

IMACE POSITION

on

Setting maximum levels for Mineral Oil Aromatic Hydrocarbons (MOAH) in foods

Brussels, 5 July 2024

Foreword

IMACE has welcomed the EFSA Opinion on “Update of the risk assessment of mineral oil hydrocarbons (MOH) in food” (September 2023).

Likewise, we greatly appreciate the efforts of the European Commission to take, swiftly, the appropriate **regulatory measures** (in particular, the setting of maximum levels for MOAH in agricultural raw materials, ingredients and final foods) and addressing the issue of harmonisation of the relevant analytical methods through a Regulation).

Setting a maximum concrete value rather than the LOQ level

In the current proposal for the legislative measures the European Commission has chosen to use the Level of Quantification (LOQ) as the reference value for setting maximum levels of MOAH in foods.

Nevertheless, the LOQ refers to the technical ability of an analytical method and depends on commercial analytical laboratories that determine what is an acceptable level based on their competence and is not defined, as appropriate by the competent authority on the basis of scientific evidence demonstrating at which max levels safe consumption is guaranteed. Additionally, lowering LOQs to extremely low levels increases costs and complexity for manufacturers with no public health benefit.

In order to provide legal certainty and in line with Recital 2 of Regulation (EU) 2023/915¹, a maximum level for MOAH needs to be set based on the ALARA (as low as reasonably achievable) principle and not on LOQ. A concrete maximum value is required without reference to the LOQ in recitals or respective articles of the regulation.

¹ [COMMISSION REGULATION \(EU\) 2023/915](#) of 25 April 2023 on maximum levels for certain contaminants in food and repealing Regulation (EC) No 1881/2006

It is our opinion that it is of paramount importance, that a maximum level for MOAH needs to be set based on the ALARA principle and not on the LOQ.

✂ Setting of legal maximum levels for MOAH (also) at agricultural raw material and ingredient level

We would like to reaffirm that our sector is profoundly committed to food safety and strives to provide safe and nutritious food to the consumers. Acting with due diligence, we do ad-hoc tests on our ingredients as per monitoring plan defined and as per HACPP and other Good Manufacturing Practices (GMP).

To ensure an absolute compliance of the final products, **IMACE calls for the setting of legal maximum levels of MOAH at agricultural raw materials and ingredient level**, along with setting respective maximum levels throughout the supply chain. According to the most basic food safety principles, all players hold responsibility for the safety of the products that they place in the market with no discrimination between B2B or B2C.

Specifically for the margarine and spreadable fats sector, it is crucial that processed oils and fats (i.e. our principal ingredients) do not to exceed the maximum level before these are sold further in the food chains. As a typical analysis takes approximately three weeks, it is unreasonable to put the burden of analysis and control further in the supply chain as potential issues in the food chain can be prevented by control and management at the ingredient suppliers' level. This is clearly the case in the oil supply chain where the main source of contamination is demonstrated to be upstream.

Our sector applies all mitigation measures possible (including using food grade lubricants, appropriate packaging, etc.) to avoid any further contamination during processing.

Therefore, setting maximum levels for MOAH, in particular for ingredients, is of paramount importance for our industry as there are no other mitigation possibilities available during the process of margarine production.

✂ Adjustment of maximum levels for MOAH with the maximum levels set at the respective ingredients

As explained above, any possible measures to prevent any possible extra contamination at factory level are duly in place. The main points of potential contamination with MOAH for margarines and spreads is at ingredient level (including agricultural raw materials). Particular

ingredients of concern for the margarine sector are the tropical oils. In case of MOAH contamination via the ingredients (oils), the Margarine industry cannot mitigate MOAH as mitigation/prevention should be done earlier in the supply chain.

Consequently, should different maximum levels be set for specific oils and fats (e.g. tropical oils and fats), those different limits should also be reflected in the values set for margarines and spreads made with these ingredients.

☞ Uniform sampling and analysis methodology needs to be defined

Albeit all the efforts made so far in terms of the development of appropriate sampling and analytical methods, more advanced research is needed.

In terms of sampling, different preparations of sampling in different labs impacting largely the results. **There is no EU uniform and validated sampling method existing yet.**

Regarding analytical methods, there are JRC guidelines available for the determination of total MOSH/MOAH (currently most used) nevertheless **there is a significant measurement uncertainty.**

Furthermore, there is no validated method to separate and quantify 3-7 ring MOAH from 1-2 ring MOAH. There are very limited laboratories that can measure and quantify those.

☞ Transition Periods

Notably, vegetable oils and fats are ingredients with a long self-life. The entering into force of the current regulation, should be able to accommodate the use of the products that have been produced with ingredients that legally entered the European market prior to its implementation, avoiding considerable amounts of food waste.

☞ Monitoring Recommendation is unnecessary and clarification of the classification of our category

As EFSA has not identified a risk related to MOSH presence in foods, **we presume that a Monitoring Recommendation Guidance is unnecessary.** The industry is already carrying out the relevant regular controls with no need for a further guidance.

Nevertheless, should this guidance become formal, we would like to reaffirm that margarines and vegetable spreads are in the group together with vegetable oils and fats since vegetable oils and fats are the main ingredients for margarines and vegetable fat spreads.

Other products such as cocoa, nuts and pulses spreads should be regulated in a separate category as they do not belong to the “spreadable fat” category.

Key Points

- Setting maximum legal levels on MOAH based on the relevant EFSA Opinion;
 - Setting a maximum concrete value on MOAH based on the ALARA principle;
 - Setting maximum levels on MOAH across the food chain, including agricultural raw material and ingredients;
 - Adjustment of maximum levels for MOAH with the maximum levels set at the respective ingredients;
 - Uniform sampling and analysis methodology needs to be defined;
 - Providing workable transition periods, considering also B2B;
 - Monitoring Recommendations on MOSH are not essential. Nevertheless, should they be published, margarines and vegetable fat spreads should be in the same category as vegetable oils and fats.
-