

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Amendment of the Schedule of Application Fees) MD Docket No. 20-270
Set Forth in Sections 1.1102 through 1.1109 of the)
Commission's Rules)

REPORT AND ORDER

Adopted: December 23, 2020

Released: December 29, 2020

< >

Para. 1 = para. 30 in originl, etc.; fn 1 = fn 58 in original, etc.

a. Personal Licenses

1. We adopt the categories of personal license application fees proposed in the *NPRM*. The Commission proposed a fee of \$50 for each of these applications. The Sonoma County Radio Amateurs, Amateur Radio Relay League (ARRL), and many individual commenters contend that the proposed \$50 fee for Amateur Radio Service applications is too high and will prevent amateurs from joining the amateur radio service; instead, they contend, the Commission should adopt no fee or a nominal fee.¹ We agree with commenters asserting this fee is too high to account for the minimal staff involvement in these applications and therefore adopt a reduced amount of \$35 fee for all personal license application fees.²

2. In 2019, the Commission received over 197,000 personal license applications. Several services in the personal licenses category will be subject to new fees, such as Amateur Radio Service licenses, which were not listed on the fee schedule in the prior version of section 8 of the Act, but are now subject to fees under the RAY BAUM'S Act. In the *NPRM*, we sought comment on adopting cost-based fees for personal license applications.

3. Personal licenses include Amateur Radio Service licenses (used for recreational, noncommercial radio services), Ship licenses (used to operate all manner of ships), Aircraft licenses (used to operate all manner of aircraft), Commercial Radio Operator licenses (permits for ship and aircraft station operators, where required), and General Mobile Radio Service (GMRS) licenses (used for short-distance, two-way voice communications using hand-held radios, as well as for short data messaging applications).³ With personal licenses, an applicant's initial application for authorization seeks shared use of certain spectrum bands, or a permit required for operation of certain radio equipment. In either case, these applications focus only on eligibility and do not require technical review. As such, there is no construction requirement (or related filings) and renewal filings are non-technical as well. For these reasons, applications in these services are highly automated and should be subject to the same assessment of fees.

¹ Sonoma County Radio Amateurs at 1.

² See, e.g., ARRL Comments at 6; Knowles Comments at 4-10; Sonoma County Radio Amateurs at 1.

³ *Application Fee NPRM* at 9, para. 24.

4. Numerous commenters suggest that amateur radio licenses should be exempted or are exempt under section 8(d)(1) of the Act. We disagree and note as a starting point that the Commission has no authority to create an exemption where none presently exists. Thus, if an exemption exists, it must be contained within the wording of section 8(d)(1) of the Act.⁴ None of the listed exemptions apply to exempt Amateur Radio Service licenses.

5. AGC argues that amateur radio licenses should be exempt under section 8(d)(1)(B) as they are “operating for all intents and purposes as non-profit entities” because they provide public safety and special emergency radio services in times of crisis on a volunteer basis.⁵ While we are very much aware of these laudable and important services amateur radio licensees provide to the American public, we do not agree that amateur radio licenses fit within the section 8(d)(1)(B) exemption Congress provided.⁶ These specific exemptions do not apply to the amateur radio personal licenses. Emergency communications, for example, are voluntary and are not required by our rules.⁷ Further, there is no indication that most or all amateurs solely use their license for emergency communications; even the section of our rules allowing certain amateur operators to broadcast civil defense communications limit such authorization to periods of local, regional or national civil emergencies.⁸ As we have noted previously, “[w]hile the value of the amateur service to the public as a voluntary noncommercial communications service, particularly with respect to providing emergency communications, is one of the underlying principles of the amateur service, the amateur service is not an emergency radio service.”⁹

6. We also disagree with commenters¹⁰ that argue that amateur radio operators are among the “noncommercial” entities that fall under section 8(d)(1)(C)’s exemption¹¹ for “a noncommercial radio station or a noncommercial television station.”¹² Although, under Commission rules, amateur radio is a “voluntary noncommercial service,”¹³ we do not believe Congress intended to cover amateur radio

⁴ 47 U.S.C. § 158(d)(1). The exemptions are the following: “(A) a governmental entity; (B) a nonprofit entity licensed in the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, or Special Emergency Radio radio services; or (C) a noncommercial radio station or noncommercial television station.” *Id.* We note that the capitalization of the terms in section 8(d)(B) derive from the historical context of when they were first adopted as they refer to the names of current or former FCC radio services. *See, e.g., Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Report and Order, 2 FCC Rcd 947, 958, 959-60, 963, paras. 71, 75-80, 111 & n.101 (1987); Notice of Proposed Rulemaking, 1986 WL 292181, at *11, para. 53 & n.55. Because Amateur Radio Service licenses are not and were never licensed under any of those radio services, they cannot take advantage of the statutory exemption.

⁵ AGC Comments at 4.

⁶ 47 U.S.C. § 158(d)(1)(B).

⁷ 47 CFR §§ 97.1, 97.3.

⁸ 47 CFR § 97.407.

⁹ *Amateur Service Communications During Government Disaster Drills*, Public Notice, 24 FCC Rcd 12872, 12872 (WTB 2009).

¹⁰ *See, e.g., Golden Reply* at 3 and 4-5.

¹¹ 47 U.S.C. § 158(d)(1)(C).

¹² *See, e.g., Griffin C. Klema, Esq. Comments* at 2 (“so long as an applicant or licensee fits the definition of a ‘noncommercial’ it is expressly exempted from the cost-based fee regime under Section 8”); Christopher Ruvolo *Comments* at 1-3 (“Licensed amateur stations meet the ‘noncommercial’ requirement of the exceptions authorized under 47 U.S.C. § 158(d)(1)(C)”); *Golden Reply* at 3 and 4-5 (arguing that the exemption in 8(d)(1)(C) is not limited to broadcast licensees and includes amateur radio licensees).

¹³ *See* 47 CFR §§ 97.1(a) (identifying one of the fundamental purposes of the amateur radio service includes “[r]ecognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications”); 97.3(a)(4) (defining

operators under the newly added exemption. That rule was based on the Commission’s determination that Congress intended to exempt noncommercial educational (NCE) broadcast stations from the application fees.¹⁴ Given that the Commission’s longstanding exemption rule of over 30 years covered only noncommercial educational broadcast stations, Congress presumably would have more clearly indicated an expanded exemption if it had intended one to cover amateur radio service. We see no such indication here. To the contrary, we believe Congress’s inclusion of the term “noncommercial television station” immediately following “noncommercial radio station” cabins the contextual meaning of that term.¹⁵ We did not then 30 years ago, nor do we now, conclude that the exemption covers non-broadcast services.”

7. Lastly, while fees for amateur radio licenses were not previously listed on the fee schedule in section 8 of the Act, the RAY BAUM’S Act directed the Commission to establish fees for all applications and there is no specific exemption for this radio service under section 8 of the Act as amended. If Congress had intended to exempt amateur radio licensees from payment of application fees, it would have identified this service as exempt, as it did in section 9 of the Act, exempting “an amateur radio operator licensee under part 97 of the Commission’s rules” from payment of regulatory fees.¹⁶ While the RAY BAUM’S Act amended section 9 and retained the regulatory fee exemption for amateur radio station licensees, Congress did not include a comparable exemption among the amendments it made to section 8 of the Act.¹⁷ Indeed, had Congress intended amateur radio operators to be covered under the “noncommercial radio station” exemption in section 9(e)(1)(C), it would have been unnecessary to retain the regulatory fee exemption for amateur radio operators in section 9(e)(1)(B).¹⁸ Having included both provisions in section 9, we believe the most reasonable interpretation is that Congress did not intend for the noncommercial radio and television station exemption to cover the amateur radio service. Given the identical language appears in section 8(d)(1)(C), we interpret the exemptions consistently¹⁹ and conclude that amateur radio station licensees are not covered under that exemption.

“Amateur service” as a “radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest”); 97.113(a)(2), (3) (prohibiting amateur stations from transmitting “communications for hire or for material compensation, direct or indirect, paid or promised” or “communications in which the station licensee or control operator has a pecuniary interest”); see also 47 U.S.C. § 153(3) (defining “amateur station” as a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest”).

¹⁴ *Application Fee NPRM*, para. 13 & note 13 (explaining that the exception in section 1.111 was based on the statements in Conference Report to accompany H.R. 3128, House of Representatives Report No. 99-453 indicating that that “non-commercial radio and television stations will not be subject to any of the fees listed in this schedule.” 1985 Conference Report at 423; 425, 426. Moreover, the legislative history to the 1989 amendments to section 8 reaffirmed the point. Conference Report to accompany H.R. 3299, House of Representative Report No. 101-386 (1989) (“Non-commercial broadcasters were excluded from the initial Schedule of Charges passed in 1985. The House recedes to the Senate position and agrees to continue to exclude non-commercial broadcasters from the Schedule of Charges.”)).

¹⁵ See *Yates v. U.S.*, 574 U.S. 528, 543 (2015) (explaining the principle of *noscitur a sociis*—a word is known by the company it keeps—to avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words thus giving unintended breadth to the Acts of Congress).

¹⁶ 47 U.S.C. § 9(e)(1)(C).

¹⁷ *Id.* § 8(d)(1).

¹⁸ Compare 47 U.S.C. § 9(e)(1)(B) with § 9(e)(1)(C).

¹⁹ See *Law v. Siegal*, 571 U.S. 415, 422 (2014) (under the “normal rule of statutory construction”, “words repeated in different parts of the same statute generally have the same meaning”).

8. Some commenters support the \$50 fee we proposed in the *NPRM* as reasonable and fair.²⁰ However, ARRL and many individual commenters argue that there is no cost-based justification for application fees for the Amateur Radio Service. ARRL explains that the service is largely self-governing and amateur radio operators prepare and administer examinations for amateur licenses.²¹ They explain that preparing, administering, grading, and reporting amateur examinations has been done exclusively by amateur radio organizations that in turn submit to the Commission only the paperwork required to issue a license.²² Several individual commenters argue that the only costs associated with this service relate to entry into and maintenance of ULS, which costs should be \$0 per application and nominal per licensee (to cover FRN creation and ULS entry).²³ Others acknowledge that there may be some incremental costs associated with applications for vanity call signs or requests for paper licenses, but not with other applications that are entirely automated.²⁴ Other commenters propose graduated fees (generally starting at \$0) for the different license classes (i.e., Technician, General, Extra), or for new licenses, renewal, vanity call sign, etc.²⁵

9. We agree that the applications for amateur licenses, and other personal licenses, are largely automated, and for that reason the cost-based fee we adopt is only \$35. With respect to the amateur licenses, while review is highly automated, staff must maintain the processing system to ensure applicants are qualified, vanity call sign procedures are followed, and off-lined applications are individually reviewed.²⁶ Therefore, we cannot conclude that there are no costs involved in processing the applications and we do not have the discretion to exempt this service from application fees.

10. ARRL and many individual commenters additionally claim that the proposed fee will harm the public interest by discouraging people who are younger from becoming licensed or by causing people who are older and living on fixed income to leave the service (depriving others of their skills and experience).²⁷ These commenters explain that participation in the amateur radio service can be an entry point to science, technology, engineering, and math careers.²⁸ They also note that amateur licensees have driven innovation in communications and other technologies.²⁹ While we agree that participation in the Amateur Radio Service offers important public interest benefits, that determination does not alter our obligation under RAY BAUM's Act to adopt cost-based fees for processing applications regarding nonexempt service.

11. Other commenters argue that it is unreasonable for the Commission to impose fees on Amateur Radio Service licensees given that the Commission has outsourced many of the administrative functions for the service. Individual operators and their organizations perform not only the training and

²⁰ See, e.g., Greg Gallop Comments at 1; Serge Miller Comments at 1; Carl Akers Comments at 1; Mark Brown Comments at 1.

²¹ ARRL Comments at 2-3. ARRL is also known as the American Radio Relay League.

²² *Id.* at 3.

²³ See, e.g., Vollie T. Miller Comments at 1; Charles McKinnis Comments at 1; Terry Whitehead Express Comments at 1.

²⁴ See, e.g., Arthur Clark Comments at 1; Kim & Ralph Irons Comments at 1; Christopher A. Merck Comments at 1.

²⁵ See, e.g., Charles Bierwirth Comments at 1; Henry Silver Comments at 1; John Eddy Comments at 1.

²⁶ To the extent the *NPRM* could be construed as basing the proposed amateur radio service application fee in part on ULS maintenance costs, see Joseph H. Hibberd Comments at 1-2, we do not consider such costs in establishing the \$35 fee in this Order.

²⁷ See ARRL Comments at 6, 9; see also, e.g., Robert S. Antoniuk Comments at 1; Brian Wasson Comments at 1.

²⁸ See, e.g., ARRL Comments at 9.

²⁹ See, e.g., ARRL Comments at 6; Jamie Heim Comments at 1.

examination functions we have discussed, but also assist the Enforcement Bureau in policing the service for unlicensed operations and other interference issues.³⁰ These commenters argue that if the Commission adopts application fees for the service, it should use the fees for the benefit of licensees, for example, by taking more robust enforcement actions against unlawful operators.³¹ While we appreciate the commenters' diligent advocacy for their service, we remind them that the Commission does not have discretion on how to use application fees, which must be deposited in the U.S. Treasury.

12. One commenter, Knowles, contends that the proposed \$50 fee for GMRS is too high, as the application process is automated.³² There is no testing involved, as with the amateur license. We recognize that the application process for GMRS licenses is highly automated. There are, however, some costs involved in ensuring applicants are qualified and off-lined applications are individually reviewed, and we cannot conclude that there are no costs involved.

13. After reviewing the record, including the extensive comments filed by amateur radio licensees and based on our revised analysis of the cost of processing mostly automated processes discussed in our methodology section, we adopt a \$35 application fee, a lower application fee than the Commission proposed in the *NPRM* for personal licenses, in recognition of the fact that the application process is mostly automated.³³

14. We adopt the proposal from the *NPRM* to assess no additional application fee for minor modifications or administrative updates, which also are highly automated. Also, consistent with our decision for site-based applications, we do not adopt a fee for amendments. We find that it would be difficult to calculate identifiable direct costs beyond those included in the calculation of the underlying license application fee adopted for personal license services. If, in the future, we are able to calculate an identifiable direct cost for such filings, beyond what is included in the underlying license fee, we may revisit this issue. We also decline to adopt a fee for instances where an applicant elects to receive a physical license by mail (including requests for a duplicate license), because the Commission has adopted an order eliminating such printing and mailing services.³⁴

15. We adopt the fees, as set forth in the table. All fees are per call sign unless otherwise noted.

Type of Personal License Application	New Fee
New license	\$35
Special temporary authority	\$35
Rule waiver	\$35
Renewal	\$35
Vanity Call Sign (Amateur Radio Service)	\$35

³⁰ See Amy S. Lindenmuth, Calvin T. Wagner Jr., Frances R. Wagner Comments at 1.

³¹ See Jordan Nash Comments at 1; Joseph Grib Express Comments at 1; Paul Andrews Express Comments at 1

³² Knowles Comments at 4-10.

³³ See, e.g., several other applications, such as for license renewal and spectrum leasing in the site-based category, that are largely automated and now have \$35 fees.

³⁴ See *E-Licensing Order*, 35 FCC Rcd 10781.