

FAQ related to the ban on the use of mineral oils in packaging and printed materials intended for the public

Application of Article 112 of the law of 10 February 2022 and the ministerial decree of 13 April 2022

Definitions and scope of application for the decree of 13/04/2022 (articles 1 & 2)

*** Mineral oils in ink**

1. In Article 1 of the decree, what is the definition of “feedstock costs”?

The term “feedstock costs” is used in reference to the [legal notice of 8 March 2017](#) from the French Agency for Food, Environmental and Occupational Health & Safety (ANSES) This refers to the “raw materials”¹ (of a product or substance, i.e. the raw material introduced into a facility to be processed. This term also features in the 10/2011 regulation of the commission of 14 January 2011 regarding plastic materials and objects that come into contact with food items.

2. What are the physicochemical parameters (viscosity, carbon chain length and molecular mass, etc.) that determine the definition of ‘mineral oils’?

Only the hydrocarbon chain length of mineral oil and the number of aromatic rings are taken into consideration for the definition of the substances concerned, pursuant to the decree of 13 April 2022.

3. What is the definition of the inks? In the ANSES legal notice of 8 March 2017 acknowledged in the decree, only the ink used in offset printing is mentioned. Are we to assume that the ink mentioned in the decree is considered as offset printing ink?

The ANSES legal notice highlights offset printing inks directly applied to packaging as the main sources of mineral oils in paper and cardboard packaging for food items. Nevertheless, there are other pathways to food items (glues, adhesives, etc.) and it is therefore perfectly feasible that other printing methods could also lead to contamination by these substances.

As such, the decree of 13 April 2022 does not put forward a specific definition of the inks concerned, and from a regulatory point of view, there is therefore no restriction for certain types of inks or printing technologies. In actual fact, some printing

¹ See point 9 of the aforementioned legal notice of 8 March 2017.

techniques use mineral oils, and others do not, and so the decree sets out measures of general scope.

4. Is toluene included in the ban?

Toluene, which is used in particular as a solvent for printing ink in rotogravure printing, is not covered by the ban on the use of mineral oils, even though its physicochemical properties may be similar to those of certain mineral oils. Partly to address this issue, article 3 of the decree of 13 April 2022 includes an additional possibility to check compliance with the thresholds after the ink has been applied to the packaging or printing medium. This is a flexibility granted to manufacturers or interested parties to demonstrate compliance of the packaging or printing, in particular when the volatility of certain substances may lead to a lower concentration after application to the medium.

5. What are the CAS (Chemical Abstracts Service) numbers and/or names for the substances referred to in this decree?

As already explained, the decree does not provide a description of specific substances. It provides a general overview of the substances in question (considered as UVCB substances - 'Unknown or Variable composition, Complex reaction products or Biological materials').

*** Packaging concerned**

6. What is the scope of the packaging concerned: household/non-household? B2B? Packaging in contact with food items, under article 1 of Regulation (EC) 1935/2004? Packaging in all materials (paper, cardboard, metal, glass, plastic, textile, wood or other)?

Secondary packaging and tertiary packaging (including pallets for example)?

Article 112 of the AGEC law and Article D.543-45-1 of the Environmental Code comprise measures of general scope for the packaging concerned; they also apply indiscriminately from the scope of EPR programmes.

The ban on the use of mineral oils in packaging therefore applies in principle to primary, secondary or tertiary packaging, household or non-household packaging, B2B packaging, of all materials, etc.

However, the following are excluded from the scope of application of the ban: “packaging, printing intended for the public, unsolicited advertising materials and catalogues for commercial promotion, for which a community provision expressly

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authorises the use of inks comprising mineral oils, provided that the limitations and conditions of use laid out in said provision are respected².

7. A label fixed to packaging falls within the scope of the ban. What about a label that is fixed directly onto the product (an adhesive label on vegetables or on a pen for example), that features the name of this product and remains attached to it?

A label that is fixed directly onto the product is considered as packaging under Article R.543-43 of the Environmental Code or directive 94/62/EC (“any object”... “intended”... “to ensure their presentation”).

The 3rd point of this article however states that “Packaging components and ancillary elements integrated

into packaging shall be considered as part of the packaging into which they are integrated. Ancillary elements directly fixed or attached to a product and which perform a packaging function shall be considered as packaging, unless they are an integral part of a product and all elements are intended to be consumed or disposed of together.”

7. Are coding inks on packaging (shelf life and expiration date, batch number, etc.) concerned by the decree?

Yes, the decree does not differentiate between different types of information displayed on packaging.

9. Are weight/price labels for products sold in traditional sections concerned by the decree?

As well as packaging, Article 112 of the AGECL law also concerns printing intended for the public, from 1 January 2025³. Article D.543-213 of the Environmental Code specifies that “The ban applies to mineral oils containing substances that disrupt paper waste recycling or limit the use of recycled materials from paper waste collection due to the risks that these substances pose to human health. ”

Also concerned by the ban, under printing intended for the public, are labels featuring the price or weight of a product, as soon as they are printed on paper and intended

² Pursuant to Article 4 of the decree of 13 April 2022.

³ For unsolicited advertising materials and catalogues for commercial promotion, this ban shall apply from 1 January 2023 (Article 112 of the AGECL law).

for the consumer. The labels that are part of the packaging under point 3 of Article R.543-43 of the Environmental Code are also concerned.

*** Printing intended for the public**

10. What does the obligation apply to? Are they the same as the EPR for paper for the concerned products?

Article 112 of the AGEC law and Article D. 543-213 of the Environmental Code comprise measures of general scope for the printing concerned; these measures apply to “printing intended for the public, unsolicited advertising materials and catalogues for commercial promotion, indiscriminately from the scope of EPR programmes and particularly EPR for printed paper and graphic paper.

As an example, books are included in the scope of the ban on the use of mineral oils in printing, unlike toys which are covered by section 10 (electric and electronic equipment) and 26 (toys) of chapter III, titre IV, book V of the Environmental Code.

11. Are only unsolicited advertising materials and catalogues for commercial promotion, intended for the public concerned by the decree?

The scope of the ban under Article 112 is more general than that: “From 1 January 2025, it is forbidden to use mineral oils for printing intended for the public” and the law specifies that this prohibition is effective from 1 January 2023 for “unsolicited advertising materials and catalogues for commercial promotion.”

12. What is the definition of printing intended for the public and what printing materials does this involve (examples: invoices, receipts, instructions for use, vouchers, flyers that are given to consumers for distance selling, etc.). And what printing is not concerned by the ban?

The ban concerns “unsolicited advertising materials and catalogues for commercial promotion”, i.e. all types of printing on paper that is intended for the public, covered by the aforementioned section 11 of the Environmental Code (see answer to question 9).

There is no list of what is included and what isn't, the aim of the provision set out by Article 112 is to warn of the contamination risks of mineral oils in materials to be

recycled. As an example, technical information, invoices, instructions for use and magazines are concerned by the ban, among others.

13. With regard to the scope of paper, is it possible to have concrete examples of what is forbidden and from when, such as the advertising catalogues a producer or retailer gives to their clients, or instruction manuals?

For instruction manuals that are provided with products, the same applies as for printing intended for the public, because as previously stated, the scope of application for these printing materials does not just apply to the text. The ban for these materials is expected to come into effect in 2025 because these documents are not intended for commercial promotion.

14. Is toner taken into consideration?

There is no specific exemption for a particular type of printing.

Inspections & penalties - articles 2 & 3

**** Assessment of thresholds and justification***

15. Compliance documents must be provided for packaging, so should mineral oils be mentioned in these documents?

Yes, in accordance with the provisions of Article R.543-49 of the Environmental Code that details the terms of demonstrating the conformity of packaging and references Article D.543-45-1 which defines the details of the ban on mineral oils in packaging.

16. In Article 3, what is involved in an inspection before application or printing? And what about after application or printing?

The provision related to Article 3 provides for an additional possibility to check compliance with the decree thresholds after the ink has been applied to the packaging or printing medium. This is a flexibility granted to manufacturers or interested parties to demonstrate compliance of the packaging or printing, in particular when the volatility of certain substances may lead to a lower concentration after application to the medium.

17. Do the thresholds apply to dry ink or wet ink?

This point is not specified and so the producer can choose to comply with the most favourable of the two, in accordance with the previous points.

18. If several inks of different colours are used, is it necessary to provide specific justification for the combination of inks in question?

If all the inks comply with the terms and conditions of the decree, it is not necessary to provide proof of compliance of the combined inks on the chosen support.

19. What roles are the various players expected to adopt?

It is mainly producers of packaging, packaged products or the printers or those who order printed publications/documents who are expected to take the decree into consideration. At their level, these players must therefore select inks that comply with the provisions of the decree of 13 April 2022.

*** Printed materials**

20. In the absence of technical marketing documentation in line with the Environmental Code, what means of justification are expected or accepted by the state administration to demonstrate compliance with the decree?

There are no required formalities and the state administration will accept certification documents issued by the ink suppliers. However, the latter must be able to justify conformity of their inks if requested to do so by the authorities.

*** Packaging**

21. Do the restrictions apply to the packaging itself when it is placed on the market (i.e. When the packaging manufacturer sells it to a consumer goods manufacturer for example), or when a consumer good contained in the packaging is placed on the market?

In practical terms, the restriction applies above all to packaging placed on the market with the packaged product, but more generally, it applies to all manufactured packaging, which should be able to be recycled in the same conditions if it does not end up being used for marketed products.

22. In the event of an inspection of the technical documentation provided for in point 2 of Article R.543-49 of the Environmental Code, which documents are expected or accepted by the state administration to justify the decree thresholds are respected?

There are no formalities required at this stage. As described above.

23. Is certification from ink manufacturers or printing companies accepted?

Yes, as long as this certification can be justified.

*** Inspections**

24. Are compliance inspections only carried out on the basis of documentation?

Yes, inspections are carried out on the basis of documentation.

25. Does the state administration plan on carrying out (or having carried out) analytical tests?

There is no defined inspection protocol at this stage, the priority for the ministries is to support the players in the conversion efforts necessary for manufacturers and printing companies to ensure they respect the different time frames of the decree.

26. If so, what sort of means of analysis will be used as a reference?

As described above.

27. How can the MOSH/MOAH contents detected on printed documents and packaging be attributed to inks?

Analyses carried out on the printed medium aim to demonstrate that the resulting concentrations are only attributable to printing inks and meet the decree threshold values. It should also be specified that in the event of an inspection of a printed product, the MOSH and MOAH contents should relate to the weight of the ink and not the weight of the product (packaging or paper).

28. How can the non-homogeneous nature of mineral oil presence be considered for a product (e.g. products with multiple layers, non-uniform printed paper, product with multiple compartments, etc.)?

Demonstrating the conformity of packaging or a printed document is dependent on the proof of conformity of the different inks used or the combination of inks.

28. Are inspections carried out after application or printing? If so, how can we be sure that the substrate or other elements are not creating false positive results?

The possibility of carrying out inspections after printing allows flexibility for the people responsible (manufacturers or printers) to demonstrate the conformity of their product more easily.

29. When the producer has proof of conformity of the ink in their technical documentation, how will this proof be considered for the analytical inspection given that inspections before and after printing will produce different results?

This will be analysed on a case-by-case basis, depending on the nature of the proof of conformity for the ink. In theory, if this proof is reliable and does not give rise to any doubt, the conformity of the ink is enough to determine conformity even after printing.

30. Are imports (packaging containing goods and printed materials such as newspapers from foreign countries in particular) subject to specific inspections?

Imported products are subject to the same obligations and therefore the same requirements in terms of justification as those produced in France and placed on the market in France. Therefore, there is no specific inspection protocol for imported products.

*** Penalties**

31. Which penalties apply for packaging? and for printing?

Administrative penalties are detailed in Article L171-8 of the Environmental Code.

Criminal penalties for packaging are detailed in Article R.543-73 of the Environmental Code, and for printing intended for the public, they are set out in Article R.543-213-1.

32. Do these penalties apply to each non-compliant packaging or printed item?

Criminal penalties can be applied for each non-compliant packaging or printed item, unlike administrative sanctions.

33. Will the state administration grant a grace period for people acting in good faith, during which a reminder of the regulations will be issued after any inspections carried out, for educational purposes and without direct, automatic application of the penalties?

State administration will decide on a case-by-case basis depending on the context and the elements provided by the person inspected, but educational initiatives will indeed be put in place before any other action is taken.

Exemptions – Article 4

34. What are the community provisions covered by Article 4 of the decree?

Article 4 is a general provision that does not refer to a specific regulation, but rather leaves a certain flexibility for the application of provisions related to mineral oils.

Effective date and depletion of inventories - Articles 5 & 6

** Inventories*

35. Who does the time period for the depletion of inventories of manufactured or imported products apply to? The manufacturer, the packer, the distributor, the last person responsible for placing the product on the market (in the case of non-imported products and imported products)?

The time period of 12 months for the depletion of inventories applies to packaging and printed paper that was manufactured or imported prior to 1 January 2023, for any section of the supply chain (the manufacturer, the packer, the distributor, the last person responsible for placing the product on the market).

36. Do the restrictions apply to the packaging itself when it is placed on the market, i.e. When the packaging manufacturer sells it to a consumer goods manufacturer for example? Or when a consumer good contained in the packaging is placed on the market?

The ban is concerned with “the use of mineral oils in packaging” and so it applies, above all, to the manufacture of packaging and to printing practices. By extension, it is not possible to place a packaged product onto the French national market if it is in non-compliant packaging.

37. Does the authorisation scheme for the depletion of inventories apply to products that are already packaged on French soil?

Under Article 5, “Packaging and printed paper that is manufactured or imported prior to 1 January 2023 will benefit from a time period for the depletion of inventories that shall not exceed 12 months, from this date.” This means that this packaging must be placed on the French national market along with the product no later than 12 months after this date.

However, given the difficulty in guaranteeing the sale of all packaged products with packaging that was manufactured or imported onto French soil prior to 1 January 2023 by 1 January 2024 (significant number of products in stock), a tolerance is granted for the marketing of packaging manufactured prior to 1 January 2023 that is non-compliant with the requirements of Article 112 of the AGEC law, provided that the person responsible for packaging the product took possession of this packaging prior to 1 January 2024 (end of the 12-month period), whether or not they filled this packaging before this date.

This rule applies to all packaging, as well as printing intended for the public, whether it has been manufactured in France or not.

38. Does import apply to the French or European territory?

To the French territory (national scheme).

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39. What is the time period for the depletion of inventory for ink held in stock in retail stores and with clients?

There is no provision regarding the depletion of ink inventories as such.

*** Effective dates 2023-2025**

40. Does the ban on the use of mineral oils until the 31 December 2024, applied when the mass concentration of Mineral Oil Saturated Hydrocarbons (MOAH) in ink is greater than 1%, apply only to packaging and unsolicited advertising materials and catalogues for commercial promotion?

To all packaging and advertising materials/catalogues/printing concerned by the date of 1 January 2023.