requirement proposed in this notice may be submitted until October 18, 1999. There also will be an opportunity for interested parties to present oral comments on these issues on September 15, 1999. See the information under the headings **DATES** and **ADDRESSES** at the beginning of this notice. Any oral comments will be part of the rulemaking record.

Persons presenting oral comments should limit their presentations to approximately 10 minutes, exclusive of any periods of questioning by the Commissioners or the CPSC staff. The Commission reserves the right to further limit the time for any presentation and to impose restrictions to avoid excessive duplication of presentations.

F. Extension of Time To Issue Final Rule

Section 9(d)(1) of the CPSA, 15 U.S.C. 2058(d)(1), provides that a final consumer product safety rule must be published within 60 days of publication of the proposed rule unless the Commission extends the 60-day period for good cause and publishes its reasons for the extension in the **Federal Register**. The Commission previously extended the time for issuing a final rule until June 30, 1999. 63 FR 52415.

This reproposal requires another extension of the time to issue a final rule. After the comment period ends on October 18, 1999, the CPSC's staff will need to address the comments and complete a briefing package for the Commission. The Commission is likely to then be briefed, and will later vote on whether to issue a final rule. The Commission expects that this additional work will take about 5 months. Accordingly, the Commission extends the time by which it must either issue a final rule or withdraw the NPR until December 31, 1999. If necessary, this date may be further extended.

Effective date. This reproposal does not require any change in the originally proposed effective date of 1 year after the date a final rule is issued.

List of Subjects in 16 CFR Part 1212

Consumer protection, Fire prevention, Hazardous materials, Infants and children, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

In the **Federal Register** of September 30, 1998 (63 FR 52397) the Commission proposed to amend Title 16, Chapter II, Subchapter B, of the Code of Federal Regulations. For the reasons set out in the preamble, the Commission proposes the following change to that proposal, as set forth below.

PART 1212—SAFETY STANDARD FOR MULTI-PURPOSE LIGHTERS

1. The authority citation for part 1212 continues to read as follows:

Authority: 15 U.S.C. 2056, 2058, 2079(d).

2. The note in § 1212.4(f)(1) is revised to read as follows:

§ 1212.4 Test protocol.

* * * * *

(F) * * *

(1) * * *

Note: For multi-purpose lighters with an ''on/off'' switch that does not automatically reset to the ''off'' position in accordance with § 1212.3(b)(3), the surrogate lighter shall be given to the child with the switch in the ''on,'' or unlocked, position.

* * * * *

Dated: July 28, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–19937 Filed 8–3–99; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 101

[Docket No. RM99–7–000]

Depreciation Accounting

July 29, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations to set forth uniform standards based on the straight-line method of depreciation and the assets' estimated useful service lives for determining depreciation for accounting purposes.

DATES: Comments on the proposed rulemaking are due on or before October 4, 1999.

ADDRESSES: File comments on the notice of proposed rulemaking with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Comments should reference Docket No. RM99–7–000.

FOR FURTHER INFORMATION CONTACT:

Gregory Berson (Technical Information), Office of Finance, Accounting and Operations, 888 First Street, N.E. Washington, D.C. 20426 (202) 219–2603;

Amy L. Blauman (Legal Information), Office of the General Counsel, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–2143

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home page (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. Documents will be available on CIPS in ASCII and WordPerfect 6.1. User assistance is available at 202–208–2474 or by E-mail to cips.master@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Home page using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to rimsmaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend the General Instructions of 18 CFR Part 101 to establish, for those public utilities and licensees that are subject to Part 101, criteria for determining depreciation for accounting purposes.

II. Background

A. Commission Authority

The Commission has authority under section 301 of the Federal Power Act (FPA)[1] over the accounting practices of public utilities and licensees. Pursuant to section 301, the Commission has prescribed a Uniform System of

[1] 16 U.S.C. 825.

Accounts (USofA)[2] that must be followed by these jurisdictional entities.

The Commission also has authority under section 302 of the FPA[3] over the depreciation accounting practices of public utilities and licensees. This includes the authority to determine and fix proper and adequate depreciation rates for accounting purposes.

The Commission believes it has a statutory obligation to ensure that proper amounts of depreciation are charged to expense in each financial reporting period. In order to fulfill this statutory obligation, the Commission had required public utilities and licensees to obtain Commission approval prior to changing their depreciation rates for accounting purposes. *See, e.g., MidAmerican Energy Co.*, 79 FERC ¶ 61,169 (1997), *reh'g denied*, 81 ¶ FERC 61,081 (1997). However, a recent decision of the U.S. Court of Appeals for the District of Columbia Circuit, *Alabama Power Company, et al.* v. *FERC*, 160 F.3d 7 (D.C. Cir. 1998) (*Alabama Power*), overturned the Commission's action on procedural grounds.

In light of *Alabama Power*, we decide here to proceed with a rulemaking to establish the principles that public utilities and licensees subject to Part 101 must follow in determining depreciation rates for accounting purposes.[4] We are not proposing to ascertain, determine, and fix individual company depreciation rates as part of this rulemaking. Instead, we provide a regulatory framework for monitoring depreciation accounting practices and for taking action in individual cases if and when the need arises—to ensure that public utilities' and licensees'[5] books reflect proper depreciation amounts.

B. Utility Depreciation Principles

Expenditures for utility plant and other long-lived assets that will be used in the production of utility products and services are typically made in one year but are expected to produce benefits over a number of years. These assets also have finite useful lives, and their value will be substantially diminished at the end of their useful lives.[6] Depreciation represents the cost of using up the assets' service potential during their useful lives.

Depreciation is a process of cost allocation, not of valuation.[7] The primary objective of depreciation accounting is to allocate the cost of utility property to the periods during which the property is used in utility operations, *i.e.*, over the useful service life, in a systematic and rational manner.[8]

Generally, the amount of annual depreciation is determined by multiplying the asset's depreciable base (original cost less estimated salvage value) by a depreciation rate. The depreciation rate is a function of the chosen depreciation method and the asset's useful service life. The depreciation method (*e.g.*, straight line, double-declining balance, sum of the years digits, etc.) determines the timing of the recognition of depreciation expenses. The asset's useful service life, expressed in units of time or production, is based on estimates of the physical, economic or productive life of the asset.

Depreciation accounting is not intended to achieve a desired financial objective, such as an increase or decrease in reported net income or an adjustment in plant costs to perceived market values. Rather, depreciation accounting reflects the decrease in service value, *i.e.*, the using up of the productive capacity of the asset, over its service life. The decrease in service value is estimated using a systematic and rational method to allocate the original cost of assets to the periods over which they are used in utility service—factors that are independent of both an entity's profitability and asset market values.

Recognition of depreciation expenses for accounting purposes is not dependent on the rate recovery of the cost of utility plant. When differences arise between accounting depreciation and rate recovery of the cost of utility plant, the USofA requires utilities with cost-based rates to account for the differences as regulatory assets and liabilities.[9] In this way, utilities can easily keep track of any differences between accounting depreciation and ratemaking recovery of plant costs in their various regulatory jurisdictions.

C. Reasons for This Rule

The Commission believes it must standardize depreciation accounting practices in order to maintain its ability to determine just and reasonable, cost-based utility rates and to ensure the reasonableness and reliability of financial information used by regulators, investors, consumers, and the general public.

Since depreciation is a significant portion of the total cost of providing utility service, the determination of the appropriate amount of depreciation is of concern to this Commission, State commissions, utility management, investors, consumers and others who have an interest in or are affected by the financial performance of these entities. Because the Commission uses depreciation recorded on a utility's books as a starting point for determining cost-based utility rates,[10] to protect consumers and to guard against abuses, the Commission must have assurance that such depreciation expenses are proper.[11] Moreover, standardizing depreciation accounting practices will better ensure that utilities' financial information, reported to regulators, utility investors, utility consumers and the general public, is reasonable and reliable.

Additionally, by establishing generally applicable rules relating to depreciation accounting, this rulemaking is intended to satisfy the procedural prerequisite of FPA section 302 that the Court, in *Alabama Power, supra*, found necessary to enable the Commission to set individual utility

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[2] *See* 18 CFR Part 101.

[3] 16 U.S.C. 825a.

[4] The proposed rules would not apply to public utilities and licensees that have obtained waivers from our accounting requirements under 18 CFR Part 101.

[5] Henceforth in this narrative preamble, our use of "utilities" is intended to encompass both public utilities and licensees; we will refer to "utilities" for ease of reading. *See* 18 CFR Part 101 Definition No. 39.

[6] In some cases, assets have negative salvage value, *i.e.*, the utility will have to pay additional costs to remove the asset and restore the plant site at the end of the asset's life.

[7] *See FASB Original Pronouncements*, Accounting Research Bulletin No. 43, Chapter 9, Section C, para. 5 (1998).

[8] The Commission's Uniform System of Accounts for electric utilities defines depreciation as follows:

Depreciation, as applied to depreciable electric plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of electric plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand, and requirements of public authorities.

18 CFR Part 101 Definition No. 12.

[9] *See* 18 CFR Part 101 Definition No. 30, Accounts 182.3 and 254.

[10] The Commission typically permits a utility to recover its investment in utility property over its useful life through inclusion of depreciation expense in the cost of service used to set the utility's cost-based rates. The Commission also typically allows a utility to earn a return on its undepreciated investment in utility property.

[11] For example, a utility could, through inappropriate depreciation practices, over-recover the cost of utility plant, inappropriately attempt to mitigate stranded costs or shift benefits from asset sales to shareholders or particular customer groups. *See, e.g.*, Midwest Power Systems Inc., 67 FERC ¶ 61,076 at 61,208 (1994); South Carolina Electric & Gas Co., 76 FERC ¶ 61,338 at 62,616–19 (1996), *reh'g denied*, 79 FERC ¶ 61,083 (1997); *accord*, Ohio Edison Co., *et al.*, 84 FERC ¶ 61,157 at 61,860–63 (1998).

depreciation rates for accounting purposes.

Therefore, we are proposing here that utilities subject to Part 101 follow uniform standards in determining depreciation rates for accounting purposes. This will ensure that depreciation for accounting purposes is recorded in accordance with sound depreciation principles and thus, in particular, meets this Commission's regulatory needs.[12]

We invite interested parties to present their views on this proposal through the written comment procedures outlined below.

III. Discussion

The current USofA for utilities contains limited guidance on depreciation accounting. The USofA defines depreciation and its related components,[13] and provides various accounts for the recording of depreciation,[14] but does not state how utilities are to determine the rates used to calculate the amount of depreciation to be recorded in the accounts.

In light of the foregoing, the Commission proposes to revise its USofA to require uniform and consistent determinations of depreciation rates for accounting purposes. We also take this opportunity to outline how we intend to oversee utility depreciation practices in the foreseeable future.

A. Regulatory Framework

The Commission proposes to require utilities subject to Part 101 to use depreciation rates for accounting purposes that are based on the straight-line method of depreciation and the assets' estimated useful service lives.[15]

A straight-line method of depreciation is one that allocates the service value [16] of depreciable property to expense in equal monthly charges over the property's useful service life. It is the method typically used by utilities today.[17]

The Commission proposes that the depreciation period for utility property be its estimated useful service life. The current practice of estimating useful service lives of assets based on engineering or other studies of the expected physical, economic, or productive lives over which the assets will provide utility service, would continue.[18]

Where composite depreciation rates are used, they would be based on the weighted average estimated useful service lives of the assets comprising the composite group.

The Commission believes that computing depreciation on a straight-line basis over assets' estimated useful service lives will produce more relevant and reliable financial information for regulatory and financial reporting purposes than other depreciation techniques (*e.g.*, accelerated depreciation, retirement method, sinking fund depreciation, etc.) that do not ratably allocate plant costs to each accounting period. Because of the relatively consistent operation of utility plant over time, the use of the straight-line method and estimated useful service lives appears to provide the most practical way to measure the amount of depreciation consumed each year in producing utility products and services. The straight-line method is also simple in its application in contrast to other depreciation techniques. It is, as well, the standard method for business in general, conforms to generally accepted accounting principles (*i.e.*, systematic and rational) and, as noted, is the method typically used by utilities today.[19]

B. Future Commission Action

We also take this opportunity to explain how the Commission intends to exercise its authority over depreciation accounting in the foreseeable future.

On a case by case basis, *e.g.*, in conjunction with audits, complaints, etc., it may become necessary, as a result of these proceedings, for the Commission from time to time to ascertain and determine, and by order fix, the accounting depreciation rates for individual utilities pursuant to FPA section 302. However, unless otherwise ordered by the Commission, individual utilities will *not* be required to file their accounting depreciation rates with us for our approval. This approach is consistent with our efforts to reduce regulatory burdens to the degree possible and facilitate the transition to competition in the electric utility industry.

IV. Environmental Statement

The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement.[20] The promulgation of a rule that is procedural or that does not substantially change the effect of legislation or regulations being amended raises no environmental considerations.[21] The instant proposed rule amends Part 101 of the Commission's regulations to codify prevalent utility practice and does not substantially change the effect of the underlying legislation or the regulations being revised. Likewise, approval of actions under section 301 of the FPA, relating to accounting orders, also raises no environmental considerations. The instant rule fundamentally involves accounting matters, establishing standardized depreciation accounting practices. Accordingly, no environmental consideration is necessary.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires rulemakings to contain either a description and analysis of the effect that the proposed rule will have on small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities.

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[12] Standardizing utilities' depreciation accounting practices will, for example, provide a greater level of assurance that depreciation accounting will not be used to achieve inappropriate ends. *See supra* note 10.

[13] *See, e.g.*, 18 CFR Part 101, Definition Nos. 10, 12, 19, 34–36 (1999).

[14] *See, e.g.*, 18 CFR Part 101, Accounts 108, 110, 119, and 403 (1999).

[15] The USofA defines service life as ''the time between the date electric plant is includible in electric plant in service, or electric plant leased to others, and the date of its retirement. If depreciation is accounted for on a production basis rather than on a time basis, then service life should be measured in terms of the appropriate unit of production.'' 18 CFR Part 101 Definition No. 35.

[16] The USofA defines service value as ''the difference between original cost and net salvage value of electric plant.'' 18 CFR Part 101 Definition No. 36.

[17] *See, e.g.*, J. Suelflow, Public Utility Accounting: Theory and Application 96 (1973) (''Straight line is the predominant method used by utilities and sanctioned by most regulatory bodies.''); Deloitte Haskins & Sells, Public Utilities Manual 23 (1980) (''[T]he straight-line concept is applied almost universally for both accounting and rulemaking. * * *''); C. Phillips, The Regulation of Public Utilities: Theory and Practice 272 (3d ed. 1993) (The straight line method * * * is the simplest and most commonly used.''); L. Hyman, America's Electric Utilities: Past, Present and Future 292 (5th ed. 1994) (''The book depreciation rate is a straight line rate for most utility companies.''); accord Depreciation Subcommittee of the NARUC Committee on Engineering, Depreciation, and Valuation of the National Association of Regulatory Utility Commissioners, Public Utility Depreciation Practices 12 (1968) (''In the two decades, since the Report of the Committee on Depreciation of the NARUC was published in 1943, the use of the straight-line method for accounting and rate-making purposes has became almost universal for public utilities.'').

[18] Changes in estimated useful service lives would be based on updated depreciation study results that demonstrated different service lives (shorter or longer) were appropriate.

[19] *See* supra note 17.

[20] 18 CFR 380.4.

[21] 18 CFR 380.4(a)(2)(ii).

In *Mid-Tex Elec. Coop.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985), the court found that Congress, in passing the RFA, intended agencies to limit their consideration ''to small entities that would be directly regulated'' by proposed rules. *Id.* at 342. The court further concluded that ''the relevant 'economic impact' was the impact of compliance with the proposed rule on regulated small entities.'' *Id.* at 342.

The Commission certifies that, given the entities subject to this proposed rule and their current depreciation accounting practices, this proposed rule will not have a significant economic impact upon a substantial number of small entities.

VI. Public Reporting Burden and Information Collection Statement

The Commission proposes to amend 18 CFR Part 101 by standardizing the method for determining depreciation rates for accounting purposes. Because the proposed rule simply standardizes the method of calculating depreciation rates, without adding or changing any reporting requirements, it does not impose any additional public reporting burden.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Michael Miller, Capital Planning and Policy Group, Phone: (202) 208–1415, Fax: (202) 208–2425, E-mail: mike.miller@ferc.fed.us].

To submit comments concerning collections of information and associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, [Attention: Desk Officer for the Federal Energy Regulatory Commission, Phone: (202) 395–3087, Fax: (202) 395–7285].

VII. Public Comment Procedures

Prior to taking final action on this proposed rulemaking, we are inviting written comments from interested persons. The Commission also is notifying each State commission having jurisdiction with respect to any public utility involved and is giving reasonable opportunity to each State commission to present its views for our consideration. All comments in response to this notice should be submitted to the Office of Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, and should refer to Docket No. RM99–7–000. An original and fourteen (14) copies of such comments should be filed with the Commission on or before October 4, 1999.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 8.0 or lower version, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM99–7–000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, comments should be submitted to ''comment.rm@ferc.fed.us'' in the following format. On the subject line, specify Docket No. RM99–7–000. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comments to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at: 202–501–8145, E-Mail address: brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, N.E., Washington D.C. 20426, during regular business hours. Additionally, comments may be viewed, printed or downloaded remotely via the Internet through FERC's Homepage using the RIMS or CIPS link. RIMS contains all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available at 202–208–2222, or by E-Mail to rimsmaster@ferc.fed.us.

List of Subjects in 18 CFR Part 101

Electric power, electric utilities, reporting and recordkeeping requirements, Uniform System of Accounts.

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 101, Chapter I, Title 18 of the *Code of Federal Regulations,* as set forth below.

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

1. The authority citation for Part 101 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7102–7352, 7651–7651o.

2. In Part 101, General Instructions, paragraph 22 is added to read as follows:

General Instructions

* * * * *

22. *Depreciation Accounting*

A. *Method.* Utilities must use the straight-line method of depreciation. The straight-line method allocates equal amounts of the service value of utility property to expense during each year of the property's useful service life.

B. *Service Lives.* Estimated useful service lives of depreciable property must be supported by engineering or other depreciation studies.

C. *Rate.* Utilities must use percentage rates of depreciation that are based on the straight-line method and the estimated useful service lives of depreciable property. Where composite depreciation rates are used, they should be based on the weighted average estimated useful service lives of the depreciable property comprising the composite group.

[FR Doc. 99–20010 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM99–9–000]

Designation of Corporate Officials or Other Persons to Receive Service

July 28, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend Rule 2010 of its