

## German Mineral oil regulation

The main legislative development in the course of the third quarter has been the notification of the German MO Ordinance into the EU TRIS information system, the 18<sup>th</sup> August.

Similar to Draft 4 released in March 2017, the migration of mineral oil aromatic hydrocarbons (MOAH) should not exceed 0,5 mg/kg food, while no limit is included for the mineral oil saturated hydrocarbons (MOSH).

In more detail:

- The use of a functional barrier is obligatory for food contact materials made of recycled paper.
- This obligation is related to preventing the transfer of MOAH above the limit of detection (0,5 mg/kg food). In case the tests are performed with a food simulant and not in the food, a lower detection limit of 0,15 mg/kg is applicable.
- This obligation does not apply, when the migration of MOAH above the detection limits, can be excluded, in particular if the MOAH content in the food contact material is low or if the manufacturer or distributor of the FCM has taken other appropriate measures to prevent the migration.
- The supply of food contact materials to a food producer remains possible without a functional barrier, in case the food producer confirms that he renounces the presence of a functional barrier. In this case it is up to the food manufacturer to ensure that the migration of MOAH remains below the indicated detection limits.

This notification procedure means the German authorities are formally sharing the Ordinance, giving the Commission and the other Member States the possibility to issue comments or express detailed opinions until the 18/11.

An ECMA statement has been adopted mid-September in the Food Safety Committee questioning the scope of the regulation and expressing once again the clear need for harmonised European food safety legislation. It is very well known the mineral oil contaminations are not only related to - a not risk assessed use of - recycled board and from a toxicological perspective there is no reason to adopt a measure on all categories of MOAH.

<https://www.ecma.org/uploads/Bestanden/Publications/Statements/ECMA%20Statement%20on%20the%20German%20Mineral%20Oil%20Regulation.%20%2010%20September%202020%20%20FV.pdf>

To have ECMA's voice well heard, Mike Turner circulated the ECMA position and also a more detailed assessment by the German Food Industry platform BLL to the National Associations asking for their support. The Member Associations were invited to contact their national Food Contact Materials delegates at the Commission and to share the statements. A feedback on the responses towards ECMA would be appreciated.

## ECMA Supplier Questionnaire

A core initiative which was in September finalised in the ECMA Food Safety Committee, is the supplier questionnaire, now available from the Members Only part of the ECMA website in the GMP section. The adopted questionnaire is indicating which type of information is necessary to obtain from our board, ink, adhesive and plastic intermediate material suppliers.

The questionnaire contains two levels, with text related to required essential information and a second level of questions asking after the full detail.



For the different materials the questions are presented in the same order:

- General information (name manufacturer, generic material description).
- Compliance with harmonised FCM legislation and material specific regulations and guidance.
- Information on the intentionally used substances (listed in existing legislation and non-listed).
- Substances which may also be used as direct food additives or as food flavourings. (Dual use substances)
- Measures taken and information regarding the non-intentionally added substances. (Impurities, reaction and degradation products)
- Restrictions for use.
- Commitments regarding specific categories of substances of concern or the behaviour of the material at the end of life.

As an example, for the two levelled approach, carton makers using the basic level of the questionnaire will ask after the chemical identity of the intentionally used substances for which further compliance work needs to be performed, while carton makers looking for the full detail will require information on all used restricted substances.

The questionnaire is a guideline, a checklist to acquire accurate information.

In current and further expected legislation and guidelines, converters need to guarantee compliance of their products and need thus to obtain accurate information from their suppliers.

In view of these requirements, the questionnaire is not meant always to use in its full form, but should be used dedicated per specific products/supplier. The ECMA food safety committee advises to start using the document and learn together with your suppliers how to get the added value out of it.

In this learning curve we are very interested to get feedback, to develop this questionnaire into next versions, where we can add other relevant questions and practical experiences with supplier information sharing

### **Perfluoroalkyl and polyfluoroalkyl substances (PFAS)**

The Danish "Order on food contact materials and on provisions for penalties for breaches of related EU legislation" (Order No 681 -25 May 2020) contains in Chapter 3:

"Paper and cardboard food contact materials using PFAS must not be placed on the market."

This Danish PFAS ban is in place since the 1<sup>st</sup> July.

"By way of derogation, paper and cardboard food contact materials using per- and polyfluorinated substances may be placed on the market provided that a functional barrier is used, avoiding the migration of the substances in the food."

An additional guidance note available from the Danish Veterinary & Food Administration, provides more details and interpretation. The note explains, the use of PFAS can be direct and indirect and how the presence of these substances via the applied inks or the use of recycled paper and board are examples of an indirect use.

An indicator value of 20 microgram organic fluorine per gram of paper was established. A content below the indicator value is considered as unintentional background pollution. This means companies can use this value to ensure that organic fluorinated substances have not been added to the paper.

Companies producing for Danish customers or customers exporting to Denmark, need to verify compliance with this Danish Order. Even if you are not in relation with customers working for the Danish market, it is - in view of compliance with Article 3 of the Food Contact Materials Framework Regulation (EC) 1935/2004 - good practice to avoid fluorinated substances which are not present on any positive lists and in general to investigate the available alternatives.

