

the date of enactment of this Act [Dec. 19, 1989], and the Schedule of Charges required by the amendment made by subsection (a) of this section shall be implemented not later than 150 days after the date of enactment of this Act.”

TRANSITIONAL RULES FOR APPLICATION FEES

Pub. L. 115-141, div. P, title I, §102(d)(1), Mar. 23, 2018, 132 Stat. 1085, provided that: “An application fee established under section 8 of the Communications Act of 1934 [47 U.S.C. 158], as such section is in effect on the day before the effective date described in section 103 of this title [Oct. 1, 2018], shall remain in effect under section 8 of the Communications Act of 1934, as amended by subsection (a) of this section, until such time as the Commission [Federal Communications Commission] adjusts or amends such fee under subsection (b) or (c) of such section 8, as so amended.”

SCHEDULE OF CHARGES

Section 5002(f) of Pub. L. 99-272 established the Schedule of Charges which the Federal Communications Commission is required to prescribe pursuant to subsec. (a) of this section. See subsec. (g) of this section as added by Pub. L. 101-239.

§ 159. Regulatory fees

(a) General authority

The Commission shall assess and collect regulatory fees to recover the costs of carrying out the activities described in section 156(a) of this title only to the extent, and in the total amounts, provided for in Appropriations Acts.

(b) Establishment of schedule

The Commission shall assess and collect regulatory fees at such rates as the Commission shall establish in a schedule of regulatory fees that will result in the collection, in each fiscal year, of an amount that can reasonably be expected to equal the amounts described in subsection (a) with respect to such fiscal year.

(c) Adjustment of schedule

(1) In general

For each fiscal year, the Commission shall by rule adjust the schedule of regulatory fees established under this section to—

- (A) reflect unexpected increases or decreases in the number of units subject to the payment of such fees; and
- (B) result in the collection of the amount required by subsection (b).

(2) Rounding

In making adjustments under this subsection, the Commission may round fees to the nearest \$5 increment.

(d) Amendments to schedule

In addition to the adjustments required by subsection (c), the Commission shall by rule amend the schedule of regulatory fees established under this section if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities. In making an amendment under this subsection, the Commission may not change the total amount of regulatory fees required by subsection (b) to be collected in a fiscal year.

(e) Exceptions

(1) Parties to which fees are not applicable

The regulatory fees established under this section shall not be applicable to—

- (A) a governmental entity or nonprofit entity;
- (B) an amateur radio operator licensee under part 97 of the Commission's rules (47 CFR part 97); or
- (C) a noncommercial radio station or noncommercial television station.

(2) Cost of collection

If, in the judgment of the Commission, the cost of collecting a regulatory fee established under this section from a party would exceed the amount collected from such party, the Commission may exempt such party from paying such fee.

(f) Deposit of collections

(1) In general

Amounts received from fees authorized by this section shall be deposited as an offsetting collection in, and credited to, the account through which funds are made available to carry out the activities described in section 156(a) of this title.

(2) Deposit of excess collections

Any regulatory fees collected in excess of the total amount of fees provided for in Appropriations Acts for a fiscal year shall be deposited in the general fund of the Treasury of the United States for the sole purpose of deficit reduction.

(June 19, 1934, ch. 652, title I, §9, as added Pub. L. 103-66, title VI, §6003(a)(1), Aug. 10, 1993, 107 Stat. 397; amended Pub. L. 103-121, title I, Oct. 27, 1993, 107 Stat. 1167; Pub. L. 103-414, title III, §303(a)(5), (6), Oct. 25, 1994, 108 Stat. 4294; Pub. L. 115-141, div. P, title I, §102(b), Mar. 23, 2018, 132 Stat. 1083.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-141 amended section generally. Prior to amendment, section related to regulatory fees.

1994—Subsec. (f). Pub. L. 103-414, §303(a)(5), designated second sentence of par. (1) as par. (2) and inserted par. (2) heading.

Subsec. (g). Pub. L. 103-414, §303(a)(6), inserted “95” after “(47 C.F.R. Part” in item pertaining to Interactive Video Data Service under Private Radio Bureau in Schedule of Regulatory Fees.

1993—Subsec. (a). Pub. L. 103-121 designated existing provisions as par. (1), inserted heading, and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-141 effective Oct. 1, 2018, see section 103 of div. P of Pub. L. 115-141, set out as a note under section 156 of this title.

CONTINUED APPLICABILITY OF REGULATORY FEES

Pub. L. 115-141, div. P, title I, §102(d)(2), Mar. 23, 2018, 132 Stat. 1086, provided that: “A regulatory fee established under section 9 of the Communications Act of 1934 [47 U.S.C. 159], as such section is in effect on the day before the effective date described in section 103 of

this title [Oct. 1, 2018], shall remain in effect under section 9 of the Communications Act of 1934, as amended by subsection (b) of this section, until such time as the Commission [Federal Communications Commission] adjusts or amends such fee under subsection (c) or (d) of such section 9, as so amended.”

RULEMAKING TO AMEND SCHEDULE OF REGULATORY
FEES

Pub. L. 115-141, div. P, title I, §102(e)(1), Mar. 23, 2018, 132 Stat. 1086, provided that: “Not later than 1 year after the effective date described in section 103 of this title [Oct. 1, 2018], the Commission [Federal Communications Commission] shall complete a rulemaking proceeding under subsection (d) of section 9 of the Communications Act of 1934 [47 U.S.C. 159], as amended by subsection (b) of this section.”

§ 159a. Provisions applicable to application and regulatory fees

(a) Judicial review prohibited

Any adjustment or amendment to a schedule of fees under subsection (b) or (c) of section 158 of this title or subsection (c) or (d) of section 159 of this title is not subject to judicial review.

(b) Notice to Congress

The Commission shall transmit to Congress notification—

(1) of any adjustment under section 158(b) or 159(c) of this title immediately upon the adoption of such adjustment; and

(2) of any amendment under section 158(c) or 159(d) of this title not later than 90 days before the effective date of such amendment.

(c) Enforcement

(1) Penalties for late payment

The Commission shall by rule prescribe an additional penalty for late payment of fees under section 158 or 159 of this title. Such additional penalty shall be 25 percent of the amount of the fee that was not paid in a timely manner.

(2) Interest on unpaid fees and penalties

The Commission shall charge interest, at a rate determined under section 3717 of title 31, on a fee under section 158 or 159 of this title or an additional penalty under this subsection that is not paid in a timely manner. Such section 3717 shall not otherwise apply with respect to such a fee or penalty.

(3) Dismissal of applications or filings

The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee under section 158 or 159 of this title or any interest or additional penalty under this subsection.

(4) Revocations

(A) In general

In addition to or in lieu of the penalties and dismissals authorized by this subsection, the Commission may revoke any instrument of authorization held by any licensee that has not paid in a timely manner a regulatory fee assessed under section 159 of this title or any related interest or penalty.

(B) Notice

Revocation action may be taken by the Commission under this paragraph after no-

tice of the Commission’s intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee’s last known address. The notice shall provide the licensee at least 30 days to either pay the fee, interest, and any penalty or show cause why the fee, interest, or penalty does not apply to the licensee or should otherwise be waived or payment deferred.

(C) Hearing

(i) Generally not required

A hearing is not required under this paragraph unless the licensee’s response presents a substantial and material question of fact.

(ii) Evidence and burdens

In any case where a hearing is conducted under this paragraph, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee.

(iii) Costs

Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing.

(D) Opportunity to pay prior to revocation

Any Commission order adopted under this paragraph shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked.

(E) Finality

No order of revocation under this paragraph shall become final until the licensee has exhausted its right to judicial review of such order under section 402(b)(5) of this title.

(d) Waiver, reduction, and deferment

The Commission may waive, reduce, or defer payment of a fee under section 158 or 159 of this title or an interest charge or penalty under this section in any specific instance for good cause shown, where such action would promote the public interest.

(e) Payment rules

The Commission shall by rule permit payment—

(1) in the case of fees under section 158 or 159 of this title in large amounts, by installments; and

(2) in the case of fees under section 158 or 159 of this title in small amounts, in advance for a number of years not to exceed the term of the license held by the payor.

(f) Accounting system

The Commission shall develop accounting systems necessary to make the amendments authorized by sections 158(c) and 159(d) of this title.

(June 19, 1934, ch. 652, title I, §9A, as added Pub. L. 115-141, div. P, title I, §102(c), Mar. 23, 2018, 132 Stat. 1084.)