

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

30 November 2011

(Withdrawal of appeal by appellant – Appeal fee)

Case number	A-006-2011
Language of the case	English
Appellant	5N PV GmbH Germany
Representative	Hülsen Michael Hauschke Rechtsanwälte Tauentzienstrasse 11 Europa-Center D-10789 Berlin Germany
Contested decision	SME(2011)0153 and invoice no. 10027733 of 4 April 2011 and 23 June 2011 respectively adopted by the European Chemicals Agency (hereinafter the 'Agency') pursuant to Article 13(3) and (4) of Commission Regulation (EC) No 340/2008 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; hereinafter the 'Fee Regulation')

THE BOARD OF APPEAL

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

Registrar: Sari HAUKKA

gives the following

Decision

1. On 3 August 2011, the appellant filed an appeal at the Registry of the Board of Appeal against the contested decision and related invoice. Following a request by the Registry the notice of appeal was regularised by the appellant on 22 August 2011.
2. On 24 October 2011, the Agency filed its defence at the Registry of the Board of Appeal. The appellant was invited to submit its observations on the defence by 16 November 2011.
3. By letter received at the Registry of the Board of Appeal on 4 November 2011, the appellant informed the Board of Appeal that it had decided to withdraw the appeal.
4. As the appellant has decided to withdraw the appeal the case should therefore be closed.
5. According to Article 10(4) of the Fee Regulation, a refund of 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.

ORDER

On those grounds,

THE BOARD OF APPEAL

hereby:

Closes appeal case A-006-2011.

Mercedes ORTUÑO
Chairman of the Board of Appeal

Sari HAUKKA
Registrar of the Board of Appeal