

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

24 September 2019

Application to intervene

(Evaluating Member State Competent Authority)

Case number	A-007-2019
Language of the case	English
Appellant	Chemours Netherlands B.V., the Netherlands
Representatives	Ruxandra Cana and Filippo Mattioli Steptoe & Johnson LLP, Belgium
Contested Decision	Decision of 20 February 2019 on the substance evaluation of ammonium 2,3,3,3-tetrafluoro-2-(heptafluoropropoxy) propanoate adopted by the European Chemicals Agency (hereinafter the 'Agency') pursuant to 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)
Applicant	The Ministry of Infrastructure and Water Management of the Kingdom of the Netherlands

THE BOARD OF APPEAL

composed of Antoine Buchet (Chairman and Rapporteur), Andrew Fasey (Technically Qualified Member) and Sari Haukka (Legally Qualified Member)

Registrar: Alen Močilnikar

gives the following

Decision

Summary of the facts

1. On 17 May 2019, the Appellant filed its appeal against the Contested Decision. The Appellant requests the Board of Appeal to annul the Contested Decision insofar as it requires the Appellant to conduct a carcinogenicity study in mice in accordance with OECD test guideline 451.
2. On 25 June 2019, an announcement of the appeal was published on the Agency's website in accordance with Article 6(6) 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; hereinafter the 'Rules of Procedure').
3. On 9 July 2019, the Ministry of Infrastructure and Water Management of the Kingdom of the Netherlands applied for leave to intervene in support of the Agency. The Applicant states that the Netherlands is the Member State whose competent authority carried out the substance evaluation in this case, jointly with Germany. According to the national law of the Netherlands, the Ministry of Infrastructure and Water Management is the REACH competent authority for the Netherlands.
4. On 19 August 2019, the Agency informed the Board of Appeal that it had no objections to the application to intervene.
5. On 19 August 2019, the Appellant informed the Board of Appeal that it has no observations on the application to intervene.

Reasons

6. The Board of Appeal observes that the Applicant is the REACH Competent Authority of the Member State whose competent authority carried out the substance evaluation leading to the Contested Decision. It follows that, in accordance with the second subparagraph of Article 8(1) of the Rules of Procedure, the Applicant may intervene in this case without establishing an interest in its result.
7. As the application for leave to intervene complies with the remaining requirements of Article 8(1) to (4) of the Rules of Procedure, it must be allowed.

On those grounds,

THE BOARD OF APPEAL

hereby:

- 1. Admits the application to intervene by the Ministry of Infrastructure and Water Management of the Kingdom of the Netherlands in Case A-007-2019 in support of the Agency.**
- 2. Instructs the Registrar to arrange for copies of the non-confidential versions of the Notice of Appeal and the Defence to be served on the Intervener.**
- 3. Allows the Intervener a period of one month, following the serving of the Notice of Appeal and the Defence, to lodge a statement in intervention.**

Antoine BUCHET
Chairman of the Board of Appeal

Alen MOČILNIKAR
Registrar of the Board of Appeal