

**SUMMARY OF DECISION OF 28 JUNE 2016
OF THE BOARD OF APPEAL OF THE EUROPEAN CHEMICALS AGENCY**

Case number: A-015-2014

(Dossier evaluation – Compliance check of a registration – Environmental exposure assessment and risk characterisation – Article 14 of the REACH Regulation)

Factual background

The Appellant, BASF SE, registered the substance 2-ethylhexyl acetate (CAS No 103-09-3, EC No 203-079-1), which is classified as dangerous to human health but not to the environment in accordance with the CLP Regulation.¹ The chemical safety assessment provided upon registration included the additional steps of exposure assessment and risk characterisation for human health hazards, but not for environmental hazards. This was despite the fact that testing had shown that the substance causes adverse effects in fish, although those effects were not such as to lead to classification.

The European Chemicals Agency adopted a compliance check decision requiring the Appellant to perform and submit an environmental exposure assessment and related risk characterisation on the basis that testing had shown an environmental hazard (adverse effects in fish). The Appellant contested the decision before the Board of Appeal.

Main findings of the Board of Appeal

The Appellant and the Agency disagreed, in essence, on the interpretation of Article 14 of the REACH Regulation. The main issue before the Board of Appeal was if, for a substance which is classified under the CLP Regulation for one of the hazard classes or categories listed in Article 14(4), the additional steps of risk assessment can be limited to the hazards for which the substance is classified or whether they must also encompass any other hazards posed by the substance, even if their type or severity does not lead to classification.

The Board of Appeal discussed the interpretation of Article 14 in depth, having recourse to the wording, context and objective of that provision. It concluded that the obligation to perform the additional steps of chemical safety assessment, namely exposure assessment and risk characterisation, is 'triggered' if a substance is classified for any of the CLP hazard classes or categories listed in Article 14(4). However, the scope of the exposure assessment and risk characterisation is subsequently not limited to hazards which lead to classification under the CLP Regulation.

As the Appellant's substance was classified as dangerous to human health under the CLP Regulation, but also posed a hazard to the environment, the Appellant was obliged to perform an environmental exposure assessment and related risk characterisation covering both human health and the environment. The appeal was therefore dismissed.

NOTE: The Board of Appeal of ECHA is responsible for deciding on appeals lodged against certain ECHA decisions. The ECHA decisions that can be appealed to the Board of Appeal are listed in Article 91(1) of the REACH Regulation. Although the Board of Appeal is part of ECHA, it makes its decisions independently and impartially. Decisions taken by the Board of Appeal may be contested before the General Court of the European Union.

Unofficial document, not binding on the Board of Appeal. The [full text](#) of the decision of the Board of Appeal is published on the ECHA website on the day of delivery

¹ Regulation (EC) No 1272/2008 on classification, labelling and packages of substances and mixtures (OJ L 353, 31.12.2008, p.1).