

Revised FCC Form 605 Will Ask Applicants “the Felony Question”

A revised FCC Form 605 — *Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services* — going into effect in September will ask all applicants to indicate if they have been convicted of or pled guilty to a felony. The Communications Act obliges the Commission to ask “the felony question,” as it did on the old Form 610 and still does on other applications. This action will correct its omission on Form 605, which has existed for years. Applicants’ responses and explanations will be used to determine eligibility to be a Commission licensee. The FCC told ARRL that it’s still deciding whether to issue a public notice on the change.

“The Commission is revising the basic qualifications section of the form to include a question regarding whether an applicant has been convicted of a felony in any state or federal court,” the Office of the FCC Secretary explained in a May filing with the Office of Management and Budget (OMB), which must okay the revision. “Applicants answering YES must provide an explanation regarding the conviction. This item enables the FCC to determine whether an applicant is eligible under sections 310(d) and 308(b) of the Communications Act of 1934, as amended, to hold or have ownership interest in a station license.”

The revision also will apply to NCVEC Form 605 — the *unofficial* Amateur Radio-specific version of the application that is completed and filed at volunteer examiner coordinator (VEC) examination sessions. VECs will have to start using the revised form on September 7. Responding to VECs’ questions, the FCC offered some guidance, with a particular focus on NCVEC Form 605.

Once the Form 605 update has been implemented, assuming all other information is correct, negative felony question responses will result in a license grant, the FCC said. A YES will place the application in the “pending file for review” category. Applicants answering YES would have to, within 14 days, provide the FCC with a statement explaining the circumstances, and a statement “giving the reasons why the applicant believes that grant of the application would be in the public interest, notwithstanding the actual or alleged misconduct,” the revised Form 605 instructions state. The FCC said an applicant’s answer to the felony question and explanation will be public via ULS, unless a separate request is made to the FCC that the applicant’s explanation be kept confidential. The FCC will review applications on which the felony question has been answered in the affirmative and decide whether to grant them or designate them for hearing.

“The applicant must provide sufficient information for the FCC to determine whether there exists any material and substantial question of fact regarding whether the applicant has the character qualifications to be a Commission licensee,” the FCC said. There is no set checklist of items, but useful information would include such information as details regarding the conduct that resulted in the conviction or guilty plea, including time and place; the date of the conviction or guilty plea; the penalty imposed and whether it has been satisfied, and “any efforts taken to remedy the wrongs committed and ensure that the applicant will not engage in such conduct in the future,” the FCC said.

The FCC said the only additional information that VECs will have to collect is the response to the felony question; any explanatory exhibits and confidentiality petitions will go directly to the FCC, and VECs will have no information as to the status of such applications.

The FCC said the felony question must be answered every time — even if previously answered — for New, Modification, Renewal/Modification, and Amendment applications. “Assuming that nothing has changed, the attachment to the subsequent applications can simply reference the file number of the application where the complete explanation was given, rather than having to set forth the complete explanation each time,” the FCC memo said. “Clubs are not exempt from the felony question. The question applies to the club as an entity and to the trustee, but not to any other individual officers.”

Individuals convicted of a felony and later pardoned or whose record has been sealed should answer YES, and include information regarding the pardon, “as that will be relevant to whether the conviction still presents any material and substantial question of fact regarding whether the applicant has the character qualifications to be a Commission licensee,” the FCC told VECs. “An overturned conviction need not be disclosed — but a conviction still on appeal must be disclosed.”