



SCIL
Social Compassion
in Legislation

AB 733 (QUIRK) - AQUATIC TOXICITY

FACT SHEET

Problem:

An increasing number of consumer product manufacturers that have adopted a “cruelty-free pledge” and are turning to humane alternatives to product animal testing, however, the State of California’s Department of Toxic Substance Control regulations still relies on various tests, which includes the “aquatic toxicity test” on live fish for the classification of “hazardous waste” in California.

Background:

- The Aquatic Toxicity Test is used to determine whether a product should be classified as “hazardous waste” when it can no longer be used for its intended purpose.
- California’s aquatic toxicity test is far more sensitive than the test relied upon by the U.S. Environmental Protection Agency under federal law (RCRA) because it relies on the use of live fish.
- Aquatic toxicity is measured by fish bioassay. A waste can be tested for this criterion by placing some waste in a test water tank and introducing one of three acceptable fish species: fathead minnows, rainbow trout or golden shiners. Procedurally, approximately 10 live fish are presented into the tank and if one dies after 96 hours of observation, the waste is “hazardous.” 96-hour LC₅₀ < 500 mg/l = acute aquatic toxicity.
- In partnership with national animal welfare organizations, industry has taken a strong stand against animal testing, and consequently many companies do not conduct this test on finished products, but many still do and are required to under California law.
- According to the Organization for Economic Co-operation and Development, there are far more appropriate and humane tests that can be used to accomplish the same goal, including the Fish Embryo Test (FET):
 - In Europe and the United States the FET is not considered a vertebrate animal test
 - The fish embryo for acute fish toxicity testing is already used in other regulatory fields such as the testing of effluents, according to German law.
 - Cosmetic companies use the FET for assessing cosmetic ingredients for environmental properties in the development phase of their products.
 - Fish embryo testing is furthermore also a well-established screening method for human health endpoints.

Proposal

This bill would require the Department of Toxic Substance Control on or before January 1, 2021 to update the criteria and guidelines for the classification of hazardous waste by adopting as the acute aquatic toxicity test the fish embryo acute toxicity test adopted by the Organization for Economic Co-operation and Development.

For more information, contact Holly Fraumeni at holly@lh-pa.com or 916-225-7671