in a foreign vessel while on the high seas, the regulation would not apply. In referring to an intermediate port or place, the proposed regulation does not purport to include a point on the high seas. If the processing vessel were to dock at an intermediate port or place as contemplated by the regulation and there process the fish on the vessel, the same problem would confront it as would confront a vessel transporting Alaskan crude oil which would be "topped" with foreign oil, *viz.*, the continuity of the transportation would not have been broken as there is no off-lading of the merchandise.

One commenter took the position that Customs is treating the shipments of oil as exportations and, to that extent, the treatment conflicts with the TAPS Act which prohibits exports of the North Slope crude oil, except under very limited circumstances.

Whether the shipments of the subject oil are exports within the meaning of the TAPS Act is within the jurisdiction of the Department of Commerce. Irrespective of the characterization of the shipment and any purported conflict with the TAPS Act, the Customs Service must interpret and enforce the Jones Act. If any violation of the TAPS Act occurs, the parties involved may pursue other avenues for relief.

Several commenters cited court cases dealing with the regulation of interstate commerce where the continuity of the tranportation was a critical factor. The district court and the Court of Appeals, however, found these cases unpersuasive and adopted the position of Customs as expressed in the notice of proposed rulemaking.

One commenter expressed concern about the absence of objective criteria consistent with 46 U.S.C. 883 for determining when processing at an intermediate port or place results in a new and different product. It was suggested that if the criteria were not included in § 4.80b, each request for a ruling be published in the **Federal Register**; that the public be given an opportunity to comment; and any comments submitted be considered before a final decision is made. Other commenters expressed similar sentiments.

Because of the diversity of circumstances which can arise, it would be inappropriate to draft a set of criteria to be applied in all instances. The district court, however, in discussing the products refined from the Alaskan crude oil concluded that "[e]ach of [the] products is different in name, physical and chemical character, and use from each other and from crude oil." Memorandum Opinion at page 24. Certainly, the name, character and use of the manufactured or processed merchandise would be taken into consideration in making a decision. The Customs Service believes that a request for an advisory ruling from its Carriers, Drawback and Bonds Division would be best processed in accordance with the provisions of Part 177 of the Customs Regulations (19 CFR Part 177). Additionally, unless otherwise exempt from disclosure, any ruling with respect to this question would be available to any member of the public, who then would be able to determine exactly what criteria were applied.

The favorable views provided by one commenter essentially underscored those parts of the Memorandum Opinion issued by the district court in *American Maritime Association* v. *Blumenthal* and affirmed on appeal.

Amendment to the Regulations

After consideration of all the comments received, and in view of the decisions of the district court and the Court of Appeals in *American Maritime Association* v. *Blumenthal*, the proposed amendment to Part 4 of the Customs Regulations is adopted without change as set forth below.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations and Legal Publications Division, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

R. E. Chasen,

Commissioner of Customs.

Approved: June 18, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Part 4 of the Customs Regulations (19 CFR Part 4) is amended by inserting a new § 4.80b to read as follows:

§ 4.80b Coastwise transportation of merchandise.

(a) *Effect of manufacturing or processing at intermediate port or place.* A coastwise transportation of merchandise takes places, within the meaning of the coastwise laws, when merchandise laden at a point embraced within the coastwise laws ("coastwise point") is unladen at another coastwise point, regardless of the origin or ultimate destination of the merchandise. However, merchandise is not transported coastwise if at an intermediate port or place other than a coastwise point (that is at a foreign port or place, or at a port or place in a territory or possession of the United States not subject to the coastwise laws), it is manufactured or processed into a new and different product, and the new and different product thereafter is transported to a coastwise point.

(b) *Requst for ruling.* Interested parties may request an advisory ruling from Headquarters, United States Customs Service, Attention: Carriers, Drawback and Bonds Division, as to whether a specific action taken or to be taken with respect to merchandise at the intermediate port or place will result in its becoming a new and different product for purposes of this section. The request shall be filed in accordance with the provisions of Part 177 of this chapter.

(R.S. 251, as amended, sec. 27, 41 Stat. 998, as amended (5 U.S.C. 301, 19 U.S.C. 66, 46 U.S.C. 883).)

[FR Doc 79-22328 Filed 7-18-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1316

Administrative Functions; Administrative Hearings; Amendment of Hearing Procedures

AGENCY: Drug Enforcement Administration, United States Department of Justice.

ACTION: Final Rule.

SUMMARY: This rule amends the DEA hearing procedures to provide parties with a reasonable opportunity to file with the Administrator, prior to his final decision in any administrative hearing matter, exceptions to the decision, findings of fact and conclusions of law proposed or recommended by the Administrative Law Judge.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen E. Stone, Attorney, Office of the Chief Counsel, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633-1141.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act, Title 5, United States Code, Section 557(c), provides that parties to administrative proceedings are entitled to a reasonable opportunity to file exceptions to a recommended decision prior to the rendering of a final decision by the agency. As presently constituted, the

procedures of the Drug Enforcement Administration provide that any party to an administrative proceeding may file proposed findings of fact and conclusions of law, together with supporting reasons therefor and evidence of record, with the Administrative Law Judge or presiding officer. Such proposed findings of fact and conclusions of law are considered by the Administrative Law Judge and are included in the record certified to the Administrator for his consideration. The regulations do not, however, provide for the filing of exceptions by any party once the presiding officer has notified the parties of his recommended decision and has certified the record of the proceedings to the Administrator.

Since the enactment of the Controlled Substances Act, Title 21, United States Code, Section 801, and following, and the regulations promulgated thereunder, no party to a DEA hearing has ever requested an opportunity to file such exceptions. There is no question but that such a request would be granted. Nevertheless, one United States Court of Appeals, reviewing a DEA final order, has pointed out the lack of a provision giving parties the opportunity to file such exceptions, and a second Court of Appeals has ruled that the purpose of Section 557(c) is to provide parties with some input at each level of the decisional process.

In order to insure that the DEA administrative hearing procedures strictly comply with the provisions of the Administrative Procedure Act, the Administrator has decided to amend the hearing procedures so as to provide for the filing of exceptions to the recommended decision, findings of fact and conclusions of law. It is not, however, intended that the filing of such exceptions be permitted to unduly extend the already lengthy administrative procedures. For this reason, parties will be allowed no more than twenty days after the date upon which they are notified of the recommended decision of the presiding officer to file exceptions thereto with the Administrator.

Therefore, under the authority vested in him by the Controlled Substances Act and the regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that the following sections of Part 1316, Title 21, Code of Federal Regulations, be amended to read:

1. Section 1316.65 is amended by revising (b) to read as follows:

§ 1316.65 Report and record.

* * * * *

(b) The presiding officer shall certify to the Administrator the record, which shall contain the transcript of testimony, exhibits, the findings of fact and conclusions of law proposed by the parties, and his report. The presiding officer shall, at the same time, serve a copy of his report upon each party in the hearing.

2. Section 1316.66 is revised to read as follows:

§ 1316.66 Exceptions.

(a) Within twenty (20) days after the date upon which a party is served a copy of the report of the presiding officer, such party may file with the Administrator exceptions to the recommended decision, findings of fact and conclusions of law contained in the report of the presiding officer. The party shall include a statement of supporting reasons for such exceptions, together with evidence of record (including specific and complete citations of the pages of the transcript and exhibits) and citations of the authorities relied upon.

(b) The Administrator shall consider the exceptions filed by any party and shall cause such filing to become part of the record of the proceeding.

(c) The Administrator may, upon the request of any party to a proceeding, grant additional time for the filing of a responsive pleading, if he determines that no party in the hearing will be unduly prejudiced and that the ends of justice will be served thereby. Provided however, that each party shall be permitted to file only one pleading under this section; that is, either a set of exceptions or a response thereto.

3. Section 1316.67 is revised to read as follows:

§ 1316.67 Final order.

As soon as practicable after the presiding officer has certified the record to the Administrator, but not sooner than twenty days thereafter, the Administrator shall cause to be published in the **Federal Register** his order in the proceeding, which shall set forth the final rule and the findings of facts and conclusions of law upon which the rule is based. This order shall specify the date on which it shall take effect, which date shall not be less than 30 days from the date of publication in the **Federal Register** unless the Administrator finds that the public interest in the matter necessitates an earlier effective date, in which event the Administrator shall specify in the order his findings as to the conditions which led him to conclude that an earlier effective date was required.

4. Section 1316.67, titled "Copies of petitions for judicial review," is renumbered as § 1316.68.

Dated: July 13, 1979.

Peter B. Bensinger,

Administrator.

[FR Doc. 79-22398 Filed 7-18-79; 8:45 am]

BILLING CODE 4110-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-79-671]

Community Development Block Grants; Small Cities Program

Correction

In FR Doc. 79-19841 appearing at page 37438 in the issue of Tuesday, June 26, 1979, the following corrections should be made:

A. In the preamble portion of the document: 1. On page 37478, in the second column, under the heading "§ *570.420(g) Restrictions on applying for grants*", in the twenty-second line of the paragraph, the comma after the words "additional grants" should be replaced by a period.

2. On page 37479, in the second column, the heading which reads "§ *570.426 Single purpose program general requirements*" is numbered incorrectly. It should read "§ *570.427 Single purpose program general requirements*".

B. In the regulatory portion of the document: 1. On Page 37480, in the first column, the table of contents entry for § 570.424 which reads "Selective system for comprehensive grants" should read "Selection system for comprehensive grants".

2. Also on page 37480, in the first column, in § 570.420(a), in the twelfth line, the word "as" should be inserted immediately after the words "as well".

3. On page 37482, in the first column, in § 570.423(c)(2), the first line, the paragraph number "(1)" should read "(i)".

4. Also on page 37482, in the first column, in § 570.423(c)(3), the second line, the paragraph number "(1)" should read "(i)".

5. On page 37484, in the second column, the table in § 570.428 is corrected to read as follows:

	Points
(a) Need—absolute number of poverty persons	100
(b) Need—percent of poverty persons	50
(c) Need—absolute number of substandard housing units	30
(d) Need—percent of substandard housing units	20
(e) Program factor:	
Impact of the proposed program	200
(f) Benefit to low- and moderate-income persons	200
(g) Performance:	
Housing	100
Local equal opportunity efforts	50
(h) Other:	
Housing opportunity plan	50
Enhances position as a regional center	25
Implements State growth plan	25
Other Federal programs	25

6. On page 37485, in the first column, in § 570.428(g)(2), the second line, the paragraph number "(1)" should read "(i)".

7. On page 37486, in the first column, in § 570.430(c)(1)(ii), in the last line, the reference to § 570.304(b)(2)(ii) is corrected to refer to § 570.306(b)(2)(ii).

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Interim Regulation on Valuation of Plan Benefits; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the Interim Regulation.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits prescribes the interest rates and factors the Pension Benefit Guaranty Corporation (the "PBGC") will use to value benefits provided under terminating pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). This valuation is necessary because under section 4041 of ERISA, the PBGC must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the unfunded guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation must be adjusted periodically to reflect changes in investment markets. This amendment adopts the rates and factors applicable to plans that terminated on or after March 1, 1979, but before June 1, 1979, and will enable the PBGC to value the benefits provided under those plans.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating plans covered under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 et seq.). Specifically, the regulation contains a number of formulae for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various interest rates and factors that are to be used in the formulae. Because these rates and factors must be reflective of investment experience, it is necessary to update the rates and factors periodically. When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before March 1, 1979. (29 CFR 2610 (1978), 43 FR 55240 et seq., 44 FR 3971 et seq., 44 FR 22454). The purpose of this amendment is to provide the rates and factors applicable to plans that terminated on or after March 1, 1979, but before June 1, 1979.

On February 20, 1979, the PBGC published for comment in the **Federal Register** (44 FR 10398) a proposal that in the future new interest rates and factors would be issued in final form without first being published in a Notice of Proposed Rulemaking. The PBGC received only two comments relating to that proposal, both of which were favorable, and on April 16, 1979 (44 FR 22453), the PBGC adopted that proposal as its new procedure for issuing new interest rates and factors.

Because the PBGC cannot value the benefits provided under pension plans that terminated on or after March 1, 1979 and before June 1, 1979 until these new interest rates and factors are promulgated, and consistent with the new procedure adopted by the PBGC on April 16, 1979 (see above), the PBGC finds that notice of and public comment on this amendment are impracticable and unnecessary. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that terminated on or after March 1, 1979, but before June 1, 1979, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the interim regulation effective immediately.

The PBGC has determined that this amendment to the Valuation of Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (March 24, 1978), and the PBGC's Statement of Policy and Procedures implementing the Order, 43 FR 58237 (December 13, 1978). The reasons for this determination are that this amendment is not likely to engender substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations, is hereby amended by adding a new Table XIV to Appendix B to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Benefits

* * * * *

XIV. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after March 1, 1979, but before June 1, 1979.*

I. *Interest rates for valuing immediate annuities.*

An interest rate of 7½ percent shall be used to value immediate annuities, to compute the quantity "G_y" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factor shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.0675$
(2) $k_2 = 1.055$
(3) $k_3 = 1.04$
(4) $n_1 = 7$
(5) $n_2 = 8$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025–27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

Issued at Washington, D.C., on this 16th day of July, 1979.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of

Directors authorizing its Chairman to issue same.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 79-22294 Filed 7-18-79; 8:45 am]

BILLING CODE 7708-01-M

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29 CFR Part 2618

Rules for Administrative Review of Agency Decisions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation sets forth the rules governing the issuance of most initial determinations by the Pension Benefit Guaranty Corporation (the "PBGC") and the procedures for requesting and obtaining administrative review by the PBGC of those determinations. Over the past four and one half years since the enactment of the Employee Retirement Income Security Act of 1974 ("ERISA"), the number of cases processed by the PBGC has increased substantially as it has placed into effect the program of pension plan termination insurance it administers under ERISA. One corollary of this increased activity by the PBGC has been the increase in the number of requests by pension plan participants and employers who maintain pension plans for administrative review by the PBGC of its determinations. In order to facilitate the administrative review process, the PBGC is publishing rules to govern the administrative review of its decisions. The intended effect of this regulation is to ensure that persons who are adversely affected by determinations of the PBGC are provided with an opportunity to present fully their positions to the PBGC before a final decision is made by the agency.

EFFECTIVE DATE: August 20, 1979.

FOR FURTHER INFORMATION CONTACT: Joan Segal, Staff Attorney, Office of the General Counsel, 2020 K Street, N.W., Washington, D.C. 20006; 202-254-3010.

SUPPLEMENTARY INFORMATION: On February 6, 1979, the PBGC published in the **Federal Register** a proposed regulation entitled "Rules for Administrative Review of Agency Decisions" (44 FR 7178). The proposed regulation set forth procedures whereby persons who deal with the PBGC can obtain administrative review by the PBGC of its decisions that affect them. Public comments were solicited on the proposal, and the PBGC was pleased to receive a number of perceptive and useful suggestions. The final regulation set forth in this document differs substantively from the proposal in several respects; most of those changes have been made in response to the comments. Additionally, some nonsubstantive changes have been made that the PBGC believes simplify and generally clarify the regulation. In the discussion that follows, citations are to sections in the final regulation, unless otherwise stated.

Review of Determinations not Subject to the Regulation

In the preamble to the proposed regulation, the PBGC stated that where it determines that it would be appropriate to do so, it will informally review, upon request, determinations that are not subject to the administrative review provisions of the regulation. One comment suggested that, "in the interests of completeness," the above statement be included in the body of the regulation. The PBGC agrees with the comment and has made the necessary change in the final regulation (§ 2618.1). However, it is noted that review of determinations not covered by this regulation is discretionary with the PBGC, and such review is not subject to the provisions of the regulation.

The same comment also recommended that the words "upon request" be deleted from this provision for discretionary review of non-covered determinations. The PBGC believes, however, that this change would be inconsistent with a major purpose of the regulation: to inform persons aggrieved by PBGC determinations of the steps that they must take in order to obtain administrative review. Although the PBGC can on its own initiative review determinations it has made, as a rule it does not do so. Accordingly, the PBGC believes that the regulation should state that a person who would like administrative review of a determination not subject to the regulation should request review.

Scope of Subparts C and D

The regulation applies to eleven types of determinations made by the PBGC. Under the proposal seven of the determinations were subject both to reconsideration and appeal; four were subject only to reconsideration. Two comments addressed the fact that under the proposal certain determinations covered by the regulation were subject to both types of review. One comment pointed out that since an initial determination of the PBGC may adversely affect a number of parties, it would be possible, under the regulation as proposed, for one person to file a request for reconsideration of a determination, while another person filed an appeal of the same determination. The second comment suggested that the proposal was inconsistent in providing that a decision on a request for reconsideration was final for the purpose of judicial review but might nevertheless be appealed to the Appeals Board. The PBGC has reexamined this issue and, as a result, has changed the final regulation to provide that those determinations subject to appeal are not subject to reconsideration. Thus, each determination covered by the regulation is subject to only one form of administrative review, either reconsideration or appeal.

Another comment asked why all eleven of the covered determinations were not subject to appeal. This regulation was developed in the light of two sometimes conflicting concerns: the need not to overburden PBGC's administrative resources and the need to provide aggrieved persons with an opportunity to obtain administrative review that is adequate given the nature of the adverse determination. The appeals procedure puts a greater burden on administrative resources than the reconsideration procedure. Given this fact, the PBGC believes that appeals are warranted only where the complexity of the issues involved and the nature and immediacy of the impact of the determination on the aggrieved party indicate that a more sophisticated kind of review, involving review by a three-person board and the opportunity to appear in person and to present witnesses, should be provided at the administrative level.

For example, a determination that a plan is covered by Title IV of ERISA obligates the employer to pay premiums to the PBGC. However, that determination is not self-enforcing. Should an employer refuse to pay premiums, the PBGC would be forced to seek a court order requiring premium payments, and once in court, the employer would be able to litigate the issues involved in the dispute prior to the issuance of any order directing payment. In this situation, the PBGC believes it is reasonable to provide only the more streamlined form of administrative review of its decision, i.e., reconsideration.

On the other hand, a determination that an employer is liable to the PBGC under § 4062 of ERISA will, once the PBGC has demanded payment of the liability and payment is refused, give rise to a lien, pursuant to § 4068 of