

PREVENTION OF OIL SPILL IN THE SEA
(Presidential Regulation No. 109/2006 dated December 29, 2006)

WITH THE GRACE OF THE ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that, activities on sea include shipping, oil and gas business activities, and other activities that bear risk in form of accidents that results in spill of oil polluting and/or damaging the sea environment so actions to prevent it should be done properly, immediately, and integrally;
- b. that, with the promulgation of Law No. 17/1985 on Ratification of United Nations Convention on the Law of the Sea, the Indonesian government is obliged to develop a policy and mechanism that enables proper, immediate, and integral actions for the prevention of oil spill in the sea and prevention of the impact on the environment as a result of oil spill by involving local, regional, and national potentialities effectively;
- c. that, based on the considerations as meant in paragraphs a and b, It is necessary to stipulate Presidential Regulation on Prevention of Oil Spill in the Sea;

In view of:

1. Article 4 paragraph (1) of Constitution of 1945;
2. Law No. 1/1973 on Continental Shelf of Indonesia (Statute Book of 1973 No. 1, Supplement to Statute Book No. 2994);
3. Law No. 5/1983 on Indonesian Exclusive Economic Zone (Statute Book of 1983 No. 44, Supplement to Statute Book No. 3260);
4. Law No. 17/1985 on Ratification of United Nations Convention on the Law of the Sea (Statute Book of 1985 No. 76, Supplement to Statute Book No. 3319);
5. Law No. 21/1992 on Shipping (Statute Book of 1992 No. 98, Supplement to Statute Book No. 3493);
6. Law No. 23/1997 on Environmental Treatment (Statute Book of 1997 No. 68, Supplement to Statute Book No. 3699);
7. Law No. 22/2001 on Oil and Gas (Statute Book of 2001 No. 136, Supplement to Statute Book No. 4152) as already amended by Decision of the Constitutional Board No. 002/PUU-I/2003 dated December 21, 2004 (State Gazette No. 1 of 2005);
8. Law No. 32/2004 on Regional Administration (Statute Book of 2004 No. 125, Supplement to Statute Book No. 4437) as already amended by Law No. 8/2005 on Stipulation of Government Regulation In Lieu of Law No. 3/2005 on Amendment to Law No. 32/2004 on Regional Administration to become Law (Statute Book of 2005 No. 108, Supplement to Statute Book No. 4548);
9. Government Regulation No. 19/1999 on Prevention of Pollution and/or Harming of the Sea (Statute Book of 1999 No. 32, Supplement to Statute Book No. 3816);
10. Government Regulation No. 69/2001 on Port Affairs (Statute Book of 2001 No. 127, Supplement to Statute Book No. 4145);
11. Government Regulation No. 51/2002 on Shipping Matters (Statute Book of 2002 No. 95, Supplement to Statute Book No. 4227);
12. Presidential Decree No. 18/1978 on Ratification of International Convention of Civil Liability for Oil Pollution Damage, 1969 (Statute Book of 1978 No. 28);
13. Presidential Decree No. 46/1986 on Ratification of International Convention for the Prevention of Pollution from Ships of 1973 and the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (Statute Book of 1986 No. 59);
14. Presidential

14. Presidential Decree No. 52/1999 on Ratification of Protocol of 1992 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (Statute Book of 1999 No. 99);

D E C I D E S :

To stipulate:

PRESIDENTIAL REGULATION ON PREVENTION OF OIL SPILL IN THE SEA.

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Hereinafter referred to as:

1. Prevention of Oil Spill in the Sea is actions taken properly, immediately, and integrally to prevent and solve spread of oil spill in the sea and to prevent its impact on the environment as a result of oil spill to minimize damages suffered by the society and damages of sea environment.
2. Oil Spill in the Sea is spill of oil, directly or indirectly, to the sea, from shipping activities, oil and gas businesses activities, or other activities.
3. Oil means natural oil and its derivatives in liquid or solid form that easily or not easily changes form.
4. Natural Oil is the product of natural process in form of hydrocarbon in pressured condition and atmosphere temperature in form of liquid or solid phase, including asphalt, wax mineral or ozokerite, and bitumen acquired from mining, but not including coal or other hydrocarbon deposits in solid form acquired from activities not relating to oil and gas business activities.
5. Sea is inland waters, archipelago waters, territorial waters, and Indonesian Exclusive Economic Zone.
6. Impact on Sea Environment means changes of quality of sea environment as a result of oil spill.
7. Shipping is anything related to water transportation, port affairs, and security and safety.
8. Oil and Gas Business Activities means oil and gas upstream and/or downstream business activities.
9. Other Activities means activities other than shipping activities and oil and gas business activities.
10. Mission Coordinator is officer in charge of operation of prevention of oil spill in the sea.
11. Port Administrator, which is hereinafter called ADPEL, is head of technical operating unit within the Directorate General of Sea Communications in a seaport operated by a Seaport Business Enterprise.
12. Head of Port Office, which is hereinafter called KAKANPEL, is head of technical operating unit within the Directorate General of Sea Communications in a seaport not operated by a Seaport Business Enterprise.
13. Coordinating ADPEL is ADPEL who carries out duties as coordinator in the framework of monitoring and development and is responsible for performance of duties in marine safety.
14. National Centre of Commanding and Control of Operation of Prevention of Oil Spill in the Sea, which is hereinafter called PUSKODALNAS, is a centre of commanding and control of operation of prevention of oil spill in the sea and prevention of impact on the environment as a result of oil spill in the sea.
15. Fixed Procedure of Prevention of Oil Spill in the Sea, which is hereinafter called PROTAP, is regulations regarding structure, responsibility, duty, function, and work procedure of the operating organizations, reporting and communications systems, and procedures and guidelines of operation of prevention of oil spill in the sea.
16. Port Operational Territory, which is hereinafter called Port DLKR, is water and land territories in public port used directly for port activities.

17. Port Interest Territory, which is hereinafter called Port DLKP, is water territory around operational territory of public port used to guarantee marine safety.

18. Tier 1 is category of prevention of oil spill that occurs inside or outside Port DLKP or DLKR, or oil and gas operating unit, or other activity units that can be handled by means, facilities, and personnel available in the port or oil and gas operating unit, or other activity units.

19. Tier 2 is category of prevention of oil spill that occurs inside or outside Port DLKP or DLKR, or oil and gas operating unit, or other activity units that cannot be handled by means, facilities, and personnel available in port or oil and gas operating unit, or other activity units based on Tier 1.

20. Tier 3 is category of prevention of oil spill that occurs inside or outside Port DLKP or DLKR or oil and gas operating unit, or other activity unit that cannot be handled by means, facilities, and personnel available in a territory based on Tier 2, or that spreads outside Indonesian territory.

21. Person is person and/or persons and/or corporations.

CHAPTER II

OBLIGATIONS OF SHIP CAPTAIN, SHIP MASTER, APDEL, KAKANPEL, HEAD OF OIL AND GAS OPERATING UNIT AND HEAD OR PARTY IN CHARGE OF OTHER ACTIVITIES

Article 2

(1) A ship captain or ship master and/or ship owner or operator shall prevent occurrence of oil spill in the sea from his ship and shall report the occurrence to the officer as meant in Article 8.

(2) ADPEL or KAKANPEL shall prevent oil spill in the sea that occurs in the Port DLKR and DLKP which he is in charge of.

(3) Head of oil and gas operating unit or party in charge of offshore oil drilling activities shall prevent occurrence of oil spill in the sea as a result of his business

and/or activity and shall report the occurrence to the officer as meant in Article 8.

(4) Head or party in charge of other activities shall prevent occurrence of oil spill in the sea as a result of his business and/or activity and shall report the occurrence to the officer as meant in Article 8.

CHAPTER III INSTITUTIONS

Article 3

(1) In the framework of integrity in operation of prevention of oil spill in the sea based on Tier 3, a National Team for Prevention of Oil Spill in the Sea, which is hereinafter called National Team, is established.

(2) The National Team as meant in paragraph (1) consists of:

Chairman : the Minister of Communications;
Vice Chairman : the State Minister of Environment;
Members :

1. The Minister of Energy and Mineral Resources;
2. The Minister of Home Affairs;
3. The Minister of Foreign Affairs;
4. The Minister of Marine and Fisheries;
5. The Minister of Health;
6. The Minister of Forestry;
7. The Minister of Finance;
8. The Minister of Justice and Human Rights;
9. Chief of Indonesian National Army;
10. Indonesian Police Chief;
11. Chief of Operating Body of Oil and Gas Downstream Business Activities;
12. Chief of Regulatory Body for Procurement and Distribution of Oil Fuel and Transportation of Gas by Pipes;
13. Governors, Regents/Mayors whose parts of the regions cover sea territory.

(3) The National Team as meant in paragraph (1) reports to the President.

(4) Chairman of the National Team shall report the result of performances of his duties periodically to the President.

(5) The National Team as meant in paragraph (2) is responsible for operation of prevention of oil spill in the sea based on Tier 3.

(6) Duties of the National Team as meant in paragraph (2):

- a. To implement coordination for operation of prevention of oil spill in the sea based on Tier 3;
- b. To give advocacy support to every person that suffers from damages as a result of oil spill in the sea.

(7) In performing the duties as meant in paragraph (6), the National Team stipulates guidelines for development of system of preparedness and operation of prevention of oil spill in the sea, which consists of:

- a. Stipulating Tier 3 PROTAP;
- b. Guaranteeing availability of means, facilities, and trained personnel to support operation of prevention of oil spill in the sea;
- c. Stipulating minimum conditions for preparedness of means, facilities, and personnel in ports, terminals, or platforms for prevention of oil spill in the sea;
- d. Stipulating minimum conditions for preparedness of means, facilities, and personnel in the regions for prevention of oil spill in the sea.

Article 4

(1) To support operation of prevention of oil spill in the sea of Tier 3 as meant in Article 3 paragraph (5), the National Team establishes and develops PUSKODALNAS.

(2) Members of PUSKODANAS include representatives of the institutions as meant in Article 3 paragraph (2).

(3) Further provisions regarding PUSKODALNAS as meant in paragraph (1) are stipulated by Chairman of the National Team.

Article 5

(1) In the framework of integrity of operation of prevention of oil spill in the sea of Tier 2, the Regent/Mayor as meant in Article 3 paragraph (2) shall establish a

Regional Team for Prevention of Oil Spill in the Sea, which is hereinafter called Regional Team.

(2) For DKI Jakarta, the Regional Team as meant in paragraph (1) is established by the Governor.

(3) In establishing the Regional Team and operating prevention of oil spill in the sea as meant in paragraph (1), the Regent/Mayor shall coordinate with the Governor.

(4) Members of the Regional Team as meant in paragraph (1) at least consist of representatives of institutions with duties and responsibilities in communications, environmental affairs, energy and mineral resources, marine and fisheries, health, forestry, police affairs, and Coordinating ADPEL acting as Tier 2 Mission Coordinator.

Article 6

(1) In the framework of preparedness of prevention of oil spill in the sea of Tier 1, ADPEL or KAKANPEL or head of oil and gas operating unit or party in charge of other activities shall establish a Local Team for Prevention of Oil Spill in the Sea, which is hereinafter called Local Team.

(2) In operation of prevention of oil spill in the sea of Tier 1, the Local Team as meant in paragraph (1) shall coordinate with the nearest ADPEL.

Article 7

(1) The Regent/Mayor as meant in Article 5 paragraph (1) stipulates Tier 2 PROTAP for his region, except DKI Jakarta which Tier 2 PROTAP is stipulated by the Governor.

(2) ADPEL or KAKANPEL or head of oil and gas operating unit or party in charge of other activities as meant in Article 6 paragraph (1) stipulates Tier 1 PROTAP.

(3) In arranging PROTAP as meant in paragraphs (1) and (2), the Governor or the Regent/Mayor and ADPEL or KAKANPEL or head of oil and gas operating unit or party in charge of other activities shall act in accordance with Tier 3 PROTAP.

CHAPTER IV
PROCEDURES OF REPORTING AND PREVENTION

Article 8

- (1) Each person who knows about occurrence of oil spill in the sea shall immediately inform:
 - a. PUSKODALNAS;
 - b. Port office;
 - c. Directorate for oil and gas techniques and environment within the department of oil and gas business activities;
 - d. Regional government; or
 - e. Other nearest government offices.

- (2) After receiving the information as meant in paragraph (1), officers of the institutions as meant in paragraph (1) clauses b, c, d, or e shall inform:
 - a. ADPEL;
 - b. KAKANPEL; or
 - c. Head of PUSKODALNAS.

- (3) After receiving the information as meant in paragraph (1) and/or (2), ADPEL or KAKANPEL shall immediately inform Head of PUSKODALNAS.

- (4) ADPEL, KAKANPEL, or Head of PUSKODALNAS, after receiving the information as meant in paragraph (1) and/or (2) shall immediately check the verity of the report received.

- (5) In case the oil spill that occurs is included in Tier 1 category, the Local Team as meant in Article 6 paragraph (1) shall immediately perform operation of prevention of oil spill in the sea, and ADPEL shall act as Tier 1 Mission Coordinator.

- (6) In case the oil spill that occurs is included in Tier 2 category, the Regional Team as meant in Article 5 paragraph (1) shall immediately perform operation of prevention of oil spill in the sea, and Coordinating ADPEL shall act as Tier 2 Mission Coordinator.

- (7) In case the oil spill that occurs is included in Tier 3 category, PUSKODALNAS shall immediately perform coordination for operation of prevention of oil spill in the sea, and Head of PUSKODALNAS shall act as Tier 3 Mission Coordinator.

Article 9

In case national resources are not sufficient for prevention of oil spill in the sea of Tier 3, Chairman of the National Team may ask for international support.

Article 10

- (1) Head of PUSKODALNAS, in his capacity as Mission Coordinator for prevention of oil spill in the sea, shall convey report on operation of prevention of oil spill in the sea to Chairman of the National Team.

- (2) Chairman of the Regional Team shall convey report on operation of prevention of oil spill in the sea of Tier 2 to Head of PUSKODALNAS and Chairman of the National Team.

- (3) Chairman of the Local Team shall convey report on operation of prevention of oil spill in the sea of Tier 1 to Chairman of the Regional Team with copies sent to Head of PUSKODALNAS and Chairman of the National Team.

CHAPTER V
COST OF PREVENTION

Article 11

Ship owner or operator, head of oil and gas business operator, or head of offshore oil drilling operator or head or party in charge of other activities, which activities cause oil spill in the sea are fully responsible for paying cost of:

- a. Prevention of oil spill;
- b. Prevention of impact on the environment as a result of oil spill in the sea;
- c. Damage suffered by society as a result of oil spill in the sea; and
- d. Environmental damages as a result of oil spill in the sea.

Article 12

(1) Cost of operations payable by the National Team and PUSKODALNAS is charged to APBN.

(2) Cost of operations payable by the Regional Team is charged to APBD.

CHAPTER VI
CLOSING PROVISIONS

Article 13

As long as there are no governing regulations, the mechanisms as set forth in this Presidential Regulation may be applied for prevention of non-oil substances in the sea.

Article 14

All enforcement regulations for prevention of oil spill in the sea remain applicable as long as they are not in contradiction to or are not yet amended by other regulations based on this Presidential Regulation.

Article 15

This Presidential Regulation comes into force as from the date it is stipulated.

Stipulated in Jakarta
On December 29, 2006.

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Sgd

DR. H. SUSILO BAMBANG YUDHOYONO

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