

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

**4 April 2019**

*(Rectification of the contested decision – Withdrawal of the appeal by the Appellant)*

<b>Case number</b>	A-002-2019
<b>Language of the case</b>	English
<b>Appellant</b>	BASF SE, Germany
<b>Representative</b>	Kristian Fischer SZA Schilling, Zutt & Anschütz Rechtsanwaltsgesellschaft mbH, Germany
<b>Contested Decision</b>	CCH-D-2114448631-50-01/F of 23 November 2018 adopted by the European Chemicals Agency (the 'Agency') pursuant to Article 41 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; the 'REACH Regulation')

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gives the following

### Decision

1. On 23 November 2018, the Agency adopted the Contested Decision following a compliance check of the Appellant's registration for the substance 3,7-dimethyloct-6-enenitrile (EC No 257-288-8, CAS No 51566-62-2). In the Contested Decision, the Agency required the Appellant to submit information on a number of studies, including four ecotoxicity studies.
2. On 19 February 2019, the Appellant lodged the present appeal requesting the Board of Appeal to partially annul the Contested Decision, in so far as it required the Appellant to submit information on the four ecotoxicity studies.
3. Between 13 and 29 March 2019, in view of the similarities between the issues raised in the present case and those raised in another pending case (Case A-001-2018), the Board of Appeal stayed the proceedings, of its own motion, pursuant to Article 25 of Commission Regulation (EC) No 771/2001 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency (OJ L 206, 2.8.2008, p. 5), as amended by Commission Implementing Regulation (EU) 2016/823 (OJ L 137, 26.5.2016, p. 4).
4. On 21 March 2019, the Agency informed the Board of Appeal that, pursuant to Article 93(1) of the REACH Regulation, the Executive Director of the Agency had decided to rectify the Contested Decision by removing the information requests contested in the present proceedings. According to the Agency, the Executive Director had decided to rectify the Contested Decision due to the specific factual circumstances of the case and for reasons of administrative efficiency.
5. On 26 March 2019, the Appellant stated that, as the Contested Decision had been rectified, it wished to withdraw the present appeal.
6. In accordance with Article 1b of the Rules of Procedure, where an appeal is withdrawn the Chairman shall close the proceedings.
7. Pursuant to Article 10(4) of Commission Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to the REACH Regulation (OJ L 107, 17.4.2008, p. 6), the appeal fee is to be refunded if a contested decision is rectified. As the Executive Director has rectified the Contested Decision to the extent it was challenged by the Appellant, the appeal fee must be refunded.

On those grounds,

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hereby:

- 1. Closes appeal case A-002-2019.**
- 2. Decides that the appeal fee must be refunded.**

Mercedes ORTUÑO  
Chairman of the Board of Appeal

Alen MOČILNIKAR  
Registrar of the Board of Appeal