

COMMISSION DIRECTIVE 2010/59/EU**of 26 August 2010****amending Directive 2009/32/EC of the European Parliament and of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/32/EC of the European Parliament and of the Council of 23 April 2009 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients ⁽¹⁾ and in particular Article 4 thereof,

Whereas:

- (1) Directive 2009/32/EC applies to extraction solvents used or intended for use in the production of foodstuffs or food ingredients. That Directive does not apply to extraction solvents used in the production of food additives, vitamins and other nutritional additives, unless such food additives, vitamins or nutritional additives are listed in its Annex I. The European Food Safety Authority (the Authority) evaluated the safety of dimethyl ether as an extraction solvent to remove fat from animal protein raw materials and expressed its opinion of 29 January 2009 ⁽²⁾. The Authority concluded that there is no safety concern provided that the maximum residual limit of dimethyl ether is 9 µg/kg of extracted animal proteins. Therefore the use of dimethyl ether as an extraction solvent to remove fat from animal protein raw materials should be authorised under the condition of a maximum residual limit of dimethyl ether of 9 µg/kg in the defatted protein product.
- (2) Part III of Annex I to Directive 2009/32/EC does not establish specific residue limits in foodstuffs for methanol and propan-2-ol resulting from the preparation of flavourings. Member States and the Commission pointed out that the general residue limit of 10 mg/kg for methanol and propane-2-ol, as set out in Part II of Annex I to Directive 2009/32/EC, is too strict if applied directly to flavourings.

- (3) Therefore specific limits should be set in foodstuffs for methanol and propan-2-ol resulting from their use for the preparation of flavourings from natural flavouring materials. Those limits should be lower than the limit of 10 mg/kg assessed as safe by the Scientific Committee for Food ⁽³⁾, in order to be considered as safe.

- (4) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 2009/32/EC is amended in accordance with the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 September 2011 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 141, 6.6.2009, p. 3.

⁽²⁾ Scientific opinion of the panel on Food Contact Materials, Enzymes, Flavourings and Processing aids (CEF) on request from European Commission on the safety in use of dimethyl ether as an extraction solvent. *The EFSA Journal* (2009) 983, 1-13.

⁽³⁾ Scientific Committee for Food. Second opinion on extraction solvents expressed on 21 June 1991. Food Science and Techniques Reports of the Scientific Committee for Food (29th series), p. 1-11.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 26 August 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

Annex I to Directive 2009/32/EC is amended as follows:

1. in Part II the following row is added:

'Dimethyl ether	Preparation of defatted animal protein products	0,009 mg/kg in the defatted protein product'
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2. in Part III the following rows are added:

'Methanol	1,5 mg/kg
'Propan-2-ol	1 mg/kg'