

Announcement of appeal¹

Case	A-001-2011
Appellant	Feralco Deutschland GmbH, Nienburg, Germany
Appeal received on	11/02/2011
Subject matter	Decision taken pursuant to Article 20 of the REACH Regulation
Contested decision	SUB-D-2114179888-23-01/F
Language of the case	English

Form of order sought

The appellant requests that the Board of Appeal should order the Agency to:

- annul the contested decision,
- assign the submission with a registration number,
- bear the cost of the proceedings, and
- refund the appeal fee.

Pleas in law and main arguments

In the contested decision the Agency rejected the registration as it was technically incomplete due to the failure by the appellant to include the estimated production volumes, as specified in section 3.2 of the registration dossier. The appellant argues that this was unfair for the following reasons.

The appellant claims that details of the manufacturing summary, production year and tonnage were provided. However, the appellant states that this was considered as being commercially sensitive information and on that basis marked as being confidential business information. The appellant also argues that the information contained in the first rejection notice received did not contain sufficient information to correctly identify the problem as being the confidentiality marking of section 3.2, as opposed to the field being omitted completely in IUCLID.

¹ Announcement published in accordance with Article 6(6) of Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency.

Further to this, the appellant contends that ECHA later altered the content of its rejection notices to provide more information about the nature of the failure and more detailed advice. The appellant argues that had they received the level of information afforded to later registrations the technical completeness check failure would have been avoided. The appellant argues further that their submission, based on the information provided by ECHA at the time, was in fact technically complete.

Further information

The rules for the appeal procedure and other background information are available on the “Appeals” section of ECHA’s website:

http://echa.europa.eu/appeals/app_procedure_en.asp