

KILPATRICK AND KATZ

-3-

is required in order to resolve the issues raised by the objections set forth below and to determine whether there exists reliable, probative, and substantial evidence in support of subjecting Difenhydramine and Diphetidine-T to Schedule II classification. Under §7 of the APA, the Bureau, as the proponent of the rule, has the burden of establishing at a hearing on the record the validity of the factual allegations upon which the rule is required to be based and Pennwalt, as the opponent, is entitled to present its case, "to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts."

(B) The objections as they appear below comprehend the issues for a hearing and present reasonable grounds in support of Pennwalt's opposition to the proposed rule, as it is interpreted by the Bureau:

1. There is not sufficient reliable, probative, and substantial evidence to support the factual determination made by the Bureau that amphetamine resin complexes are included within the proper meaning of the term "amphetamine salts," or within the meaning of any of the other terms used in proposed section 308.12(d)(1).

Pennwalt, in rebuttal of testimony that may be offered by the Bureau, is prepared to present scientific and factual evidence, including the testimony of highly qualified chemists and other scientists, that, due to the distinct differences in