

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

**10 December 2018**

*(Withdrawal of appeal by appellant)*

<b>Case number</b>	A-012-2018
<b>Language of the case</b>	English
<b>Appellant</b>	BASF SE, Germany
<b>Representative</b>	Kristian Fischer SZA Schilling, Zutt & Anschutz Rechtsanwalts-gesellschaft mbH, Germany
<b>Contested Decision</b>	Decision of 17 April 2018 on the substance evaluation of benzenamine, N-phenyl-, reaction products with 2,4,4-trimethylpentene, adopted by the European Chemicals Agency (the 'Agency') under Article 46 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. The Appellant is a registrant of benzenamine, N-phenyl-, reaction products with 2,4,4-trimethylpentene (EC No 270-128-1, CAS No 68411-46-1; the 'Substance'). The Contested Decision requests information from several studies on ditertbutyldiphenylamine, a constituent of the Substance, following a step-wise approach. According to the Contested Decision the requested information is needed to assess the persistence, bioaccumulation and toxicity of the Substance.
2. On 10 July 2018, the Appellant filed an appeal against the Contested Decision.
3. On 10 October 2018, following a request by the Agency, and after hearing the Appellant, the Board of Appeal decided to stay the proceedings under Article 25 of Commission Regulation (EC) No 771/2008 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; the 'Rules of Procedure') until 12 November 2018.
4. On 29 October 2018, the Appellant informed the Board of Appeal that during the stay of proceedings the Agency had clarified the content of the Contested Decision and, as a result, the Appellant withdraws its appeal.
5. Under Article 1b of the Rules of Procedure, where an appeal is withdrawn, the Chairman closes the proceedings.
6. The Appellant asked the Board of Appeal, in its submission withdrawing the appeal, to clarify how, considering the suspensive effect of the appeal, the deadlines in the Contested Decision should be interpreted.
7. The Contested Decision has been notified to the Appellant on the date of its adoption, namely seven months and 23 days prior to the date of this decision. Taking into account Article 91(2) of the REACH Regulation on suspensive effect of an appeal, the deadlines in the Contested Decision will be therefore extended by seven months and 23 days.
8. Under 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 refunded if the Executive Director of the Agency rectifies a decision under Article 93(1), or if the appeal is decided in favour of the appellant. Since neither of these alternatives apply in the present case, the appeal fee is not refunded.

On those grounds,

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hereby:

- 1. Decides that the information requested following the step-wise approach of the Contested Decision must be submitted to the Agency:**
  - i. Water solubility (OECD TG 105), using the column elution method, and Partition Coefficient (1-Octanol/Water): Slow-Stirring Method (OECD TG 123) or HPLC Method (OECD TG 117) by 17 December 2019;**
  - ii. Simulation testing on ultimate degradation in surface water; test method: Aerobic mineralisation in surface water - simulation biodegradation test at 12 °C (EU C.25./OECD TG 309), pelagic test – without additional suspended solids/sediment by 20 December 2021;**
  - iii. Bioaccumulation in aquatic species; test method: Bioaccumulation in fish: aqueous and dietary exposure (OECD TG 305), aqueous exposure by 16 September 2022;**
  - iv. Long-term toxicity testing on aquatic invertebrates; test method: *Daphnia magna* reproduction test (EU C.20./OECD TG 211) and Growth inhibition study aquatic plants; test method: Algae, growth inhibition test (EU C.3./OECD TG 201) by 18 March 2024; and**
  - v. Long-term toxicity testing on fish; test method: Fish, early-life stage (FELS) toxicity test (OECD TG 210) by 19 March 2025.**
- 2. Closes appeal case A-012-2018.**
- 3. Decides that the appeal fee is not refunded.**

Mercedes ORTUÑO  
Chairman of the Board of Appeal

Alen MOČILNIKAR  
Registrar of the Board of Appeal