

**DECISION OF THE BOARD OF APPEAL
OF THE EUROPEAN CHEMICALS AGENCY**

27 May 2011

(Withdrawal of appeal by appellant – Appeal Fee)

Case number	A-003-2011
Language of the case	English
Appellant	BASF SE D 100 – ZRR Carl-Bosch-Strasse 38 D-67056 LUDWIGSHAFEN
Representatives	Miguel Pena Willershausen and Dr. Anja von Hahn BASF SE D 100 – ZRR Carl-Bosch-Strasse 38 D-67056 LUDWIGSHAFEN
Contested decision	DSH-30-3-D-0005-2010 of 19 November 2010 adopted by the European Chemicals Agency (hereinafter the ‘Agency’) pursuant to Article 30(3) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (OJ L 396, 30.12.2006, p.1; corrected by OJ L 136, 29.5.2007, p. 3) (hereinafter the ‘REACH Regulation’)

THE BOARD OF APPEAL

composed of Mercedes ORTUÑO (Chairman), Andrew FASEY (Rapporteur) and Mia PAKARINEN (Member)

Registrar: Sari HAUKKA

gives the following

Decision

1. On 21 February 2011, the appellant filed an appeal at the Registry of the Board of Appeal against the contested decision.
2. On 21 April 2011 the Agency filed its defence of the contested decision at the Registry of the Board of Appeal.
3. By letter, received at the Registry of the Board of Appeal on 19 May 2011, the appellant informed the Board of Appeal that it had decided to withdraw the appeal and requested the Board of Appeal to close the case.
4. As the appellant has decided to withdraw the appeal the case should therefore be closed.
5. Pursuant to Article 10(4) of Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 107, 17.4.2008, p. 6), a refund for the fee levied for submission of an appeal only occurs if the Executive Director of the Agency rectifies the contested decision or if the appeal is decided in favour of the appellant. Since neither of these alternatives apply in the current case the Agency should not be ordered to refund the appeal fee.

On those grounds,

THE BOARD OF APPEAL

hereby

Closes appeal case A-003-2011.

Mercedes ORTUÑO
Chairman of the Board of Appeal

Sari HAUKKA
Registrar of the Board of Appeal