/MEN-KES/PER/IX/1988 as amended by Regulation of the Minister of Health Number 1168/MENKES/PER/X/1999 concerning Addictive Material to Food;
31. Regulation of the Minister of Health Number 4/2/Men-kes/Per/V/1996 concerning Safeguarding Material that is Hazardous to Health;
32. Decision of the Minister of Industry and Trade Number 230/MPP/Kep/7/1997 concerning Goods Governed by its Import Procedure as amended several times and lately amended by Decision of the Minister of Industry and Trade Number 417/MPP/Kep/6/2003;
33. Decision of the Minister of Manpower Number 187/MEN/1999 concerning Control of Hazardous Chemical Substance at Work Place;
34. Regulation of the Minister of Health Number 1184/Menkes/Per/X/2004 concerning Security of Health Apparatus and Provision of Home Appliances;
35. Regulation of the Minister of Trade Number 16/M-DAG/PER/3/2006 concerning Arrangement and Management of Warehouse;
36. Regulation of the Minister of Trade Number 36/M-DAG/PER/9/2007 concerning Issue of Trade Business License Certificate;
37. Regulation of the Minister of Trade Number 20/M-DAG/PER/5/2009 concerning Provision and Procedure of Supervision of Goods and/or Services;
38. Regulation of the Minister of Trade Number 44/M-DAG/PER/9/2009 concerning Procurement, Distribution and Supervision of Hazardous Material;
39. Regulation of the Minister of Trade Number 45/M-DAG/PER/9/2009 concerning Importer Identification Number (API) as amended several times and amended lately by Regulation of the Minister of Trade Number 20/M-DAG/PER/7/2011;
40. Regulation of the Minister of Trade Number 54/M-DAG/PER/10/2009 concerning General Provision in Import sector;
41. Regulation of the Minister of Trade Number 31/M-DAG/PER/7/2010 concerning Organization and Work Procedure of the Ministry of Trade;

DECIDES:

To stipulate:

REGULATION OF THE MINISTER OF TRADE CONCERNING AMENDMENT TO REGULATION OF THE MINISTER OF TRADE NUMBER 44/M-DAG/PER/9/2009 ON PROCUREMENT, DISTRIBUTION AND SUPERVISION OF HAZARDOUS MATERIAL.

REGULATION

Article I

Some provisions in this Regulation of the Minister of Trade Number 44/M-DAG/PER/9/2009 concerning, Procurement, Distribution and Supervision of Hazardous Material, have been amended so as to read as follows:

1. Provision in Article 1 has been amended so as to read as follows:

Article 1

What is meant in this Regulation of the Minister by:

1. Hazardous Material hereinafter referred to as B2 shall be chemical substance and biological substance, either in single form of mixture form that may be hazardous to health and living environment either directly or indirectly, having toxic nature, carcinogenic, teratogenic, mutagenic, corrosive, and irritation.
2. Company shall be any type of individual business or business entity owned by Indonesian citizen and domiciled within the territory of the Republic of Indonesia, either in the form of legal entity or non-legal entity that runs business on B2 trading activities.
3. Producer of Hazardous Material hereinafter referred to as P-B2 shall be company producing B2 domestically and holds Industrial Business License from the competent authority.
4. Producer Importer of Hazardous Material hereinafter referred to as IP-B2 shall be producer

importer recognized by the Directorate General of Overseas Trade and is granted license to import allotted B2 in compliance with the need for production process of the company concerned.

5. Registered Importer of Hazardous Material hereinafter referred to as IT-B2 shall be non-producer Importer, possessing General Importer Identification Number (API-U), which has obtained approval and is granted special duty from the Director General of Overseas Trade to import B2.
6. Registered Distributor of Hazardous Material hereinafter referred to as DI-B2 shall be company appointed by P-B2 and/or IT-B2 and obtained special trading business license from the Director General of Domestic Trade for distribution of B2 to PT-B2 or directly to PA-B2.
7. Company Branch Office shall be company constituting a unit or part of its mother company which may be domiciled in other different place and may be in the form of independent company or is on duty to carry out some of the duties of its mother company.
8. Registered Retailer of Hazardous Material hereinafter referred to as RT-B2 shall be company appointed by DI-B2 and obtained special business license for B2 from the Governor in this matter, the Head of Provincial Service Office to sell B2 to PA-B2.

GOVERNMENT REGULATIONS

9. End User of Hazardous Material hereinafter referred to as PA-B2 shall be industrial company using B2 as basic material/supporting material processed by physical chemical, resulting in change of physical nature and chemical thereof and obtained added value, and business entity or institution using B2 as supporting material based on its allotment that obtained license from the competent authority.
10. Trading Business License for Hazardous Material, hereinafter referred to as SIUP-B2 shall be license certificate to enable to carry out special trading business activity on B2.
11. Procurement of B2 shall be process/provision activity of B2 by P-B2, IP-B2 and IT-B2.
12. Verification or review of Import Technicality shall be technical examination activity of imported product conducted at the port of loading by the Surveyor.
13. Surveyor shall be survey company that has obtained authority to make technical verification or review on imported product.
14. Distribution of B2 shall be distribution or circulation and selling of B2 from IT-B2 and/or P-B2 to DTB2, from DT-B2 to PT-B2, from PT-B2 to PA-B2, or IT-B2 and/or P-B2 directly to PT-B2, or IT-B2 and/or P-B2 directly to PA-B2.
15. Supervision shall be a series of examination activities to control import, distribution and use of B2.
16. Examining Team shall be team conducting examination activity on the legal authentic of the company and physical existence of storage place, repacking facilities and transporting equipment used by DT-B2 for distribution of B2.
17. CAS Number Chemical Abstract Service) shall be index system or registration of combined chemical adopted internationally, so as to enable to identify any chemical combination specifically.
18. Security Data Sheet (LDK)/Safety Data Sheet (SDS) shall be guideline containing information on B2 concerning physical, chemical, type of hazard caused, method of handling, and special action to be taken in emergency
19. Label shall be any information on the B2 in the form of depiction, writing, combination thereof or other form containing information on the B2 and information of the company and other information based on the statutory regulation, attached to the product, put into the product, placed at or constituting part of the package.
20. Package shall be material used to pack and/or wrap B2, either directly in contact with the B2 or not.
21. Head of Provincial Service Office shall be Head of Provincial Service Office which duty and responsibility is in trade sector.
22. Head of Regency/Municipality Service Office

GOVERNMENT REGULATIONS

shall be Head of Regency/Municipality Service Office which duty and responsibility is in trade sector.

23. Director General of Overseas Trade hereinafter referred to as Director General of Overseas Trade shall be Director General which duty and responsibility is in overseas trade sector.

24. Director General of Domestic Trade, hereinafter referred to as Director General of Domestic Trade shall be Director General which duty and responsibility is in domestic trade sector.

25. Minister shall be Minister implementing administrative matter in the trade sector.

2. The provisions in Article 2 have been amended so as to read as follows:

Article 2

- (1) Type of B2 as governed in import commercial procedure and which distribution consists of chemical substance which is hazardous to health and damaging living environmental conservation as set forth in Attachments I and II to this Regulation of the Minister.
- (2) The type of B2 referred to in paragraph (1) may be reviewed based on progress.
- (3) The type of B2 referred to in paragraph (1) may be used or utilized only based on its allotment.
- (4) The type of B2 referred to in paragraph (1) is prohibited from use and utilization for food and food related industry.

3. Insert in between Article 5 and Article 6 three (3) Articles, namely Article 5A, Article 5B, and Article 5C so as to read as follows:

"Article 5A

Any B2 import by IP-B2 and IT-B2 may be made only through the ports of destination cited below:

- a. sea port of Belawan in Medan, Tanjung Priok in Jakarta, Tanjung Emas in Semarang, Tanjung Perak in Surabaya, and Soekarno Hatta in Makassar; and/or
- b. all international airports."

Article 5B

- (1) Any B2 Import conducted by IP-B2 and IT-B2 must first be verified or reviewed technically by a Surveyor in the country of port of loading prior to shipment.
- (2) The result of verification or review of Import technicality conducted by the Surveyor shall be stipulated in the form of Surveyor Report (LS) to be used as customs supporting document in settling customs matters on import matter.
- (3) All charges for verification or review on the Import Technicality conducted by the Surveyor is borne by IP-B2 and IT-B2 concerned.

Article 5C

- (1) Technical verification or review of Import referred to in Article 5B paragraph (1) shall be

conducted by a Surveyor duly appointed by the Minister.

(2) The Surveyor referred to in paragraph (1) must comply with the requirements below:

- a. possess Business License for Survey Service (SIUJS);
- b. is experienced as Surveyor at least five (5) Years;
- c. has branch and/or representative office and/or affiliate overseas and has network to support effective verification service; and
- d. has track records in the field of import verification management.

(3) The Surveyor referred to in paragraph (1) is obliged to submit written report on recapitulation of verification or review activities on B2 Import Technicality to the Director General of Overseas Trade in this matter the Director of Import each month on the fifteenth of the following month.

3. Insert in between Article 26 and Article 27 one (1) Article, namely Article 26A so as to read as follows:

"Article 26A

Failing to implement his/her obligation referred to in Article 5C paragraph (3) the Surveyor's license is subject to revocation as Surveyor of B2 Import."

Article II

This Regulation of the Minister takes effect on November 1, 2011.

For public cognizance, this Regulation of the Minister shall be announced by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On September 7, 2011

MINISTER OF TRADE OF R.I.,

sgd.

MARI ELKA PANGESTU

(MA)