



## GOVERNMENT REGULATIONS

### PROVISION FOR IMPORT OF NON-HAZARDOUS AND TOXIC MATERIAL WASTE (NON-B3)

(Regulation of the Minister of Trade of RI No.41/M-DAG/PER/10/2008, dated October 31, 2008)

WITH THE BLESSING OF THE ONE AND ONLY GOD

THE MINISTER OF TRADE OF  
THE REPUBLIC OF INDONESIA,

In view of:

1. *Bedrijfsreglementerings Ordonnantie 1934 (Staatsblad Year 1938 No.86);*
2. *Law of RI No.5 Year 1984, concerning Industrial matters (Statute Book of RI Year 1984 No.22, Supplement to Statute Book of RI No.3274);*
3. *Law of RI No.7 Year 1994 concerning Ratification of Agreement Establishing the World Trade Organization (SB of RI Year 1994 No.57, SSB of RI No.3564);*
4. *Law of RI No.10 Year 1995 (BN No. 5812, pages 19A-20A and so forth) concerning Customs affairs (SB of RI Year 1995 No.75, SSB of RI No.3612) as amended by Law No.17 Year 2006 (BN No.7476, pages 23A-27A and so forth) SSB of RI Year 2006 No.93, SSB of RI No.4661);*
5. *Law of RI No.23 Year 1997 (BN No. 6092, pages 19A-21A and so forth) concerning Management of Living Environment (SB of RI Year 1997 No.68, SSB of RI No.3699);*
6. *Government Regulation of RI No.18 Year 1999 (BN No.6330, pages 1A-3A and so forth), concerning Management of Non-Hazardous and Toxic Material Waste (SB of RI Year 1999 No.31, SSB of RI No.3815) as amended by Government Regulation of RI No.85 Year 1999 (BN No.6441, pages 2A-6A) (SB of RI Year 1999 No.190, SSB of RI No.3910);*

Considering:

- a. that certain domestic industries still use waste as basic material and/or supporting material for processing their products;
- b. that procurement of waste as basic material and/or supporting material required for processing certain industrial products cannot be fully obtained from domestic source, so that it is necessary to procure additional waste from overseas source;
- c. that procurement of waste as basic material and/or supporting material from overseas source must observe the effort for protection of the country's living environment, so that its import shall be under control and must be limited;
- d. that in the context of controlling and limiting and in order to improve effectiveness in supervising import of non-hazardous and toxic material waste (Non-B3), it is necessary to re-govern the provision on import of Non-B3 waste;
- e. that based on the consideration referred to in letters a, b, c and d, it is necessary to stipulate Regulation of the Minister of Trade;

7. Decree of President of RI No. 260 Year 1967, concerning Confirmation of Duty and Responsibility of the Minister of Trade in the field of International Trading;
8. Decree of the President of RI No.61 Year 1993, concerning Ratification of Based Convention on The Control of Transboundary Movements of Hazardous Wastes and their Disposal (SB of RI Year 1993 No.62);
9. Decree of the President of RI No.187/M Year 2004 (**BN No.7128, pages 30A-31A**), concerning Establishment of Indonesia Bersatu Cabinet as amended several times and lately amended by Decree of President of RI No.171/M Year 2005;
10. Regulation of the President of RI No.9 Year 2005 (**BN No.7182, pages 2A-23A**), concerning Capacity, Duty, Function, Organizational Structure, and Working Procedure of the State Ministry of RI as amended several times and lately amended by Regulation of the President of RI No.20 Year 2008;
11. Regulation of the President of RI No.10 Year 2005 concerning Organizational Unit and Duty of Echelon I of the State Ministry of RI as amended several times and lately amended by Regulation of the President of RI No.21 Year 2008;
12. Decision of the Minister of Industry and Trade of RI No.229/MPP/Kep/7/1997 (**BN No.6032, pages 5A-7A**), concerning General Provision in Import matters;
13. Decision of the Minister of Industry and Trade of RI No.520/MPP/Kep/8/2003 (**BN No.6946, pages 18A-19A**), concerning Prohibition from Importing Hazardous and Toxic Material Waste (B3);
14. Regulation of the Minister of Trade of RI No.01/M-DAG/PER/3/2005, concerning Organization and Working

Procedure of the Department of Trade as amended several times and lately amended by Regulation of the Minister of Trade No.34/M-DAG/PER/7/2007 (BN No.7546, pages 2B-6B) concerning Importer Identification Number (API);

#### DECIDES:

To Stipulate:

REGULATION OF THE MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA ON PROVISION FOR IMPORT OF NON-HAZARDOUS AND TOXIC MATERIAL WASTE (NON B3).

#### Article 1

What is meant in this Regulation of the Minister by:

1. Non-Hazardous and Toxic Waste, hereinafter referred to as Non-B3 Waste, shall be remnants of a business and/or activities in the form of residue, scrap or left-over not included in hazardous and toxic waste material classification/category.
2. Residue shall be product not used up in processing products or goods, still having the same characteristics but the function has changes from the original goods.
3. Scrap shall be goods consisting of components of the same type and different type of goods having been dispersed from its original form and the function if different from the original goods.
4. Left-over shall be goods in pieces and still having the same characteristic as that of the original goods but the function is different from that of the original goods.

5. Producer Importer of Non-B3 Waste, hereinafter referred to as IP Non-B3 Waste, shall be company that runs industrial business activities having been approved to import Non-B3 Waste needed solely to process its industrial products, which is not for trade and/or assignment to other parties.
6. Exporting country of Non-B3 Waste shall be country where Non-B3 Waste is produced and shipped from other countries for delivery to Indonesia.
7. Surveyor shall be survey company appointed by the Minister and granted the authority to conduct technical verification and investigation of imported Non-B3 Waste/
8. Recommendation shall be certificate issued by the relevant competent authority/working unit authorized to give technical consideration as the basis for issuing approval for import of Non-B3 Waste.
9. Minister shall be Minister whose duty and responsibility are in the Trading sector.
10. Director General shall be Overseas Director General of Trade of the Department of Trade.

#### Article 2

- (1) Non-B3 Waste that may be imported shall be in the form of Residue, Scrap or Left-over to be used as basic material and/or industrial supporting material.
- (2) The Non-B3 Waste referred to in paragraph (1) set forth in Attachment 1 shall constitute inseparable part of this Regulation of the Minister.

#### Article 3

- (1) The Non-B3 Waste referred to in Article 2 may be

imported only by company that runs industrial business activities and having obtained recognition as Non-B3 Waste IP from the Director General.

- (2) The recognition as Non-B3 Waste IP referred to in paragraph (1) shall list the volume and types of Non-B3 Waste that may be imported by the Non-B3 Waste IP and the technical provision for implementation of its import.

#### Article 4

- (1) Application for obtaining recognition as Non-B3 Waste IP referred to in Article 3 paragraph (1) must be submitted in writing to the Director General supported by:
  - a. photocopy of Industrial Business License/Industrial Registration Number from the relevant technical department/agency;
  - b. photocopy of Company Registration Identification (TDP);
  - c. photocopy of Obligatory Taxpayer Identification Number (NPWP);
  - d. Producer Importer Identification Number (API-P) or Limited Importer Identification Number (API-T);
  - e. Photocopy of Customs Identification Number (NIK);
  - f. Recommendation from the Director General of Metal, Textile and Various Industries (ILMTA) or Director General of Agro and Chemical Industry (IAK), the Department of Industry; and
  - g. Recommendation from the Deputy Minister of Living Environment in the field of Management of Hazardous and Toxic Material and Hazardous and Toxic Material Waste, and the State Minister of Living Environment.

(2) The application for obtaining Non-B3 Waste IP recommendation referred to in paragraphs f and g, must be submitted in writing to the respective agency providing recommendation by attaching the documents below:

- a. photocopy of document on environmental study such as, Analysis of Environmental Impact (AMDAL) or Environmental Management Effort (UKL) and Environmental Monitoring Effort (UPL);
- b. balance sheet on mass products processing showing description of consumption in the use of basic material to produce end product, with the weight of Non-B3 Waste used for each unit of end product produced;
- c. flow diagram and description of production process;
- d. packaging and storage system for Non-B3 Waste before use as basic material;
- e. initial treatment processing system of Non-B3 Waste before use as basic material.

(3) The Director General shall issue or reject application for recognition as Non-B3 Waste IP as referred to in paragraph (1) within seven (7) working days at the latest effective as of the application is received.

#### Article 5

(1) The recognition as Non-B3 Waste IP referred to in Article 3 shall be valid for one (1) year and is extendable.

(2) Application for Recognition as Non-B3 Waste IP referred to in paragraph (1), must be submitted in writing to the Director General by attaching the documents below.

- a. recommendation from the Director General of Metal, Textile and Various Industries (ILMTA) or the Director General of Agro-Chemical Industry (IAK), the Department of Industry;

- b. recommendation from the Deputy of Management of Hazardous and Toxic Material and Hazardous and Toxic Material Waste, of the State Ministry of Living Environment; and

- c. the original certificate for recognition as Non-B3 Waste IP which validity expired.

(3) If the company applying for extension of recognition as Non-B3 Waste IP is unable to attach the original certificate of recognition as Non-B3 Waste IP which validity expired as referred to in paragraph (2), letter c, the company concerned must submit the written application to the Director General in accordance with the provisions referred to in Article 4.

#### Article 6

(1) The Non-B3 Waste IP to be imported must obtain Approval Letter for Import (SPI) of Non-B3 Waste for each shipment from the Director of Import of the Department of Trade on behalf of the Director General.

(2) The Non-B3 Waste SPI referred to in paragraph (1) shall cover Non-B3 Waste type, the volume or weight (net) for each type of Non-B3 Waste, the description and specification of Non-B3 Waste covering the HS number, the data and remarks on the country of origin of the Non-B3 Waste, and the port of loading and unloading and the validity period of the Non-B3 Waste SPI;

(3) Each application for Non-B3 Waste SPI conducted by Non-B3 Waste IP must be supported by Statement Letter from the exporter that has been approved by the competent authority in governing Non-B3 Waste from exporting country, stating that:

- a. Non-B3 Waste exported shall be free from contamination of hazardous and toxic material in accordance with the provisions in the statutory regulation;
  - b. the Non-B3 Waste exporter must accept back the exported waste, if the exported Non-B3 Waste:
    - 1. is contaminated by hazardous and toxic material; and/or
    - 2. is not consistent with the provisions in this Regulation of the Minister.
- (4) Statement Letter from the exporter referred to in paragraph (3) is not obligatory if the next Non-B3 Waste to be imported constitutes the same type of Non-B3 Waste, originating from the exporting country, and the exporter as well as the same Non-B3 Waste IP.
- (5) The validity of Approval for Import referred to in paragraph (2) shall be three (3) months at the longest effective as of the date the Non-B3 Waste SPI is issued.
- (6) If the imported Non-B3 Waste is found out to be contaminated by hazardous and toxic material so that it is inconsistent with the provisions of paragraph (3) letter a, the Non-B3 Waste IP must be re-exported to the country of origin within 90 (ninety) days as of the arrival of the goods based on applicable document of customs.
- (7) Charges required for re-export referred to in paragraph (3) shall be on account of the Non-B3 Waste IP.

#### Article 7

- (1) The Non-B3 Waste IP that has obtained Non-B3 Waste SPI referred to in Article 6, paragraph (1) must be submitted in writing either to import or not to import Non-B3 Waste.

- (2) The report referred to in paragraph (1) shall be submitted to the Director General in this case the Director of Import of the Department of Trade with copy to:
- a. the Director General of ILMTA or the Director General of IAK of the Department of Industry; and
  - b. the Deputy Management of Hazardous and Toxic Material and Hazardous and Toxic Waste of the State Minister of Living Environment.
- (3) The report referred to in paragraph (1) shall be submitted within ten (10) days as of the expiry of the validity of the Non-B3 Waste SPI.
- (4) The Non-B3 Waste SPI that fails to submit the report referred to in paragraphs (1) and (2) may not submit application for the next Non-B3 Waste SPI.
- (5) The form of the report referred to in paragraph (1) set forth in Attachment II shall constitute inseparable part of this Regulation of the Minister.

#### Article 8

- (1) Every import of Non-B3 Waste by the Non-B3 Waste IP must be verified or investigated technically in the country of loading before shipment.
- (2) The technical verification and investigation referred to in paragraph (1) shall be conducted by a surveyor appointed by the Minister.
- (3) The surveyor appointed as referred to in paragraph (2) must comply with the requirements as follows:
- a. has at least five (5) years experience as surveyor;
  - b. has branch or representative office and/or affiliate overseas and has information system network to support effectiveness in the verification service; and
  - c. has track record in the management of import verification in the context of implementing the policy of the Government of the Republic of Indonesia.

- (4) The technical verification and investigation by the Surveyor referred to in paragraph (2) shall be conducted based on:
- a. the scope covering the type of Non-B3 Waste, the volume or weight (net) of each type of Non-B3 Waste, description and specification of Non-B3 Waste covering the number of IIS, the date and remarks on the exporting country of the Non-B3 Waste, and the port of loading and unloading and the validity of the Non-B3 Waste SPI; and
  - b. the technical guidance according to the recommendation from the Deputy Management of Hazardous and Toxic Material Waste of the State Ministry of Living Environment referred to in Article 4, paragraph (1) letter g.
- (5) The result of technical verification or investigation referred to in paragraph (4) shall be set forth in a form of Surveyor Report (LS) as customs supporting on import.
- (6) The Surveyor shall be responsible for the result of technical verification and investigation referred to in paragraph (5).
- (7) The Surveyor shall collect service compensation for conducting the technical verification and investigation referred to in paragraph (4) which amount shall be determined with due observance of the benefit principle.
- (8) The Surveyor referred to in paragraph (2) must submit written report on the technical verification and investigation each month to the Director General with copy to:
- a. the Director General of ILMTA or Director General of IAK of the Department of Industry; and

- b. the Deputy Management of Hazardous and Toxic Material and Hazardous and Toxic Material Waste of the State Ministry of Living Environment.

#### Article 9

- (1) If the Non-B3 Waste imported by the Non-Be Waste IP will transfer its shipment at the port of transit in a certain country, the Non-B3 Waste concerned must be re-verified and re-investigated technically.
- (2) The technical re-verification and re-investigation referred to in paragraph (1) shall be conducted at the port of transit at re-loading of the Non-B3 Waste to the ship by complying with the provisions referred to in Article 8.

#### Article 10

Technical verification and investigation conducted by the Surveyor referred to in Articles 8 and 9 shall not prejudice the authority of the Directorate General of Customs and Excise of the Department of Finance to conduct customs examination.

#### Article 11

- (1) Recognition as Non-Be Waste IP shall be terminated if the Non-B3 Waste IP concerned fails to comply with its obligation to submit report referred to in Article 7, paragraph (3).
- (2) The termination referred to in paragraph (1) shall be implemented after giving written reminder within seven (7) working days as of the deadline of the obligatory report submission.

- (3) The termination of recognition as Non-B3 Waste IP referred to in paragraph (1) may be re-activated if the Non-B3 Waste IP concerned has implemented the obligatory report submission.
- (4) The termination and activation of the recognition as Non-B3 Waste IP as referred to in paragraphs (1) and (2) shall be conducted by the Director General.

#### Article 12

- (1) Recognition as Non-B3 Waste IP shall be revoked if the Non-B3 Waste IP concerned:
- fail to implement its obligation referred to in Article 7 paragraph (1) after three (3) months as of its termination;
  - amend, add and/or change the contents set forth in the recognition certification as Non-B3 Waste IP;
  - amend, add and/or change the content set forth in the SPI document;
  - amend, add and/or change the content set forth in the Statement Letter of the exporter; or
  - is declared at fault by the court for criminal action relating to misuse of the recognition as Non-B3 Waste IP.
- (2) Revocation of recognition as Non-B3 Waste IP referred to in paragraph (1) shall be stipulated by the Director General.
- (3) The company owning the Non-B3 Waste IP recognition charged by revocation penalty referred to in paragraph (2) may only submit application to obtain recognition as Non-B3 Waste IP again after two (2) years as of the revocation of the stipulated Non-B3 Waste IP.

#### Article 13

- (1) Violation by the Surveyor of the provision in Article 8, paragraph (8) shall be charged administrative penalty by revoking the appointment as Surveyor.
- (2) Revocation of appointment referred to in paragraph (1) shall first be reminded in writing for three (3) times within a period of ten (10) days.

#### Article 14

- (1) Recognition as Non-B3 Waste IP issued based on Decision of the Minister of Industry and Trade No.230/MPP/Kep/7/1997, concerning Governing of Commerciality of Import Goods and Decision of the Minister of Industry and Trade No.231/MPP/Kep/7/1997, concerning Procedure for Waste Import, is declared to remain valid until the expiry of the Non-B3 Waste IP.
- (2) Import of Non-B3 Waste by Non-B3 Waste IP referred to in paragraph (1) which at stipulation of this Regulation of the Minister is in shipping process from the exporting country to the territory of the Republic of Indonesia except for the provision on the ownership of Non-B3 Waste SPI within two (2) months at the latest.
- (3) The period of time referred to in paragraph (2) takes effect as of the date this Regulation of the Minister is stipulated.
- (4) Import made by the Non-B3 Waste IP after the period of time referred to in paragraph (2) is subject to the provision in this Regulation of the Minister.
- (5) The appointment as Waste IU issued based on Decision of the Minister of Industry and Trade No.230/MPP/Kep/7/1997 concerning Governing of Commerciality of Import Goods and Decision of the Minister and Trade No.231/MPP/Kep/7/1997 concerning Procedure for Waste Import is declared null and void.

Article 15

- (1) In the context of supervision in the implementation of this Regulation of the Minister, the Director General may establish supervisory duty consisting of relevant technical agency.
- (2) The supervisory duty referred to in paragraph (1) shall function to evaluate and monitor and give recommendation to the Minister, through the Director General as material for consideration in stipulating policy.

Article 16

By the time this Regulation of the Minister comes to force:

1. Decision of the Minister of Industry and Trade No.230/MPP/Kep/7/1997 concerning Governing Commerciality of Imported Goods shall remain valid, except the ruling on import of Non-B3 Waste and its attachment.
2. Decision of the Minister of Industry and Trade No.231/MPP/Kep/7/1997, concerning Procedure for Waste Import, shall be revoked and declared null and void.

Article 17

This Regulation of the Minister shall take effect on the date it is stipulated.

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 October 31, 2008

THE MINISTER OF TRADE OF RI

Sgd.

MARI ELKA PANGESTU

—==( MA )==—