not pre-stimulation initial potential rates. The pre-stimulation production rates from the Dakota Formation as recommended, based on production data from 22 wells in the formation, is expected to be 312 Mcf/day, which is less than the maximum allowable 336 Mcf/day permitted under § 271.703(c)(2)(i)(B).

Evidence submitted by New Mexico therefore supports the assertion that the Dakota Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation.

This amendment shall become effective immediately. The Commission has found that public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (88) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations*

* * * * *

(88) *Dakota Formation in New Mexico* RM79–76 (New Mexico—8).

(i) *Delineation of formation.* The Dakota Formation is found in Townships 30 and 31 North, Ranges 2 through 7, in San Juan and Rio Arriba Counties, New Mexico. The formation is within the Basin-Dakota Gas Pool, in the Rosa Area of the San Juan Basin.

(ii) *Depth.* The Dakota Formation is below the Graneros Shale Formation and above the Morrison Formation. The average depth to the top of the Dakota Formation is 7,950 feet. The formation is approximately 250 feet in thickness.

[FR Doc. 82-15758 Filed 6-9-82; 8:45 am]
BILLING CODE 6717-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Procedures for Initial Determination and Discretionary Review—Investigations of Unfair Practices in Import Trade

AGENCY: International Trade Commission.

ACTION: Final rules.

SUMMARY: These rules amend Part 210 of the Commission's *Rules of Practice and Procedure* governing investigations under section 337 of the Tariff Act of 1930 which covers investigations of unfair practices in import trade (19 U.S.C. 1337). The effect of the amended rules is to provide procedures in section 337 investigations for an initial determination by the presiding officer regarding violation of section 337 and discretionary review of the initial determination by the Commission. This alters existing Commission practice, which requires the presiding officer to file a recommended determination that is reviewed by the Commission before it issues a final determination. These final rules reflect public comment on proposed rules published on December 23, 1981 (46 FR 62292).

EFFECTIVE DATE: June 10, 1982. The procedures established by these final rules will be applicable only to section 337 investigations instituted subsequent to the effective date. The superseded rules provisions will continue in effect for all previously instituted investigations.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone 202–523–0189.

SUPPLEMENTARY INFORMATION: Authority for adoption of these rules is contained in 19 U.S.C. 1335, which authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties, including those exercised under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Authority is also derived from the Administrative Procedure Act (5 U.S.C. 551, et seq.), which authorizes the adoption of certain procedures in an adjudicative proceeding when an agency does not preside over the hearing at which the evidence is received. Under 5 U.S.C. 557, the agency may require the presiding officer to make an initial decision that becomes the decision of the agency without further proceedings unless the decision is appealed to, or reviewed by, the agency. Alternatively, the agency may require that the entire record be certified to it for decision with a recommended decision by the presiding officer.

The purpose of these amendments to the Commission's rules is to adopt an initial determination procedure, with discretionary Commission review, in section 337 investigations. Commission practice heretofore has called for the presiding officer to issue a recommended determination that is subject to full Commission review with regard to every issue arising in the investigation, regardless of its significance or potential impact upon Commission policies. The change in the rules will permit the Commission to make better use of its time and resources by allowing it to focus its attention on the most substantial issues coming before it in unfair import trade practice investigations and will also diminish the amount of time required for adjudication of less complex investigations.

In accordance with the Regulatory Flexibility Act, it is hereby certified that these final rules will not have a significant economic impact on a substantial number of small entities. Adoption of these rules is anticipated to make it less costly and time-consuming for all private parties, including small entities, to participate in Commission section 337 proceedings.

Analysis of Public Comments on Proposed Rules

Comments on the Commission's proposed rules, published on December 23, 1981 (46 FR 62292), were received from the United States Department of Justice and from three firms that represent parties before the Commission in investigations under section 337 of the Tariff Act of 1930. The following is a summary and analysis of the comments, with an explanation of why comments were accepted or rejected.

The Department of Justice noted that the proposed rules were in accord with the Administrative Procedure Act and supported the Commission's efforts to allocate its time and resources more efficiently. The Department was concerned, however, that the proposed procedures might be inconsistent with the Commission's obligation under 19 U.S.C. 1337(b)(2) and 19 CFR 210.14(a)(2)

to consult with, and seek advice and information from, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission considers appropriate. The Department suggested that the final amendments be clarified to provide a specific opportunity for the consulting federal agencies to comment on the presiding officer's initial determination before the Commission decides whether to review it.

The Commission agrees with the Department of Justice that, in order to make the consultative role of the other federal agencies fully effective, the rules should provide for notice to the other federal agencies of the issuance of an initial determination. Therefore, as suggested by the Department, a new paragraph (e) has been added to § 210.53 to provide that the appropriate agencies will be served with a copy of the initial determination and that the Commission will consider comments submitted by those agencies when deciding whether to review the initial determination. The subsection also establishes time limits for the submission of agency comments. Proposed paragraphs (e) through (h) of § 210.53 are redesignated as paragraphs (f) through (i). Additionally, §§ 210.54(b) and 210.55 have been revised to provide notice to the appropriate agencies that the Commission has granted review of an initial determination.

The recommendations of the Department of Justice have been rejected only insofar as they suggest that the commenting agencies be given the full period provided for the Commission's decision whether to review an initial determination in which to submit comments and that the Commission be allowed to extend the period if extra time is needed in order to consider their comments. The Commission has chosen instead a shorter period for the submission of comments (20 days when the initial determination concerns issues regarding permanent relief; 10 days when the initial determination involves an interlocutory motion or motion for temporary relief). Section 337 charts for the Commission a very strict timetable for its investigations. The Commission does not believe it is either feasible or advisable to allow any additional time for consideration of comments. Although the shorter timetable will require agencies to respond promptly, it is not anticipated that this will result in any undue difficulty.

The first firm that submitted comments suggested two changes to the proposed rules. First, it urged that the language of § 210.54(a) be amended so that a defaulting respondent is not accorded an unqualified right to petition the Commission for review of an unfavorable initial determination. As drafted, § 210.54(a) grants "(a)ny party to an investigation" standing to seek review. The Commission's explanatory comments, 46 FR 62293, noted that this provision "does not exclude parties who are in default or otherwise did not participate in the evidentiary hearing. This extensive grant of authority to request review may be limited in the rule concerning default * * *, in which default is deemed to constitute a waiver of a party's right to appear." The firm recommended that the section be altered to make its provisions available only to non-defaulting parties.

The Commission agrees that the broad wording of proposed § 210.54(a), coupled with the ambiguous explanatory comments, creates an uncertainty as to whether a defaulting party may petition for review of an initial determination. Moreover, it is believed that restricting the right to seek review to non-defaulting parties would be consistent with, and would further strengthen, the Commission's default rule, 19 CFR 210.21(d). Section 210.54(a) has accordingly been revised to limit review to parties who are not in default and similarly revised to limit the right to oppose a petition for review to parties who are not in default. As now drafted, this section also recognizes that a party may elect to be in default as to certain issues in an investigation while preserving its right to contest other issues, as was done in the recent case, *Certain Molded-In Sandwich Panel Inserts*, Inv. No. 337–TA–99, in which respondents chose to contest only the issues of res judicata and jurisdiction. In such a case the defaulting party will be prevented only from seeking or contesting review of matters as to which it is in default.

The same firm urged that the Commission amend § 210.14(b) to permit the presiding officer to take evidence and hear arguments relevant to the Commission's remedy, bonding and public interest determinations. That section specifically prohibits the presiding officer from taking evidence on these issues unless directed to do so by the Commission. This suggestion is outside the scope of the rules changes sought in the present amendments, and consideration of such a change must await future revisions of section 337.

A second firm made two recommendations for changes to the proposed rules. First, it suggested that a new subsection be added to § 210.56 to provide a 60-day time limit on Commission review of an initial determination concerning temporary relief. The Commission has adopted this suggested amendment. Because they are of an emergency nature, motions for temporary relief are ordinarily expedited. While the firm has pointed to no specific past difficulties in obtaining timely disposition of motions for temporary relief, the Commission nevertheless considers the revision advisable because it will insure the confidence of the parties and the public that these motions will be handled expeditiously. Moreover, the 60-day limit is short enough to guarantee timeliness but long enough to insure against overly hasty decisionmaking.

The firm's second recommendation related to the issues of relief, bonding, and the public interest, provided for in § 210.14. The firm expressed the belief that the amendments did not unambiguously provide a procedure for bringing those issues before the Commission and suggested that an additional subsection be added to § 210.56 explicitly providing for Commission consideration of these issues in any case reviewed by the Commission or in which an initial determination granting relief is not reviewed by the Commission.

The Commission does not believe it is necessary to further amend its rules to provide for explicit consideration of relief, bonding, and the public interest. These matters are already covered by § 210.14, which is unaffected by these amendments. That section provides that these issues will be considered by the Commission "(d)uring the course of each proceeding under" section 337, and that "(t)he Commission will consider motions for oral argument or, when necessary, for a hearing with respect to" relief, bonding, and the public interest. Thus, under the amended rules, as under the prior rules, the Commission will consider the issues set forth in § 210.14 in every section 337 case in which relief is or may be granted, even when the Commission elects not to review an initial determination granting relief. The procedures will be identical to those pertaining prior to promulgation of these final rules.

The third firm submitted a number of suggestions for changes to the proposed rules. Two of those suggestions, relating to relief, bonding, and public interest and ability of a defaulting party to petition for review, were also made by

other commenting firms and are discussed above.

The firm suggested that the initial determination procedures be made applicable to motions under § 211.57 for modification or dissolution of final Commission actions. While the Commission may wish to revise or broaden its procedures under § 211.57 after it gains further experience with motions for modification or dissolution of final actions, such changes would be premature at present and in any event are beyond the intended scope of the present amendments. For similar reasons, the Commission does not consider it appropriate at present to make a second revision recommended by the firm that the waiver provision of § 210.54(a)(2) be specifically applied to modification proceedings and that standards should be established for determining when such a waiver may be excused in a modification proceeding.

Another comment submitted by the firm questioned proposed § 210.53(c), which provides with respect to a motion for summary determination, termination, finding of default, or amendment to complaint or notice of investigation that the presiding officer shall grant the motion by filing an initial determination or shall deny the motion by issuing an order directing denial. The firm noted that this provision represents a change with regard to motions for amendment of complaint or notice of investigation, which, under existing § 210.22, are to be certified by the presiding officer to the Commission in every instance, and contended that the change is inappropriate because it will disadvantage complainants. It is recommended at the very least that the Commission explain its reason for providing review only of a presiding officer's determination to grant a motion for amendment of the complaint or notice of investigation.

The Commission included this revision in the proposed rules—and is retaining it in the final rules—for two reasons. First, it harmonizes procedures for review of motions for amendment of the complaint and notice of investigation with those for review of motions for summary determination, termination, and finding of default. Second, the Commission believes it appropriate under the revised rules to limit its review only to those situations in which the presiding officer's order results in a change of the scope of the investigation established by the Commission at the time of institution.

The firm further recommended that the Commission clarify the rules by deleting proposed §§ 210.53(g)(1)(i) and 210.53(g)(2)(i) and by moving the specification of filing deadlines for review petitions to § 210.54. The Commission agrees that the two subsections [now redesignated as §§ 210.53(h)(1)(i) and 210.53(h)(2)(i) because of adoption of a new § 210.53(c) on the suggestion of the Department of Justice] may be confusing, because, as drafted in the proposed rules, they could imply that the mere filing of a petition for review, rather than a Commission determination to undertake review, would be sufficient to prevent an initial determination from becoming the determination of the Commission. The Commission, therefore, has revised § 210.53 by deleting the subsections and has added to § 210.54 the deadlines for seeking review that were previously set out in the two deleted subsections.

The Commission does not find it necessary to make the additional change to § 210.53 suggested by the firm, namely that the rule specify that it may be appropriate in certain circumstances for the presiding officer to file an initial determination under § 210.53(c), dealing with certain interlocutory motions, before filing an initial determination under § 210.53(a), dealing with issues concerning permanent relief. The interlocutory motions covered by § 210.53(c) are ordinarily handled prior to a determination on permanent relief, and this sequence of events need not be spelled out in the rules.

The third firm's final suggestion is that, if proposed § 210.54(a)(2) is intended to establish standards for granting a petition for review, as stated in the Commission's explanatory comments to the proposed rules, this should be set forth explicitly in the rules. The Commission agrees with this suggestion, and sentences have been added to §§ 210.54(b) and 210.55 to make explicit the correspondence between the kinds of issues to be raised by a party seeking review and the standards to be used by the Commission in granting review. In addition, the standards set out in § 210.54(a)(2) have been redrafted in the interest of clarity.

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Customs duties and inspection, Imports, Investigations.

19 CFR Part 210 is amended as set forth below.

PART 210—ADJUDICATIVE PROCEDURES

1. In § 210.21, paragraph (d) is revised to read as follows:

§ 210.21 The response.

* * * * *

(d) *Default.* Failure of a respondent to file a response within the time provided for in paragraph (a) of this section may be deemed to constitute a waiver of its right to appear and contest the allegations of the complaint and of the notice of investigation, and to authorize the presiding officer, without further notice to that respondent, to find the facts to be as alleged in the complaint and notice of investigation and to enter an initial determination (or a determination if the Commission is the presiding officer) containing such findings.

2. In § 210.22, paragraph (a) is revised to read as follows:

§ 210.22 Amendments to pleadings and notice of investigation.

(a) *By leave.* If and whenever disposition of the issues in an investigation on the merits will be facilitated, the presiding officer, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to an investigation, may allow appropriate amendments to pleadings: Provided, however, that a motion for amendment of a complaint after the institution of an investigation shall be made to the presiding officer, who shall grant the motion by filing with the Commission an initial determination, or shall deny the motion by issuing an order directing denial; the motion shall be decided according to the standards of § 210.20(d) of this part. A motion for amendment of a notice of investigation shall be dealt with as provided for with respect to motions for amendment of a complaint.

* * * * *

3. In § 210.36, paragraph (b)(5) is revised to read as follows:

§ 210.36 Failure to make discovery; sanctions.

* * * * *

(b) * * *

(5) Rule that a motion or other submission by the party concerning the order or subpoena issued be stricken or rule (by initial determination where the presiding officer is not the Commission) that a determination in the investigation be rendered against the party, or both. Any such action may be taken by written or oral order issued in the course of the investigation or by inclusion in the initial determination of the presiding officer when the presiding officer is not the Commission. It shall be the duty of the parties to seek, and that of the presiding officer to grant, such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for the lack of withheld

testimony, documents, or other evidence. If in the presiding officer's opinion such relief would not be sufficient, the presiding officer shall certify to the Commission a request that court enforcement of the subpoena or other discovery order be sought.

4. In § 210.43, paragraph (c) is revised to read as follows:

§ 210.43 Record.

* * * * *

(c) *Certification of record.* The record shall be certified to the Commission by the presiding officer upon his filing of an initial determination or at such earlier time as the Commission may order.

5. In § 210.50, paragraph (f) is revised to read as follows:

§ 210.50 Summary determinations.

* * * * *

(f) *Order of summary determination.* An order of summary determination shall constitute a determination of the Commission under § 210.56(c) of this part when the Commission is the presiding officer. An order of summary determination shall constitute an initial determination of the presiding officer under § 210.53 when the presiding officer is not the Commission.

6. In § 210.51, paragraphs (c)(2), (d), and (e) are revised to read as follows:

§ 210.51 Termination of investigation.

* * * * *

(c) * * *

(2) The motion, licensing or other agreement and any agreements supplemental thereto, and affidavit shall be certified by the presiding officer to the Commission with a recommendation. The Commission shall promptly publish notice of such motion along with a nonconfidential summary of the licensing or other agreement in the **Federal Register** and, unless otherwise ordered, for a period of thirty (30) days thereafter receive and consider any comments that may be filed by interested persons concerning the agreement. An order of termination based upon such licensing or other agreement shall not constitute a determination of the Commission under § 210.56(c).

(d) *Consent order settlement.* An investigation before the Commission may be terminated as provided in paragraph (a) of this section on the basis of a consent order settlement under § 211.20(b). An order of termination based upon such a settlement shall not constitute a determination of the Commission under § 210.56(c).

(e) *Effect of termination.* Except as provided in paragraphs (c) and (d) of this section, an order of termination issued by the Commission shall constitute a determination of the Commission under § 210.56(c), and an order of termination issued by the presiding officer (when not the Commission) shall constitute an initial determination of the presiding officer under § 210.53.

7. Sections 210.53, 210.54, and 210.55 are revised to read as follows:

§ 210.53 Initial determination.

(a) *On issues concerning permanent relief.* Following a hearing for the taking of evidence and hearing of arguments and within nine months, or within fourteen months in a more complicated case, of the date of publication in the **Federal Register** of the notice instituting the investigation, the presiding officer shall certify the record to the Commission and shall file with the Commission an initial determination as to whether there is a violation of section 337 of the Tariff Act of 1930.

(b) *On issues concerning temporary relief.* Following a hearing for the taking of evidence and hearing of arguments and within four months of the date of publication in the **Federal Register** of the notice instituting the investigation, the presiding officer shall certify the record to the Commission and shall file with the Commission an initial determination as to whether there is reason to believe there is a violation of section 337 of the Tariff Act of 1930.

(c) *On motions for summary determination, termination, finding of default, or amendment to complaint or notice.* Following the filing of a motion for summary determination pursuant to § 210.50, motion for termination pursuant to § 210.51, motion for a finding of default pursuant to §§ 210.21(d) and 210.51(b), or motion to amend the complaint or notice of investigation pursuant to § 210.22(a), the presiding officer shall grant such motions by filing with the Commission an initial determination, or shall deny such motions by issuing an order directing denial.

(d) *Contents.* The initial determination shall include: an opinion stating findings (with specific page references to principal supporting items of evidence in the record) and conclusions and the reasons or bases therefor necessary for the disposition of all material issues of fact, law or discretion presented in the record; and a statement that pursuant to § 210.53(h) of these rules the initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to § 210.54 of these rules, or the Commission pursuant to § 210.55 of these rules orders on its own motion a review of the initial determination or certain issues therein.

(e) *Notice to and advice from departments and agencies.* The Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate shall be served with a copy of the initial determination. The Commission shall consider comments, limited to issues raised by the record, the initial determination, and the petitions for review, received from such agencies when deciding whether to initiate review or the scope of review. The Commission shall allow such agencies 20 days after the service of an initial determination filed pursuant to § 210.53(a) or 10 days after the service of an initial determination filed pursuant to § 210.53 (b) or (c) to submit their comments.

(f) *Initial determination made by the presiding officer.* The initial determination shall be made and filed by the presiding officer who presided over the investigation, except when that person is unavailable to the Commission.

(g) *Reopening of proceedings by the presiding officer.* At any time prior to the filing of the initial determination, the presiding officer may reopen the proceedings for the reception of additional evidence.

(h) *Effect.* (1) Unless otherwise ordered by the Commission, an initial determination filed pursuant to § 210.53(a) shall become the determination of the Commission thirty (30) days after the service thereof, except when the Commission, within thirty (30) days after the date of filing of the initial determination, shall have ordered review of the initial determination or certain issues therein pursuant to § 210.54(b) or § 210.55.

(2) Unless otherwise ordered by the Commission, an initial determination filed pursuant to § 210.53 (b) or (c) shall become the determination of the Commission fifteen (15) days after the service thereof, except when the Commission, within fifteen (15) days after the date of filing of the initial determination, shall have ordered review of the initial determination or certain issues therein pursuant to § 210.54(b) or § 210.55.

(i) *Notice of determination.* In the event an initial determination becomes the determination of the Commission, the parties shall be notified thereof by the Secretary. The notice shall also state that the time for filing a petition for

review of the initial determination has expired and that the Commission has decided not to review the initial determination on its own motion.

§ 210.54 Petition for review.

(a) *The petition and responses.* (1) Any party to an investigation may request a review by the Commission of an initial determination by filing with the Secretary a petition for review, except that a party who has defaulted may not petition for review of any issue regarding which the party is in default. A petition for review of an initial determination filed pursuant to § 210.53(a) shall be filed within ten (10) days after the service of the initial determination. A petition for review of an initial determination filed pursuant to § 210.53 (b) or (c) shall be filed within five (5) days after the service of the initial determination. A petition for review shall:

(i) Identify the party seeking review;

(ii) Specify the issues upon which review of the initial determination is sought—

(A) a finding or conclusion of material fact is clearly erroneous;

(B) a legal conclusion is erroneous, without governing precedent, rule or law, or constitutes an abuse of discretion; or

(C) the determination is one affecting Commission policy.

(iii) Set forth a concise statement of the facts material to the consideration of the stated issues; and

(iv) Present a concise argument setting forth the reasons why review by the Commission is necessary or appropriate to resolve an important issue of fact, law or policy.

(2) Any issue not raised in the petition for review filed pursuant to this rule will be deemed to have been abandoned and may be disregarded by the Commission in reviewing an initial determination.

(3) Any party may file a response to the petition for review within five (5) days after service of the petition, except that a party who has defaulted may not file a response to any issue regarding which the party is in default.

(b) *Grant or denial of review.* (1) The Commission shall decide whether to grant, in whole or in part, a petition for review filed pursuant to § 210.53(h)(1) within thirty (30) days of the filing of the initial determination, or a petition for review filed pursuant to § 210.53(h)(2) within fifteen (15) days of the filing of the initial determination, or by such other time as the Commission may order.

(2) The Commission shall decide whether to grant a petition for review, based upon the petition and response thereto, without oral argument or further written submissions unless the Commission shall order otherwise. The standards for granting review of an initial determination are set forth in section 210.54(a)(2).

(3) The Commission shall grant a petition for review and order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. In its order, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The order and notice that the Commission has granted the petition for review shall be served by the Secretary on all parties, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

§ 210.55 Commission review on its own motion.

Within the time provided in § 210.53(h)(1) or § 210.53(h)(2), the Commission on its own initiative may order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. The standards for granting review of an initial determination are set forth in section 210.54(a)(2). In its order, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The order and notice that the Commission has directed review on its own initiative shall be served by the Secretary on all parties, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

§§ 210.56, 210.57 and 210.58 Redesignated as §§ 210.57, 210.58 and 210.59.

8. Present §§ 210.56, 210.57, and 210.58 are redesignated §§ 210.57, 210.58, and 210.59, respectively.

9. A new § 210.56 is added to read as follows:

§ 210.56 Review by Commission.

(a) *Briefs and Oral Argument.* In the event the Commission orders review of an initial determination the parties may file review briefs concerning the issues on review at a time, and of a size and nature set forth in the order granting the petition for review. The parties within the time provided for filing the review briefs may submit a written request for a hearing to present oral argument before the Commission, which the Commission in its discretion may grant or deny. The Commission shall grant the request when at least one of the participating Commissioners votes in favor of the request.

(b) *Scope of review.* Only the issues set forth in the order granting review, and all subsidiary issues therein, will be considered by the Commission.

(c) *Determination on review.* On review the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge and make any findings or conclusions which in its judgment are proper based on the record in the proceeding.

(d) *Time limit for review of initial determinations concerning temporary relief.* In the event the Commission orders review of an initial determination concerning temporary relief filed pursuant to § 210.53(b), such review shall be completed within sixty (60) days from the date review is ordered, unless the Commission orders otherwise.

§ 210.57 [Amended]

10. In § 210.57, as redesignated, paragraph (a) is revised to read as follows:

(a) *Service of Commission determination upon the parties.* A Commission determination pursuant to § 210.56(c) or a termination on the basis of a licensing or other agreement or consent settlement pursuant to §§ 210.51 (c) and (d), respectively, shall be served upon each party to the investigation.

* * * * *

§ 210.60 [Amended]

11. The first sentence of § 210.60 is revised to read as follows:

§ 210.60 Interlocutory appeals.

Rulings by the presiding officer on motions may not be appealed to the Commission prior to the presiding officer's issuance of his initial determination except in the following circumstances:

* * * * *

By order of the Commission.

Issued: June 4, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-15640 Filed 6-9-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7820]

Income Tax; Taxable Years Beginning After December 31, 1953; Partnerships and Investment Credit for Used Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulation amendments relating to partnerships and investment credit for certain used property. The amendments are necessary to make the regulations consistent with recent court cases.

DATES: The amendments are effective June 10, 1982 for taxable years ending after December 31, 1961.

FOR FURTHER INFORMATION CONTACT: Carolyn Swift of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: C:LR:T) (202–566–3458) (not a toll-free call).

SUPPLEMENTARY INFORMATION: On November 28, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 48(c) of the Internal Revenue Code relating to investment credit for used section 38 property (45 FR 79094). The amendments concern the definition of used section 38 property as it relates to partners and partnerships and are designed to make the regulations consistent with recent court cases. No comments from the public were received.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Because the notice of proposed rulemaking for this regulation was filed with the **Federal Register** on November 26, 1980, no regulatory flexibility analysis is required.

Drafting Information

The principal author of these regulations is Carolyn Swift of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other Offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.01–1—1.58–8

Income taxes, Tax liability, Tax rates, Credits.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Income Tax Regulations (26 CFR Part 1) as published in the **Federal Register** on November 28, 1980 (45 FR 79094), are adopted without change, as set forth below. The regulations are adopted under the authority contained in sections 38(b) and 7805 of the Internal Revenue Code of 1954 (76 Stat. 962, U.S.C. 38(b); 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 18, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

§ 1.48–3 [Amended]

In § 1.48–3, paragraph (a)(2)(ii) is amended by removing following language: "(*a*) property used by a partnership shall be considered as used by each partner, and (*b*)" and paragraph (a)(3) is amended by removing Example 5.

[FR Doc. 82–15649 Filed 6–9–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–82–13]

Bay City Outboard Association 1982 Regional Championship, Special Local Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in the Saginaw River on 26 and 27 June 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Saginaw River area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on 26 and 27 June 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: Since there is insufficient time to publish a proposed rule before the date of the event this regulation is published as a final rule and will become effective in less than 30 days.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received due to the previously mentioned lack of time for a proposed rule.

Summary of Final Evaluation

The Bay City Outboard Association Regional Championship will be conducted on the Saginaw River on 26 and 27 June 1982. This event will have an estimated 100 Stock Outboards which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Saginaw, MI).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be opened periodically to allow for the passage of commercial vessels and that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0913 Saginaw River-Bay City, MI.

(a) The following area will be closed to navigation or anchorage for vessels less than 65 feet from 10:00 A.M. (local time) until 6:00 P.M. on 26 and 27 June 1982.

(1) That portion of the Saginaw River from the Bascule Bridge to the Veterans Memorial Bridge.

(b) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This § 100.35–0913 will become effective at 10:00 A.M. (local time) on 26 June 1982 and will no longer be effective after 6:00 P.M. on 27 June 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: May 25, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard, Commander, Ninth Coast Guard District, Acting.

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33 CFR Part 100

[CGD 09-82-15]

Duluth Harbor Fireworks, Special Local Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in Duluth Harbor, Lake Superior on 4 July 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Duluth Harbor area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on July 4, 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: On 29 April 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (47 FR 18370). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received and no significant differences exist between the proposed and final rule.

Summary of Final Evaluation

The Duluth fireworks display will be conducted in Duluth Harbor on 4 July 1982. This event will have falling ash and debris and an unusually large concentration of spectator boats which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Station Duluth, MN).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0915 Lake Superior/Duluth Harbor Basin Northern Section.

(a) The following portions of Duluth Harbor, Lake Superior will be closed to commercial vessel navigation or anchorage from 7:30 p.m. (local time) until 11:00 p.m. on 4 July 1982.

(1) That portion of Duluth Harbor Basin Northern Section bounded on the south by a line drawn on a bearing of 087 degrees true from the Cargill Pier through Duluth Basin Lighted Buoy 5 (LLNR 1813) to the opposite shore and on the north by the Duluth Aerial Bridge.

(b) The following portions of Duluth Harbor Basin Northern Section will be closed to all traffic from 7:30 p.m. until 11:00 p.m. on 4 July 1982.

(1) Within 300 yards of position 46 degrees 46 minutes 43 seconds North and 092 degrees 06 minutes 03 seconds West.

(c) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(d) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Partrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(e) This § 100.35–0915 will become effective at 7:30 p.m. (local time) on 4 July 1982 and will no longer be effective after 11:30 p.m. on 4 July 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 USC 454; 49 USC 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))