



2026/1782

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COMMISSION IMPLEMENTING REGULATION (EU) 2026/1782

of 23 July 2026

amending Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ⁽¹⁾, and in particular Articles 93(4) and 132 thereof,

Whereas:

- (1) The Management Board of the European Chemicals Agency (the 'Agency') has decided to transition the Board of Appeal to a new operating model, under which its three members are no longer to be engaged as permanent staff of the Agency. That decision does not affect the composition of the Board of Appeal, which consists of three members, including a chairman, and their alternates.
- (2) The rules of organisation and procedure of the Board of Appeal set out in Commission Regulation (EC) No 771/2008 ⁽²⁾ ('Rules of Procedure') should be amended to reflect the new operating model, and to modernise the current rules.
- (3) The rules regarding replacement of members of the Board of Appeal should be clarified, in particular regarding the designation of alternates when a member is precluded from participating in the proceedings or when a position as member of the Board of Appeal is vacant.
- (4) In order to ensure cohesion and consistency between cases with a similar subject matter and to increase efficiency and allow for consideration of workload, the Chairman should be able to designate another member as rapporteur, after having consulted the members concerned.
- (5) It is necessary to ensure that the appeals procedure continues to function efficiently and consistently, so that appeals are processed at a satisfactory rate. The management of the appeals procedure should therefore be entrusted to the Registrar, who should be appointed by the Executive Director of the Agency.
- (6) It is also necessary to ensure that the operational framework of the Board of Appeal remains independent and free from undue influences. Specific provision should therefore be made for the role and position of the Registrar and the Registry within the Agency. It should also be clarified that the Registrar reports to the Chairman of the Board of Appeal as regards the conduct of the appeals procedure and the decision-making process of the Board of Appeal, and to the Agency director responsible for resources as regards staff matters.
- (7) In order to ensure consistency under the new operating model and to follow the current practice the Registrar should review the notice of appeal for compliance not only with the requirements concerning the content of that notice, but also with implementing rules and measures adopted by the Board of Appeal pursuant to Article 27(2) and (3) of the Rules of Procedure ('practice directions'). The Registrar should be able to prescribe a period for the appellant to rectify the notice of appeal.

⁽¹⁾ OJ L 396, 30.12.2006, p. 1, ELI: <http://data.europa.eu/eli/reg/2006/1907/oj>.

⁽²⁾ Commission Regulation (EC) No 771/2008 of 1 August 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, ELI: <http://data.europa.eu/eli/reg/2008/771/oj>).

- (8) For reasons of procedural and resource efficiency, the two-month period for the Agency to submit its defence should start when the period for the Chairman to decide on the admissibility of the appeal expires.
- (9) In order to ensure that appeals continue to be processed at a satisfactory rate, decisions on applications for leave to intervene should be taken by the Chairman, instead of the full Board of Appeal.
- (10) In order to simplify and modernise the Rules of Procedure and increase efficiency through digitalisation, all procedural documents should be lodged and served by email or other digital means of communication, such as the webform established for that purpose by the Agency.
- (11) In view of the adversarial nature of the proceedings before the Board of Appeal, as confirmed by the General Court ⁽³⁾, the Rules of Procedure should clarify that the Board of Appeal is to take into consideration only those procedural documents and items which have been made available to the appellant and the Agency and on which they have been given an opportunity to express their views, subject to confidentiality rules.
- (12) In view of the importance of the principle of secrecy of deliberations and since the Code of Conduct for the permanent members of the Board of Appeal ⁽⁴⁾ will expire with the transition to the new operating model, the Rules of Procedure of the Board of Appeal should list the elements of deliberations that are to be subject to secrecy.
- (13) To ensure that the appeals procedure continues to function efficiently and consistently, the setting and extending of certain procedural time-limits should be entrusted to the Registrar. A party or intervener should be able to request an extension of a time-limit.
- (14) The procedure for changes of clerical mistakes, errors in calculation or obvious mistakes in decisions of the Board of Appeal which have been served should be clarified. For reasons of procedural economy and to simplify processes, the parties and the interveners should be able to submit written observations on clerical mistakes, errors in calculation and obvious mistakes in the decision which has been served on them, to allow for the decision to be corrected. For coherence and to differentiate from the rectification procedure provided for in Article 93(1) of Regulation (EC) No 1907/2006, the terminology should be changed to correction of decisions. In addition, the procedure for changes to the operative part of the decision or one of the grounds constituting the necessary support for the operative part of the decision should be set out.
- (15) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 133(1) of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 771/2008 is amended as follows:

- (1) Article 1b is replaced by the following:

'Article 1b

Closure of appeals by the Chairman

Where an appeal is withdrawn, or where the contested decision is withdrawn in its entirety by the Agency following rectification pursuant to Article 93(1) of Regulation (EC) No 1907/2006, the Chairman shall close the proceedings.;

⁽³⁾ Judgments of 20 September 2019, Federal Republic of Germany v European Chemicals Agency, T-755/17, ECLI:EU:T:2019:647 and BASF Grenzach GmbH v European Chemicals Agency, T-125/17, ECLI:EU:T:2019:638.

⁽⁴⁾ Decision of the Board of Appeal of the European Chemicals Agency of 14 March 2023 adopting a Code of Conduct for the Permanent Members of the Board of Appeal 07fb9783-2840-21ac-f9ee-b6d1ca1164b8.

- (2) in Article 3(2), the first subparagraph is replaced by the following:
- ‘The Chairman may replace any member of the Board of Appeal, at the request of that member, by an alternate if that member is precluded from participating in the proceedings or if the position is vacant. The criteria for designation of an alternate shall be set out in accordance with the procedure set out in Article 27(3).’;
- (3) Article 4 is amended as follows:
- (a) the following paragraph 1a is inserted:
- ‘1a. In order to take account of a connection between cases on the basis of their subject matter, or with a view to ensuring that appeals are processed at a satisfactory rate, the Chairman may, after consultation with the members concerned, designate a different member of the Board of Appeal to replace the rapporteur.’;
- (b) in paragraph 3, the second subparagraph is replaced by the following:
- ‘The implementation of those measures may be entrusted to the Registrar.’;
- (4) Article 5 is amended as follows:
- (a) in paragraph 1, the following subparagraph is added:
- ‘The Registrar shall be responsible, within the administrative and financial framework of the Agency, for the administration of the Board of Appeal and for the management of the Registry. The Registrar shall be assisted in this duty by the relevant departments of the Agency’s secretariat.’;
- (b) paragraph 2 is replaced by the following:
- ‘2. The Registrar shall ensure the proper conduct of appeal proceedings and shall assist the Board of Appeal. The Registrar shall also be responsible for the receipt, transmission and custody of documents, and the effecting of other services as provided for by this Regulation.’;
- (c) paragraph 5 is replaced by the following:
- ‘5. The Board of Appeal shall be assisted in the exercise of its duties by a Registrar. The Executive Director shall appoint the Registrar after taking into consideration the views of the Chairman. The Registrar shall report to the Agency director responsible for resources on administrative matters and to the Chairman for matters related to appeals.
- The Chairman shall have the power to give directions to the Registrar on matters relating to the exercise of the functions of the Board of Appeal.’;
- (5) Article 6 is amended as follows:
- (a) paragraph 1 is amended as follows:
- (i) points (a), (b) and (c) are replaced by the following:
- ‘(a) the name, address and email address of the appellant;
- (b) where the appellant has appointed a representative, the name, business address and email address of the representative;
- (c) an address and email address for service of documents, if different from those referred to in points (a) and (b).’;
- (ii) point (h) is deleted;
- (b) in paragraph 3, the first subparagraph is replaced by the following:
- ‘If a notice of appeal does not comply with the requirements set out in paragraph 1, points (a) to (d), and paragraph 2 of this Article, or any practice directions adopted in accordance with Article 27(2), the Registrar may prescribe a reasonable period within which the appellant is to comply with them. The Registrar may prescribe such period only once.’;

- (c) paragraph 6 is replaced by the following:

‘6. An announcement shall be published on the website of the Agency, indicating the date of receipt of an appeal initiating proceedings, the name of the appellant, the subject matter of the proceedings, the remedy sought by the appellant and a summary of the pleas in law and of the main supporting arguments.

The Chairman shall decide whether information indicated by an appellant pursuant to paragraph 1, point (g), is to be regarded as confidential and shall ensure that any information which is regarded as confidential is not published in the announcement. The information referred to in the first subparagraph shall not be regarded as confidential. The practical details of publication shall be prescribed in accordance with the procedure set out in Article 27(3).’;

- (6) Article 7 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. The Agency shall lodge the defence within two months from the expiry of the period for the Chairman to decide on the admissibility of the appeal set out in Article 93(2) of Regulation (EC) No 1907/2006.

The Registrar may, in exceptional circumstances, extend that time limit on a reasoned application by the Agency.’;

- (b) paragraph 2 is amended as follows:

- (i) point (a) is replaced by the following:

‘(a) where the Agency has appointed a representative, the name, business address and email address of the representative’;

- (ii) point (e) is deleted;

- (7) Article 8 is amended as follows:

- (a) paragraph 4 is amended as follows:

- (i) in the first subparagraph, points (c), (d) and (e) are replaced by the following:

‘(c) the name, address and email address of the intervener;

(d) where the intervener has appointed a representative in accordance with Article 9, the name, business address and email address of the representative;

(e) an address and email address for service of documents, if different from those referred to in points (c) and (d).’;

- (ii) the second subparagraph is replaced by the following:

‘The application to intervene shall be served on the parties in order to obtain any observations they may wish to make on that application before the Chairman decides on it.’;

- (b) paragraph 5 is replaced by the following:

‘5. Where the Chairman decides to allow the intervention, the intervener shall receive a copy of every procedural document served on the parties provided for that purpose to the Chairman by the parties. Confidential items or documents shall be excluded from such communication.’;

- (c) paragraph 6 is amended as follows:

- (i) the first and the second subparagraphs are replaced by the following:

‘The Chairman shall decide whether or not to allow the application to intervene.

Where the Chairman allows the intervention, the Registrar shall prescribe a period within which the intervener may submit a statement in intervention.’;

- (ii) the fourth subparagraph is replaced by the following:

‘After the statement in intervention has been lodged, the Registrar may prescribe a time-limit within which the parties may reply to that statement.’;

- (8) in Article 10(3), the first subparagraph is replaced by the following:
‘All procedural documents shall be lodged by email or other digital means of communication determined by the Board of Appeal.’;
- (9) Article 11 is amended as follows:
- (a) in paragraph 1, point (a) is replaced by the following
 - ‘(a) the notice of appeal is not in compliance with the requirements set out in Article 6(1), points (a) to (e), and Article 9 of this Regulation.’;
 - (b) paragraph 2 is deleted;
- (10) the following Article 11a is inserted:

‘Article 11a

Adversarial nature of the proceedings

1. The Board of Appeal shall take into consideration only those procedural documents and items which have been made available to the appellant and the Agency and on which they have been given an opportunity to express their views.
 2. Subject to the provisions concerning confidentiality of this Regulation and to any decisions taken in accordance with Article 27, all procedural documents and items included in the case-file shall be served on the parties.’;
- (11) Article 12 is amended as follows:
- (a) in paragraph 3, the second subparagraph is replaced by the following:
‘The Registrar shall set a reasonable period for submission of the observations.’;
 - (b) paragraph 4 is replaced by the following:
‘4. The Registrar shall notify the parties of the closure of the written part of the proceedings.’;
- (12) in Article 13(1), the second subparagraph is replaced by the following:
‘The request shall be submitted within two weeks from notification to the party of the closure of the written part of the proceedings. This period may be extended by the Registrar.’;
- (13) in Article 19, the following paragraph 1a is inserted:
‘1a. The secrecy of deliberations shall apply to:
- (a) oral and written opinions of a member of the Board of Appeal that relate to the legal, scientific, or technical aspects of an appeal case and that are expressed during the examination and deliberation of that case, including during the drafting of the decisions concerning that case;
 - (b) voting in accordance with Article 20.’;
- (14) in Article 22, the second subparagraph is replaced by the following:
‘All decisions and communications shall be served by email or other digital means of communication determined by the Board of Appeal, after the parties concerned have agreed to those means of communication.’;
- (15) in Article 23, paragraph 1 is replaced by the following:
‘1. Any period set out in Article 92(2), Article 93(1) or Article 93(2) of Regulation (EC) No 1907/2006 or in this Regulation for the purposes of appeal proceedings shall be calculated in accordance with paragraphs 2 to 6 of this Article.’;
- (16) in Article 24, paragraph 1 is replaced by the following:
‘1. Any time limit prescribed pursuant to this Regulation may be extended by the Registrar on a reasoned request by a party or intervener.

If a party or intervener contests the decision of the Registrar on a request for extension of the deadline, the Registrar shall refer the matter to the Chairman who shall decide whether or not to grant the extension.’;

(17) Article 26 is replaced by the following:

‘Article 26

Correction

The Board of Appeal may of its own motion or on application by a party or intervener made within one month after the decision has been served decide to correct clerical mistakes, errors in calculation and obvious mistakes in the decision.

Where the correction concerns the operative part or one of the grounds constituting the necessary support for the operative part, the parties and interveners may submit written observations within the time limit prescribed by the Registrar. The Board of Appeal may decide to correct the decision after that time limit.

The correcting decision shall be served on the parties and interveners in accordance with Article 22.;

(18) in Article 27, paragraph 3 is replaced by the following:

‘3. The Chairman and the other two members appointed in accordance with Article 89(3), first subparagraph, of Regulation (EC) No 1907/2006 shall adopt, considering the proposal prepared by the Registrar, the rules and measures provided for in this Regulation by a majority of votes.’

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 July 2026.

For the Commission
The President
Ursula VON DER LEYEN