



August 26, 2022

The Honorable Gavin Newsom
Governor of California
1021 O Street, Suite 9000
Sacramento, CA 95814

**Subject: AB 1793 (Quirk): Aquatic Toxicology Testing –
REQUEST FOR SIGNATURE**

Dear Governor Newsom,

We, the undersigned, write to express our **STRONG SUPPORT for AB 1793 (Quirk)**, as amended June 16, 2022, which will require the Department of Substances Control (DTSC), as part of the appropriation in the Budget Act of 2022, to review the hazardous waste criteria, including the continued value of acute toxicity testing, and evaluate alternative methods such as calculation-based or computational toxicology. Following the review, DTSC must submit a report to the Board of Environmental Safety that includes recommendations on next steps.

Regulated state waste identification remains a persistent and costly problem. Retailers must understand both federal and state toxicity regulations to sell and manage consumer products compliantly or are subject to hefty fines and brand risk. When faced with onerous or complicated state hazardous criteria, many retailers will skip the hazardous evaluation process altogether. Without following the prescribed testing, a waste-generator cannot determine if a waste is toxic to the environment and therefore must presume it is toxic.

The status quo for many retailers is to “play it safe” and consider all potentially hazardous waste as “hazardous”. Therefore, instead of conducting aquatic toxicity testing, many retailers are assuming all returns or unsellable products are “hazardous”. As a result, retailers are paying for non-toxic products to be managed as “hazardous” waste, which involves sending them to hazardous waste landfills or incinerators, some of which are located out of state. For example, when a “Cruelty Free” cosmetic product is returned to the store, the store must conduct the aquatic toxicity test on live fish, or assume the product is “hazardous” and treat it accordingly.

This is a California-specific problem, since we are the only state that still requires live fish tests to determine aquatic toxicity. Washington State has already taken regulatory action to allow for aquatic toxicity to be calculated as an alternative to physically testing. A state solution is required because aquatic toxicity testing is still required by state law. California has not reviewed or updated this testing requirement in over 30 years, and it is time to reevaluate.

We support AB 1793 because it will:

- 1. Save retailers and other generators money**
- 2. Reduce the incineration and disposal of non-toxic products as “hazardous waste” at required facilities**
- 3. Reduce testing on live fish**

As part of your proposed 2022-2023 budget, DTSC has submitted a Budget Change Proposal requesting 8 positions and \$1.5 million annually to evaluate all existing California hazardous waste criteria, recommend modifications to those criteria, assist in the adoption of any approved recommendations, and provide waste classification determination and recycling exclusion interpretations and technical support. As a result, AB 1793 is not adding costs but simply ensuring that the existing hazardous waste evaluation will include consideration of the acute aquatic toxicity criterion and alternatives such as calculation-based methods.

AB 1793 is a critical measure that would update California's out of date processes by eliminating unnecessary and costly hazardous waste management of non-toxic products, which includes incineration. For these reasons, we **STRONGLY SUPPORT AB 1793 (Quirk)** and respectfully request that you **SIGN** this legislation.

For questions, please contact Jordan Wells at jordan@nsaction.us or 916-597-3595.

Sincerely,

National Stewardship Action Council
(Sponsor)
5 Gyres
Californians Against Waste
Clean Air Coalition
Environmental Working Group
Habits of Waste
Physicians Committee for Responsible
Medicine

Planet Green
NAHMMA (North American Hazardous
Materials Management Association)
Save Our Shores
Save the Albatross Coalition
Sea Hugger
Smarter Sorting
Social Compassion in Legislation