SLANTS & TRENDS (Cont.)

TOO MUCH CHEMICAL TESTING has been designed to give chemicals "a clean bill of health and not to detect lesions," OSHA director Eula Bingham told a public meeting on the National Toxicology Program Aug. 10 (see story on page 261). Bingham said she hoped NTP would raise the consciousness of the scientific community concerning the need to improve test methods to detect chemical injuries.

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EPA TO SEEK COMMENTS ON REIMBURSEMENT FOR TEST DATA

An advanced notice of proposed rulemaking that seeks comments on how EPA should handle the problem of reimbursement of firms that provide data to meet a Section 4 test rule requirement is going through the agency's review process and should be published within a month or two. Under the Toxic Substances Control Act, if a firm is doing testing required for an existing chemical, other firms can seek exemptions on the grounds that the testing is already being done. The exempt firms must then reimburse the testing firm. If firms cannot reach agreement on reimbursement, they will turn to EPA to resolve the matter.

In its draft ANPR, EPA is considering three alternative approaches by which it could determine the amount of reimbursement due the testing firm. The first approach calls for case-by-case determination of money owed on the basis of allowable testing costs and an exempt firm's market share and competitive position, with no set definition of those three terms. The second approach would establish a formula-like rule that defines the three terms and says how much weight should be assigned to each one in determining reimbursement. The third approach would define the terms but not provide the weight given to each.

According to EPA the second and third approaches would be easier to implement, requiring less time and expenditure of resources, but they would be less flexible. They would also encourage direct settlements since firms would know how EPA is likely to set the reimbursement.

Other questions to be resolved and on which EPA will seek comments are: how to protect confidential information such as market share or even that a firm produces a certain chemical; when to set reimbursement so that a testing firm does not have to wait years for its money yet avoid continually recomputing a firm's share of test costs as new companies enter the market; whether or not to reimburse several firms which conduct similar tests;

Whether the market share should be based on sales or production and the period of time for which market share is measured; the definition of competitive position; whether allowable costs should include actual test costs or the standard cost of type testing conducted; the type of administrative proceedings to be used when EPA is called in (the agency currently favors an expert panel); and to what extent firms expect to collaborate on testing.

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EPA RESPONDS TO CMA PETITION FOR PROCEDURAL CHANGES IN TSCA RULEMAKING

Environmental Protection Agency has given a mixed response to a request by the Chemical Manufacturers Association for changes in the manner in which the agency develops and handles rulemaking under the Toxic Substances Control Act.

In a recent petition, CMA asked EPA to better coordinate its work so as to avoid overlapping proposals. The same people in industry handle several issues and find it difficult to respond to several at one time, CMA pointed out. Responding to CMA, Assistant Administrator Steven Jellinek noted that EPA has many TSCA provisions to put into effect and "if EPA were to implement these provisions one at a time, it would be many years before TSCA would be fully implemented." But Jellinek conceded that a problem exists, and for this reason said that the agency is trying to keep interested persons fully advised of agency thinking prior to proposing rules in order to insure that material reviewed during the comment period is not entirely new.

Jellinek rejected a CMA request that all public meetings on proposed rules be held after the close of the comment period. He suggested instead that the timing of meetings be made on a case-by-case basis, since some rules are amenable to delayed meetings, while others necessitate swift action and delays in public meetings would not be in the public interest.

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