

Mallinckrodt's arguments in this regard were thoroughly considered by the ALJ at the hearing and in her opinion and recommended ruling. Accordingly, the exception does not warrant consideration.

Mallinckrodt further argues that it is not in the public interest to register Penick when supply is adequate. Mallinckrodt contends that the ALJ failed to take into account the large investments of Noramco and Mallinckrodt, versus the lesser amount of investment by Penick. Mallinckrodt fails to provide a reasonable explanation, however, of how the size of the parties' investments would effect the adequacy of supply.

Mallinckrodt also contends that Penick's technology does not support its registration. It asserts that there is no evidence that Penick has an efficient technology for producing hydrocodone and that Penick's method of making oxycodone is outdated. As the ALJ noted, however, there is clearly some controversy over the quality of Penick's proposed technology, a controversy that the ALJ concluded the record was not sufficient to resolve. The ALJ concluded, however, that Penick's patents and development of processes promote technical advances in the manufacture of controlled substances. Under 21 U.S.C. 823(a)(3), that factor, along with the development of new substances, is all that is to be considered. Accordingly, the Deputy Administrator agrees with the ALJ and concludes that this factor weighs in favor of granting Penick's registration.

Mallinckrodt argues further that the ALJ erred in not considering the impact on diversion in the overseas NRM market. Mallinckrodt contends that in later cases, DEA has taken the position that such issues are relevant. This issue has been fully discussed in the ALJ's recommended decision and hereinabove. Moreover, the Deputy Administrator finds that even if the possibility of increased diversion overseas were taken into account, Noramco and Mallinckrodt's arguments in this regard are too speculative to warrant serious consideration.

Finally, Mallinckrodt argues that at a minimum, the ALJ should have recommended that conditions be placed on Penick's registration. Having reviewed the record in its entirety, the Deputy Administrator concludes that the evidence showed that Penick does not intend to use its registration as a "shelf registration." There is sufficient evidence, and no controverting evidence, that Penick had made concrete plans to upgrade and expand its controlled substance manufacturing

facilities once it is clear that Penick will receive requisite DEA registrations.

IV. Conclusion

Based upon the foregoing, the Deputy Administrator finds that it is in the public interest, as defined by 21 U.S.C. 823(a)(1)-(6) and 21 CFR 1301.34(b)(1)-(7), to grant Penick's application to be registered as an importer of NRMs. In light of Penick's long experience in manufacturing bulk pharmaceuticals, including opiates, it is not necessary to grant a conditional application. This decision is effective March 13, 2003.

Dated: January 29, 2003.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 03-3299 Filed 2-10-03; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(OVAW)-1373]

Meeting of the National Advisory Committee on Violence Against Women

AGENCY: Office on Violence Against Women, Office of Justice Programs, Justice.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming public meeting of the National Advisory Committee on Violence Against Women (hereinafter "the Committee").

DATES: The meeting will take place on February 20 from 9 a.m.-5 p.m., and on February 21 from 9 a.m.-2:15 p.m.

ADDRESS: The meeting will take place at the Adolphus Hotel, 1321 Commerce Street, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT:

Omar A. Vargas, Special Assistant, The National Advisory Committee on Violence Against Women, 810 Seventh Street, NW, Washington, DC 20531. Telephone: (202) 307-6026. E-mail: AskNAC@ojp.usdoj.gov Fax: (202) 307-3911. View the Committee's Web site at: <http://www.ojp.usdoj.gov/vawo/nac/welcome.html>

SUPPLEMENTARY INFORMATION: The Committee is chartered by the Attorney General, and co-chaired by the Attorney General and the Secretary of Health and Human Services (the Secretary), to provide the Attorney General and the Secretary with practical and general policy advice concerning implementation of the Violence Against Women Act of 1994, the Violence

Against Women Act of 2000, and related laws, and will assist in the efforts of the Department of Justice and the Department of Health and Human Services to combat violence against women, especially domestic violence, sexual assault, and stalking.

In addition, because violence is increasingly recognized as a public health problem of staggering human cost, the Committee will bring national attention to the problem of violence against women and increase public awareness of the need for prevention and enhanced victim services.

This meeting will primarily focus on organizational and planning aspects of the Committee's work; however there will be an opportunity for public comment on the Committee's role in providing general policy guidance on implementation of the Violence Against Women Act of 1994, the Violence Against Women Act of 2000, and related legislation.

Meeting Format

This meeting will be held according to the following schedule:

1. *Date:* Thursday, February 20, 2003.
Time: 9 a.m.-5 p.m., including breaks.
2. *Date:* Friday, February 21, 2003.

Time: 9 a.m.-11:45 am, sub-committees will convene in sessions not open to the public. 12 p.m.-2:15 p.m., the whole Committee will reconvene in a session open to the public.

The meeting scheduled for February 20, 2003 will begin with presentations from invited speakers representing Violence Against Women Act implementation by the Departments of Justice, and Health and Human Services. After the presentations by invited speakers, Committee members will consider their charge and convene subcommittees. Time will be reserved for comments from the public, beginning at 4:30 p.m. and ending at 5 p.m. See the section below on Reserving Time for Public Comment for information on how to reserve time on the agenda.

The meeting scheduled for February 21, 2003, will consist of review and discussion by the Committee of the charge and reports by the subcommittees regarding the Committee's work-plan and forthcoming recommendations to the Attorney General and the Secretary.

Attending the Meeting

The meeting on February 20, and the afternoon session of the meeting on February 21, will be open to the public. (The Committee will convene in closed sub-committee sessions on the morning of February 21, 2003, pursuant to 41

CFR 102-3.160.) Registrations for the public sessions will be accepted on a space available basis. Members of the public who wish to attend must register at least six (6) days in advance of the meeting by contacting Omar A. Vargas, Special Assistant, at the e-mail address or fax number listed above. Access to the meeting will not be allowed without registration, and all attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting.

Individuals who will need special accommodations for a disability in order to attend the meetings should notify Omar A. Vargas, Special Assistant, at the above e-mail address or by fax, no later than February 14, 2003. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

Submitting Written Comments

Interested parties are invited to submit written comments to the Committee, by September 30, 2003, using one of the following methods: by e-mail to AskNAC@ojp.usdoj.gov; by fax on (202)-307-3911; or by mail to The National Advisory Committee on Violence Against Women, 810 Seventh Street, NW., Washington, DC 20531. Due to delays in mail delivery caused by heightened security, please allow adequate time for the mail to be received (we recommend 3-4 weeks).

Reserving Time for Public Comment

If you are interested in participating during the public comment period of the meeting, on the implementation of the Violence Against Women Act of 1994, and the Violence Against Women Act of 2000, you are requested to reserve time on the agenda by contacting the Office on Violence Against Women, Office of Justice Programs, U.S. Department of Justice by e-mail or fax. Please include your name, the organization you represent, if appropriate, and a brief description of the issue you would like to present. Participants will be allowed approximately 3 to 5 minutes to present their comments, depending on the number of individuals who reserve time on the agenda. Participants are also encouraged to submit two written copies of their comments at the meeting.

Given the expected number of individuals interested in providing comments at the meetings, reservations for presenting comments should be made as soon as possible. Persons who are unable to obtain reservations to

speak during the meetings are encouraged to submit written comments, which will be accepted at each meeting site or may be mailed to the Committee at the address listed under the section on **Submitting Written Comments**.

Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

Diane Stuart,

Director, Office on Violence Against Women.
[FR Doc. 03-3383 Filed 2-10-03; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. D-11100]

Proposed Class Exemption For Release of Claims and Extensions of Credit in Connection With Litigation

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice of proposed class exemption.

SUMMARY: This document contains a notice of a proposed class exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from certain taxes imposed by the Internal Revenue Code of 1986, as amended (the Code). The proposed class exemption would apply to transactions engaged in by a plan in connection with the settlement of litigation. This exemption is being proposed in response to concerns raised by the pension community regarding the impact of ERISA's prohibited transaction provisions on the settlement of litigation by employee benefit plans with parties in interest. The proposed exemption, if granted, would affect all employee benefit plans, the participants and beneficiaries of such plans, and parties in interest with respect to those plans engaging in the described transactions.

DATES: Written comments and requests for a public hearing shall be submitted to the Department before March 28, 2003.

ADDRESSES: All written comments and requests for a public hearing (preferably 3 copies) should be sent to: U. S. Department of Labor, Employee Benefits Security Administration, Room N-5649, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Plan Settlement Class Exemption Proposal.

Comments may be sent by fax to (202) 219-0204 or by e-mail to moffittb@pwba.dol.gov. The application for exemption (Application Number D-11100), as well as all comments received, will be available for public inspection in the Public Documents Room, Employee Benefits Security Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Andrea W. Selvaggio, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, Washington DC 20210 (202) 693-8540 (not a toll-free number).

SUPPLEMENTARY INFORMATION: This document contains a notice that the Department is proposing a class exemption from the restrictions of section 406(a)(1)(A), (B) and (D) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (B) and (D) of the Code. The exemption described herein is being proposed by the Department on its own motion pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990).¹

I. General Background

Questions have been raised regarding whether a fiduciary that agrees to settle litigation or threatened litigation by releasing the plan's claims against a party in interest in exchange for consideration has engaged in a prohibited transaction. In this regard, the prohibited transaction provisions of the Act generally prohibit transactions between a plan and a party in interest (including a fiduciary) with respect to such plan. Specifically, section 406(a)(1)(A), (B) and (D) of the Act states that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(A) Sale or exchange, or leasing, of any property between the plan and a party in interest;

(B) Lending of money or other extension of credit between the plan and a party in interest; or

¹ Section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996) generally transferred the authority of the Secretary of the Treasury to issue exemptions under section 4975(c)(2) of the Code to the Secretary of Labor. For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.