

## § 1.1115

as to their eligibility for the exemption through a cover letter accompanying the application or filing. This certification is not required if the applicable FCC Form requests the information justifying the exemption.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 55 FR 19172, May 8, 1990; 56 FR 56602, Nov. 6, 1991. Redesignated and amended at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 69 FR 41177, July 7, 2004]

### § 1.1115 Adjustments to charges.

(a) The Schedule of Charges established by §§ 1.1102 through 1.1107 of this subpart shall be reviewed by the Commission on October 1, 1999 and every two years thereafter, and adjustments made, if any, will be reflected in the next publication of Schedule of Charges.

(1) The fees will be adjusted by the Commission to reflect the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) from the date of enactment of the authorizing legislation (December 19, 1989) to the date of adjustment, and every two years thereafter, to reflect the percentage change in the CPI-U in the period between the enactment date and the adjustment date.

(2) Adjustments based upon the percentage change in the CPI-U will be applied against the base fees as enacted or amended by Congress in the year the fee was enacted or amended.

(b) Increases or decreases in charges will apply to all categories of fees covered by this subpart. Individual fees will not be adjusted until the increase or decrease, as determined by the net change in the CPI-U since the date of enactment of the authorizing legislation, amounts to at least \$5 in the case of fees under \$100, or 5% or more in the case of fees of \$100 or greater. All fees will be adjusted upward to the next \$5 increment.

(c) Adjustments to fees made pursuant to these procedures will not be subject to notice and comment rulemakings, nor will these decisions be subject to petitions for reconsideration under § 1.429 of the rules. Requests for modifications will be limited

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to correction of arithmetical errors made during an adjustment cycle.

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### § 1.1116 Penalty for late or insufficient payments.

(a) Filings subject to fees and accompanied by defective fee submissions will be dismissed under § 1.1109 (d) of this subpart where the defect is discovered by the Commission's staff within 30 calendar days from the receipt of the application or filing by the Commission.

(1) A defective fee may be corrected by resubmitting the application or other filing, together with the entire correct fee.

(2) For purposes of determining whether the filing is timely, the date of resubmission with the correct fee will be considered the date of filing. However, in cases where the fee payment fails due to error of the applicant's bank, as evidenced by an affidavit of an officer of the bank, the date of the original submission will be considered the date of filing.

(b) Applications or filings accompanied by insufficient fees or no fees, or where such applications or filings are made by persons or organizations that are delinquent in fees owed to the Commission, that are inadvertently forwarded to Commission staff for substantive review will be billed for the amount due if the discrepancy is not discovered until after 30 calendar days from the receipt of the application or filing by the Commission. Applications or filings that are accompanied by insufficient fees or no fees will have a penalty charge equaling 25 percent of the amount due added to each bill. Any Commission action taken prior to timely payment of these charges is contingent and subject to rescission.

(c) Applicants to whom a deferral of payment is granted under the terms of this subsection will be billed for the amount due plus a charge equaling 25 percent of the amount due. Any Commission actions taken prior to timely