

Announcement of appeal¹

Published on	18 January 2022
Case	A-013-2021
Appellant	GruberChem GmbH, Germany
Appeal received on	2 December 2021
Subject matter	A decision taken by the European Chemicals Agency (the 'Agency') pursuant to Article 20(2) of the REACH Regulation and Article 13(3) and (4) of Regulation (EC) No 340/2008 (the 'Fee Regulation')
Keywords	<i>Rejection of registration – Verification of a registrant's declaration of company size – Registration Fee – SME Fee reductions</i>
Contested Decision	Decision SUB-2114565302-55-01/F of 7 September 2021 on the registration of ammonium chloride
Language of the case	German

Remedy sought by the Appellant

In 2013, the Appellant registered ammonium chloride (EC No 235-186-4; the 'Substance') as a small or medium-sized enterprise (SME) by paying a reduced registration fee. On 21 November 2013, the Agency adopted a decision finding the registration complete and granting the Appellant a registration number for the substance.

On 3 December 2020, the Agency adopted a decision under Article 13 of the Fee Regulation, declaring that the Appellant was not eligible for the reduced fee and requiring it to pay the difference as well as an administrative charge.

On 7 September 2021, as the Appellant had not paid the required sum, the Agency adopted the Contested Decision rejecting the Appellant's registration and replacing the decision of 2013 (the 'Contested Decision').

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 as amended by Commission Implementing Regulation (EU) 2016/823.

The Appellant requests the Board of Appeal to annul the Contested Decision. Having paid the regular appeal fee, the Appellant also requests the Board of Appeal to reduce the amount of the appeal fee.

Pleas in law and main arguments

The Appellant argues that it is a small or medium-sized enterprise and was therefore entitled to a reduced registration fee for the Substance. The Appellant argues that the Agency's decision of 3 December 2020, according to which the Appellant was not eligible for fee reductions, did not take into account the actual circumstances and was vitiated by error. According to the Appellant, the subsequent Contested Decision is therefore also vitiated by error.

The Appellant also argues that the Agency did not have a legal basis to adopt the Contested Decision.

According to the Appellant, the Contested Decision infringes its rights as a small or medium-sized enterprise and contradicts the purposes of the fee reductions.

The Appellant further argues that it has fulfilled its duty to participate in the procedure concerning the verification of its company size and provided all the necessary information.

Further information

The rules for the appeal procedure and other background information are available on the 'Appeals' section of the Agency's website:

<http://echa.europa.eu/web/guest/regulations/appeals>