1. Introduction.

Everyone remembers where they were when a significant historical event (e.g., Kennedy assassination, Challenger disaster, and of course 9/11) occurred. Do you remember where you were when the FCC announced that a felony question would be added to FCC Form 605? Me either. I guess that means it wasn’t that memorable.

As I write this, the felony question has been in effect for over 26 weeks now (7 Sep 2017 – 7 Mar 2018) and like me, you're probably wondering what impact it has had on amateur radio licensing. Well, in general, not much but there are some interesting facts, if you like that sort of stuff.

Before we go any further, all of the data contained herein is derived from the FCC ULS website, e-mails and phone calls with applicants, but the analysis and commentary are products of the author.

Also, let’s clear up some terminology with respect to the purpose of an application so that we’re comparing apples to apples and not knives to light bulbs. Because the discussion is going to focus on the “felony question”, I will primarily discuss only applications for new licenses, modification and renewal/modifications of existing license because they require the applicant to answer the felony question, effective 7 September 2017.

New (NE) – The purpose of this application is to apply for an initial license of any class and must be submitted by a VEC.

Modification (MD) – The purpose of this application is used to modify the technical data (e.g., Class of license and/or call sign) or to modify the technical and administrative data of an existing license.
- Technical changes are required for this type of application according to the FCC’s definition of a modification.
- If the modification involves a change of the class of license with or without administrative changes, it must be submitted by a VEC.
- If the modification involves only a change of call sign with or without administrative changes, it may be submitted by a VEC, Interactively (On-line) or Manually (Snail mail).

Renewal/Modification (RM) – The purpose of this application is to renew and modify a license at the same time.
- Technical changes are required for this type of application according to the FCC’s definition of a modification.
- If the modification involves a change of the class of license with or without administrative changes, it must be submitted by a VEC.
- If the modification involves only a change of call sign with or without administrative changes, it may be submitted by a VEC, Interactively (On-line) or Manually (Snail mail).

Batch Mode – In this mode the VECs use the Electronic Batch Filing System to submit applications for new licenses, modifications and/or administrative changes to an existing license.

Interactive Mode – This mode allows applicants to make on-line changes to the technical and administrative data in their license except for changes to their license class which much be submitted by a VEC using the Batch Mode.

Manual Mode – Similar to the Interactive Mode except it involves the FCC Form 605 and is submitted by mail.

Note: With the exception of exam results, the data collected/submitted in the Batch and Interactive Modes is the same data collected on the FCC Form 605.
2. Background and Context.

In order to understand how we got here and maybe shed some light on where we’re going, we need a brief history lesson.

a. **US Amateur Radio Population.** The population of the amateur radio service has steadily and significantly grown since the elimination of Morse code as an exam element in February 2007, as shown in the graphic below from AH0A.org.

The license structure in April 2000 resulted in the Morse code requirement being reduced from three speeds to one speed (5 wpm). What I find interesting is that following a very modest increase of about 9,300 licenses between April 2000 and March 2003, the number of licensees steadily decreased through March 2007. I have been unable to find an explanation for the decrease.

![Graphic 1](image-url)

b. **What is a Felony?** Since we’re talking about felonies it’s useful to understand what a felony is. Generally speaking, crimes fall into three categories:

1. **Infractions** - In general, these are the least serious type of crime.

2. **Misdemeanors** - Misdemeanors are more serious than infractions. They are usually defined as a crime which is punishable by up to a year in jail time.

3. **Felonies** - Felonies are the most serious types of crimes. They are usually defined by the fact that they are punishable by prison sentences of greater than one year. Although felonies are considered serious crimes and are punishable by imprisonment, not all felons spend time in prison. Many serve short stints in jail or start and finish their sentences on probation in their communities.

Crimes that are categorized as felonies vary between federal and state statutes and between the states. For example, DUI is not normally a federal crime unless the incident occurs where the federal government has jurisdiction such as a military base, a National Park, etc. In the states and territories, DUI is normally a misdemeanor or a traffic infraction. However, some states elevate DUI
to a felony after multiple DUI citations which vary between the states but as a general rule the third time is the charm.

Current, state and federal criminal statutes may categorize various other types of crimes as felonies. Under traditional common law, felonies include but are not limited to serious offenses such as: homicide, attempted murder, rape, arson, human trafficking, burglary, robbery, failing to inform a sex partner of their HIV-positive status, criminal damage to property, escaping from a prison, interfering with a guardian’s custody rights including interstate interference, assisting in a felony, possession, distribution, and/or the sale of controlled substances, kidnapping, sexual molestation of children, assault, auto theft, fraud, domestic abuse, identity theft, crimes related to fire arms, etc.

Multiple sources suggest that 8.6% of the adult US population, 18 years and older (236 Million), have been convicted of a felony. That means over 20 million persons are felons. By any measure, that’s a lot. The number of felons is increasing but not as high as it could, because many people have their felony changed to a misdemeanor, as part of a plea agreement, usually to save time and money.

c. Felonies Prior to 7 September 2017. Prior to the implementation of the felony question in September 2017, the FCC generally relied on the public to notify them of applicants and licensees convicted of a felony.

- There is no data publicly available regarding the number of applicants or licensees reported as felons each year to the FCC.
- There is no data publicly available regarding the number of felons whose application was granted and very little data on applications that were denied, and licenses revoked.

I spoke with one ham who told me of his experience when he interactively submitted an address change to his license.

- He submitted his update in the fall of 2012.
- After seeing no action on his change of address, he contacted the FCC and was told that his application had been referred to the Enforcement Bureau.
- In the summer of 2015 his application to change his mailing address was granted.
- He filed a Freedom of Information Act request to inquire why it took so long to grant his application.
- He received a letter that explained that the names and personal information were redacted per the request of the individual(s) involved. In other words, someone had notified the FCC that he had been convicted of a felony.
- The cover letter concluded something to the effect: "While we are granting your application for an administrative update to your license, we will also review your application upon renewal of your license.".

When notified that an applicant/licensee is a felon, sometimes the FCC initiated an inquiry or waited until the alleged felon applicant submitted an application.

- It appears that the Commission uses a “flag” (e.g., “1”) to identify such applicants for further investigation when they eventually submitted an application.
- The flag that is used is not visible to the public.

Due to the length of time in “Pending status” almost certain all of these applications involve a felony. The type of felony is unknown except for two applicants, one of whom I interviewed over the phone and by e-mail.

- One applicant ‘s felony involved drugs.
• The other applicant’s felony involved obstruction of justice. This is the same Ham whose application was delayed for nearly 3 years and described above.
• The applicant submitted his renewal application Interactively in the fall of 2016 which was flagged the next day as “pending”.
• Almost a year later, a deputy chief in the Mobility Division of the Wireless Telecommunications Bureau sent him a certified letter telling him to provide an explanation of his crime and provide copies of certain police and/or court documents.
• Six weeks later he provided the requested information.
• His application is still pending.
• In the meantime, over 140 other felon applicants and licensees have had their applications granted since implementation of the felony question.

When the FCC decided to take action, the requirements imposed on the applicant/licensee were more stringent than those of today. The requirement to provide information was not limited to the NE, MD and RM applications but included any application for any purpose.
• In addition to providing an explanation, the applicant/licensee was required to provide police and/or court documents.

Processing the application of a suspected or confirmed felon applicant/licensee appears to be excruciatingly slow for unknown reasons/factors.
• There are currently 90 applications pending since 16 Oct 2006 through 11 July 2017.
• Approximately 60 of the applications were turned over to the Enforcement Bureau for further action.

Pending Applications Prior to 7 Sep 2017

License applications. What impact, if any, has implementation of the felony question had on the growing population of amateur radio operators? In other words, would implementation of the felony question slow down the growth of new Hams?

The graphic below shows the number of new licenses submitted and granted between 1 Jan 2007 and 31 Dec 2017. An additional 163 applications were submitted and dismissed during this period due to VEC errors (e.g., Duplicate applications) and trustee conflicts for club station licenses. Some of those dismissed applications were resubmitted.

As you can see, there is a slight decline between 2016 and 2017. However, the number of licenses submitted and granted in 2017 is above the yearly average (The red column).
Is the decline between 2016 and 2017 a direct result of the felony question? Probably not because the number of new licenses routinely varies year-to-year, but let’s look at the data from March 2017:

As you can see, between March and September 2017, before the implementation of the felony question, the trend for new licenses was declining. Following implementation of the felony question, the trend for new licenses is still increasing.

The dip between November and December is a traditional occurrence related to the Thanksgiving and Christmas holidays when there are fewer exam sessions.
License Modifications. As the chart below indicates, applications to modify an existing license (Upgrade and/or change of call sign) between March 2017 and March 2018 replicated the same trends as shown for new license applications. Vanity calls are considered to be a modification but are not processed by VECs and therefore are not included in this discussion.

Renewal/Modification applications are unique in that timing is a factor: The modification can only occur when the license is eligible to be renewed.
I cannot find a specific reason why the number of RM applications submitted by VECs dropped so significantly in conjunction with the implementation of the felony question. I will discuss RM applications in greater detail later in this document.

3. Felony applications since 7 Sep 2017.

a. **Applications uploaded by VECs.** Between 7 Sep 2017 and 7 Mar 2018, Volunteer Examiner Coordinators (VEC) submitted, via the Batch filing system, 23,596 applications for new licenses, modifications, and renewal/modification.

The graphic below indicates the number of all new, modification and renewal/modification applications that were uploaded on a monthly basis between 7 Sep 2017 through 7 March 2018 by the VECs.

![Graphic 7](image)

Of the 23,596 applications uploaded by the VECs from 7 September 2017 through 7 March 2018, 225 or **about 0.95% of all applicants answered the felony question “Yes”**.

- Amateur radio operators (About 750,000) represent about 0.003177% of the US adult population (236 million).
- Fifty-seven felon Hams (About 0.000076% of the US amateur population) applied to modify or renew/modify their licenses since September 2017.
- One hundred sixty-eight non-ham felons (0.00000071% of the adult US population) applied for an amateur radio license since September 2017.

b. **Felon applications by month.** The next image indicates the number of uploaded applications each month on which the felony question was answered “Yes”. The sharp decline between February and March is due to having only 5 days of data in March.
c. **Application Purpose.** There are multiple application purposes:

**AU** – Administrative Update – Used when there are no changes to the technical data (Class and/or call sign) of a license and the license is not being renewed. May be submitted via a VEC, Interactively or Manually. This type of application does not require the applicant to answer the felony question.

**NE** – New - Application for a new license. Must be uploaded by a VEC, and the applicant must answer the felony question.

**MD** – Modification – A Modification is a change of the technical data (Class and/or call sign) of a license or a change of the technical data and a change of the administrative data (Licensee name, mailing address, phone number, e-mail address, etc.). This type of application requires the applicant to answer the felony question.
- If the modification is for a change of license class (e.g., Upgrade), the application must be submitted by a VEC.
- If the Modification is only for a change of call sign, the application can be submitted by a VEC, Interactively, or Manually

**RO** – Renewal Only – Used to renew a current license. The intent of this application, according to the FCC, is to only renew a license and should not include administrative changes or modifications. This application does not require the applicant to answer the felony question. According to the FCC, if an applicant wants to renew their license and make some administrative changes to their license, they should submit two separate applications: RO and AU.

**RM** – Renewal/Modification – This type of application in used to renew and modify (e.g., Upgrade and/or change of call sign) a license. In addition to the upgrade and/or change of call sign, administrative changes may be included. This type of application requires the applicant to answer the felony question.
WD – Withdrawal – This type of application is used to withdraw a pending application. It may be submitted by a VEC or the applicant.

AM – Amendment – This type of application is used to amend a pending application. It may be submitted by a VEC or the applicant. If the applicant answered the felony question on the pending application the felony question must also be answered on the amended application.

Of the 225 felon applications uploaded, 75% were for new licenses, 24% were for modifications and 1% were for renewal/modifications.

An average of 8.7 felon applications were uploaded each week during the first 26 weeks. This breaks down to an average of 6.5 new applications and 2.2 MD/RM applications per week. The highest number of applications in any week (16-22 Nov 17) was 19 (16 NE and 3 MD). The lowest was 2 (0 NE and 2 MD) during 2-10 Jan 18.

Women accounted for 7% of the felon applications.

d. Application Status. The following graphic indicates the status of the felon applications uploaded by the VECs between 7 Sep 2017 and 7 March 2018 as of 20 March 2018. I’ll break down the status categories in the pages that follow.
The decision to grant or deny a license or modification of an existing license from a felon appears to be based on many factors. As a general policy and based on previous decisions, it appears that the FCC seldom grants, if at all, applications from persons convicted of the most egregious crimes and licensees convicted of these crimes usually have their licenses revoked. Examples of such egregious crimes include murder and sexual offenses involving children.

When a felon applicant provides their explanation, it is reviewed, and the following factors are probably considered:
- The nature of the crime. All felonies are not equal – some are egregious and others not so much.
- The circumstances of the crime. Was it premeditated? Was it a spur of the moment event? Was the person under the influence of drugs or alcohol?
- How long ago did the crime occur?
- How old was the applicant at time of the crime?
- What was/were the penalty/penalties?
- Have the penalties been completed?
- Is the felon still on probation?
- Has the applicant accepted responsibility for his behavior?
- Has the applicant shown remorse?
- Has the applicant changed his behavior/improved his life since the crime?
- Has the applicant taken measures to prevent future criminal activities?

When are felon application granted? The following graphic shows that nearly 81% of felon applications are granted Monday through Wednesday.
g. **Felon applications granted by month.** The number of felon applications granted per month seems to be declining, as indicated in the graphic below. I don’t think this is significant. Grants come in waves: Nothing for a period of time and then a flurry of activity followed by a lack of activity.

- The lack of grants in September is probably due to the newness of the process used by the FCC.
- The drop in December is probably due to the holiday season.
- Between Feb 22 and 19 March, the FCC did not grant any felon applications for some reason. I’ve been unable to confirm why there were no grants during this time frame.
It’s worth noting that 15 felon applicants have submitted one or more applications (NE and MD) during the first 26 weeks. Some went from nothing to Amateur Extra in three steps, others went from nothing to General, in two steps, and one went from Technician to Amateur Extra in one step.

h. **Withdrawn Applications.** Fifteen of the 17 withdrawn felon applications were due to errors in the application. These errors were made by the applicants and/or the VECs. Two applications were withdrawn without explanation but one of them was resubmitted and is pending.

- Application errors – In general, application errors fall into two categories: Applicant and VEC.
  - Applicant errors: Name changes; Vanity applications conflicting with a modification; Expired license.
  - VEC errors: Applications with no data (Very Rare); Incorrect upgrade; Wrong applicant upgraded; Duplicate applications.

- Felon Application Errors.
  - Applicants answer the felony question incorrectly; Vanity application conflict; Attempting to interactively modify a pending application. The Laurel VEC had one application on which the applicant incorrectly answered the felony question. The application was withdrawn, promptly corrected, resubmitted and the application was immediately granted.

  - VEC errors – VECs uploaded the application with the felony question incorrectly answered “Yes” or no. In other words, the applicant answered the question “No” and the VEC uploaded it as “Yes”. Other VEC errors included: Uploading the wrong results; Uploading the application for the wrong applicant; and uploading duplicate applications. Duplicate errors typically occur when it appears that the Electronic Batch Filing System/ULS may not have processed an application due to the lack of a Response File. The VEC will resubmit the application and get the error. The Laurel VEC had one duplicate error.

The graphic below shows the disposition of withdrawn felon applications.
Of the 17 applications withdrawn, 16 were resubmitted. Twelve of the resubmitted applications were granted and 4 are pending. One application was withdrawn and there has been no further action on it.

i. Dismissed Applications. The FCC routinely dismisses applications due to errors in an application. The most common errors include: Failure to provide required or requested information; Designated trustee is already a trustee for another call sign; Vanity call conflict with application.

The graphic below indicates that 36 felon applications were dismissed for the reasons indicated. Six of the dismissed applications were resubmitted and granted. Thirty applicants have done nothing further with their application.

![Dismissed Felon Applications & Reason](image)

Of the 36 applications dismissed by the Commission, 29 were dismissed because the applicant failed to provide their explanation within the 14-day period allotted by the FCC.

- The ARRL VEC uploaded 25 of the 29 applications that were dismissed
- The Laurel VEC uploaded two and the W5YI and W4VEC VECs each uploaded one.

Six of the dismissed applications uploaded by the ARRL, were subsequently resubmitted and granted.

- Three were previously dismissed for failure to provide an explanation.
- Two were previously dismissed due to attempted Interactive amendments.
- One was previously dismissed due to a vanity conflict

There are some rhetorical questions for consideration:

- Why did 29 out of 36 applicants (80.6%) not provide their explanation within the prescribed time frame?
- Why did 25 of 29 applicants who went through the ARRL VEC not submit their application within the prescribed time limit?
- Why did only six applicants resubmit their applications?
j. **Applications Pending.** As I write this, there are currently over 650 applications pending in the ULS. Only 30 of them belong to felon applicants. The graphic below indicates the types of crimes involved. Sixteen applications (Possible Egregious Crimes and Unknown) are pending with their crimes not visible to the public. The “Unknowns” have only been pending a short time whereas the “Possible Egregious” applications have pending for several months. Two have been returned to the applicant for additional information. Seven of the pending applications are for modification of an existing license.

![Graphic 15: Crimes of Pending Felony Applications](image)

k. **Length of Pending status.** As the graphic below indicates, the average time spent in “Pending” status before an application was granted was 14.05 days. The bulk of pending felony applications (87.9%) were granted in 21 days or less. The shortest time in “Pending” status was three days and the longest was 48 days.

![Graphic 16: Number of Days Felon Applications Were in Pending Status Before Being Granted](image)
I. **Returned Applications.** This is a temporary status for an application which included an explanation.

Applications are returned because the applicant’s explanation was vague or incomplete. Returned applications are also seen when applicants apply for vanity call signs or name changes.

When an application is put in “Returned status” the applicant has 60 days to provide the requested information. Upon receipt of the information, the application is returned to “Pending” status.

One returned application was granted, and another was dismissed because the applicant did not respond within the allotted 60 days.

### Felon Applications Returned and Disposition

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m. **Felony Explanations.** I reviewed the felony explanations visible in the ULS and divided them into 21 categories (e.g., Murder, Auto Theft, Burglary/Robbery, Drug related, Assault, Sex-related crimes, etc.) as shown in the graphic below.

Most explanations cover the information requested/required by the FCC, but others are vague or incomplete (e.g., “I was convicted of a crime and served my time”; “I was convicted of a non-violent crime that did not involve drugs”, etc.).
o. **Renewal Only and Renewal/Modification Application Issues.** To be certain, this is not a critical issue. But for one applicant it means he will probably lose his license because a VEC decided to ignore the definition of the modification portion of the RM application.
I contacted the Wireless Telecommunications Bureau to get a further understanding of the application purposes described above. They told me the following:

- A modification application is for the purpose of **changing the technical data** of a license or **changing the technical and administrative data** of an existing license. They confirmed that changes to the technical data are limited to changing the class of license and/or the call sign.

- If an applicant wants to renew their license and make changes to their administrative date, they should submit two separate applications: An AU application and a RO application.

- The RO application is **only** for the purpose of renewing a license WITHOUT administrative updates.

- I explained that when an applicant shows up to a VEC coordinated exam session to renew his license and make some administrative changes, he doesn’t get to choose what purpose the VEs will use for the application and that choice may be mandated by the VEC.

- When a VEC receives a renewal application that contains administrative updates, the VEC should upload two applications: An AU application and a RO application.

My research revealed the following:

- The Electronic Batch Filing System does not distinguish between the definitions of the purpose of an application and will accept just about any application with any purpose as long as there is information in the application.
  - It accepts applications for the modification of a license in which the application only contained changes to the administrative data of the license. This should have been an AU application.
  - It accepts RM applications that contain only administrative updates to the license.

- If an applicant submits a renewal application interactively (on-line) or manually (Snail mail) and it includes administrative changes, **the FCC processes the application as a RO application**.

- The only RM application that can be submitted interactively or manually is an application to renew the license and change the call sign systematically (i.e. the technical data).

- The Laurel VEC uploads renewal applications that contain administrative changes as a RO application the same way the FCC processes them when submitted interactively and manually.

- The W5YI VEC uploads renewal applications that contain administrative changes as two applications: RO and AU.
  - Note: If the administrative changes are limited to phone numbers and/or e-mail addresses, the W5YI VEC will only upload the renewal application. They inform the applicants to contact the FCC for those changes.

- The W4VEC, Central America, Western Carolina and Sandarc VECs upload all renewal applications with administrative updates as RM applications.
• The Sandarc VEC uploaded a renewal application with change of phone number as a RM application

• The ARRL VEC uploads renewal applications with administrative changes based on the specific administrative changes:
  • Renewal applications with a change to phone number or e-mail addresses, are uploaded as a RO application.
  • Renewal applications with a change to the applicant’s name, mailing address and other administrative changes, are uploaded as a RM application even though there are no technical changes to the license.

r. Why is this important? It’s a matter of accuracy and fairness.

  • The FCC explicitly excluded renewal and administrative update applications from the felony question.

  • Any applicant who attends an exam session not coordinated by the W5YI and Laurel VECs and wants to renew his license and update the administrative data will have his application processed by the VEs as a RM application per the applicable VEC’s instructions and must answer the felony question. The VEC will upload the application as a RM application.
  • If an applicant who answers “Yes” to the felony question they must provide an explanation.
  • If the applicant’s crime was “egregious”, they will probably have their application denied and their license revoked.

  • Whatever your position is on the felony question, I believe we all agree that the process should be consistent and fair.

s. When and how often will a team or a VEC process a felon application?

  The ARRL VEC, because of its size, uploads the most applications and the most applications from a felon. The ARRL VEC uploaded 72% (162) of the 225 felon applications during the 26 weeks following implementation of the felony question.

  It’s impossible to predict which VE teams, regardless of VEC affiliation, will have to process an application on which the felony question is answered “Yes”. However, the most felon applications have come from two states: California (14.6%) and Washington (13.3%) so statistically, a VE team located in those two states may have a better chance of having to deal with an application from a felon than a team in Vermont or Delaware for example.

  One Laurel VEC affiliated VE team has dealt with five applications from felons including a repeat applicant, during the first 26 weeks.

  For the most part, nearly all of this data will be subject to change over the following years although some trends will continue: As the current largest and busiest VEC, the ARRL will continue in that role followed by the W5YI and Laurel VECs.

  t. Bottom line: There’s no way to predict when or even if a specific VE team will have to process an application from a felon.

4. Other Observations.
a. Since the announcement of the implementation of the Felony Question and as I write this, I have heard and read various opinions regarding the implementation of the question. While the opinions range from one end of the spectrum to the other and all points in between. Many people seem to have an emotional attachment to the subject similar to what I observed when the FCC decided to eliminate Morse code as a licensing requirement.

b. There are 190-192 full time employees within the Wireless Telecommunications Bureau (WTB). After accounting for approximately 60 people in leadership positions (e.g., Bureau and Division Chiefs, Deputy Chiefs, Associate Deputy Chiefs, Assistant Deputy Chiefs and various legal and policy advisors), there are about 130 employees plus an unknown number of contractors, distributed between the five divisions, including the Mobility Division, within the WTB. The employees and contractors of the WTB are distributed between the Gettysburg office and the Headquarters in Washington, DC. How the workforce is distributed between the five divisions is unknown.

c. The Mobility Division is responsible for developing policy and rules that facilitate rapid, widespread deployment of wireless communications services. The Mobility Division reviews and processes license applications filed through the Universal Licensing System (ULS) for the services and “missions” listed in the image, below (The Mobility Division has the largest number of “missions” of the five divisions. The next largest division has 15 “missions”). By any measure the Mobility Division has a full plate

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| Graphic 20                             |

d. I share this to show the workload and to suggest that, along with the unknown number of employees and contractors in the Mobility Division, why processing felon applications takes so long.

However, some things are inexplicable:

As a general policy, there is a 30-day window for setting aside an application or reversing a grant of application. If a VEC uploads an application that includes material errors, the VEC has 30 days to bring it to the attention of the FCC and get it fixed. Once the 30-day window has closed, unless it is a very serious breach of law, protocol, policy, or process, the FCC will not take action on the application.
Example: A VEC uploads an application with the question answered “Yes”, Timmy provides his explanation and is granted a license. A VEC uploads an application for an upgrade but this time the application has the question answered “No”. No idea who made the error but probably the VEC because the VEC tried to incorrectly correct the application. Because Timmy has no idea what the VEC did and tried to do, the FCC dismisses the attempted correction. By the time the FCC finds out, 30 days have passed. Had the correct procedures been followed it is almost certain that Timmy would still have had his upgrade granted.

4. Application Flow. When a VEC uploads an application via the Electronic Batch Filing System a one-up file number is assigned to the application. A series of checks occurs next:

1. **Does the application have a FRN?** If yes, then the application goes to the next check. If the application does not have a FRN, one is acquired and assigned to the application. The application goes to the next check.

2. **Does the applicant owe the FCC money?** If not, then the application goes to the next check. If the applicant owes money to the FCC, then the application is flagged, and the issue must be resolved. If resolved, the application does to the next check. If it is not resolved, the application will be dismissed.

3. **Has the applicant been convicted of a felony?** If the applicant answered “No” then the application is granted. If the answer is “Yes” then it is flagged to await the arrival of the applicant’s explanation.

- If the applicant does not provide an explanation within the prescribed time (+/- a few days), the application will be dismissed without prejudice meaning the applicant can resubmit the application through the original VEC.

a. The graphic below is a representation of the application flow.

![Application Flow Diagram](graphic21)
b. Once the applicant’s explanation is received, members of the Mobility Division of the Wireless Telecommunications Bureau, located at the FCC Headquarters in Washington, DC, will review the application and make one of two decisions:

1. Grant the application or
2. Refer the application to an Administrative Law Judge (ALJ) for a hearing or to the Enforcement Bureau for further action (Most likely resulting in a hearing).

5. Referral to a Hearing. When the Mobility Division refers an application to the Enforcement Bureau for action, it almost always involves a licensee. The Enforcement Bureau will send an Order to Show Cause (OSC) to the licensee involved to show cause why an order of revocation of his license should not be issued.

The Mobility Division can send an applicant (Usually an unlicensed person) a Hearing Designation Order (HDO) which informs the recipient that a hearing proceeding is commencing before the Commission to determine whether the recipient’s application should be granted pursuant to Section 308(b) of the Communications Act of 1934, as amended.

Section 308(b) of the Communications Act of 1934, as amended and codified in Title 47 of the United States Code states: “All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station;”

It’s worth noting that the FCC does not apply the “Character Standard” to renewals of station licenses. Instead, they have chosen to apply the character standard to a “hybrid” renewal known as a “Renewal/Modification”. As far as I can tell, the FCC has never explained why they excluded renewal applications from the “character standard” when they decided to implement the felony question. My guess is that the sheer numbers of renewal applications is the primary factor and the Mobility Division is not staffed to address the potential volume of renewal applications from felons.

The Mobility Division can also issue an Order to Show Cause letter without going through or informing the Enforcement Bureau of their action.

An HDO and OSC must:
- Contain a statement of the matters with respect to which the Commission is inquiring and
- Call upon said applicant or licensee to appear before the Commission at a time and place stated in the order, but in no event less than thirty days after the receipt of such order and give evidence upon the matter specified therein.

The FCC will send additional correspondence to the applicant requesting whether he and/or his attorney will attend the hearing in person, and the date, time and location of the hearing at a minimum. The applicant has 20 days to reply to the FCC regarding his intent to appear at the hearing or to have an attorney represent him. Failure to respond to the letter about attending will result in a default decision in favor of the FCC.

In the past, as a matter of policy, anyone who was convicted of an “egregious crime” such as murder or sexual offenses involving children had their application referred to an Administrative Law Judge who with one exception, denied their application and/or their license revoked. The one case where the ALJ granted the renewal of an application, was appealed to full membership of the Commissioners who overturned the decision of the ALJ.
If after a hearing, or a waiver thereof, the Commission determines that an order of denial or revocation should be issued, it shall:

- Issue such order, which shall include a statement of the findings of the Commission and the grounds and reasons therefor and specify the effective date of the order and
- Cause the same to be served on said applicant or licensee.

6. Administrative Law Judges (ALJ). ALJs are appointed pursuant to the Administrative Procedure Act of 1946 (APA). An administrative law judge, or ALJ, serves as the judge and trier of fact who presides over administrative hearings.

- To be appointed as an ALJ, attorneys must complete a four-hour written examination and undertake an oral examination before a panel of representatives from the American Bar Association, the Office of Personnel Management, and a current federal ALJ.
- The ALJ appointment proceeding is the only one based on merit in the United States.
- Once appointed, ALJs may only be removed for cause.
- The APA imbues ALJs with substantial decisional independence and provides them with immunity from any liability stemming from their judicial acts. Contrary to popular belief, ALJs operate independently from the agencies that are involved in particular disputes. An agency may not have any ex parte communications with the ALJ or influence the ALJ's decision by improper means.
- Federal administrative law judges are not responsible to, or subject to, the supervision or direction of employees or agents of the federal agency engaged in the performance of investigative or prosecution functions for the agency.
- In general, ALJs are afforded the same scope of authority as traditional courtroom judges. One major difference between ALJs and traditional judges is that ALJs serve as both the judge and trier of fact. This is known as a bench trial.
- ALJs have the power to administer oaths, take testimony, rule on questions of evidence, and render legal and factual determinations.
- The procedure for reviewing an ALJ's decision varies depending upon the agency. Agencies generally have an internal appellate body. In the FCC, the Commissioners serve as the appellate body.
- The number of ALJs within an organization is based on the normal caseload. For example, the Social Security Administration has 1,400 ALJs who hear about 700,000 cases per year or about 10 cases per week per Judge. The FCC has one ALJ. His case load is unknown but is presumably much lower.

7. Confusion, errors, and other things.

The military adage that “No plan survives first contact with the enemy” also applies to the implementation of the felony question. Prior to 7 Sep 2017, the “plan” was in place and everything seemed to be in order. It was a good plan. In theory. Then the plan was implemented and not everything went exactly as planned but for the most part the plan was still pretty good.

Generally speaking, the VECs appeared to be prepared for the implantation of the felony question although some VECs appear to have been better prepared than others.

I conducted a sampling of applications that use FCC Form 601 on which the felony question was implemented in August 2016. Based on my sampling, I found no pending applications due to a “Yes” answer to the felony question. Dismissed applications were due to non-payment of fees. This suggests to me that the WTB had very little or no prior experience actually dealing with any applications that included a “Yes” answer to the felony question.
You can draw your own conclusions on how the FCC has performed with the FCC Form 605 and Electronic Batch Filing System applications.

a. The FCC.
   - Explanations received from applicants would be documented in ULS and only those whose applicant did not request confidentiality would be visible.
   - Applicants who do not request confidentiality will have their explanation accessible by the public.
   - Applicants who requested confidentiality would have a visible link indicating they had provided their explanation and would be accessible only by the FCC and the applicant. This has not happened.
   - Personal information was not completely redacted from the first 8 visible explanations. FCC corrected the problem.
   - Told one applicant to amend his application in order to provide or correct information. The applicant went on line and amended his pending application. The FCC dismissed his application for amending the application Interactively.
   - The public announcement stated that applicants had 14 days to submit their explanation. For those applicants who did not provide an explanation, the average time spent “pending” was 25.03 days before the application was dismissed.
   - The ULS Electronic Batch Filing System allows VECs to upload applications with the application purpose incorrectly designated (e.g., Modification applications that do not include a change to the technical data of a license, etc.).
   - According to the FCC, a modification of a license, whether separately or with a renewal, includes a change to the technical data of a license (e.g., Change of license class and/or change of call sign). In addition to the technical change(s) the modification may include administrative changes to the license. However, the primary purpose of the modification is to change the technical data.

b. The VECs.
   - Uploaded applications with an incorrect answer to the felony question (e.g., Uploaded “Yes” when the answer was No; Uploaded No when the answer was “Yes”). The Laurel VEC made no such errors.
   - Received an application that indicated “Yes” for the felony question but was uploaded as a “No” and the application was granted. A few days later the applicant’s explanation arrived at the FCC and his grant was overturned. A couple phone calls between the applicant, the FCC and the VEC involved resulted in the application being resubmitted and granted a few days later.
   - Uploaded two applications for modification of a license without any modifications – only administrative updates.
   - Uploaded applications for upgrades and entered the wrong call sign – This is not unique to applicants who answered “Yes” to the felony question.
   - Uploaded an application for an upgrade to Amateur Extra from Technician even though the applicant was previously upgraded to General by a different VEC a month earlier. The upgrade to General is visible in ULS.
   - Uploaded an application for modification in an attempt to retroactively change the answer to the felony question that they had incorrectly uploaded the day before.
   - Uploaded 143 Renewal/Modification (RM) applications of which only 23 actually contained a modification of the license.
   - The other 120 RM applications that contained only administrative changes with the renewal and all of these applicants had to sign the felony question. Two of the bogus RM applications are unnecessarily pending as a result.
• The VECs that routinely upload RM applications without a change of the license’s technical data include the ARRL, W4VEC, WCARS, and Central America.
• The W5YI VEC uploads Renewal applications which include administrative updates, as two separate actions: Renewal Only and Administrative update.
• The Laurel VEC uploads Renewal applications which include administrative updates, as Renewal Only applications. **This is the exact same way the FCC processes renewal applications with administrative updates.**
• Renewal applications which include administrative updates and uploaded via the FCC’s Interactive (on-line) and Manual (Snail mail) modes, **are processed by the FCC as Renewal Only applications.**

**c. The applicants.** To paraphrase Forrest Gump, **applicants are like a box of chocolates. You never know what you’ll get.**

• Some applicants answer the felony question incorrectly (e.g., Answer “Yes” when they mean “No” and vice versa). **The Laurel VEC had one such incident** which was immediately corrected after it was uploaded.
• Some don’t appear to understand what a felony is. One applicant said he was convicted of a felony for driving without a license as a minor.
• One applicant answered the felony question “Yes” and while trying to find the information about his crime for his explanation, discovered that he had been found not guilty during his trial. **How do you not know that?**
• One applicant wrote a note to the FCC about two hours after he tested on a Saturday to explain that he couldn’t provide his file number because the VEC had not provided it to him. **I guess he thought the VECs have psychic powers.**
• Several applicants provided explanations that merely confirmed that they had been convicted of a felony. No other details were provided. **The FCC invited them by letter to provide additional information.** One applicant chose not to respond and after 60 days his application was dismissed.
• One applicant stated that due to his medical condition, the state doesn’t care about his felony and doubted the FCC would care either. **The FCC sent him a letter asking for the details of his conviction.**
• Several applicants went on-line to attempt to modify or amend their pending application. Some were successful, and some were not, and their application was dismissed. **The FCC seems to have a flexible policy regarding interactive amendments to pending applications.**
• One applicant attempted to modify his pending upgrade from Tech to Extra by requesting a vanity call and identified his current call sign as his desired vanity call. His application was dismissed because the call was already assigned. He is still a Technician licensee.

**8. Conclusions.**

a. The addition of the felony question does not appear to have had an impact on the number of applicants applying for a new license. The number of NE applications continues its upward trend from before the implementation of the felony question through early April.

b. Errors by the FCC, felon and non-felon applicants, and the VECs, related to processing and uploading felon applications will continue to occur and could decline as VE teams and VECs become more experienced.

c. VE teams that are more proactive and interactive with their felon applicants will have a positive impact on applicant errors.
d. To date, ten VECs have had little or no experience dealing with a felon application which could impact on the future number of errors due to a lack of experience.
   - 4 VECs (ARRL, W5YI, Laurel and WCARS) have processed/uploaded about 97% of the felon applications.
   - 10 VECs have processed/uploaded 1 or 2 or no felon applications.

e. Continuous training and information sharing is and will continue to be an effective way to mitigate errors committed by VE teams and VECs.

f. The processes currently used by the VECs and the FCC will continue to evolve. However, the changes will not result in granting felon applications any faster. The choke point for processing felon applications will be at the Mobility Division at the WTB.

g. Whether the VECs upload an application 2 days or 10 days following an exam session, the FCC cannot do anything until the felon applicant sends in their explanation.
   - The FCC’s public announcement stated applicants had 14 days to provide their explanation.
   - The FCC actually allows a few extra days but has been inconsistent in the number of “extra” days they allow beyond the stated 14 days.

h. Once the explanation is received and matched to the application, the processes internal to the Mobility Division begin and that is the big unknown.

   - In all probability, the review process is entirely manual.
   - The number of people involved in reviewing felon applications is unknown.
   - The decision to refer an application for a hearing before an ALJ probably requires one or more legal reviews.
   - The authority to grant an application or refer an application for a hearing is probably limited to one or two people within the Mobility Division.
   - The decision to grant a license must probably be unanimous.
   - Why it takes so long to refer an application to an ALJ is unknown.
   - Why it takes so long between referral and a hearing (Up to a year or longer) is unknown.
   - Regarding revoking a license, according to a piece of correspondence shared with me from a licensee whose application for renewal of his license has been pending since 22 Oct 2016, a Deputy Chief of the Mobility Division informed him that the process to “take a license” will take at least a year or more to complete. No further information/explanation was provided.

i. The FCC must upgrade its Electronic Batch Facility/ULS.

   - Currently, VECs can upload an Administrative Update application as an AU, MD and/or RM application and a renewal application with administrative updates as a RM or RO application.

   - In its Fiscal Year 2019 budget plan, effective 1 Oct 2019, the Commission stated:

     “The Commission must modify ULS to implement new auction services and rules. In addition, the Commission will be modernizing ULS to eliminate the use of outdated technology and improve reliability, security, and access to data. The system modernization efforts will allow us to better support new auction services, inventory existing auction licenses, and re-auction spectrum.”

   - Upgrading the ULS and hopefully the Electronic Batch Filing System, could have some impact on the Commission’s workload but as you can see, the emphasis is on auction related
Based on the data from the first 26 weeks of the felony question, any impact on the workload would be minimal but that could change.

- An upgrade to EBFS should include changes that will prevent a MD or R/M application from being accepted if it is uploaded without any technical changes (Change of license class and/or change of call sign). Perhaps error codes should be assigned.

j. I found it interesting that the crime of attempted murder does not rise to the level of “egregious crime” when two applicants convicted of attempted murder had their applications granted.

k. If the past is any indication of how the FCC will address the 14 applicants who have been convicted of murder or sexual offenses involving children, those pending applications will probably be referred to hearing before an Administrative Law Judge employed by the FCC.

a. I expect the same results with the 13 applications that involved a sex-related crime.
   - The final disposition of those applications will probably be settled 12-15 months after they were uploaded to the FCC.
   - Their applications will be denied and where applicable, licenses will be revoked.

b. However, I think the applicant who was convicted of murder at age 17 has a 50-50 chance to have his application granted. Unlike some previous cases, his situation is different.
   - Age at the time of the crime
   - Early release from prison after 30 years
   - Earned his GED, Associates degree, and Master Certifications from Microsoft while in prison.
   - Earned commendations from the warden for providing support during an emergency.
   - Apologized to the family of his victim.
   - Crime free since release.

l. Hearings before an FCC Administrative Law Judge appear to take place only in Washington DC.

If you have any questions or comments, please feel free to call me at 410-353-0174 or send an e-mail at aa3rr@cableone.net.

Special thanks to my proof readers, Brenda/KB3ATI, Mike/KA2JAI, and Wally/WD1U for their comments and corrections. Having said that, I’m still responsible for any errors that might remain.