

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

21 June 2012

*(Testing proposal - Rectification by Executive Director – Discontinuation of proceedings –
Refund of appeal fee)*

Case number A-002-2012

Language of the case English

Appellant BASF SE
Germany

Represented by:
Dr. Johannes Dobbelaar and Dr. Anja von Hahn
BASF SE
ZRR - D 100
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Contested decision TPE-D-0000002006-86-03/F of 7 February 2012 adopted by the European Chemicals Agency (hereinafter the 'Agency') pursuant to Article 40(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), Mia PAKARINEN (Rapporteur) and Andrew FASEY (Member)

Registrar: Sari HAUKKA

gives the following

Decision

1. On 30 April 2012, the Appellant filed an appeal at the Registry of the Board of Appeal against the contested decision which was taken in relation to a testing proposal. According to the contested decision, the Appellant was requested to carry out a long-term toxicity test on fish.
2. Pursuant to Article 93(1) of the REACH Regulation, on 30 May 2012, the Executive Director of the Agency rectified the contested decision (hereinafter the 'rectification') and the rectified decision was replaced by another decision.
3. Following the rectification, the Appellant was asked by letter dated 5 June 2012 to inform the Board of Appeal whether or not it intends to continue with the appeal.
4. By letter received at the Registry of the Board of Appeal on 18 June 2012, the Appellant informed the Board of Appeal that it had decided to withdraw the appeal.
5. As the Appellant has decided to withdraw the appeal, the case should therefore be closed.
6. Furthermore, 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), where the Executive Director of the Agency rectifies a contested decision, the Agency shall refund the appeal fee. Consequently, the Agency should be ordered to refund the Appellant the appeal fee.

ORDER

On those grounds,

THE BOARD OF APPEAL

hereby:

- 1. Closes appeal case A-002-2012.**
- 2. Orders the refund of the appeal fee.**

Mercedes ORTUÑO
Chairman of the Board of Appeal

Sari HAUKKA
Registrar of the Board of Appeal