The new Director of California's Department of Toxic Substance Control, Debbie Raphael, announced that mid-October is the new target date for new draft regulations to implement California's Green Chemistry Law. The law called for regulations to be in place by January 1, 2011. However, universal opposition last year to the previously proposed regulations rendered that date impossible. Raphael, demonstrating political acumen, has the support of the legislative authors of the law to take the time needed “to get it right.”

Raphael promised to meet with stakeholders between now and mid-October to inform the rulemaking process, and after the draft regulations are released to seek comments from the Green Ribbon Science Panel at its November 14-15, 2011 meeting on the scientific aspects of the draft regulations. Then, the Director and her staff will produce regulations to launch the formal rulemaking proceeding.

Raphael laid out the principles that will guide the development of the regulations. They have to be “practical, meaningful, and legally defensible.” Those principles are easily embraced by political leaders, business interests, and environmentalists. There is something for everyone. The challenge will be getting consensus on what is practical but still meaningful with numerous aspects of the regulations, starting, for example, with selecting chemicals of concern, prioritizing the products containing chemicals of concern, describing the life cycle factors to assess existing chemicals and products and their possible alternatives, and imposing regulatory mandates, ranging from labels to...
bans of products.

The resolution of these aspects and others in the regulations will determine whether the green chemistry program sinks of its own weight, stifles innovation, drives up the cost of products, eliminates products in the California market, or becomes a model for other states, stimulates innovation, expands sustainable product development, results in fewer toxic products, and less toxic waste.

The green chemistry regulations can affect every manufacturer selling products in California as well as their suppliers, distributors, and retailers. They need to be aware of the rulemaking activities occurring in California during the next six months, a time period that will be critical as DTSC seeks to write regulations that are indeed practical, meaningful, and legally defensible.

©2019 Greenberg Traurig, LLP. All rights reserved.

Source URL: https://www.natlawreview.com/article/california-s-green-chemistry-rulemaking-renewed