

DISTRIBUTION AND MONITORING OF HAZARDOUS MATERIALS

(Regulation of the Minister of Trade No. 04/M-DAG/PER/2/2006 dated February 16, 2006)

WITH THE GRACE OF THE ALMIGHTY GOD

THE MINISTER OF TRADE OF
THE REPUBLIC OF INDONESIA,

Considering:

- a. that, hazardous materials have a very significant benefit if used according to their intended uses;
- b. that, distribution and use of hazardous materials are increasing, either in terms of types or quantity and they are obtainable in the market so there might be misuses of these materials;
- c. that, as an effort to prevent misuses, regulations on distribution and monitoring of hazardous materials are necessary;
- d. that, based on the considerations as meant in paragraphs a, b, and c, it is necessary to stipulate Regulation of the Minister of Trade;

In view of:

1. Bedrijfsreglementerings Ordonantie of 1934 (Statute Book of 1938 No. 86);
2. Hazardous Chemical Material Ordinance (Statute Book of 1949 No. 377);
3. Emergency Law No. 7/1995 on Investigation, Action-Taking, and Court Process of Criminal Acts in Economic Affairs (Statute Book of 1955 No. 27, Supplement to Statute Book No. 801) as already amended several times and latest by Law No. 17/1964;
4. Law No. 21/1992 (BN No. 5317 p. 13A-16A and so on) on Shipping (Statute Book of 1992 No. 98, Supplement to Statute Book No. 3493);
5. Law No. 23/1992 (BN No. 5320 p. 16A and so on) on Health (Statute Book of 1992 No. 100, Supplement to Statute Book No. 3495);

6. Law No. 7/1996 on Food (Statute Book of 1996 No. 99, Supplement to Statute Book No. 3656);
7. Law No. 23/1997 (BN No. 6092 p. 19A-21A and so on) on Environmental Treatment (Statute Book of 1997 No. 68, Supplement to Statute Book No. 3699);
8. Law No. 8/1999 (BN No. 6321 p. 1A-7A and so on) on Consumer Protection (Statute Book of 1999 No. 42, Supplement to Statute Book No. 3821);
9. Law No. 34/1999 on Administration of Province of Capital and Special Region of Jakarta (Statute Book of 1999 No. 146, Supplement to Statute Book No. 3878);
10. Law No. 32/2004 (BN No. 7183 p. 1A-11A and so on) on Regional Administration (Statute Book of 2004 No. 125, Supplement to Statute Book No. 4437);
11. Government Regulation No. 69/1999 (BN No. 6370 p. 14A-15A and so on) on Food Labeling and Advertisement (Statute Book of 1999 No. 131, Supplement to Statute Book No. 3867);
12. Government Regulation No. 58/2001 (BN No. 6683 p. 6A-9A) on Development and Monitoring of Implementation of Consumer Protection (Statute Book of 2001 No. 103, Supplement to Statute Book No. 4126);
13. Government Regulation No. 74/2001 on Management of Hazardous and Toxic Materials (Statute Book of 2001 No. 138, Supplement to Statute Book No. 4153);
14. Government Regulation No. 28/2004 (BN No. 7206 p. 17A-29A and so on) on Safety, Quality, and Nutrients of Food (Statute Book of 2004 No. 107, Supplement to Statute Book No. 4424);
15. Presidential Decree No. 65/1988 on Ratification of International Convention on the Safety of Life at Sea of 1974;

16.Regulation of the Minister of Health No. 239/Menkes/Per/V/1985 on Certain Kinds of Dyes Declared as Hazardous Materials;

17.Decree of the Minister of Industry No. 148/M/SK/4/1985 (BN No., 4251 p. 1A-4A) on Protection of Toxic and Hazardous Materials in Industrial Companies;

18.Regulation of the Minister of Health No. 722/MENKES/PER/IX/1998 juncto No. 1168/MENKES/PER/X/1999 on Food Additives;

19.Regulation of the Minister of Health No. 472/Menkes/Per.V/1996 on Protection of Hazardous Materials for Health;

20.Decree of the Minister of Industry and Trade No. 254/MPP/Kep/7/2000 (BN No. 6539 p. 14A-17A and so on) on Procedure of Import and Circulation of Certain Hazardous Materials;

21.Decree of the Minister of Industry and Trade No. 634/MPP/Kep/9/2002 (BN No. 6846 p. 1A-9A) on Procedure of Monitoring of Goods and/or Services Circulating in the Market;

22.Regulation of the Minister of Health No. 1184/Menkes/Per/X/2004 on Protection of Health Equipment and Home Health Equipment;

23.Regulation of the Minister of Trade No. 01/M-DAG/PER/3/2005 on Organization and Operational Procedure of the Ministry of Trade as already amended by Regulation of the Minister of Trade No. 30/M-DAG/PER/12/2005;

DECIDES :

To stipulate:

REGULATION OF THE MINISTER OF TRADE ON DISTRIBUTION AND MONITORING OF HAZARDOUS MATERIALS.

CHAPTER I GENERAL PROVISIONS

Article 1

Hereinafter referred to as:

1. Hazardous Materials are substances, chemical and biological materials, either in singular or mixed form, which are hazardous to health and environment, directly or indirectly, having toxicity, carcinogenicity, teratogenicity, mutagenicity, corrosivity, and irritability.
2. Business Operator is a person or corporation, either in the form of corporate body or non-corporate body, established and having domicile or operating activities in the Indonesian territory, either individually or jointly, by agreement for operation of business activities in various economic fields.
3. Producer of Hazardous Materials (P-B2) is a company producing hazardous materials domestically and having industrial business license issued by competent institution.
4. Registered Importer of Hazardous Materials (IT-B2) is importer and non-producer, holder of General Importer's Identification Number (API-U), having a special duty to import hazardous materials and acting as distributor of the imported hazardous materials to a company, in this case, the end user.
5. Importer and Producer of Hazardous Materials (IP-B2) is importer and producer recognized by the Director General of Foreign Trade and is approved to self import hazardous materials intended only for its own production needs.
6. Registered Distributor of Hazardous Materials (DT-B2) is a company licensed by the Director General of Domestic Trade of the Ministry of Trade after being appointed by Producer of Hazardous Materials to distribute hazardous materials to end user directly or through Registered Retailer.
7. Registered Retailer of Hazardous Materials (PT-B2) is a company licensed by the Governor, the Governor of DKI Jakarta, or the Regent/Mayor after being

appointed by DT-B2 to trade hazardous materials to PA-B2.

8. End User of Hazardous Materials (PA-B2) is an industrial company using hazardous materials as raw/auxiliary materials processed chemically and physically that it results in changes of their physical and chemical characteristics and having added value, and company or institution using hazardous materials according to their intended uses and having a license issued by competent institution.

9. Distribution is circulation of hazardous materials from PB-2 to PA-B2 or to DT-B2 or from IT-B2 to PA-B2, or from DT-B2 to PA-B2, and PT-B2, or from PT-B2 to PA-B2.

10. Monitoring is activities of examination to monitor distribution of hazardous materials.

11. Examination Team is a team performing examination into the verity and existence of places for storing of repacking facilities and means of transportation used by Registered Distributor to operate distribution of hazardous materials.

12. CAS (Chemical Abstract Service) Number is a system of indexing or registration of chemical compounds adopted internationally that it enables identification of every chemical compound specifically.

13. Safety Data Sheet (SDS/LDK) is a sheet containing information on hazardous materials concerning physical, chemical characteristics, potential hazards, methods of handling, and special actions in emergency cases.

14. Label is information on hazardous materials in the form of pictures, writings, or both, or other forms containing information on hazardous materials and business operator and other information pursuant to the applicable laws attached to the product, put inside, placed on or is part of package.

15. Package is a material used to contain and/or wrap

hazardous materials, either it is directly in touch with the hazardous materials, or not.

16. Minister is the minister whose responsibility is in trade affairs.

CHAPTER II

TYPES OF HAZARDOUS MATERIALS

Article 2

(1) Types of hazardous materials, which distribution and monitoring are stipulated in this regulation, are, amongst others, Formaldehyde, Borax, Methynil Yellow, Rodamin-B, and other hazardous materials with CAS Numbers as specified in Attachment I to this regulation.

(2) Regulations on distribution and monitoring of hazardous materials other than as specified in Attachment I, but having similar CAS numbers, must comply with the provisions of this regulation.

(3) The hazardous materials as meant in paragraphs (1) and (2) are produced domestically and/or imported.

CHAPTER III

DISTRIBUTION OF HAZARDOUS MATERIALS

Article 3

(1) The hazardous materials as meant in Article 2 shall be distributed by P-B2, IT-B2, IP-B2, DT-B2, and PT-B2.

(2) To distribute hazardous materials, the business operators as meant in paragraph (1) must fulfill the following conditions for distribution:

- a. P-B2 distributes hazardous materials directly only to PA-B2 or through DT-B2;
- b. IT-B2 as distributor is only entitled to distribute hazardous materials directly to PA-B2;
- c. IP-B2 distributes hazardous materials only for its own process of production;
- d. DT-B2 distributes hazardous materials only to PA-B2 or through PT-B2; and
- e. PT-B2 may only distribute hazardous materials directly to PA-B2.

Article 4

- (1) Distribution of hazardous materials by IT-B2 or by DT-B2 must be completed with LDK/SDS as specified in Attachment II to this regulation.
- (2) The hazardous materials as meant in paragraph (1) must be packaged by packages specified in the applicable regulations and in accordance with International Maritime Dangerous Goods Code (IMDG Code/ United Nation Standards).
- (3) The packages as meant in paragraph (2) must contain label containing names/types of hazardous materials, name and address of P-B2 or DT-B2 who do packaging, net weight/volume, intended uses, pictograms/hazard symbols, hints, and hazard statements referring to the manual as specified in Attachment III to this regulation.

Article 5

- (1) The hazardous materials distributed as meant in Article 3 paragraphs (1) and (2) shall use packages with sizes at least as specified in Attachment I to this regulation.
- (2) The repacking as meant in paragraph (1) must meet the applicable standards as meant in Article 4 paragraph (2) and shall only be performed by DT-B2.

CHAPTER IV LICENSES

Article 6

- (1) Distributor and Retailer of Hazardous Materials must have License To Trade Hazardous Materials (SIUP-B2).
- (2) The Minister is authorized to issue SIUP-B2.
- (3) The Minister shall delegate the authority to issue SIUP-B2 as meant in paragraph (2) to:
 - a. The Director General of Domestic Trade, the Ministry of Trade, for DT-B2;
 - b. The Governor, for PT-B2 after receiving recommendation from the Regent/Mayor; and
 - c. The Governor of DKI Jakarta, for PT-B2 after receiving recommendation from the Mayor.

- (4) The Governor of DKI Jakarta as meant in paragraph (3) clauses b and c shall delegate the authority to issue licenses to Head of Work Unit whose duties and responsibilities are in trade affairs.
- (5) The SIUP-B2 shall be issued within not later than five (5) working days after fulfillment of the conditions required.
- (6) SIUP-B2 is valid for five (5) years and can be extended at least one (1) month prior to expiration.

Article 7

- (1) Requirements for obtaining license of DT-B2 are as follows:
 - a. Limited liability company;
 - b. Having experience as distributor of hazardous materials at least three (3) years and having shown good distribution performances based on Producer's evaluation;
 - c. Having or mastering methods for accelerating of distribution of hazardous materials in the form of storage places, repacking facilities, and means of transportation according to standards of security, health safety, and environment as evidenced by Certificate of Examination by the Examination Team;
 - d. Having Emergency Response System and Professionals in management of hazardous materials;
 - e. Meeting general requirements for operating trading businesses, such as SIUP, TOP, SITU/License pursuant to Nuisance Act (HO), and Taxpayer's Identification Number (NPWP);
 - f. Recommendation from the Governor/the Governor of DKI Jakarta; and
 - g. Appointment from P-B2.
- (2) Requirements for obtaining license of PT-B2 are as follows:
 - a. Corporation;
 - b. Having experience as retailer of hazardous materials of at least two (2) years;
 - c. Having storing places meeting standards of security, safety, health, and environment as evidenced by Certificate of Examination by the Examination Team;

- d. Meeting general requirements for operating trading businesses, such as SIUP, TOP, SITU/license pursuant to Nuisance Act (HO), and NPWP;
 - e. Appointment from one (1) DT-B2 only; and
 - f. Recommendation from the Regent/Mayor.
- (3) The Examination Team as meant in paragraphs (1) and (2) consists of:
- a. At central government level, officers of the Ministry of Finance, Drug and Food Supervisory Board, the Ministry of Trade, the Ministry of Labor, the State Ministry for Environment, the Ministry of Industry, the Ministry of Agriculture, and other Technical Institutions established by the Director General of Domestic Trade, the Ministry of Trade;
 - b. At provincial government level, officers of Health Agency, Drug and Food Supervisory Agency, Industry and Trade Agency, Labor Agency, Regional Environmental Impact Control Agency, Agriculture Agency, and other Technical Agencies established by the Governor/the Governor of DKI Jakarta.
- (4) The Examination Team as meant in paragraph (3) clause a shall be coordinated by the Directorate General of Domestic Trade c.q. the Directorate of Consumer Protection, the Ministry of Trade, and the Examination Team as meant in paragraph (3) clause b shall be coordinated by the Governor/the Governor of DKI Jakarta c.q. the Trade Agency.
- (5) Form of Application of License to Trade Hazardous Materials (SIUP-B2) is as specified in Attachment IV.
- (6) SIUP-B2 for DT-B2 and PT-B2 is as specified in Attachment V.

CHAPTER V REPORTING

Article 8

- (1) DT-B2 must submit report on the acquisition of hazardous materials from P-B2 and distribution of the materials to the Director General of Domestic Trade c.q. the Director of Market Development and Distribution, the Ministry of Trade with carbon copy delivered to the Governor of DKI Jakarta/Governor of the

province once in every three (3) months in the first weeks of April, July, October, and January, in the form as specified in Attachment VI.

- (2) PT-B2 must submit report regarding information on distributed raw materials to the Governor of DKI Jakarta/the Governor of the province with carbon copy of the report delivered to the Regent/Mayor once in every three (3) months in the first weeks of April, July, October, and January, and the format of the report is as specified in Attachment VII.
- (3) PA-B2 must submit report regarding acquisition of hazardous materials to the Regent/Mayor with carbon copy of the report delivered to the Governor of DKI Jakarta/the Governor of the province, and the format of the report is as specified in Attachment VIII.
- (4) The obligation of PA-B2 to submit the report as meant in paragraph (3) is not applicable to industrial companies using hazardous materials as raw/auxiliary materials for their industrial activities.

Article 9

The Report on Distribution of Hazardous Materials as meant in Article 8, for:

- a. DT-B2 shall at least contain:
 - 1) Name and address of PT-B2 and/or PA-B2;
 - 2) Types and CAS Numbers of hazardous materials;
 - 3) Net weight or volume of hazardous materials;
 - 4) Early and final stock balances;
 - 5) Time of sale of hazardous materials (date, month, year); and
 - 6) Name and address of P-B2 distributing hazardous materials.
- b. PT-B2 shall at least contain:
 - 1) Name and address of PA-B2;
 - 2) Types and CAS Numbers of hazardous materials;
 - 3) Net weight or volume of hazardous materials;
 - 4) Time of sale of hazardous materials (date, month, year); and
 - 5) Name and address of DT-B2 distributing hazardous materials.

- c. PA-B2 shall at least contain:
- 1) Types and net weight or volume of hazardous materials purchased and their intended uses;
 - 2) Early and final stock balances;
 - 3) Time of purchase of hazardous materials (date, month, year); and
 - 4) Name and address of P-B2/DT-B2/PT-B2 distributing hazardous materials.

Article 10

- (1) In case DT-B2, PT-B2, and PA-B2 stops their business activities, they must report their stocks of hazardous materials to:
- a. The Director General of Domestic Trade, the Ministry of Trade, for DT-B2;
 - b. The Governor, for PT-B2 and PA-B2 domiciled outside DKI Jakarta; and
 - c. The Governor of DKI Jakarta, for PT-B2 and PA-B2 domiciled in DKI Jakarta.

- (2) The report as meant in paragraph (1) shall be submitted within not later than five (5) working days since closing down of their business activities, as evidenced by Statement of Closing Down of Business issued by the concerned party.

CHAPTER VI RESTRICTIONS

Article 11

- (1) Business operators or persons not having licenses or not entitled to trade hazardous materials, may not:
- a. distribute or trade hazardous materials; and/or
 - b. repack hazardous materials and their basic packages.
- (2) Business operators shall not trade hazardous materials other than for their intended uses, including food and cosmetics.

Article 12

- (1) IP-B2 as meant in Article 3 paragraph (2) clause c shall not distribute hazardous materials to any party.
- (2) PT-B2 as meant in Article 3 paragraph (2) clause e shall not receive supply of raw materials from more than one (1) DT-B2.

- (3) PA-B2 shall not distribute or transfer hazardous materials to any party.

CHAPTER VII DEVELOPMENT AND MONITORING

Article 13

- (1) Development of IP-B2, IT-B2, DT-B2, PT-B2 on distribution of hazardous materials shall be conducted by the Ministry of Trade in coordination with the related technical department/institution.
- (2) The development as meant in paragraph (1), includes, amongst others:
- a. Proper distribution of hazardous materials pursuant to the applicable regulations;
 - b. Storage, packing, and labeling of hazardous materials distributed to all lines to meet safety, security, health, and environmental standards.

Article 14

- (1) Monitoring over distribution, packing, and labeling of hazardous materials is performed on IP-B2, IT-B2, DT-B2, PT-B2, and PA-B2.
- (2) Monitoring over distribution of hazardous materials as meant in paragraph (1) consists of types, distributed amount, and balance of stock of hazardous materials of:
- a. IT-B2 as DT-B2 until delivery to PA-B2 shall be performed from the storing place of IT-B2 until hazardous materials are delivered to at PA-B2;
 - b. DT-B2 until delivery to PA-B2 and PT-B2 shall be performed from the storing place of DT-B2 until hazardous materials are delivered to PA-B2 and PT-B2;
 - c. PT-B2 until hazardous materials are delivered to PA-B2.

Article 15

- (1) Monitoring as meant in Article 14, at central government level, shall be performed by officer of the Directorate General of Domestic Trade c.q. the Directorate for Monitoring of Circulating Goods and Services, the Ministry of Trade, and at regional government level, shall be performed by employee/officer

of the Provincial Agency, the Regental/Municipal Agency, and/or jointly with other institutions.

(2) Monitoring performed by the employees/officers as meant in paragraph (1) must be completed with letter of assignment issued by competent officers within a certain period of time.

(3) The competent officers as meant in paragraph (2) are:

- a. The Director General of Domestic Trade, the Ministry of Trade, for employees/officers of the Directorate General of Domestic Trade;
- b. The Governor/the Governor of DKI Jakarta for employees/officers of the Provincial Agency;
- c. The Regent/Mayor for employees/officers of the Regency/Municipality; and
- d. Heads of related institutions supervising the employees/officers who performs monitoring over hazardous materials.

(4) IP-B2, IT-B2, DT-B2, PT-B2, and PA-B2 must give largest access to the verity in distribution of hazardous materials to the employees/officers performing monitoring as meant in paragraph (1).

Article 16

(1) The employees/officers as meant in Article 15 paragraph (1) shall submit result of monitoring to the competent officer who assigns them to do monitoring.

(2) If, in the monitoring, a preliminary evidence of criminal act is found, the employees/officers as meant in paragraph (1) shall immediately convey the finding to Indonesian police investigator along with letter of introduction from the competent officer.

CHAPTER VIII SANCTIONS

Article 17

(1) IT-B2 violating the provisions of Article 3 paragraph (2) clause b will be imposed with penalty pursuant to the applicable laws.

(2) IP-B2 violating the provisions of Article 3 paragraph

(2) clause c and Article 12 paragraph (1) will be imposed with penalty pursuant to the applicable laws.

(3) DT-B2 violating the provisions of Article 3 paragraph (2) clause d; Article 4 paragraphs (1), (2) and (3); Article 5 paragraph (2); and Article 6 paragraph (1), will be imposed with penalty pursuant to the applicable laws.

(4) PT-B2 violating the provisions of Article 3 paragraph (2) clause e; Article 6 paragraph (1); and Article 12 paragraph (2) will be imposed with penalty pursuant to the applicable laws.

(5) PA-B2 violating the provisions of Article 12 paragraph (3) will be imposed with penalty pursuant to the applicable laws.

(6) Business operators or persons violating the provisions of Article 11 paragraph (1) will be imposed with penalty pursuant to the applicable laws.

(7) Business operators violating the provisions of Article 11 paragraph (2) will be imposed with penalty pursuant to the applicable laws.

Article 18

(1) Hazardous materials not meeting the conditions as meant in Article 3 paragraph (2) or Article 11 must be withdrawn from circulation.

(2) The withdrawal of hazardous materials from circulation as meant in paragraph (1) is at the order of the competent officer and shall be implemented by the concerned business operator.

(3) Cost for withdrawal of hazardous materials as meant in paragraph (2) shall be paid by the concerned business operator.

Article 19

(1) IP-B2 violating the provisions of Article 15 paragraph (4) will be imposed with administrative sanctions.

(2) IT-B2 violating the provisions of Article 15 paragraph (4) will be imposed with administrative sanctions.

(3)DT-B2 violating the provisions of Article 8 paragraph (1); Article 10 paragraph (1); and Article 15 paragraph (4) will be imposed with administrative sanctions.

(4)PT-B2 violating the provisions of Article 8 paragraph (2); Article 10 paragraph (1); and Article 15 paragraph (4) will be imposed with administrative sanctions.

(5)PA-B2 violating the provisions of Article 8 paragraph (3); Article 10 paragraph (1); and Article 15 paragraph (4) will be imposed with administrative sanctions.

Article 20

The administrative sanctions as meant in Article 19 include:

- a. Written reminder of up to three (3) times within one (1) month as specified in Attachment IX;
- b. If the reminder as meant in paragraph a is ignored, SIUP-B2 will be frozen for up to three (3) months; and
- c. If, the three (3)-month period as meant in paragraph b is ignored, SIUP-B2 will be revoked by the issuing officer, as specified in Attachment X.

CHAPTER IX

TRANSITORY PROVISIONS

Article 21

All regulations concerning Hazardous Materials remain valid as long as they are not in contradictory to this regulation.

Article 22

(1)Distributors and Retailers who do not possess SIUP-B2 as meant in Article 6 and still have hazardous materials, will be given time of not later than one (1) month since validity of this regulation, to distribute the materials to the end users according to their intended uses and to report to the competent officer as meant in Article 15 paragraph (3).

(2)If, after the one (1)-month period as meant in paragraph (1) has been passed, distributors and retailers still having hazardous materials, may not distribute

or transfer the materials to other parties and must report stock of hazardous materials to the Governor/ the Governor of DKI Jakarta or the Regent/Mayor to be recorded.

(3)The Governor/the Governor of DKI Jakarta and the Regent/Mayor shall coordinate distribution of hazardous materials under control of the distributors and retailers to PA-B2, DT-B2, or PT-B2.

Article 23

The Governor/the Governor of DKI Jakarta and/ or the Regent/Mayor shall coordinate the distribution of hazardous materials that are still under control of:

- a. Distributors or retailers as meant in Article 22 paragraph (2) to DT-B2, PT-B2, or PA-B2; or
- b. DT-B2, PT-B2, and PA-B2 as meant in Article 10 paragraph (1) to DT-B2, PT-B2, or PA-B2.

Article 24

DT-B2 shall be given time of not later than one (1) year since validity of this regulation to adjust the packages, labels, and Safety Data Sheet according to the conditions as meant in Article 4 of this regulation.

CHAPTER X

CLOSING PROVISIONS

Article 25

This regulation is valid from the date it is stipulated.

For public cognizance, this regulation shall be published by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On February 16, 2006

THE MINISTER OF TRADE OF
THE REPUBLIC OF INDONESIA

Sgd

MARI ELKA PANGESTU

Editor's Note :

-Attachments are not available.

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