

§ 1.1115

part 74) or stations in the private radio or common carrier services where such authorization is to be used in conjunction with the noncommercial educational translator or low power station.

(4) An applicant that is the licensee of an instructional television fixed station (§ 74.901 *et seq.*) is exempt from filing fees where the authorization requested will be used by the applicant in conjunction with the provision of the instructional service.

(f) Applicants, permittees or licensees who qualify as governmental entities. For purposes of this exemption a governmental entity is defined as any state, possession, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected or duly appointed public officials exercising sovereign direction and control over their respective communities or programs.

(g) Applications for Restricted Radiotelephone Operator Permits where the applicant intends to use the permit solely in conjunction with duties performed at radio facilities qualifying for fee exemption under paragraphs (c), (d), or (e) of this section.

NOTE: Applicants claiming exemptions under the terms of this subpart must certify 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; 67 FR 67337, Nov. 5, 2002]

§ 1.1115 Adjustments to charges.

(a) The Schedule of Charges established by Sections 1.1102 through 1.1107 of this subpart shall be adjusted by the Commission on October 1, 1999 and every two years thereafter.

(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

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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. Adjustments will not be calculated by using the previously adjusted fee as the base.

(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 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(b) 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