



Do You Know?

Updated 1 March 2018

This is an update to an earlier version – Minor clarifications in paragraph 3.f

Do you know the results and impact of the felony question between 7 Sep and 6 Dec 2017?

1. Background. On 7 Aug 2017 the FCC issued Public Notice DA 17-741 which 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 attach as an exhibit a statement explaining the circumstances and giving the reasons why the applicant believes that grant of the application would be in the public interest notwithstanding the misconduct.

- *Applicants should not submit the exhibit until the batch filing has been received and the application has been assigned a 10-digit file number in ULS.*
- *Each exhibit should be clearly labeled with the applicant’s name and file number. The application will be subject to dismissal if the exhibit is not received within 14 days from receipt of the application.*

This information enables the Commission to determine whether an applicant is eligible under section 308(b) of the Communications Act of 1934, as amended (the Act), to hold a station license.

- *47 U.S.C. § 308(b) - “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 . . .”.*

2. Purpose. The purpose of this paper is to provide an analysis of the amateur radio applications uploaded by any Volunteer Examiner Coordinator from 7 September 2017 through 6 December 2017. It is limited to those applications uploaded by VECs in which the applicant answered “Yes” to the felony question.

3. Facts & Figures. During the 91-day period, the FCC received 12,212 applications submitted by various VECs via the ULS Batch filing process.

- a. 9059 applications were submitted for a new license (74.2%)
- b. 3143 applications were submitted for license modification (25.7%)
- c. 10 applications were submitted for license “Renewal and Modification” (0.1%)
- d. 123 applications were received between 7 September and 6 December 2017 and flagged because the applicant answered “Yes” to the felony question (1% of total applications received) and their initial status was “Pending”.
 - 95 of the flagged applications were for a new license (77.2%)
 - 27 of the flagged applications were for a license modification (22%)

- 1 of the flagged applications was for a “Renewal and Modification” (0.8%)
- e. 16 flagged applications were dismissed (13 new/ 2 mod).
- Twelve applications were dismissed because the applicant did not provide the required exhibit.
 - Average time in pending status before dismissal is 24.2 days.
 - One application was dismissed because the applicant failed to provide additional information requested by the FCC.
 - Three applications were dismissed because the applicants tried to interactively amend their application.
 - Each of these applications were subsequently resubmitted and granted.
- f. 13 flagged applications were withdrawn (5 New/8 Mod)
- 12 applications were withdrawn due errors by the applicant or the VEC.
 - All of these applications were resubmitted. In one case two applicants had their applications uploaded and withdrawn twice – one was granted, and one is pending.
 - 9 were granted
 - 3 are pending
 - 1 application was withdrawn with no follow-up actions
- g. 76 flagged applications have been granted (62 new/14 mod).
- 64 applications were granted between 3 Oct and 28 Nov 2017.
 - 12 applications were granted between 8 Dec 2017 and 4 Jan 2018
 - Average time from receipt of application to grant of application was 12.05 days
 - Granted applications includes applicants convicted of various crimes including but not limited to the following:
 - Vehicular manslaughter
 - Use of drugs
 - Sale of drugs
 - Theft
 - DUI
 - Illegal hunting
 - Failure to secure a weapon
- h. 17 flagged applications remain as “pending”. (As of 18 Feb 2018)
- 11 applications, according to visible “exhibits”, involve sex-related crimes (e.g., Child porno, molestation, sex with a minor, etc.)
 - Presumably, but unconfirmed, the other six confidential “exhibits” also involve sex-related crimes or some other crime (e.g., Murder).

4. Applications and Exhibits (Explanations). Based on information from readable felony explanations, the average time to upload an application from date of exam is 8 days. That includes one application that took 72 days from date of exam to the date the VEC uploaded the application. If you exclude this single anomaly, the average time from date of exam to receipt of application is 5 days. The average time from exam to upload for each VEC is shown below:

- Laurel VEC - 2 days
 - ARRL - 9 days (after removing the 72 day anomaly)
 - W4VEC – 2 days
 - W5YI – 10 days
- a. During the first 91 days, the following VECs uploaded the number of felony applications indicated:
- Anchorage VEC uploaded 1 felony application
 - ARRL VEC uploaded 78 felony applications

- Central America VEC uploaded 1 felony application
- Greater Los Angeles VEC uploaded 1 felony application
- Laurel VEC uploaded 14 felony applications
- Milwaukee VEC uploaded 1 felony application
- W4VEC VEC uploaded 2 felony applications
- W5YI VEC uploaded 18 felony applications
- WCARS VEC uploaded 7 felony applications

b. Fifty-seven applicants provided exhibits (explanations) that were visible to the public.

5. Tales of mistakes and confusion. There is a military adage that “*No plan survives first contact with the enemy.*” This concept appears applicable to the implementation of the felony question.

a. In the public notice dated 7 Aug 2017, the FCC stated the following:

An exhibit had to be received 14 days after receipt of an application in which the applicant answered “Yes” to the felon question.

b. In response to my query, the FCC explained the following in an e-mail dated 20 Sep 2017:

“There isn’t a designated date for dismissal, but if we don’t receive an attachment within 14 days, the application will be dismissed.”

c. In response to my query, the FCC clarified their position in an e-mail dated 25 Sep 2017, regarding the 14-day window for providing an exhibit:

“The 14 day dismissal is not a hard date because we allow for a little leeway in case it was mailed to the FCC, but not scanned in for a few days.”

Note: The average time an application was pending before it was dismissed due to failure to provide the “exhibit” is 24.73 days.

d. In the public notice dated 7 Aug 2017, the FCC stated the following:

Applicants may request that the exhibit be treated as confidential. If the applicant does not request confidential treatment, the exhibit may be publicly viewable in ULS.

e. In response to my query, the FCC confirmed in an e-mail dated 20 Sep 2017, the following:

- *“When an applicant submits his attachment, the Admin Tab will have a link to the attachment under the banner that says Attachments. It won’t change to Yes. If the applicant has submitted the request and wishes it to be a confidential attachment, there will be a link there, but only he and FCC personnel will be able to see the attachment.”*

f. When the first 8 exhibits were posted in the ULS data base, the FCC attempted to redact personal information from them using a marker. However, applicant’s personal information and the name of the FCC contractor apparently uploading them were easily visible. I notified the FCC on 25 Sep 2017 of the situation and they implemented measures to ensure personal information was removed before being posted in ULS. The mostly succeeded in their efforts.

- The average time from date of application receipt to date of grant of application is 12 days.
- The average time from date of exhibit receipt to date of grant of application is 10 days.

g. I don't believe that anyone thought that the inclusion of the felony question would be free of mistakes and confusion. The number of applications that were dismissed and/or withdrawn and resubmitted because of errors represent an error rate of about 20%. These errors involved the following:

- Applicants answered the felony question incorrectly.
- Applicants tried to amend their application interactively.
- VECs uploaded applications by incorrectly indicating the answer to the felony question.
- The FCC dismissed applications and then reversed the dismissals due to *administrative* errors.

h. Renewal Only (RO) versus Renewal/Modification (RM). Some VECs and the FCC appear to be confused as to what defines the purpose of application as RO or RM. The FCC has confirmed or implied the following in e-mail exchanges with me:

- The purpose of a Renew Only (RO) application is just that. It is not supposed to include any other actions such as administrative data updates (e.g., Change of name, address, phone number, e-mail address, etc.).
- The purpose of an Administrative Update is to allow the licensee to change any element of their administrative data (e.g., Applicant name, address, city, state, zip code, e-mail address, Fax number, phone number). **Note:** The FCC confirmed that VECs should submit two applications when a licensee wants to renew his license and update their administrative data.
- A Modification (MD) application changes to the conditions of the license. These changes include:
 - Changes to the technical data (License upgrade and/or call sign change) **OR**
 - Changes to the technical data **AND** administrative data (e.g., Applicant's name, address, city, state, zip, phone number, fax number, e-mail address.).
 - A change to the technical data is required to be a modification.
- A Renewal/Modification (RM) application is a combined renewal and modification of a licensee's license.

So, here's where it gets weird when theory and reality clash:

- If a licensee renews their license on-line (aka Interactively) and they make changes to any of their administrative data, guess what? The application is processed as a Renewal Only application.
- The FCC Form 605 requires you to identify a single purpose for the application. If a licensee completes the form for Renewal Only (RO) and makes some changes to any of their administrative data and mails it to the FCC, guess what? The application is processed as a Renewal Only application when the FCC enters the data.
- Some VECs have their own interpretations:
 - The W4VEC VEC submitted a **Modification** application that contained only administrative changes. There were no technical data changes included.
 - The ARRL VEC routinely uploads renewal applications that include a change of phone number and/or e-mail address as a **Renewal Only** application. **BUT** if the application includes a change of address or name and any other administrative changes, then the application is uploaded as a **Renewal/Modification** application. None of these applications included technical data changes.
 - The W4VEC VEC routinely uploads renewal applications that include any administrative data changes as Renewal/Modification applications. None of these applications included any technical changes to the license.

- The W5YI and Laurel VECs upload renewal applications that contain administrative data changes as Renewal Only applications **just like the FCC’s Interactive system and how the FCC processes manual applications.**
- During the first 13 weeks, four VECs uploaded a total of 88 RM applications for individuals.
 - Only 10 of these applications actually involved a license modification (Upgrade or systematic call sign change). These true RM applications were uploaded by the ARRL (9) and LARC (1) VECs.
 - The ARRL VEC uploaded 55 RM applications that did not include a change of the technical data of the applicant’s license.
 - The W4VEC VEC uploaded 22 RM applications that did not include a change of the technical data of the applicant’s license.
 - The Central America VEC uploaded 1 RM application that did not include a change of the technical data of the applicant’s license.

So why all this fuss and discussion about renewal applications? Standardization, consistency, and fairness.

Consider the case of one applicant who holds an Amateur Extra class license. He wanted to renew his license and change his mailing address.

The applicant went to a W4VEC VEC exam session and his application was uploaded as a RM application even though there was no change to the technical data. Because it was uploaded as a RM application, the applicant was required to answer the felony question. He answered “yes” to the felony question, his application was flagged. The applicant provided his explanation and he’s been pending ever since.

Had this application been correctly uploaded as a RO application either Interactively, manually, or by either the W5YI or Laurel VEC the application would have been approved on 16 or 17 Nov.

6. Conclusion. The processes involving the felony applications have evolved since implementation of the felony question.

- a. The exact processes involved in reviewing and approving an application are unknown. We do know they consider the facts of the crime, penalties administered, reparations, time served, age at time of crime, etc.
- b. Teams have provided incomplete or inaccurate instructions to applicants regarding the felony question.
- c. VECs have uploaded applications that incorrectly indicated the applicant had answered “yes” to the felony question.
- d. The FCC has dismissed applications due to failure to provide an exhibit within the 14 day period, when in fact the applicants had provided their exhibit within 12 or 13 days following receipt of their file number. The FCC has reversed several dismissals of applications “upon further review”.
- e. Generally speaking, the VECs appear to have been better prepared for implementing the felony question than the FCC.

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

Now you know.