

Announcement of appeal¹

Case	A-008-2015
Appellant	Evonik Degussa GmbH, Germany
Appeal received on	16 March 2015
Subject matter	A decision taken by the European Chemicals Agency (the 'Agency') pursuant to Article 41(3) of the REACH Regulation, in accordance with the procedure laid down in Articles 50 and 51 of the REACH Regulation
Keywords	<i>Dossier evaluation – Compliance check – Request for further information – Substance identity - Nanoforms</i>
Contested Decision	CCH-D-0000005199-66-02/F
Language of the case	English

Remedy sought by the appellant

The Appellant requests the Board of Appeal to:

- declare the appeal admissible;
- annul the contested decision in so far as it requests the Appellant to submit information as identified in the appeal;
- order the refund of the appeal fee, and;
- take such other or further measures as justice may require.

Pleas in law and main arguments

The Contested Decision was adopted on 17 December 2014 following a compliance check under the dossier evaluation procedure of the registration submitted by Evonik Degussa GmbH for silicic acid, aluminum sodium salt (hereinafter, the 'Substance').

In the Contested Decision the Agency found that the registration did not comply with the requirements of Article 10(a)(ii) as well as Annex VI, section 2 of the REACH Regulation and, as a result, requested the Appellant to submit the following information:

¹ Announcement published in accordance with Article 6(6) of Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency.

- Name, molecular and structural formula or other identifier of the Substance (Annex VI, 2.1 and 2.2);
- Composition of the Substance (Annex VI, 2.3), and;
- Description of the analytical methods used (Annex VI, 2.3.7).

The Appellant challenges the Contested Decision on *inter alia* the grounds that the Agency breached the provisions of the REACH Regulation, exceeded the limits of its authority and misused its powers under the REACH dossier evaluation process by requesting information at a level of detail that is not provided for in the REACH Regulation. The Appellant further claims that the Agency breached its duty to state reasons in so far it does not give adequate reasons for considering that the update of the Appellant's dossier was insufficient to address the concerns identified in the draft decision and confirmed in the Contested Decision.

In addition, the Appellant contends that the Agency breached the principle of legal certainty by requesting information related to undefined terms, such as 'forms', 'grades' and 'nanofoms'. The Appellant further claims that the Agency infringed the principles of legitimate expectations, equal treatment and proportionality.

Further information

The rules for the appeal procedure and other background information are available on the 'Appeals' section of the Agency's website:

<http://echa.europa.eu/web/guest/regulations/appeals>