

Announcement of appeal¹

Case	A-015-2014
Appellant	BASF SE, Germany
Appeal received on	15 December 2014
Subject matter	A decision taken by the European Chemicals Agency (the 'Agency'), based on Article 41 (3) of REACH Regulation, in accordance with the procedure set out in Articles 50 and 51 of the REACH Regulation
Keywords	<i>Dossier evaluation – Compliance check – Request for further information – Environmental exposure assessment</i>
Contested Decision	CCH-D-0000005118-76-02/F
Language of the case	English

Remedy sought by the Appellant

The Appellant requests the Board of Appeal to:

- annul the Contested Decision; and
- refund the appeal fee.

Pleas in law and main arguments

The Contested Decision was adopted on 17 September 2014 following a compliance check under the dossier evaluation procedure of the registration submitted by BASF SE for 2-ethylhexyl acetate.

In the Contested Decision the Agency requests the Appellant to submit in the chemical safety report an environmental exposure assessment and risk characterisation.

The Appellant challenges the Contested Decision on the ground that it was taken without legal basis. The Appellant argues in particular that the Agency misinterpreted the term 'hazard', thereby illegally extending the scope of application of Article 14 of the REACH Regulation and acting out of the bounds of Article 41(1)(c) of the REACH Regulation. The Appellant argues that the legal trigger for the requirement to carry out an exposure assessment is the existence of a substance-specific hazard expressed as classification

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.

according to the CLP Regulation². According to the Appellant, in case no hazard is identified, Article 14(4) of the REACH Regulation does not apply.

The Appellant further claims that, in the Contested Decision, the Agency refers to its Guidance on Information Requirements and Chemical Safety Assessment³ requiring a submission of an exposure assessment also for cases which allegedly go beyond the scope of the REACH Regulation. The Appellant argues that the Agency has no authority to extend the scope of the REACH Regulation by virtue of the Agency's Guidance documents. Furthermore, the Appellant argues that such practice would violate the principle of legal certainty. The Appellant also states that the precautionary principle was illegally applied in the decision-making process.

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>

² Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006

³ Guidance on Information Requirements and Chemical Safety Assessment, Part B: Hazard Assessment 2011, version 2.1