heat input except for those sources located in specified counties of the State. A limit of 6-pounds-per-million Btu heat input applies to sources over 500-million Btu per-hour heat input located in the following counties: Black Hawk (Waterloo); Clinton (Clinton); Des Moines (Burlington); Dubuque (Dubuque); Jackson, Lee (Keokuk); Linn (Cedar Rapids); Louisa, Muscatine, and Scott (Davenport). A 6-pound limit is in effect statewide for new sources under 250-million Btu heat input.

It should be noted that the presently approved SIP emission limit for SO_2 from solid fuel-burning sources is 5-pounds-per-million Btu heat input. The State adopted a 6-pound limit, but requested that EPA not take action approving it as part of the SIP pending further revision of the regulations. The regulation adopted by the State is intended to supplant both the previous State regulation of 6-pounds-per-million Btu and the federally approved SIP regulation of 5-pounds-per-million Btu.

Liquid fuel-burning sources are limited to 2.5 pounds of SO_2 per-million Btu except for sources subject to NSPS.

Once a violation of the SO_2 ambient standards has occurred, the director may subject all solid fuel-burning sources within 20 kilometers of that particular monitoring site to a 6-pounds-per-million Btu emission limit rather than the 8-pound limit.

The revisions to Section 4.3(3) were adopted April 15, 1976, and became effective July 19, 1976.

In addition to the above revisions, the State has made a number of revisions in the codification and internal cross-referencing of the regulations. These are minor changes that do not affect the control strategy in the SIP.

In the notice of proposed rulemaking, public comment was solicited with regard to Iowa's amended regulations and the opportunity to request public hearing was provided. Copies of the materials submitted by the State were made available for public inspection at the Agency's Region VII office in Kansas City, Missouri; EPA headquarters in Washington, D.C.; and at the office of the Iowa DEQ. No requests for public hearing were received. Comments were received from the Iowa Manufacturers Association and the Iowa DEQ. Both commenters supported the proposed revisions to Section 4.3(3). In addition, the DEQ offered additional technical information in support of these revisions.

The challenge filed by the Administrative Rules Review Committee of the Iowa General Assembly to the revisions which specify different SO_2 limits in different counties has been rescinded by the Committee. The objection was discussed in the proposal document, but since it is withdrawn, it does not affect the approvability of the regulations.

All the above changes constitute a proposed revision to the State of Iowa SIP. The Administrator's decision to approve or disapprove revisions to a plan is based on whether or not they meet the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51 "Requirements for Preparation, Adoption and Submittal of State Implementation Plans."

After a careful review of all the changes contained in the proposed revision, the Administrator has determined that the proposed revisions to the SO_2 emission limits contained in Chapter 4 are inadequate to maintain the NAAQS for SO_2.

Technical documentation submitted to support Subrule 4.3(3)a(1), which relaxes SO_2 emission limits for major solid fuel-burning sources in all but 10 counties, was inadequate to demonstrate continued compliance with the NAAQS. Subrule 4.3(3)a(5) would reduce the allowable emissions from 8-pounds-per-million BTU to 6-pounds-per-million BTU if a violation of the NAAQS is monitored within 20 kilometers. This provision cannot be interpreted as adequately providing for attainment and maintenance of the NAAQS, since a violation of the NAAQS must occur before the section can be enforced. It could serve as a back-up provision if there was an adequate demonstration showing that within the technical limitations of predictive dispersion modeling the regulations would provide for maintenance of the NAAQS.

For the above reasons, Subrules 4.3(3)a(1) and 4.3(3)a(5) cannot be approved as part of the SIP.

Subrule 4.3(2)a, which permits the Director to impose a particulate matter emission limit of 0.1 grains-per-standard-cubic-foot of exhaust gas upon a source meeting the generally applicable process weight regulation if the Director determines that the source is causing air pollution in a specific area of the State, is being approved by the Administrator. Approval of this discretionary mechanism, however, does not in itself relieve the State from submitting to the Administrator for review and approval/disapproval, pursuant to section 110 of the Clean Air Act, a control strategy for particulate matter, including categorical or source specific-emission limitations and supporting air quality demonstrations pursuant to the call for revisions made on July 16, 1976 (41 FR 29479). The imposition of more stringent emission limitations by the Director under Subrule 4.3(2)a may result in emission limitations which are sufficient to attain NAAQS for particulate matter, in which case the plan deficiencies would be corrected upon submission to, and approval by, the Administrator of those more stringent emission limitations. However, since the limitations under Subrule 4.3(2)a are not federally enforceable until approved by the Administrator as plan revisions, and since it cannot be determined now whether exercise of Subrule 4.3(2)a will result in sufficient control to attain and maintain NAAQS, the deficiencies identified in the July 16, 1976, call for revisions for particulate matter cannot be considered to have been corrected by this approval action.

With the exception of Subrules 4.3(3)a(1) and 4.3(3)a(5) the revisions are determined to meet the requirements of section 110 and 40 CFR Part 51. Accordingly, with the exception of the specified amendments to Chapter 4, which are disapproved, this plan revision is hereby approved and made a part of the State of Iowa implementation plan.

(Sec. 110, 301, Clean Air Act as amended (42 U.S.C. 1857c-5, 1857g))

Dated: May 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart Q—Iowa

1. Section 52.820 is amended by adding paragraphs (c)(25) and (c)(26) as follows:

§ 52.820 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified: * * *

(25) Revisions to Rules 1.2, 2.1, 3.1, 4.1, 4.3, 4.4, and new Chapters 14 and 52 of the Iowa Administrative Code Relating to Air Pollution Control were submitted June 9, 1976, by the Department of Environmental Quality (Subrules 4.3(3)a(1) and 4.3(3)a(5) were disapproved).

(26) Additional air quality modeling to support the sulfur dioxide emission standards of Subrules 4.3(3)a(1) and 4.3(3)a(2) was submitted March 4, 1977, by the Department of Environmental Quality (Non-regulatory).

[FR Doc.77-15478 Filed 5-31-77;8:45 am]

[FRL 730-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to the Texas Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action approves revisions to Rules 23 and 24 of the General Rules of the State Implementation Plan (SIP) for Texas. The rules as revised reflect the requirement of applicable sources to comply with New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). Approval of the SIP revisions will help to ensure compliance with NSPS and NESHAPS requirements by applicable sources.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Texas 75270 (214-749-3837).

SUPPLEMENTARY INFORMATION: On May 9, 1975, the Governor of Texas submitted revisions to Rules 23 and 24

of the General Rules. As revised, Rules 23 and 24 require applicable sources to comply with the requirements of NSPS and NESHAPS respectively. Review of the revisions indicated that Texas had met all procedural requirements for submitting SIP revisions, and that the revisions were approvable. Accordingly, a proposed approval of the revised Rules 23 and 24 was published in the FEDERAL REGISTER on March 21, 1977 (42 FR 15343).

PUBLIC COMMENTS

In the proposed approval of Rules 23 and 24, interested persons were given 30 days in which to submit comments for consideration by EPA in making a final approval/disapproval decision. No comments on the proposed approval were received. Therefore, there is no evidence or data which conflicts with a final approval decision.

CURRENT ACTION

In this action, approval of the revisions to Rules 23 and 24 is being promulgated as proposed.

(Sec. 110(a), Clean Air Act, as amended (42 U.S.C. 1857c(a)).)

Dated: May 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by revising subparagraph (11) and adding subparagraph (12) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(11) Administrative revisions were submitted by the Texas Air Control Board with the semiannual report in 1974 for Sections I, II, III, IV, XI, and XIII, and with the semiannual report in 1975 for Sections I, II, XI, and XII (Nonregulatory).

(12) Revisions to Rule 23, concerning compliance with New Source Performance Standards, and Rule 24, concerning compliance with National Emission Standards for Hazardous Air Pollutants, were submitted by the Governor on May 9, 1975.

2. Section 52.2271 is amended by adding paragraph (c) as follows:

§ 52.2271 Classification of regions.

* * * * *

(c) The revision of Section II, classification of regions, submitted by the Texas Air Control Board with the semiannual in 1975 is disapproved.

[FR Doc.77-15481 Filed 5-31-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-337]

ELIMINATION OF COORDINATION PROCEDURES WITH U.S. DEPARTMENT OF AGRICULTURE AND U.S. DEPARTMENT OF THE INTERIOR

Miscellaneous Changes to Chapter

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to requests from the Office of Telecommunications Policy, the Department of the Interior, and the Department of Agriculture the Commission is deleting from its rules coordination procedures between the Commission and the U.S. Forest Service and the Bureau of Land Management for handling applications for transmitting facilities to be located on lands or reservations under the jurisdiction of these Federal departments.

EFFECTIVE DATE: June 3, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Eugene C. Bowler, Safety and Special Radio Services Bureau (202-632-6497).

SUPPLEMENTARY INFORMATION:

Adopted: May 18, 1977.

Released: May 27, 1977.

In the matter of: amendment of Parts 1, 21, 23, 73, 74, 81, 87, 89, 91, 93, 94, 95, 97, and 99 of the Commission's Rules and Regulations to eliminate the coordination procedures with the U.S. Department of Agriculture and the U.S. Department of Interior when proposing to install or modify transmitting facilities on certain lands under the jurisdiction of these Departments.

1. The Commission has been advised by the U.S. Department of Agriculture and the U.S. Department of the Interior that they no longer have a need for, and consequently propose discontinuing participation in, the coordination procedures outlined in § 1.70 of the Commission's Rules and Regulations. The Office of Telecommunications Policy has concurred in this decision and is deleting these procedures from the Office of Telecommunications Policy Manual. All of these parties have requested the Commission to conform its rules by the deletion of these requirements.

2. Since the rules in question were adopted to satisfy the needs of these Federal agencies, and were designed solely for this purpose, and, since these agencies now indicate no need for such procedures, the Commission is deleting them from its rules.

3. Section 1.70 is basically a procedural rule. Therefore, we may adopt this order to delete it without first following the notice and comment procedures prescribed in Section 4 of the Administrative Procedure Act, 5 U.S.C. 553.

4. For the foregoing reasons, the Commission has concluded that the public interest will be served by adopting these rule amendments.

Accordingly, *it is ordered*, Pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, that Parts 1, 21, 23, 73, 74, 81, 87, 89, 91, 93, 95, 97, and 99 are amended, effective June 3, 1977, as set forth in the attached appendix.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

PART 1—PRACTICE AND PROCEDURE

I. Part 1 of the Commission's Rules is amended as follows:

§ 1.70 [Deleted]

1. Section 1.70 is deleted.

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

II. Part 21 is amended as follows:

1. Section 21.15 is amended by deleting and reserving paragraph (b).

§ 21.15 Technical content of applications.

* * * * *

(b) [Reserved]

* * * * *

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICE

III. Part 23 is amended as follows:

1. Section 23.20 is amended by deleting and reserving paragraph (c).

§ 23.20 Assignment of frequencies.

* * * * *

(c) [Reserved]

* * * * *

PART 73—RADIO BROADCAST SERVICES

IV. Part 73 is amended as follows:

1. Section 73.18 is amended by deleting and reserving paragraph (b).

§ 73.18 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

2. Section 73.215 is amended by deleting and reserving paragraph (b).

§ 73.215 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

3. Section 73.515 is amended by deleting and reserving paragraph (b).

§ 73.515 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

4. Section 73.624 is amended by deleting and reserving paragraph (b).

§ 73.624 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

5. Section 73.711 is amended by deleting and reserving paragraph (b).

§ 73.711 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

V. Part 74 is amended as follows:

1. Section 74.12 is amended by deleting and reserving paragraph (b).

§ 74.12 Notification of filing of applications.

* * * * *

(b) [Reserved]

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

VI. Part 81 is amended as follows:

1. Section 81.31 is amended by deleting and reserving paragraph (c).

§ 81.31 Supplemental information required.

* * * * *

(b) [Reserved]

PART 87—AVIATION SERVICES

VII. Part 87 is amended as follows:

1. Section 87.31 is amended by deleting and reserving paragraph (e).

§ 87.31 Application for ground station authorization.

* * * * *

(e) [Reserved]

* * * * *

PART 89—PUBLIC SAFETY RADIO SERVICES

VIII. Part 89 is amended as follows:

1. Section 89.55 is amended by deleting and reserving paragraph (f).

§ 89.55 Filing of applications.

* * * * *

(f) [Reserved]

PART 91—INDUSTRIAL RADIO SERVICES

XI. Part 91 is amended as follows:

1. Section 91.54 is amended by deleting and reserving paragraph (f).

§ 91.54 Filing of applications.

* * * * *

(f) [Reserved]

PART 93—LAND TRANSPORTATION RADIO SERVICES

X. Part 93 is amended as follows:

1. Section 93.54 is amended by deleting and reserving paragraph (f).

§ 93.54 Filing of applications.

* * * * *

(f) [Reserved]

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

XI. Part 94 is amended as follows:

1. Section 94.25 is amended by deleting and reserving paragraph (e).

§ 94.25 Filing of applications.

* * * * *

(e) [Reserved]

* * * * *

PART 95—CITIZENS RADIO SERVICE

XII. Part 95 is amended as follows:

1. Section 95.17 is amended by deleting and reserving paragraph (e).

§ 95.17 Filing of applications.

* * * * *

(e) [Reserved]

* * * * *

PART 97—AMATEUR RADIO SERVICE

XIII. Part 97 is amended as follows:

1. Section 97.41 is amended by deleting and reserving paragraph (f).

§ 97.41 Application for station license.

* * * * *

(f) [Reserved]

* * * * *

PART 99—DISASTER COMMUNICATIONS SERVICE

XIV. Part 99 is amended as follows:

1. Section 99.11 is amended by deleting and reserving paragraph (g).

§ 99.11 Applications.

* * * * *

(g) [Reserved]

* * * * *

[FR Doc.77-15467 Filed 5-31-77;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[FRA Docket No. HS-2, Notice No. 5]

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

Interim Rules on Construction or Reconstruction of Railroad Employee Sleeping Quarters; Revision

AGENCY: Federal Railroad Administration, Department of Transportation.

ACTION: Revision to interim rule.

SUMMARY: This document revises the Federal Railroad Administration (FRA) interim rules on the construction(or reconstruction) of railroad sleeping quarters in the vicinity of switching or humping operations to correct an error in the original interim rules. The revision deletes a requirement that an application for approval of a construction site within one-half mile of switching or humping operations contains a separate estimate of the number of anhydrous ammonia cars passing through the facility. The FRA has determined that a separate estimate of anhydrous ammonia cars is not essential to evaluation of proposed construction sites.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: John A. McNally (202-426-9178), Principal Lawyer: Grady C. Cothen, Jr. (202-426-8285)

SUPPLEMENTARY INFORMATION: Section 2(a)(4) of the Hours of Service Act, as amended (45 U.S.C. 62(a)(4)), prohibits the construction or reconstruction of railroad employee sleeping quarters within or in the immediate vicinity, as determined in accordance with rules prescribed by the Secretary of Transportation, of any area where switching or humping operations are performed. On December 3, 1976, FRA published in the FEDERAL REGISTER interim rules for determining whether proposed locations are sufficiently removed from switching or humping operations in light of all relevant factors (FR Doc. 76-3560; 41 FR 53028).

The effect of the revision set forth below is to delete the requirement that a carrier seeking approval of a site for the construction or reconstruction of sleeping quarters within one-half mile of switching or humping operations must include in its application an estimate of the average daily number of anhydrous ammonia cars passing through the facility. The rule had been erroneous in suggesting that such cars are required to be handled under FRA Emergency Order No. 5 (39 FR 38230; October 30, 1974). FRA has determined that requiring development of a separate computation of anhydrous ammonia cars is not essential to the evaluation of proposed sites. Under the rule as revised, such cars must still

be included in the overall estimate of placarded hazardous materials cars which a petition for approval must contain.

Since this revision is purely procedural and relates to regulations mandated by statute, it is not subject to the Department of Transportation policy concerning the evaluation of regulatory impact (41 FR 16200; April 16, 1976).

In consideration of the foregoing, paragraph (b)(7)(ii) of Rule 2, published at page 53030 of Vol. 41, FEDERAL REGISTER, is revised to read as follows:

Rule 2 *Approval procedure: Construction between one-third and one-half mile (1,760 to 2,640 feet) (536 to 804 meters).*

* * * * *

(b) * * *

(7) * * *

(ii) number of DOT Specification 112A and 114A tank cars transporting flammable gas subject to FRA Emergency Order No. 5.

* * * * *

Issued at Washington, D.C., on May 10, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77-15420 Filed 5-31-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Room Air Conditioners

AGENCY: Federal Energy Administration.

ACTION: Final Rule.

SUMMARY: This rule prescribes final test procedures for room air conditioners. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

EFFECTIVE DATE: July 5, 1977.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 566-4635.

James E. Merna (Media Relations), Room 3104, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 566-9833.

Elliott D. Light (Office of the General Counsel), Room 5116—Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 566-9750 or (202) 566-9380.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) hereby amends Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for room air conditioners pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163).

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general provisions, and a Subpart C, containing proposed energy efficiency improvement targets. A further proposal of Subpart C will be necessary in order to meet the requirements of section 325 (a)(1) of the Act as amended by section 161 of the Energy Conservation and Production Act (Pub. L. 94-385).

By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. Among its provisions, the notice issued July 22 set forth proposed test procedures for room air conditioners. A notice clarifying the sampling provision of the proposed air conditioner test procedure was issued March 24, 1977 (42 FR 16811, March 30, 1977). Today FEA is establishing Part 430 as an amendment to Chapter II of Title 10, Code of Federal Regulations, by prescribing final room air conditioner test procedures in Subpart B and certain associated definitions and general provisions in Subpart A of Part 430.

Both the July 22 and the March 24 notices solicited oral and written comments from interested persons. A public hearing on the July 22 notice was scheduled September 10, 1976. Because only one respondent, the Association of Home Appliance Manufacturers (AHAM), requested the opportunity to present its views orally, the public hearing was not held. Instead, on September 30, 1976, the AHAM representativese prsented their views to FEA at a conference held in the offices of FEA. A hearing originally scheduled on April 15, 1977, for the March 24 notice was held on April 14, 1977.

B. DISCUSSION OF COMMENTS

Comments were received from both consumers and industry. Comments from consumers accounted for a majority of the comments received. Most of the comments of consumers, however, concerned the content of the label and the manner in which the energy-related information should be expressed. As will be discussed below, such comments are not relevant to this regulation, but will be considered in the development of regulations pertaining to labels. Comments from industry were directed to the label as well as more technical questions concerning the proposed test procedure. The major issues raised by the comments are discussed below.

1. Representative Average-Use Cycle and Useful Information. Several comments focused criticism upon the determination of the representative average-use cycle for room air conditioners of 750 hours annually and upon the utility to the consumer of knowing the estimated annual operating cost for room air conditioners which would be developed under FEA's proposal.

In responding to these comments it is important to note that section 323(a)(4)(A) of the Act imposes a duty upon the Administrator to prescribe test procedures for determining the estimated annual operating costs of room air conditioners and other covered products unless he determines, pursuant to sections 323(a)(6) and 323(b), that such test procedures cannot be "reasonably designed" or would be "unduly burdensome to conduct." Moreover, in section 323(b)(2), the Act requires that one element of the estimated annual operating cost shall be a representative average-use cycle, as determined by the Administrator.

FEA has reviewed these comments, as discussed further below, and has determined that it is appropriate to include in the test procedures which are being prescribed at this time for room air conditioners a test procedure for the determination of estimated annual operating costs, which test procedure incorporates a representative average-use cycle of 750 hours per year.

(a) *Representative average-use cycle.* The proposed regulations contained a representative average-use cycle representing a national average annual air conditioner use time of 750 hours. Criticism of the representative average-use cycle was directed at the meaningfulness of any average annual use figure as well as the value of 750 hours contained in the proposed regulations. It was also noted that the proposal was unclear as to whether this was 750 hours of operation time or of compressor operating time.

The comments took issue with the use of a national average air conditioner usage figure on the grounds that it would often either underestimate or overestimate the time of operation of a particular air conditioner, depending upon the geographic area in which it was used. Thus, any value for the estimated annual operating cost of room air conditioners based on the average use figure would be similarly inaccurate. The conclusion reached in the comments, however, was that test procedures for the estimated annual operating cost should not be prescribed at all. As discussed above, this is not a viable alternative. No suggestions were provided with regard to how the estimated annual operating cost might be otherwise determined.

Although the average annual operating time of air conditioners is admittedly an approximation and may, in some cases, misstate the actual operating time of a particular unit, it is representative of actual use. Since the estimated annual operating cost of all air conditioners will be rated using the same value for the annual operating time, consumers will have a valid basis for comparing different units. The average-use figure thus effectuates the purpose of the Act. For this reason, it has been retained in the final regulations.

Comments were also directed at the 750 hour figure itself. The only data sub-

mitted were for air conditioner usage in New York City for 1974–1975. The data were neither fully explained nor was there any attempt to show how the data affect the national average. It should be noted that the methodology used to arrive at the 750 hour figure included determination of the average hours of air conditioner operation in 138 cities (including New York) weighted by population. A change in the value for New York City would not significantly change the value of the national average.

In the proposed regulations, the average usage cycle was established to be 750 hours. This value is adopted in the final regulations. The phrase "hours of compressor operation" has been added to the final regulations to make clear that the 750 hour figure applies to compressor operating time.

(b) *Usefulness to Consumers.* For many of the reasons stated above, FEA believes that an estimated annual operating cost for room air conditioners incorporating a 750-hour representative average-use cycle is likely to assist consumers in making purchasing decisions.

Moreover the utility to the consumer of this information on appliance labels is subject to the further review of the FTC. Section 324(c)(1)(A) of the Act provides that the estimated annual operating costs may not be included on any label if the FTC *"determines that such disclosure is not likely to assist consumers in making purchasing decisions* or is not economically feasible," in which case the FTC "shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under Section 323) * * *" (Emphasis added.)

Accordingly, the comments concerning the desirability of including cost data on the label (as well as all consumer comments regarding the label) have been forwarded to the FTC for consideration in developing labeling rules applicable to room air conditioners.

2. *Use of nameplate values; number to be tested.* Comments were received regarding the method by which the test variables (energy consumption and cooling capacity) should be derived. Specifically, it was suggested that nameplate rather than measured values for these parameters should be used in the required calculations. Comments were also directed at the proposed sampling provision (section 430.23(f)).

The comments directed at the proposed sampling provision are closely tied to the industry suggestion that nameplate values for electrical input and cooling capacity be used to determine the measures of energy consumption applicable to room air conditioners. As proposed, the sampling provision of § 430.23(f) required testing of units taken from actual production. The FEA sampling provision was thus to be applied after room air conditioning units were in full production.

Manufacturers pointed out that the nameplate values are determined prior to production through procedures which include the testing of units which are representative of production units. Such testing includes calorimeter testing (the laboratory methodology incorporated in Appendix F). Production units are monitored to assure the accuracy of the nameplate values by manufacturers using test methods which correlate with the calorimeter procedure.

The industry objected to the sampling provision on general grounds that it would severely disrupt current industry practice by requiring that the rating of air conditioning units be delayed until after production was initiated. This could create serious scheduling problems in their advertising and distribution programs. As an alternative, the industry proposed that nameplate values be used and that tolerances be placed on actual test values related to the nameplate value. A manufacturer, under the industry approach, must demonstrate that a particular production unit, when tested in accordance with the test methodology of Appendix F, would be within these tolerances.

The purpose of FEA's sampling provision was to assure that the values determined by a manufacturer for measures of energy consumption could be validly compared with the values of such measures given by other manufacturers. FEA also intended that testing of room air conditioners not be unduly burdensome to conduct. The industry commented that a sampling approach did not fulfill these purposes. First, a manufacturer could meet the FEA requirement despite significant variability in the energy consumption and cooling capacity values of production units simply by testing a large number of units. Second, application of sampling to production units to determine the rating of a particular basic model would be burdensome.

The industry comments raise serious questions regarding the effect of the proposed sampling provision on present industry practice. However, the need for representative, comparable values for the various measures of energy consumption remains paramount. For this reason, the suggestion that nameplate values be used as the basis for these measures is rejected. The nameplate value provides no guarantee that it is representative of the typical or average performance of room air conditioners.

Having determined not to use nameplate values, the industry's criticisms of the proposed sampling provision still remain. A large part of the difficulty with this provision is due to its scope. Tests procedures prescribed under section 323 of the Act are intended to be used, for example, for labeling under section 324, in monitoring of the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and in enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions on how a test procedure should be applied (e.g., sampling of production units), may differ.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) in writing (including a representation on a label), or
>
> (2) in any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate the problems discussed above associated with a general sampling provision, proposed § 430.23(f) has been limited in the final test procedures to testing which section 323(c) of the Act would require regarding the advertising of room air conditioners. The sampling requirements which apply only for purposes of advertising have been reorganized into § 430.24(f) of the final test procedures. Section 430.24(f) is similar to proposed § 430.23(f) but with several revisions. Most notably, the units tested are required to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act. Even pre-production testing pursuant to section 323(c) must be calorimetric testing.

Manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22(f). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

In response to comments from the industry certain technical changes have also been made in the sampling language. Specifically, the mean of the sample is required to be within 5 percent of the estimate of the true mean of the basic model population.

3. *Energy savings features.* As noted in the comments, the proposed regulations did not provide a mechanism by which the contribution of special design features to reduced energy consumption could be evaluated. One comment identified an optional automatic fan control as such an energy saving feature and recommended a methodology by which the amount of energy saved by this feature could be calculated.

The automatic fan cycle is designed to reduce energy consumption of air conditioners by shutting off the fan when the thermostat turns off the compressor. As with most energy saving features, the automatic fan may be optional with the user. However, unlike features on other appliances, use of the optional fan cycle may be attended by effects which may act to reduce the theoretical savings or which actually result in greater energy

consumption. In particular, it is not known how the cycling of the fan will affect the operation time of the compressor. For example, thermostats generally sense air temperature as it arrives at the air conditioner. With the fan also turned off, the thermostat may sense a temperature other than room temperature. This may cycle the air conditioner on and off more frequently than would occur if the fan operated independently of the thermostat. Consequently, compressor running time would increase and the amount of energy saved by cutting off the fan would be reduced.

Compressor running time may also increase if air conditioner use patterns were changed as a result of the automatic fan. Such a change might result if fan shut-off were to affect the distribution of conditioned air in the room in which the air conditioner is installed. The user may find lower thermostat settings necessary to achieve the same level of comfort achieved on the normal cycle.

The problems cited above should not be read to suggest that the Agency will not, under any circumstances, consider the energy savings of automatic fan cycles. However, until it is clear how these factors can be taken into account, it is not possible to evaluate the value of the automatic fan cycle. Manufacturers are encouraged to submit data with regard to the energy savings attributable to the automatic fan cycle.

While the final regulations do not make provision for the optional automatic fan control or other energy savings features FEA intends to propose modifications to the final regulations when it can be determined that a particular design feature contributes to reduced energy consumption and when this contribution can reasonably be quantified.

C. Regulations Prescribed

1. Test procedures. The test procedures for room air conditioners prescribed today are included in Subpart B and are substantially the same as those proposed. As with the proposed procedures, tests methods and conditions are based upon two national standards—American National Standard Z234.1–1972, "Room Air Conditioners," and American Society of Heating, Refrigerating and Air Conditioning Engineers Standard 16–69, "Method of Testing for Rating Room Air Conditioners." The applicable provisions of each of these standards is incorporated in and made a part of FEA's regulations prescribing test procedures for room air conditioners. For purposes of FEA's program, the incorporated provisions of the referenced standards remain applicable as presently written, regardless of any subsequent amendment of either standard by the standard setting organizations, until further amendment by FEA.

2. General provisions. Also prescribed today are certain general provisions and certain definitions applicable to room air conditioners which were previously proposed in Subpart A (41 FR 19977, 41 FR 31237). No comments were received regarding these definitions. All definitions appearing in section 321 of the Act were incorporated into the regulations by reference. Definitions of the terms "Administrator," "Btu," and "FEA" have been added to Subpart A for the purpose of clarification. The definition of the term "basic model" for room air conditioners has been changed. The proposed definition defined basic model as having identical electrical and cooling output ratings. FEA has determined that this definition was too restrictive since every room air conditioner manufactured will possess slightly different ratings. The new definition of basic model requires that all room air conditioners within a basic model have essentially identical functional physical and electrical characteristics. The intent is to create basic models that contain room air conditioners that perform with essentially identical cooling output and energy input ratings, but may differ slightly due to manufacturing tolerances. Further, acceptable physical differences can include non-functional characteristics such as trim, color, mounting method, sales model number, and brand name.

It should be noted that some of the definitions prescribed today may be applicable to test procedures for other appliances (some of which have recently been proposed). While these definitions are final, comments to the effect that any of these definitions are inapplicable to a particular appliance will be evaluated to determine whether amendment or modification is appropriate.

3. Application of test procedures. As discussed previously, the final room air conditioner test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. Instructions how to apply the standard test methodology will be proposed for comment as these other elements of the appliance program are developed.

The requirements of § 430.24(f) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. Unit Costs of Energy

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information will soon be provided in a following issue of the Federal Register.

In consideration of the foregoing, Chapter II of Title 10, Code of Federal Regulations is amended as set forth below, effective July 5, 1977.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–384; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

Issued in Washington, D.C., May 24, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

Chapter II of Title 10, Code of Federal Regulations is amended by establishing Part 430, to read as follows:

Subpart A—General Provisions

Sec.
430.1 Purpose and scope.
430.2 Definitions.

Subpart B—Test Procedures

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
430.23 Units to be tested [Reserved].
430.24 Representations regarding measures of energy consumption.

Appendices A–E [Reserved]
Appendix F—Uniform test method for measuring the energy consumption of room air conditioners.

Subpart A—General Provisions

§ 430.1 Purpose and scope.

This part establishes the regulations for the implementation of Part B of Title III (42 U.S.C. 6291–6309) of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by Pub. L. 94–385, which establishes an energy conservation program for consumer products other than automobiles.

§ 430.2 Definitions.

For purposes of this part, words shall be defined as provided for in section 321 of the Act and as follows—

"Act" means the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by Pub. L. 94–385.

"Administrator" means the Administrator of the Federal Energy Administration.

"Btu" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and:

(1)–(5) [Reserved]

(6) With respect to room air conditioners, having essentially identical functional physical and electrical characteristics.

"FEA" means the Federal Energy Administration.

"Room air conditioner" means an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed

space. It includes a prime source of refrigeration and may include a means for ventilating and heating.

Subpart B—Test Procedures

§ 430.21 Purpose and scope.

This subpart contains test procedures required to be prescribed by FEA pursuant to section 323 of the Act.

§ 430.22 Test procedures for measures of energy consumption.

(a)–(e) [Reserved]

(f) *Room air conditioners.*—(1) The estimated annual operating cost for room air conditioners, expressed in dollars per year, shall be determined by multiplying the following three factors: (i) Electrical input power in kilowatts as determined in accordance with 4.2 of Appendix F to this subpart, (ii) The representative average-use cycle of 750 hours of compressor operation per year, and (iii) A representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy efficiency ratio for room air conditioners, expressed in Btu's per watt-hour, shall be the quotient of: (i) The cooling capacity in Btu's per hour as determined in accordance with 4.1 of Appendix F to this subpart divided by: (ii) The electrical input power in watts as determined in accordance with 4.2 of Appendix F to this subpart the resulting quotient then being rounded off to the nearest 0.1 Btu per watt-hour.

(3) The average annual energy consumption for room air conditioners, expressed in kilowatt-hours per year, shall be determined by multiplying together the following two factors: (i) Electrical input power in kilowatts as determined in accordance with 4.2 of Appendix F to this subpart, and (ii) A representative average use cycle of 750 hours of compressor operation per year, the resulting product then being rounded off to the nearest kilowatt-hour per year.

(4) Other useful measures of energy consumption for room air conditioners shall be those measures of energy consumption which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix F to this subpart.

§ 430.23 Units to be tested. [Reserved]

§ 430.24 Representations regarding measures of energy consumption.

(a)–(e) [Reserved]

(f) Room air conditioners.—(1) Except as provided in paragraph (f)(4) of this paragraph, no manufacturer, distributor, retailer, or private labeler of room air conditioners may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(f) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption, there is a probability of not less than 0.95 that the mean of the sample is within ±5 percent of the estimate of the true mean of such measures of the basic model.

(2) The sample selected for paragraph (f)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (f)(1) of this section are satisfied at each rating.

(4) Whenever a rule applicable to room air conditioners is prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

APPENDIX F—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF ROOM AIR CONDITIONERS

1. *Test method.* The test method for testing room air conditioners shall consist of application of the methods and conditions in American National Standard (ANS) Z234.1-1972, "Room Air Conditioners," sections 4, 5, 6.1, and 6.5, and in American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 16-69, "Method of Testing for Rating Room Air Conditioners."

2. *Test conditions.* Establish the test conditions described in sections 4 and 5 of ANS Z234.1-1972 and in accordance with ASHRAE Standard 16-69.

3. *Measurements.* Measure the quantities delineated in section 5 of ANS Z234.1-1972.

4. *Calculations.* 4.1 Calculate the cooling capacity (expressed in Btu/hr) as required in section 6.1 of ANS Z234.1-1972 and in accordance with ASHRAE Standard 16-69.

4.2. Determine the electrical power input (expressed in watts) as required by section 6.5 of ANS Z234.1-1972 and in accordance with ASHRAE Standard 16-69.

[FR Doc.77-15419 Filed 5-31-77;8:45 am]

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Establishment of Regulations

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration (FEA) hereby establishes regulations for a program of weatherization assistance for low-income persons. These regulations set forth the requirements for the development and implementation of a weatherization program to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher energy costs and to conserve needed energy.

EFFECTIVE DATE: May 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary M. Bell, Director, Office of Weatherization Assistance, Room 6443, Federal Energy Administration, Washington, D.C. 20461 (202-566-3091).

SUPPLEMENTARY INFORMATION:

A. INTRODUCTION

On April 1, 1977, the Federal Energy Administration published a proposed rule (42 FR 17470) to establish a program of weatherization assistance for low-income persons.

FEA received 50 written comments on the proposed rulemaking, and 106 individuals testified at the public hearings held by the Regional Offices during the week of April 18, 1977, and by the National Office on April 25, 1977. Virtually all of the commenters supported the goals and concept of the proposal, but many suggestions were made that resulted in significant changes in the final rule.

With the issuance of this final rule, the Federal Energy Administration (FEA) amends Chapter II of Title 10, Code of Federal Regulations, to establish a program of weatherization assistance for low-income persons pursuant to Part A, 42 U.S.C. 6861-6872, of Title IV of the Energy Conservation and Production Act (Act), Pub. L. 94-385, 90 Stat. 1125 et seq.

Although most of the comments FEA received addressed specific sections or items in the proposed rulemaking, some comments were more general. Thirteen commenters expressed the view that grants should be made directly to Community Action Agencies (CAA's) to avoid creating a new bureaucracy. Since the enabling legislation provides, with certain clearly defined exceptions, that funding for weatherization projects must be administered by the States, FEA has not incorporated this suggestion in the final rulemaking.

Twelve commenters recommended that FEA should model its guidelines more closely after those developed by the Community Services Administration (CSA) for its weatherization program. However, since the Act delegates responsibility for implementing the legislation, which is markedly different in many respects from CSA's authorizing legisla-