

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA
No. 74 OF 2001

ON
HAZARDOUS AND TOXIC SUBSTANCE MANAGEMENT

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering :

That with the increasing activities of development in various sectors particularly industry and trade sector, the use of hazardous and toxic substances tends to increase;
That until nowadays there are several statutory regulations that regulate the hazardous and toxic substance management, however they are not adequate yet to, particularly, prevent environmental pollution and or damage from occurring;
That in order to prevent adverse effects on the living environment, human health, and other living creatures an integrated hazardous and toxic substance management is necessary in accordance with the advancement of science and technology;
That, based on considerations as contemplated in letter a, letter b, and letter c and in order to implement provisions in Article 17 paragraph (3) of Law Number 23 Of 1997 on Living Environment Management, it is necessary to stipulate Government Regulation on Hazardous and Toxic Substance Management.

In view of :

Article 5 paragraph (2) of the 1945 Constitution as amended by Second Amendment to the 1945 Constitution;

Law Number 1 Of 1970 on Work Safety (Statute Book of the Republic of Indonesia Of 1970 Number 1, Supplement to Statute Book Number 2918);

Law Number 14 Of 1992 on Traffics and Road Transportation (Statute Book of the Republic of Indonesia Of 1992 Number 49, Supplement to Statute Book Number 3480);

Law Number 21 Of 1992 on Navigation (Statute Book of the Republic of Indonesia Of 1992 Number 98, Supplement to Statute Book Number 3493);

Law Number 23 Of 1992 on Health (Statute Book of the Republic of Indonesia Of 1992 Number 100, Supplement to Statute Book Number 3495);

Law Number 10 Of 1995 on Custom Clearance (Statute Book of the Republic of Indonesia Of 1995 Number 75, Supplement to Statute Book Number 3612);

Law Number 23 Of 1997 on Living Environment Management (Statute Book of the Republic of Indonesia Of 1997 Number 68, Supplement to Statute Book Number 3699);

Law Number 22 Of 1999 on Local Governance (Statute Book of the Republic of Indonesia Of 1999 Number 60, Supplement to Statute Book Number 3839);

Government Regulation Number 7 Of 1973 on Control of Distribution, Storage and Use of Pesticides (Statute Book of the Republic of Indonesia Of 1973 Number 12);

Government Regulation Number 18 Of 1999 on Hazardous And Toxic Waste Management (Statute Book of the Republic of Indonesia Of 1999 Number 31, Supplement to Statute Book Number 3815) as amended by the Government Regulation Number 85 Of 1999 concerning amendment to the Government Regulation Number 18 Of 1999 on Hazardous And Toxic Waste Management (Statute Book of the Republic of Indonesia Of

1999 Number 190, Supplement to Statute Book Number 3910).

DECIDES :

To Stipulate :

GOVERNMENT REGULATION ON HAZARDOUS AND TOXIC SUBSTANCE
MANAGEMENT.

CHAPTER I

GENERAL PROVISION

Article 1

In this Government Regulation :

Hazardous and Toxic Substance hereinafter referred to as B3 means a substance or material that by its nature and or its concentration and or its quantity, may, either directly or indirectly, contaminates and or damages the living environment, and or may harm the living environment, health, human survival and other living creatures;

B3 Management means any activity that produces, transports, distributes, stores, uses and or discharges the B3;

B3 Registration means a registration and numbering of B3 available within the territory of the Republic of Indonesia;

B3 Storage means a technique of B3 placement activity to maintain B3 quality and quantity and or to prevent the negative effects of the B3 to the living environment, human health, and other living creatures;

B3 Packaging means an activity of packing, loading or entering B3 into a container and or package, closing and or sealing it;

B3 Symbol means a picture that indicates the B3 classification;

Label means a brief description that indicates, among other things, classification and type of B3;

B3 Transportation means an activity of moving B3 from one place to the other by using transportation facility;

Limited use B3 means B3 of which the usage, importation and or production is limited;

B3 prohibited for use means type of B3 that is prohibited to be used, produced, distributed and or imported;

B3 Import means an activity of entering B3 into the customs area of Indonesia;

B3 Export means an activity of expelling B3 from the customs area of Indonesia;

Notification for export means a prior notice from the exporter country authority to the recipient country authority and a transit country authority in case a cross border transit will be made for limited use B3;

Notification for import means a prior notice from the exporter country authority in the event a cross border transit will be made for limited use B3 and or that is imported for the first time;

Person means individual, and or a group of persons, and or legal entities;

Responsible agency means an authority that is in charge of environmental impact control;

Competent authority means an authority or agency that is authorized in license granting, controlling, and other matters in accordance with their scope of competency;

the B3 Commission means an independent body that serves a function to give the

Government advices and or considerations in B3 management in Indonesia;
Governor means the Head of Provincial Region;
Regent/Mayor means the Head of Regencial/Municipal Region;
Minister means the Minister that is in charge of managing the living environment.
Article 2

B3 management regulation is aimed at preventing and or mitigating the risks of B3 impacts to the living environment, human health and other living creatures.

Article 3

B3 management that is not included in this Government Regulation scope is management of radioactive materials, explosives, mine products and oil and natural gas and its processed products, foods and beverages and other food additives, household health and cosmetics supplies, pharmaceutical prepared materials, narcotics, psychotropic, and their precursor and other addictive substances, chemical weapons and biological weapons.

Article 4

Any person who conducts B3 management activities is obliged to prevent environmental pollution and or damage from occurring.

CHAPTER II B3 CLASSIFICATION

Article 5

(1) B3 can be classified into as follows :

- explosive;
- oxidizing;
- extremely flammable;
- highly flammable;
- flammable;
- extremely toxic;
- highly toxic;
- moderately toxic;
- harmful;
- corrosive;
- irritant;
- dangerous to the environment;
- carcinogenic;
- teratogenic;
- mutagenic.

(2) B3 Classification as contemplated in paragraph (1) consist of :

- B3 permissible for use;
- B3 prohibited for use; and
- B3 for limited use.

(3) B3 as contemplated in paragraph (2) are listed in Attachment to this Government Regulation.

CHAPTER III B3 MANAGEMENT AND PROCEDURES

Article 6

- (1) Any B3 is obliged to be registered by the producer and or the importer.
- (2) The obligation to register B3 as contemplated in paragraph (1) is applicable 1 (one) time for B3 produced and or imported for the first time.
- (3) B3 Registration as contemplated in paragraph (1), that :
Falls within the provisions of Article 3, shall be submitted to the competent authority in accordance with the provisions in the prevailing statutory regulations;
Is not covered in the provisions of Article 3, shall be submitted to the responsible agency.
- (4) The competent authority who provides B3 registration number as contemplated in paragraph (3) letter a shall submit the carbon copy to the responsible agency.
- (5) The responsible agency who provides B3 registration number as contemplated in paragraph (3) letter b shall submit the carbon copy to the competent authority.
- (6) Procedure for registration as contemplated in paragraph (5) and B3 national registration system shall be stipulated by Decree of the Head of Responsible Agency.

Article 7

- (1) Any person who exports B3 for limited use, is obliged to submit notification to the export destination country authority, transit country authority and to the responsible agency.
- (2) B3 Export as contemplated in paragraph (1) can only be conducted after obtaining approval of the export destination country authority, transit country authority and the responsible agency.
- (3) Approval of the responsible agency as contemplated in paragraph (2) constitutes a basis for issuance or rejection of the export permit from the competent authority in trade sector.

Article 8

- (1) Any person who imports B3 for limited use and or imported for the first time, is obliged to obey the notification procedure.

(2) The notification as contemplated in paragraph (1), is obliged to be submitted by the exporting country authority to the responsible agency.

(3) The responsible agency is obliged to give reply on the notification as contemplated in paragraph (2) within not later than 30 (thirty) working days as of the receipt date of request for notification.

Article 9

(1) Any person who imports any new B3 that is not included in the list as contemplated in Article 5 paragraph (3), is obliged to observe the notification procedure.

(2) The notification as contemplated in paragraph (1) is obliged to be submitted by the exporting country authority to the responsible agency.

(3) The responsible agency as contemplated in paragraph (2) shall immediately notify to the B3 Commission for advices and or considerations of the B3 Commission.

(4) The B3 Commission shall give the responsible agency advices and or considerations concerning B3 as contemplated in Article 9 paragraph (1).

(5) Based on the advices and or considerations given by the B3 Commission to the responsible agency, the responsible agency shall :

Propose changes of the Attachment to this Government Regulation; and

Give approval to the competent authority in trade sector as a basis for issuance or rejection of import permit.

Article 10

Procedure of notification as contemplated in Article 7 paragraph (1), Article 8 paragraph (1) and Article 9 paragraph (1) shall be stipulated by Decree of the Head of Responsible Agency.

Article 11

Any person who produces B3 is obliged to prepare Material Safety Data Sheet.

Article 12

Any person responsible for transportation, storage, and distribution of B3 is obliged to furnish the Material Safety Data Sheet as contemplated in Article 11.

Article 13

(1) Transportation of B3 shall use a transportation facility that is operation worthy and its implementation shall be in conformity with the transportation procedures as provided for in the prevailing statutory regulations.

(2) The requirements of transportation facility and transportation procedure as

contemplated in paragraph (1) shall be stipulated by the competent authority in the field of transportation.

Article 14

Any B3 that is produced, transported, distributed, stored must be packed in accordance with its specification.

Article 15

(1) Each B3 package must be affixed with symbol and label and furnished with the Material Safety Data Sheet.

(2) Method of packaging, symbol fixing and labelling as contemplated in paragraph (1) shall be stipulated by Decree of the Head of Responsible Agency.

Article 16

(1) In event any B3 package damages, then for :

B3 that can be repacked, the packaging shall be conducted by the distributor;

B3 that cannot be repacked and may cause pollution and or environmental destruction and or harmful to the human health, the distributor is obliged to overcome.

(2) B3 as contemplated in paragraph (1) letter a and letter b, shall be stipulated further by Decree of the Head of Responsible Agency.

(3) In case the Decree of the Head of Responsible Agency as contemplated in paragraph (2) is not available yet, the B3 handling procedure as contemplated in paragraph (1) shall refer to the prevailing scientific principles.

Article 17

(1) In case any symbol and label damages, a new symbol and label shall be affixed.

(2) Responsibilities of symbol fixing and labelling as contemplated in paragraph (1) to the damages in the following phases :

production, the responsibility rests on the producer;

transportation, the responsibility rests on the person for transportation activity;

storage, the responsibility rests on the person for storage activity.

(3) Procedures of symbol fixing and labelling as contemplated in paragraph (1) shall be stipulated by Decree of the Head of Responsible Agency.

Article 18

(1) Any B3 storing place shall be affixed with symbol and label.

(2) The B3 storing place as contemplated in paragraph (1) is obliged to meet the requirements of:

location;
building construction.

(3) The B3 storing place requirement criteria as contemplated in paragraph (2) shall be stipulated further by Decree of the Head of Responsible Agency.

Article 19

Management of the B3 storing place as contemplated in Article 18 paragraph (2) is obliged to be equipped with emergency response system and B3 handling procedure.

Article 20

B3 that are out of date and or not compliant with the specification and or used packages, shall be managed in accordance with the statutory regulations in the filed of Hazardous and Toxic Waste Management.

CHAPTER IV B3 COMMISSION

Article 21

(1) In the framework of B3 management, a B3 Commission shall be established with a task to provide the government advices and or considerations.

(2) The B3 Commission as contemplated in paragraph (1) may consist of several B3 Sub-Commission.

(3) Membership composition of the B3 Commission as contemplated in paragraph (1) shall consist of representative(s) of the competent authority, representative(s) of the responsible agency, representative(s) of related agency, representative(s) of university, environment organizations, and associations.

(4) Membership composition, tasks, functions, and job description of the B3 Commission as contemplated in paragraph (3) shall be stipulated by Presidential Decree.

CHAPTER V WORK SAFETY AND HEALTH

Article 22

(1) Any person who conducts B3 management activities is obliged to maintain the work safety and health.

(2) The obligation as contemplated in paragraph (1) shall be perform in accordance with the prevailing statutory regulations.

(3) In performing the obligation as contemplated in paragraph (1) the person responsible for B3 management activities is obliged to involve the participation of his/her labours.

(4) Labour participation as contemplated in paragraph (3) shall be conducted in accordance

with the guidelines as stipulated by the competent authority in the field of employment.

Article 23

(1) In order to maintain the safety and health of workers and B3 supervisor, periodic medical test shall be conducted.

(2) The medical test as contemplated in paragraph (1) shall be conducted by respective agency in accordance with the prevailing statutory regulations.

CHAPTER VI ACCIDENT AND EMERGENCY MANAGEMENT

Article 24

Any person who conducts B3 management activities is obliged to manage any accident and or emergency resulting from B3.

Article 25

In event any accident and or emergency occurs as a result of B3, then any person who conducts management activities as contemplated in Article 24 is obliged to take the following steps :

to secure (isolate) the accident scene;
to manage the accident in accordance with the definitive procedures of accident management;
to report the accident and or emergency to the apparatus of local Regencial/Municipal government; and
to provide information, assistance, and to evacuate the community surrounding the scene.

Article 26

The apparatus of local Regencial/Municipal government, upon receipt of report on occurrence of accident and or emergency resulting from B3 as contemplated in Article 25 letter c, is obliged to immediately take management steps required.

Article 27

The obligation as contemplated in Article 26, shall not diminish any obligation of the person who conducts management activities to:
compensate of losses resulting from the accident and or emergency; and or
recover the damaged and polluted living environment condition; caused by B3.

CHAPTER VII SUPERVISION AND REPORTING

Article 28

(1) The authority of supervision to B3 management activities shall be exercised by the responsible agency and the competent authority in accordance with their respective scope of duty.

(2) In certain cases, the authority of supervision to B3 management activities as contemplated in paragraph (1) can be delegated to the Province/regency/City.

(3) The delegation of authority of supervision as contemplated in paragraph (2) shall be stipulated by the responsible agency and or the competent authority in their respective scope of duty.

Article 29

The supervisor in conducting supervision to B3 management activities as contemplated in Article 28 paragraph (1), shall be equipped with identity and mandatory letter issued by the responsible agency and the competent authority in accordance with their respective scope of duty.

Article 30

Any person who conducts B3 management activities is obliged to:
permit the supervisor to enter into any work sites and assist with the implementation of the supervision tasks;
permit the supervisor to take B3 samples;
give accurate and correct information both verbal and written;
permit the supervisor to take photographs pictures in the work site and or take pictures.

Article 31

Any person who conducts B3 management activities is obliged to submit written reports of the B3 management periodically at least once every 6 (six) months to the responsible agency and the competent authority in their respective scope of duty with carbon copy thereof to the Governor/regent/Mayor.

CHAPTER VIII COMMUNITY AWARENESS IMPROVEMENT

Article 32

The Governor/Regent/Mayor/Head of Responsible Agency and Top Management of the competent authority, may improve the community awareness in the potential impacts that may incur on the living environment, human health and other living creatures resulting from the B3 management activities.

Article 33

Any person who conducts B3 management is obliged to improve the community awareness in the potential impacts of B3 that may incur on the living environment, human health, and other living creatures resulting from the B3 management activities.

Article 34

The community awareness improvement as contemplated in Article 32 and Article 33 can be conducted by means of disseminating understanding on B3.

CHAPTER IX INFORMATION OPENNESS AND COMMUNITY ROLES

Article 35

- (1) The community preserves the rights to obtain information on the efforts of controlling the living environmental impacts resulting from B3 management activities.
- (2) The information as contemplated in paragraph (1), shall be provided by the person responsible for B3 management activities.
- (3) The provision of information as contemplated in paragraph (2) can be delivered through print media, electronic media and or announcement board.

Article 36

Every person preserves the rights to participate in the B3 management in accordance with the prevailing statutory regulations.

CHAPTER X FINANCING

Article 37

Costs incurred in conducting activities as contemplated in :

Article 6 paragraph (6), Article 10, Article 13 paragraph (2), Article 15 paragraph (3), Article 16 paragraph (2), Article 17 paragraph (3) ,Article 18 paragraph (3), Article 21 paragraph (4), Article 22 paragraph (4), Article 23 paragraph (2), Article 28 paragraph (1) and Article 32, shall be charged to the National Budget (APBN) and or other fund sources in accordance with the prevailing statutory regulations;
Article 26, Article 28 paragraph (2) and Article 32 shall be charged to the Regional Budget (APBD) and or other fund sources in accordance with the prevailing statutory regulations.

CHAPTER XI ADMINISTRATIVE SANCTIONS

Article 38

(1) Violation to any provisions in Article 4, Article 6 paragraph (1), Article 7 paragraph (1), Article 8 paragraph (1), Article 9 paragraph (1), Article 11, Article 12, Article 13 paragraph (1), Article 14, Article 15 paragraph (1), Article 16 paragraph (1), Article 17 paragraph (1) and paragraph (2), Article 18 paragraph (1) and paragraph (2), Article 19, Article 20, Article 22, Article 23, Article 24, Article 25, Article 30, Article 31, Article 33, and Article 35 shall be subjected to administrative sanction.

(2) The administrative sanction as contemplated in paragraph (1) shall be implemented based on the severity of the violation in accordance with the prevailing statutory regulations.

CHAPTER XII COMPENSATIONS

Article 39

(1) Person responsible for the business and or the activity whose business or activity results in serious and significant impacts on the living environment, that uses hazardous and toxic substances, and or generates waste of hazardous and toxic substances, shall be sole responsible for the losses incurred, with the obligation to pay compensation directly and suddenly at the time of the pollution and or living environment destruction occurs.

(2) Person responsible for the business and or the activity may be subjected with the obligation to pay for compensation as contemplated in paragraph (1) if the concerned person can prove that such a pollution and or living environment destruction is caused by any of the following reasons :

Natural disaster or wars; or

Any compelling condition beyond human control (force majeure); or

Action of third party that results in pollution and or living environment destruction.

(3) In the event of any losses resulted by third party as contemplated in paragraph (2) letter c, the third party shall be held responsible to pay for compensation.

CHAPTER XIII CRIMINAL PROVISION

Article 40

Any person who violates any provisions as specified in Article 4, Article 6 paragraph (1), Article 11, Article 12, Article 13 paragraph (1), Article 14, Article 15 paragraph (1), Article 16 paragraph (1), Article 17 paragraph (1), Article 18 paragraph (1) and paragraph (2), Article 19, Article 20, Article 22, and Article 24 that results in pollution and or living environment damage, is threatened with punishments as contemplated in Article 41, Article 42, Article 43, Article 44, Article 45, Article 46, and Article 47 Law Number 23 Of 1997 on Living Environment Management.

CHAPTER XIV TRANSITIONAL PROVISION

Article 41

If at the time of publication of this Government Regulation:
there is still B3 prohibited for use in Indonesia, then such a B3 can be exported to the needing country in accordance with the prevailing export mechanism;

there is B3 that has been distributed but not registered, then it shall be registered by the

keeper, the distributor and or the user according to provisions as contemplated in Article 6 paragraph (3).

Article 42

Upon enactment of this Government Regulation, all of the existing statutory regulations relating with B3 shall be declared still operative as long as not in contradictory to and not amended under this Government Regulation.

CHAPTER XV CONCLUDING PROVISION

Article 43

Government Regulation shall come into force 6 (six) month as of its stipulation date. For public cognizance, this Government Regulation shall be announced by placing it in the Statute Book of the Republic of Indonesia.

Stipulated in Jakarta
On March 31, 2000
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd

BAMBANG SUDIBYO

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This document is an unofficial translation and is provided for information purpose only. In case of any divergence of interpretation, the original of Indonesian text (Law, Circular Letter and Presidential Decree and Minister of Finance Decree) shall prevail.

