Participants should be prepared to answer questions from DOE and other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be posted on the DOE Web site and will also be included in the docket, which can be viewed as described in the Docket section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and other information regarding this rulemaking before or after the public meeting, but no later than the date provided at the beginning of this notice. Please submit comments, data, and other information as provided in the DATES section. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Comments in electronic format should be identified by the Docket Number EERE–2010–BT–STD–0043 and/or RIN 1904–AC36 and, wherever possible, carry the electronic signature of the author. No telefacsimiles (faxes) will be accepted.

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination as to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of public meeting.

Issued in Washington, DC, on February 20, 2013.

Kathleen B. Hogan,
Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FPR Doc. 2013–04672 Filed 2–27–13; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 4

Freedom of Information Act

AGENCY: Federal Trade Commission (FTC).

ACTION: Proposed rule.

SUMMARY: The Federal Trade Commission proposes to amend its Rules of Practice to update its fee schedule for provision of services in disseminating information and records to the public to reflect changes in the types of services that are provided, changes in the costs of providing services, and to add other fees for new services.

DATES: Comments must be submitted on or before March 29, 2013.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. Write “Fee Schedule Rulemaking, 16 CFR Part 4.8, Project No. P122102” on your comment, and file your comment online at https://ftcpublic.commentworks.com/ftc/feeschedule, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex T), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: G. Richard Gold, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue
SUPPLEMENTARY INFORMATION: The Commission has determined that it is necessary to update its fee schedule for the provision of services to the public, which was last changed in 1998. Since then, the Freedom of Information Act (“FOIA”) was amended once in late 2007 by the Openness Promotes Effectiveness in our National Government Act of 2007, Public Law 110–175, 121 Stat. 2524 (“2007 FOIA Amendments”). The Commission proposes to change its fee schedule to implement the 2007 FOIA Amendments as appropriate. There have also been changes in technology and to the costs of providing services over the last decade, necessitating revisions to reflect both new and discontinued services that the FTC offers the public. The proposed changes will also be useful in providing additional notice to the public and to the FTC’s professional and administrative staff about the procedures governing how the agency responds to FOIA requests. The additional guidance will supplement and restate the information available at the FOIA page on the FTC Web site, http://www.ftc.gov/foia/index.shtm.

As required by the FOIA, the Commission seeks public comment on the proposed revisions to its fee regulations set forth in this document. See 5 U.S.C. 552(a)(4)(A)(i). In a separate document published in today’s Federal Register, the Commission has published final regulations to make other related administrative rule changes that do not require public comment. For example, those Rule amendments establish a new category of public record materials; provide additional contact information for the filing of initial FOIA requests; set out agency procedures for acknowledging the receipt of a request, the proper filing of a request, and the “cut-off” date for searches; and allow additional time to file FOIA appeals in unusual circumstances.

Request for Comments

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it no later than March 29, 2013. Write “FOIA Fee Rulemaking, 16 CFR Part 4.8, Project No. P122102” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at http://www.ftc.gov/os/publiccomments.shtm. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,” as provided in Section 6(f) of the FTC Act. See also FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel in his or her discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel in his or her discretion, grants your request in accordance with the law and the public interest.

Visit the Commission Web site at http://www.ftc.gov to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 29, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at http://www.ftc.gov/ftc/privacy.htm.

Proposed Changes to Fee Regulation

The Freedom of Information Reform Act of 1986 (“FOIA Reform Act”) charged the Office of Management and Budget (“OMB”) with responsibility for promulgating, pursuant to notice and comment, guidelines containing a uniform schedule of fees for individual agencies to follow when promulgating their FOIA fee regulations. See 5 U.S.C. 552(a)(4)(A)(i). On March 27, 1987, the OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines (“OMB Fee Guidelines”). OMB issued guidance therein as directed but also concluded that issuance of a government-wide fee schedule was precluded by language of FOIA Reform Act requiring “each agency’s fees to be based upon its direct reasonable operating costs of providing FOIA services.” See 52 FR at 10015. The FOIA Reform Act mandated that agencies conform their fee schedules to these guidelines. The guidelines specifically direct that “[a]l agencies should charge fees that recompute the full allowable direct costs they incur.” Id. at 10018.

In Rule 4.8(a)(2), 16 CFR 4.8(a)(2), the Commission proposes to clarify that the term “duplication” includes the process of converting paper to electronic format (if requested by the requester and readily reproducible in that form). The Commission also proposes to clarify that allowable “direct costs,” like operator time, can be charged in all instances for commercial requesters, and in some instances for other types of requesters, but only after the amount actually converted from paper to electronic format exceeds the equivalent of 100 free pages that those requesters are
entitled to receive under the OMB Guidelines.

In Rule 4.8(a)(3), 16 CFR 4.8(a)(3), the Commission proposes to add that
review costs are recoverable even if a
record ultimately is not disclosed.

In Rule 4.8(a)(4), 16 CFR 4.8(a)(4), the Commission proposes to expand the
definition of “direct costs” to
incorporate pre-existing guidance from the
OMB Fee Guidelines.

In Rule 4.8(b), 16 CFR 4.8(b), the
Commission proposes to clarify that the
fee charges set out in this section apply
unless the requester establishes the
applicability of a public interest fee
waiver pursuant to § 4.8(e). The
Commission also includes a chart
summarizing the types of charges that
apply to requester categories set out later in paragraphs (b)(1)–(b)(3).

In Rule 4.8(b)(2), 16 CFR 4.8(b)(2), the
Commission proposes to amend the
definitions for “representative of the
news media” to implement the
definition codified at 5 U.S.C.
552(a)(4)(A)(ii) by the 2007 FOIA
Amendments. The Commission also
proposes amending the definition of
“educational institution” to more
closely comport with Section 6(h) of the
1987 OMB Fee Guidelines: a requester
must show that the request is authorized
by and is made under the auspices of a
qualifying institution and that the
records are not sought for a commercial
use but are sought to further scholarly
research of the institution, not an
individual goal.

In Rule 4.8(b)(4), 16 CFR 4.8(b)(4), the
Commission proposes revising the
waiver of small charges section from
those that do not exceed $14 to those
under $25. Under the Federal Claims
Collection Standards, 31 CFR 900–904,
the Commission is obligated to refer
FOIA fee debts that are overdue more
than 180 days to the Financial
Management Services (“FMS”) at the
Department of Treasury. However, FMS
does not typically pursue repayment for
any debts that are under $25 except for
certain situations set out by FMS
regulations.3 The Commission believes
that the FTC should not charge any fees
that the Department of Treasury will not
attempt to collect.

In Rule 4.8(b)(5), 16 CFR 4.8(b)(5), the
Commission proposes to clarify that this
section’s reference to materials that are
not subject to the fee provisions of Rule
4.8 and that are available without charge
are public record materials.

Rule 4.8(b)(6), 16 CFR 4.8(b)(6), contains the Commission’s uniform
schedule of fees that applies to records held by all constituent units of the
Commission and to all requests made
for materials on the public record and
those made under the FOIA and the
Periodically, the Commission reviews
that rule to update those fees to reflect
its current costs. The Commission
proposes changes to update the
schedule to reflect current costs and
types of products and services provided.

The Commission proposes adding
new fee categories for the provision of
compact discs (“CDs”), DVDs, and
videotape cassettes, which are now used
more extensively in sending data to
FOIA requesters. The Commission has
also discontinued providing most
microfiche services, and the section
relating to those fees is being revised to
reflect this. For example, the
Commission no longer converts paper
records into electronic fiche format. The
Commission’s Consumer Response
Center no longer converts microfiche
records into paper. However, the
Commission’s Library currently has two
microfiche/film reader/printers, and
patrons may photocopy or print from
these machines at the rate of $0.14 per
page.

Most of the microfiche/film files are
stored and managed off-site by two
contractors, Iron Mountain Archival
Services and the National Archive and
Records Administration’s Washington
National Records Center. The fees that the
FTC charges the public for the
conversion of such files into paper are
in accordance with the terms of the
FTC’s two contracts, which were
awarded after open and transparent
General Services Administration
bidding processes. The OMB Fee
Guidelines encourage agencies “to
contract with private sector services to
locate, reproduce and disseminate
records in response to FOIA Requests
when that is the most efficient and least
costly method. When doing so * * * agencies should ensure that the ultimate
cost to the requester is no greater than
it would be if the agency itself had
performed these tasks.” See 52 FR at
10018. The Commission has determined
that the fees incurred by the requesters
are no greater for the services that Iron
Mountain performs than they would be
if the Commission staff itself performed
these tasks.

Additionally, the Commission
proposes to update fees for Express Mail
delivery services and certification
services to reflect current actual costs.
Section 7(e) of the OMB Fee Guidelines
indicates that “[n]either the FOIA nor
its fee structure cover these kinds of
services [and] [a]gencies should recover
the full costs of providing services
* * * * the extent that they elect to
provide them.” See 52 FR at 10018.
Postal Service rates tend to change
frequently. Therefore, the proposed rule
would no longer list a specific Postal
Service rate, but would instead state
that current U.S. Postal Service market
rates will be charged for Express Mail
delivery. Fees for certification services,
which authenticate documents as being
true and proper Commission records,
would be raised under the proposed
rule to cover the increased costs of
attorney and clerical staff time in
preparing such records for certification.

In Rule 4.8(b)(6), 16 CFR 4.8(b)(6), the
Commission proposes further clarifying
that duplication costs include the
quarterly hour time that staff spends
operating the duplicating machinery
that converts paper to electronic format
by scanning or other means.

Commercial requesters are charged the
direct costs associated with converting
paper copies to electronic format. Other
categories of requesters are charged the
direct costs after they receive records
equal to 100 pages of paper (e.g., a
computer disc with 100 pages of
information).

In Rule 4.8(b)(7), to be codified as 16
CFR 4.8(b)(7), the Commission proposes
inserting the FOIA statutory mandate
that certain search fees will not be
assessed for responses that fail to
comply with the time limits in which to
respond to a FOIA request, provided at
5 U.S.C. 552(a)(4)(A)(viii) and 16 CFR
4.11(a)(1)(ii).

In Rule 4.8(c)–(e), 16 CFR 4.8(c)
through (e), the Commission proposes to
add language that merely clarifies the
information needed to determine fees,
to establish an agreement to pay fees, and
the standards for public interest fee
 waivers. In particular, the Commission
proposes to clarify in Rule 4.8(c), the
procedures for appealing fee category
and fee waiver determinations.

In Rule 4.8(d), 16 CFR 4.8(d), relating
to procedures for establishing an
agreement to pay fees, if the agreement
is absent and the estimated fees exceed
$25.00, the requester will be advised of
the estimated fees and the request will
not be processed until the requester
agrees to pay such fees. If the requester
does not respond to the notification that
the estimated fees exceed $25.00 within

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3 See 31 CFR 285.12(c)(4), which reads as follows:
A agencies are not required to transfer to FMS
debts which are less than $25 (including interest,
penalties, and administrative costs), or such other
amount as FMS may determine. Agencies may
transfer debts less than $25 to FMS if the creditor
agency, in consultation with FMS, determines that
transfer is important to ensure compliance with the
agency’s policies or programs. Agencies may
combine individual debts of less than $25 owed by
the same debtor for purposes of meeting the $25
threshold.
10 days from the date of the notification, the request will be closed.

Lastly, the Commission proposes to revise Rule 4.8(k), 16 CFR 4.8(k), to reflect amendments made by the Debt Collection Improvements Act of 1996 (Pub. L. 104–134), which require agencies under the Federal Claims Collection Standards cited earlier to attempt to collect administratively established debts, such as FOIA fees, when bills are more than 30 days and up to 180 days past due. Also, the FCSS does not limit the agency’s ability to pursue other authorized remedies such as alternative dispute resolutions and arbitration, and the Commission is including provisions for such remedial procedures. As previously noted, the Debt Collection Improvement Act of 1996 requires the Commission to forward all such debts, with certain exceptions, that are still unpaid after 180 days to the Department of Treasury for further debt collection efforts.

Proposed Change to Fee Section in Rule 4.11

There is a proposed new insert for Rule 4.11(a)(3)(i)(A)(3), which provides the explicit right to appeal fee waiver determinations and includes a clear deadline for filing the appeal.

The Commission believes that the proposed Rule amendments do not require an initial regulatory analysis under the Regulatory Flexibility Act because the amendments will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b). Most requests for access to FTC records are filed by individuals, who are not “small entities” within the meaning of that Act. 5 U.S.C. 601(6), and, in any event, the economic impact of the rule changes on all requesters is expected to be minimal, if any. Moreover, these proposed rule amendments are matters of agency practice and procedure that are exempt from notice-and-comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(b), which also exempts the proposed amendments from the analysis requirements of the Regulatory Flexibility Act. Likewise, the proposed amendments do not contain information collection requirements within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501–520. The Commission nonetheless solicits comments on any economic and regulatory impact of the proposed rule; paperwork requirements, if any, that commenters believe the amendments are believed to impose upon private persons; and possible regulatory alternatives to reduce the amendments’ economic impact, if any, while fully implementing the statutory mandate.

The Commission will consider any such comments before promulgating the amendments in final form.

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act.

For the reasons set forth in the preamble, the Federal Trade Commission proposes to amend Title 16, Chapter I, Subchapter A of the Code of Federal Regulations as follows:

PART 4—MISCELLANEOUS RULES

1. The authority citation for part 4 continues to read as follows:


2. Amend § 4.8 by revising paragraphs (a)(2) through (4), (b) introductory text, (b)(2) through (6), by adding paragraph (b)(7), and by revising paragraphs (c) through (f) and (k) to read as follows:

§ 4.8 Costs for obtaining Commission records.

(a) * * *

(2) The term duplication refers to the process of making a copy of a document for the purpose of releasing that document in response to a request for Commission records. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation such as magnetic tape or computer disc. For copies prepared by computer and then saved to a computer disc, the Commission charges the direct costs, including operator time, of production of the disc or printout if applicable. Where paper documents must be scanned in order to comply with a requester’s preference to receive the records in an electronic format, the requester shall pay the direct costs associated with scanning those materials. As set out in paragraph (b) of this section, certain requesters do not pay for direct costs associated with duplicating the first 100 pages.

(3) The term review refers to the examination of documents located in response to a request to determine whether any portion of such documents may be withheld, and the redaction or other processing of documents for disclosure. Review costs are recoverable from commercial use requesters even if a record ultimately is not disclosed. Review time includes time spent considering formal objections to disclosure made by a business submitter but does not include time spent resolving general legal or policy issues regarding the release of the document.

(4) The term direct costs means expenditures that the Commission actually incurs in processing requests. Direct costs include the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of document review facilities or the costs of heating or lighting such a facility or other facilities in which records are stored. The direct costs of specific services are set forth in paragraph (b)(6) of this section.

(b) Fees. User fees pursuant to 31 U.S.C. 9701 and 5 U.S.C. 552(a) shall be charged according to this paragraph, unless the requester establishes the applicability of a public interest fee waiver pursuant to paragraph (e) of this section. The chart summarizes the types of charges that apply to requester categories set out in paragraphs (b)(1) through (3) of this section.

<table>
<thead>
<tr>
<th>Requester categories</th>
<th>Fee charged for all search time</th>
<th>Fee charged for all review time</th>
<th>Duplication charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td>Fee</td>
<td>Fee</td>
<td>Fee charged for all duplication charges</td>
</tr>
<tr>
<td>Educational, Non-commercial Scientific Institution, or News Media.</td>
<td>No charge</td>
<td>No charge</td>
<td>No charge for first 100 pages.</td>
</tr>
<tr>
<td>Other (General Public)</td>
<td>Fee after two hours</td>
<td>No charge</td>
<td>No charge for first 100 pages.</td>
</tr>
</tbody>
</table>

* * * *

(2) Educational requesters, non-commercial scientific institution requesters, and representative of the news media. Requesters in these categories will be charged for the direct costs to duplicate documents, excluding charges for the first 100 pages.
Duplicate:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paper to paper copy (up to 8.5” x 14”)</td>
<td>$0.14 per page.</td>
</tr>
<tr>
<td>Converting paper into electronic format (scanning)</td>
<td>$0.14 per page.</td>
</tr>
</tbody>
</table>

Electronic Services:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preparing electronic records and media</td>
<td>$10.00 per qtr. hour.</td>
</tr>
<tr>
<td>Compact disc (CD)</td>
<td>$3.00 per disc.</td>
</tr>
<tr>
<td>DVD</td>
<td>$3.00 per disc.</td>
</tr>
<tr>
<td>Videotape cassette</td>
<td>$2.00 per cassette.</td>
</tr>
</tbody>
</table>

Microfilm Services:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conversion of existing fiche/film to paper</td>
<td>$0.14 per page.</td>
</tr>
<tr>
<td>Express Mail</td>
<td>$25.00 each.</td>
</tr>
</tbody>
</table>

Note to paragraph (b)(6): Search, review and duplication fees. Agency staff is divided into three categories: clerical, attorney/ economist, and other professional. Fees for search and review purposes, as well as the costs of operating duplication machinery such as converting paper to electronic format (scanning), are assessed on a quarter-hourly basis, and are determined by identifying the category into which the staff member(s) conducting the search or review or duplication procedure belong(s), determining the average quarter-hourly wages of all staff members within that category, and adding 16 percent to reflect the cost of additional benefits accorded to government employees. The exact fees are calculated and announced periodically and are available from the Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580; (202) 326–2222.

(7) Untimely responses. Search fees will not be assessed for responses that fail to comply with the time limits in which to respond to a Freedom of Information Act request, provided at 5 U.S.C. 552(a)(4)(A)(viii) and 4.11(a)(1)(ii), and if there are no unusual or exceptional circumstances, as those terms are defined by 5 U.S.C. 552(a)(6) and 4.11(a)(1)(iii). Duplication fees will not be assessed for an untimely response, where there are no unusual or exceptional circumstances, made to a requester qualifying for one of the fee categories set forth in paragraph (b)(2) of this section.

(c) Information to determine fees. Each request for records shall set forth whether the request is made for non-commercial purposes or whether the requester is an educational institution, a noncommercial scientific institution, or a representative of the news media. The deciding official (as designated by the General Counsel) will use this information, any additional information provided by the requester, and any other relevant information to determine the appropriate fee category in which to place the requester. See § 4.11(a)(3)(i)(A)(3) of this chapter for procedures on appealing fee category and fee waiver determinations.

(d) Agreement to pay fees. The following schedule of fees applies to records held by all constituent units of the Commission:

Schedule of Direct Costs:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Records maintained at Iron Mountain or Washington National Records Center facilities (records retrieval, refile, etc)</td>
<td>Market Rates.</td>
</tr>
</tbody>
</table>
(i) Pay, in accordance with paragraph (b) of this section, whatever fees may be charged for processing the request; or
(ii) Pay such fees up to a specified amount, whereby the processing of the request would cease once the specified amount has been reached.

(2) Each request that contains an application for a fee waiver shall specifically indicate whether the requester, in the case that the fee waiver is not granted, will:
(i) Pay, in accordance with paragraph (b) of this section, whatever fees may be charged for processing the request;
(ii) Pay fees up to a specified amount, whereby the processing of the request would cease once the specified amount has been reached; or
(iii) Not pay fees, whereby the processing of the request will cease at the point fees are to be incurred in accordance with paragraph (b) of this section.

(3) If the agreement required by this section is absent, and if the estimated fees exceed $25.00, the requester will be advised of the estimated fees and the request will not be processed until the requester agrees to pay such fees. If the requester does not respond to the notification that the estimated fees exceed $25.00 within 10 calendar days from the date of the notification, the request will be closed.

(e) Public interest fee waivers. (1) Procedures. A requester may apply for a waiver of fees. The requester shall explain why a waiver is appropriate under the standards set forth in this paragraph. The application shall also include a statement, as provided by paragraph (d) of this section, of whether the requester agrees to pay costs if the waiver is denied. The deciding official (as designated by the General Counsel) will rule on applications for fee waivers. To appeal the deciding official’s determination of the fee waiver, a requester must follow the procedures set forth in §4.11(a)(3).

(2) Standards. (i) The first requirement for a fee waiver is that disclosure will likely contribute significantly to public understanding of the operations or activities of the government. This requirement shall be met if the requester establishes that:
(A) The subject matter of the requested information concerns the operations or activities of the Federal government;
(B) The disclosure is likely to contribute to an understanding of these operations or activities;
(C) The understanding to which disclosure is likely to contribute is the understanding of the public at large, as opposed to the understanding of the individual requester or a narrow segment of interested persons; [e.g., by providing specific information about the requester’s expertise in the subject area of the request and about the ability and intention to disseminate the information to the public]; and
(D) The likely contribution to public understanding will be significant.

(ii) The second requirement for a fee waiver is that the request not be primarily in the commercial interest of the requester. This requirement shall be met if the requester shows either:
(A) That the requester does not have a commercial interest that would be furthered by the requested disclosure; or
(B) If the requester does have a commercial interest that would be furthered by the requested disclosure, that the public interest in disclosure outweighs the identified commercial interest of the requester that the disclosure is not primarily in the requester’s commercial interest.

(f) Searches that do not yield responsive records. Charges may be assessed for search time even if the agency fails to locate any responsive records or if it locates only records that are determined to be exempt from disclosure.

(k) Effect of the Debt Collection Act of 1982 (Pub. L. 97–365), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134). The Commission will pursue repayment, where appropriate, by employing the provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, the Federal Claims Collection Standards (FCSS), 31 CFR 900–904, and any other applicable authorities in collecting unpaid fees assessed under this section, including disclosure to consumer reporting agencies and use of collection agencies. The FCSS does not limit the agency’s ability to pursue other authorized remedies such as alternative dispute resolution and arbitration.

3. In §4.11, add paragraph (a)(3)(i)(A)(j) to read as follows:

§4.11 Disclosure requests.

(a) * * *

(i) * * *

(A) * * *

(3) If an initial request for a fee waiver or reduction is denied, the requester may, within 30 days of the date of the letter notifying the requester of that decision, appeal such denial to the General Counsel. In unusual circumstances, the time to appeal may be extended by the General Counsel or his or her designee.

* * * *

By direction of the Commission, Chairman Leibowitz not participating.

Donald S. Clark,
Secretary.

[FR Doc. 2013–04480 Filed 2–27–13; 8:45 am]
BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG–120391–10]

RIN 1545–BJ60

Coverage of Certain Preventive Services Under the Affordable Care Act; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to proposed rules.

SUMMARY: This document contains a correction to proposed rules (REG–120391–10) that was published in the Federal Register on Wednesday, February 6, 2013 (77 FR 4356). The proposed rules propose amendments to rules regarding coverage for certain preventive services under section 2713 of the Public Health Service Act, as added by the Patient Protection and Affordable Care Act, as amended, and incorporated into the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code.

FOR FURTHER INFORMATION CONTACT: Karen Levin at (202) 927–9639 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed rules (REG–120391–10) that is the subject of these corrections is under Section 2713 of the Public Health Service Act.

Need for Correction

As published, the proposed rules (REG–120391–10) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the proposed rules (REG–120391–10), that was the subject of FR Doc. 2013–02420, is corrected as follows: