

**§ 457.610 [Amended]**

- 5. Amend the section heading for § 457.610 by—
  - A. Amending the section heading by removing the phrase “for a fiscal year” and adding in its place “prior to FY 2009”.
  - B. Removing the phrase “for a fiscal year” and add in its place “prior to FY 2009” in the first line of the paragraph.
- 6. Section 457.611 is added to subpart F to read as follows:

**§ 457.611 Period of availability for State allotments for a fiscal year after FY 2008.**

The amount of a final allotment for a fiscal year after FY 2008, as determined under § 457.609 and reduced to reflect certain Medicaid expenditures in accordance with § 457.616, remains available until expended for Federal payments based on expenditures claimed during a 2-year period of availability, beginning with the fiscal year of the final allotment and ending with the end of the succeeding fiscal year following the fiscal year.

**Authority:** (Section 1102 of the Social Security Act (42 U.S.C. 1302).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Insurance Program)

Dated: November 3, 2010.

**Donald M. Berwick,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: November 30, 2010.

**Kathleen Sebelius,**

*Secretary, Department of Health and Human Services.*

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**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[FCC 11-8; MB Docket No. 05-162; RM-11227, RM-11284]

**Radio Broadcasting Services; Enfield, NH; Hartford, VT; Keeseville and Morrisonville, NY; White River Junction, VT**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; application for review.

**SUMMARY:** This document grants the Application for Review filed by Hall Communications, Inc. of the *Report and*

*Order* in this proceeding to the extent of rescinding the staff action reallocating FM Channel 231A to Morrisonville, New York, and reinstating the allotment of Channel 231A at Keeseville, New York, because an interest had been expressed in retaining the allotment at Keeseville. The document also affirms the Report and Order in all other respects. Finally, the document modifies the FM allotment processing policies so that, on a going forward basis, the Commission will no longer accept proposals involving the reallocation, class down-grade, or deletion of a vacant FM allotment. See **SUPPLEMENTARY INFORMATION, supra.**

**DATES:** Effective March 30, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Andrew J. Rhodes, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB Docket No. 05-162, adopted January 25, 2011, and released January 26, 2011. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

The *Memorandum Opinion and Order* agreed that the *Report and Order's* deletion of Channel 231A at Keeseville was inconsistent with existing Commission case law, which states that the Commission will not remove a vacant FM allotment from a community if a potential applicant has expressed an interest in applying to build a station on that channel, absent a compelling reason to do so. See 71 FR 30827, May 31, 2006. Because an interest had been expressed in retaining the channel at Keeseville, the channel should not have been deleted and reallocated to Morrisonville, New York. The reference coordinates for Channel 231A at Keeseville are 44-31-45 NL and 73-32-00 WL.

The *Memorandum Opinion and Order* also affirmed the *Report and Order* insofar as it (1) Allotted Channel 282A to Enfield, New Hampshire as its first local aural transmission service; (2) reallocated Channel 282C3, Station WWOD(FM), from Hartford, Vermont, to Keeseville, New York, and modified the license of FM Station WWOD(FM) accordingly; and (3) reallocated Channel

237A, Station WXL(FM), from White River Junction, Vermont, to Hartford, Vermont and modified the license of FM Station WXL(FM) accordingly.

Next, prompted by the circumstances that gave rise to Hall's Application for Review, the Commission concluded to discontinue the practice of considering rulemaking requests for the reallocation, class down-grade or deletion of a vacant FM allotment. The Commission determined that this practice is disruptive to the orderly auctioning of vacant FM spectrum, wastes limited staff resources, and undermines the finality of the actions adopting the initial allotment. However, the Commission will permit parties to propose same-class channel substitutions for vacant FM allotments in order to accommodate proposals in technically related FM allotment and/or application filings because same-class channel substitutions do not disturb final section 307(b) determinations on which the allotments were based.

Finally, we note that, although the *Report and Order* in this proceeding removed Channel 231A at Keeseville, New York, § 73.202(b), the Table of FM Allotments, inadvertently did not reflect this change, and the channel continues to appear in the Table. Accordingly, there is no need for a further revision to the Table of FM Allotments with respect to Keeseville, New York.

The Commission will send a copy of this *Memorandum Opinion and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICES**

- 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336, and 339.

**§ 73.202 [Amended]**

- 2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Morrisonville, Channel 231A.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

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