



Do You Know?

14 March 2018

Analysis of Amateur Radio Applications - Part 2

1. Background. On 7 Aug 2017 the FCC announced that FCC Form 605 would be modified to add a felony question effective 7 September 2017.

Applicants are required to answer the question only if they are filing an application for a new license (Application Purpose of New (NE)), an application to modify (Application Purpose of Modification (MD)) or renew and modify (Application Purpose of Renewal/Modification (RM)) an existing license, or an amendment (Application Purpose of Amendment (AM)) to a pending NE, MD, or RM.

If the answer to the felony question is "Yes," the applicant must provide the FCC an explanation of the circumstances of the conviction. Each explanation should be clearly labeled with the applicant's name and file number associated with their application. The application will be subject to dismissal if the exhibit [explanation] is not received within 14 days from receipt of the application.

2. Purpose. The purpose of this paper is to provide analysis and commentary on amateur radio applications uploaded by any Volunteer Examiner Coordinator from **7 December 2017 through 7 March 2018**. It is limited to those applications uploaded by VECs in which the applicant answered "Yes" to the felony question.

3. Facts & Figures. During the second 13 week period, the VECs submitted 1,107 fewer applications compared to the first 13 weeks. The Thanksgiving and Christmas holidays probably contributed in some part to the slight dip in total applications.

a. The chart below describes the categories of applications submitted by the various VECs

	Total	NE	MD	RM	RO	DM	WD
7 Sep-6 Dec 2017	18,103	9,105	3,168	87	5,753	33	17
7 Dec 17 – 7 Mar 18	17,874	8,037	3,144	55	6,705	50	17
8 Mar – 6 Jun 2018							
7 Jun – 6 Sep 2018							

Chart 1

Total – Total applications

NE – Application for a new license.

MD – Application for a modification for an existing license (Upgrade and/or change of call sign)

DM – Application dismissed

RM – Application to renew a license and modify it (Upgrade and/or change of call sign or Upgrade and/or change of call sign PLUS administrative updates)

RO – Application to renew a license only.

WD – Application withdrawn

Note: The number of Dismissed and Withdrawn applications were subtracted from the total number of applications.

b. The following chart describes the applications in which the applicant answered “yes” and submitted to the FCC and subsequently flagged and taken off-line for manual processing.

	Flagged	NE	MD	RM	Granted	DM	WD	Pending	Felony %
7 Sep-6 Dec 2017	123	94	29	1	76	16	3	17	0.97
7 Dec 17 – 7 Mar 18	102	72	30	1	46	14	3	39	0.89
8 Mar – 6 Jun 2018									
7 Jun – 6 Sep 2018									

Chart 2

Notes:

1. In calculating the felony percentage, I did not include the RO applications uploaded by the VECs nor the withdrawn applications.
2. The 39 pending applications **do not** include the 17 pending applications from the first 13 weeks.

c. Sixty-three applicants whose applications were flagged, provided an exhibit [explanation] of which 41 were viewable by the public. As in the first period, the types of felonies for which the applicants were convicted was wide ranging and similar but there were some new ones including:

- First degree murder
- Attempted murder
- Forgery
- Failure to pay support
- Hit and run
- Fraud

d. Fourteen flagged applications (8 NE and 6 MD) were dismissed for the following reasons:

(1) Twelve applications were dismissed because the applicant did not provide the required exhibit [explanation] including two licensees who tested with Laurel VEC VE teams. I think there a few reasons why an applicant might not provide their explanation including but not limited to the following:

- Didn’t understand the requirement
- Didn’t receive instructions
- Decided it wasn’t worth the effort.

(2) One application was dismissed because the applicant had applied for a vanity call before he upgraded, and the application could not be processed because the old call sign was invalid. The ARRL resubmitted the application using the new call sign and the application is pending.

(3) One application was dismissed because the applicant amended his pending application for upgrade from Tech to Extra, by applying for a vanity call sign. The call sign he was asking for was his current call sign. The FCC dismissed the amended application because the requested call sign was not available. There has been no further action by this applicant.

(4) The average time between receipt of the application and dismissal was just over 23 days and may have been influenced by the holiday season.

e. Three flagged applications (2 NE and 1 MD) were withdrawn due to errors in the application which were discovered after they had been uploaded. These errors involved the application being uploaded with the felony question answered “Yes”. These errors were caused by the applicants or the VECs who uploaded the applications. Each of these applications were re-submitted and immediately granted.

- f. Forty-six flagged applications (35 new/11 mod) were granted during this period.
 - (1) The average time from exam session to receipt of the application by the FCC was almost 9 days.
 - (2) The average time from receipt of application to grant of application was almost 13 days.
- g. Thirty-nine (39) flagged applications (27 New, 11 MD and 1 RM) submitted during this period remain Pending.
 - (1) Two (2) applicants were convicted of sex-related crimes (e.g., Child porno, molestation, sex with a minor, etc.)
 - (2) One (1) applicant was convicted of first degree murder when he was 17. I think this application has a 50% chance of being granted.
 - (3) Two (2) applicants were convicted of attempted murder.
 - (4) Several other applicants, due to the length of their Pending status, may have been convicted of similar or other equally serious crimes not further defined.

4. Mistakes and confusion. Generally speaking, things have improved on this front although the types of mistakes generally remain the same:

- a. Three applications were withdrawn due to an upload error. Whether the error was due to an applicant or VEC error is unclear.
- b. One applicant answered “Yes” to the felony question on his first application and it was eventually granted. On his second application he answered “No” to the felony question and his upgrade was immediately granted. **The VEC involved with both applications then uploaded an application a day later to modify the felony question answer on the second application which suggests the VEC erred when they uploaded his upgrade.** It doesn’t work that way and the third application will be dismissed because the applicant didn’t provide their explanation. I doubt the applicant even knows about the third application. By the way, now the applicant’s ULS record indicates that he hasn’t been convicted of a felony. I almost forgot to mention that the VEC involved was the ARRL.
- c. Renewal/Modification (RM). Some VECs continue to upload renewal applications that do not contain a technical data change (Upgrade and/or new call sign) but do contain administrative updates as Renewal/Modification which requires the applicant to answer the felony question and if appropriate, the applicant must provide the requisite explanation.
 - (1) The ARRL VEC will upload a renewal application as a RO application even if it contains a change of e-mail address or phone numbers (Administrative data). The applicant does not have to answer the felony question.
 - (2) The ARRL VEC will upload renewal applications as RM applications if the applicant wants to change his name or address (administrative data) even if the applicant is not changing the technical data of his license (e.g., license class and/or changing his call sign). The applicant, as a result is required to answer the felony question.
 - (3) The W4VEC VEC uploads renewal applications as a RM application if the applicant wants to change any administrative data and is not changing the technical data of his license. The applicant, as a result is required to answer the felony question.
 - (4) The W5YI VEC uploads renewal applications that include updates to the administrative data on the license, as two separate actions: Renewal Only and Administrative Update. This is how the FCC intended it to be done despite the fact that their own processes don’t comply with their intent. **The applicant does not have to answer the felony question.**
 - (5) The Laurel VEC uploads renewal applications that include updates to the administrative data on the license as a RO application. This how the FCC processes renewal applications submitted on-line (Interactively) and those that are received in the mail (Manually). **The applicant does not have to answer the felony question.**

Note: SessionManager can be modified to automatically upload two separate applications (RO and AU) similar to how W5YI processes their applications. Having said that, there is no reason to do so.

(6) During this period, five VECs uploaded 55 RM applications (ARRL 23, W4VEC 26, Laurel 3, WCARS 2, and Sandarc 1).

- Thirteen Renewal/Modification applications involved an actual modification of the license (1 x Renewal and call sign change (ARRL) and 12 x Renewal and upgrade (ARRL & Laurel)).
- Forty-two Renewal/Modifications applications did not involve an actual modification of the license (ARRL, W4VEC, WCARS, & Sandarc). These were essentially renewal applications with administrative updates disguised as a modification. Unfortunately, the Batch Filing system does not prevent this from happening.

(7) Another licensee whose renewal application was uploaded as a RM application, this time by the ARRL VEC was required to answer the felony question and his application is now pending.

6. What's next for those pending applications? If the past is any indication, it doesn't look good for some, most, or all of the 17 pending applications from the first 13 weeks and some of the pending applications from this period.

a. Prior to the implementation of the felony question last September, the FCC relied on your friends and neighbors to identify applicants and licensees who were known to have been or suspected of being convicted of a felony. Based on available records, it looks like that may have involved one applicant or licensee per year or less and the time to deny an application or revoke a license took 12-15 months.

b. Based on past decisions of the FCC, applicants and licensees convicted of murder or crimes involving sexual offenses with children have always resulted in a denial of the application and revocation of the licensee's amateur radio license. I do not expect the FCC to do things differently.

c. The likely scenario will have the Mobility Division of the Wireless Bureau and/or the Enforcement Bureau sending a "Hearing Designation Order" or an "Order to Show Cause" letter, as appropriate, to the applicants/licensees notifying them that their cases are being sent to an Administrative Law Judge (ALJ) for a formal hearing to determine if their application would be granted or dismissed or if their license would be revoked. Once the applicant/licensee receives an "order" they are committed to the formal process.

d. Those applicants will receive additional letters notifying them of the date and location of the hearing and asking them if they or their attorneys will attend the hearing in person. The applicant/licensee will have 20 days to respond. At the hearing the applicant/licensee or their attorney will be able to present additional information in support of their application. Failure to appear or have an attorney appear and present additional information, will result in an immediate decision by the judge.

e. In the past, the process from confirming a felony conviction to a decision from the Administrative Law Judge took 10-15 months on average. Due to the larger numbers of applicants/licensees involved and the number of Administrative Law Judges working for the FCC, I think the process could take longer to complete.

Note: There are four full-time employees in the Office of the Administrative Law Judges including the Chief Administrative Law Judge. In the past it appears that all previous cases were heard by the Chief ALJ which suggests that a single ALJ will hear the pending cases.

7. Conclusion. It appears that the processes and procedures involving the felony applications have stabilized somewhat during this period. Errors by the VECs, applicants and FCC have declined significantly. With respect to FCC errors, the FCC needs to update the ULS and the Electronic Batch Filing System to "fix" the following "problems" which are uploaded via the EBFS by the VECs:

a. Recognize that an RM application must include a technical data change (e.g. Change license class and/or change of call sign). RM applications submitted without a technical data change must be rejected and an appropriate error code provided (e.g., "000001 – RM applications must contain a change in the technical data of the license (i.e., change of license class and/or change of call sign)").

b. Recognize an application in which the felony question answer is different from a previous application's answer (e.g., Timmy applies for a new amateur license and answers "No" but on his previous GMRS application he answered "yes"). This will prevent the automatic changing of an applicant's felony status from "Yes" to "No". The application should be rejected and an appropriate error codes provided (e.g., "000002 – *Felony question answer conflicts with previous license application*"). This would apply only when the previous answer was "yes" and the new answer is "no".

c. Recognize that a MD application cannot be used to correct the answer to the felony question or provide administrative updates only, and an appropriate error code provided (e.g., "000003 – *MD applications must contain a change in the technical data of the license (i.e., change of license class and/or change of call sign)*").

8. Questions? Feel free to contact me (Bob/AA3RR) at 410-353-0174 or aa3rr@cableone.net.