revised CO SIP for Wichita on March 1, 1985. There are no significant stationary CO sources in Wichita; thus, the plan depended upon transportation control measures (TCM) for CO emissions reductions.

The plan submitted in 1985 contained one TCM, a commitment to continue a voluntary inspection and maintenance program through 1986, and a modeling analysis as part of the plan's attainment demonstration. EPA proposed approval of the revised CO plan on December 20, 1985 (50 FR 51887). The 1985 plan revision contained a contingency plan in the event that should further violations occur, other TCMs would be implemented. Along with the plan was a request for redesignation to attainment.

Two events occurred which prevented final approval of the 1985 SIP revision and the redesignation. The city discontinued the TCM, and monitoring data were inadequate to support a redesignation to attainment. In addition, violations of the standard were measured in March 1986.

On September 3, 1987, the KDHE submitted supplemental material applicable to the Wichita CO SIP. The city of Wichita adopted two new TCMs to replace the one discontinued in 1986. For further discussion of these measures, the reader is referred to the proposed rulemaking of March 3, 1988 (53 FR 10399). Final approval of the Wichita CO SIP was published on October 28, 1988 (53 FR 43691). Thus, the state of Kansas has a fully approved CO SIP for the city of Wichita.

On July 22, 1988, the KDHE submitted a request that EPA redesignate Wichita from nonattainment to attainment with respect to the CO air quality standard. Included with the request is air quality data representing eight consecutive quarters of measured data showing no violations of the NAAQS for CO.

EPA's policy for redesignation of CO nonattainment areas requires eight consecutive quarters of air quality data showing no violation of the CO standard and an approved attainment demonstration. Alternatively, EPA will accept four quarters of data with a modeling demonstration that projects the CO standard will not be violated in the future.

EPA's approval of the Wichita SIP revision on October 28, 1988, provides the approved attainment demonstration. The air quality data satisfy the eight quarters of data portion of the redesignation policy. Additionally, the plan revision included modeling which projected continued air quality which would not violate the CO standard. EPA believes that the redesignation policy for CO has been satisfied in the case of Wichita, Kansas.

The EPA-proposed post-87 ozone/CO policy, as discussed in the **Federal Register** on November 24, 1987, and June 6, 1988, applies to nonattainment areas based upon air quality data for the period January 1986 through December 1987. This would include Wichita, Kansas, because the last recorded violation was in March 1986. However, as discussed above, there are now at least eight consecutive quarters of CO data showing no violations of the NAAQS.

EPA received three comment letters pertaining to the June 6, 1988, **Federal Register** notice, which proposed to designate Wichita nonattainment for CO and possible sanctions on highway construction in the Wichita area. Two commenters asked that EPA reconsider the proposed nonattainment designation because more recent data showed no CO violations for eight consecutive quarters. A third commenter questioned EPA's authority to impose sanctions on highway construction and stated that highway improvements would contribute to reduced CO concentrations in the Wichita area.

Today's action redesignates Wichita from nonattainment to attainment with respect to CO. Thus, in effect, EPA is following the suggestions of the first two commenters. The third commenter's argument is moot, because redesignating Wichita to attainment obviates the possibility of sanctions in the near term.

EPA approved the Wichita CO SIP on October 28, 1988 (53 FR 43691). The state's redesignation request of June 22, 1988, was supported with data showing no violations of the CO NAAQS for eight consecutive quarters. Thus, the EPA's CO redesignation policy requirements have been satisfied. Today's action also withdraws that part of the June 6, 1988, notice that proposed to retain Wichita as nonattainment for CO. This action effectively removes Wichita, Kansas, from Table B of the June 6, 1988, notice of areas proposed to be designated nonattainment for CO.

ACTION: EPA approves the state's request to redesignate Wichita, Kansas, from nonattainment to attainment with respect to NAAQS for CO.

The public should be advised that this action will be effective June 13, 1989. However, if notice is received within 30 days that someone wishes to make adverse or critical comments, this action will be withdrawn and two subsequent notices will be published prior to the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of action and establishing a comment period.

The Office of Management and Budget has exempted this redesignation from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this redesignation will not have a significant impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Clean Air Act, as amended, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 13, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Date: March 29, 1989.

William K. Reilly,

Administrator.

Part 81 of Chapter I, Title 40

40 CFR Part 81, Subpart C, is amended as follows:

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. The CO table in section 81.317, Kansas, is amended by revising the entry for "Sedgwick County" to read as follows:

§ 81.317 Kansas.

* * * * *

KANSAS—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
Sedgwick County.	 X	
* * * * *		

* * * * *

[FR Doc. 89–8996 Filed 4–13–89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-396; FCC 89-89]

Broadcast Television Services; Network Affiliation Agreements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this *Report and Order* (*R&O*), eliminates § 73.658(c) of its Rules. This section established a two-year limit on the duration of affiliation agreements between television station licensees and television networks, and barred networks and stations from entering into affiliation agreements more than six months prior to the time the term of the agreement was to commence. This rule was deleted because the Commission found that the arbitrary time limit specified in the rule is unnecessary and could, in fact, be having negative effects.

EFFECTIVE DATE: May 15, 1989.

ADDRESS: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David E. Horowitz, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* MM Docket No. 88-396, adopted March 16, 1989, and released April 7, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. In this decision, the Commission eliminates § 73.658(c) of its Rules. This section, the term of affiliation rule, established a two-year limit on the duration of affiliation agreements between television station licensees and television networks, and barred networks and stations from entering into affiliation agreements more than six months prior to the time the term of the agreement was to commence.

2. Section 73.658(c) was enacted as one of the "chain broadcasting" rules. In general, these rules were enacted to limit the ability of the then existing networks to exact from their affiliates contract terms that the Commission felt tended to perpetuate the advantages those networks held over competitors. The two-year rule, in particular, was adopted in response to the Commission's concern that without a limit, the networks would enter into lengthy affiliation agreements in order to "tie up" existing broadcast outlets so that new networks would have no stations with which to affiliate. The Commission believed that mandating shorter terms of affiliation would give these developing networks meaningful access to programming outlets, thus permitting the growth of such networks and hopefully resulting in a larger supply of programming and a gain in programming quality as more networks competed equally for the stations' time.

3. This review was initiated by *Notice of Proposed Rule Making* (*Notice*) (53 FR 38308, September 30, 1988), in order to determine whether the two-year rule, which was adopted in 1945, is currently functioning as intended and whether the continuation of this restriction in the present market environment is still necessary. Although the rule had not been subject to formal Commission review since its adoption, in 1977 the Commission eliminated the corresponding two-year rule for radio, along with most of the other chain broadcasting rules as they applied to radio. (*See Report, Statement of Policy and Order* in Docket No. 20721, 42 FR 16415, March 28, 1977.) At that time, the Commission cited the tremendous change in the radio industry, particularly the increased number of stations and networks and the decreased economic importance of networks to their affiliated stations, as the reason for eliminating the term of affiliation rule (and other chain broadcasting rules) in the radio industry. In 1980, an extensive Commission staff review of the network rules also recommended modification of the two-year rule for television, indicating that the rule did not effectively accomplish its intended goals and might be adversely affecting the television industry.

4. The *Notice* in this proceeding also suggested that, just as changes in the radio marketplace warranted elimination in 1977 of the two-year rule for radio, changes in the television marketplace might now warrant elimination or modification of the rule for television. The *Notice* sought comment on the impact of eliminating the rule, and in the alternative, whether modification of the rule would be preferable. In the latter instance, commenters were asked to suggest appropriate modifications.

5. The *Notice* elicited five comments and two reply comments, all strongly supportive of complete eliminatioin of the two-year rule. The consensus was that the rule is not only anachronistic and unnecessary in today's television industry, but also that it has a considerable negative impact on both stations and networks. Although some of the arguments made in support of eliminating the two-year term of affiliation rule raised issues far beyond the scope of this proceeding, we believe that the commenters made a persuasive case that the rule is no longer necessary and may work against the goals that the rule was designed to achieve. For example, we do not believe that in today's competitive environment, the major networks will be able to "tie up" existing broadcast outlets so as to undermine competition by newer emerging networks. In addition, the two-year rule may, in fact, be impeding the newer networks' ability to compete, especially in the start up phase of operations; financing could be easier to secure if a network can obtain longer term affiliation agreements that provide assurances of a steady market for its programming. Moreover, we find no public interest benefit in continuing the present restriction. While it is difficult to know the extent to which longer term contracts would in fact arise, particularly for the larger established networks, there appears to be a significant potential public benefit in allowing networks and their affiliates, including in particular the newer developing networks and their affiliates, to reach their own balance as to what term of affiliation should be agreed upon. Because the rule was initially adopted to assist in the development of new networks, it is particularly appropriate that it not be retained if it is having a contrary effect in the current market environment.

6. In addition to the negative effects of this rule on new networks, we believe there is considerable public benefit in acting to facilitate those developments that will assist existing affiliates and networks in synchronizing their economic and competitive interests and will aid their effective participation in the increasingly diverse and competitive video marketplace of the future. Although our system of broadcasting is based on a structure that involves numerous local broadcast station outlets, it has been recognized from the time network regulations were first considered that the networking operations are of great importance, because of their reach and efficiency, in providing the public with news,

information, and entertainment programming. The efficiency and responsiveness of such operations depends, however, on a partnership between the network and its numerous affiliates. The additional flexibility provided by the elimination of the two-year rule should, we believe, be of some assistance to networks and their affiliates in assuring that this partnership functions effectively.

7. In sum, we find that the record supports our initial evaluation in the *Notice* that the two-year rule should be eliminated to allow networks and stations to negotiate the term of affiliation agreements in accordance with their business judgments. The initial considerations that prompted the adoption of the rule have been greatly eroded by developments in the intervening years, such as the increased diversity and complexity of the video marketplace. Indeed, in today's video marketplace, the rule may even be detrimental to the network and station interests that it was intended to protect, limiting these entities' flexibility to negotiate agreements that will permit them to respond to an increasingly competitive marketplace and to better serve the public.

Final Regulatory Flexibility Analysis Statement

8. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, we conclude that the adopted rule modifications will have a positive impact on many small entities, by giving them greater flexibility in negotiating with networks on the term for which affiliation agreements will run, thus creating a greater opportunity for a steady supply of programming, which may make it easier to obtain financial backing necessary to construct or improve facilities and easier to attract advertisers.

9. The Secretary shall cause a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq., (1981)).

Paperwork Reduction Act Statement

10. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

11. Authority for the rule changes adopted herein is contained in Sections 4 (i) and (j), and 301, 303, 308, and 309 of the Communications Act of 1934, as amended.

12. Accordingly, it is *ordered*, That pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d)(1), the amendments to the Commission's Rules and Regulations adopted herein, as set forth below shall become effective 30 days from the date this *Report and Order* is published in the **Federal Register**.

13. *It is further ordered*, That this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Rule Amendment

47 CFR Part 73 is amended as follows:

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

Authority: 47 USC sections 154 and 303.

15. Section 73.658 is amended by removing the text of paragraph (c) and marking it reserved.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9005 Filed 4-13-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-144; FCC 89-62]

FM Broadcast Service; Review of Technical Parameters for FM Allocation, FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission establishes a uniform protection level (36 mV/m) to serve as a basis for the intermediate frequency minimum distance separation requirements applicable to FM broadcast stations, and amends 47 CFR Part 73 by (1) adjusting the existing requirements to meet the uniform protection level and (2) establishing a new requirement to address a previously unidentified potential source of interference. These actions will result in more reasonable and consistent treatment of FM station applications, and will provide appropriate protection from interference for FM receivers.

EFFECTIVE DATE: May 17, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: B.C. "Jay" Jackson, Jr., Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: Following is a summary of Commission's *Third Report and Order* in MM Docket No. 86-144, adopted February 15, 1989 and released April 10, 1989. The full text of this action is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of the Third Report and Order

1. This order addresses the last of a number of technical rule revisions that became necessary as a result of the creation of three new FM broadcast station classes in BC Docket 80-90 (*Report and Order*, 48 FR 29486, June 27, 1983). It amends 47 CFR Part 73 to provide a uniform level of protection from intermediate frequency ("IF") interference. IF interference degrades FM reception, and in severe cases can prevent reception by a susceptible receiver of most or all of the FM stations in the area.

2. Specifically, this order adjusts the required minimum separation distances for IF-related FM stations to prevent overlap of their predicted 36 mV/m median field strength contours, regardless of the station classes. Two FM stations are IF-related if their assigned frequencies are 10.6 or 10.8 MHz (53 or 54 channels) apart. Also, a new separation requirement applicable only to FM Channel 253 (98.5 MHz) and TV Channel 6 is adopted, based on the same protection criterion, because the aural carrier (at 87.75 MHz) from a TV station on Channel 6 is IF-related to FM channel 253 (98.5 MHz).

3. This proceeding was initiated in 1986 by a *Notice of Proposed Rule Making* (*Notice*) (51 FR 15927, April 29, 1986) to refine certain rules that were affected by previous action in BC Docket No. 80-90. A *First Report and Order* (52 FR 8259, March 17, 1987) resolved two issues raised in the *Notice*. Five remaining proposals were addressed in a *Second Report and Order* (*Second Report*) (52 FR 37786, October 9, 1987). Four of these were resolved in the *Second Report*, but action on the fifth, concerning IF distance separation requirements for the newly created station classes, was deferred until

additional information could be obtained.

4. If distance separation requirements are contained in 47 CFR 73.207, which specifies, by station class, the minimum distance that each FM station must be separated from other IF-related FM stations. The distances specified for Classes A, B, and C (the original classes) were intended to avoid the overlap of 20 mV/m field strength contours (*see Report and Order* in Docket No. 15934, 30 FR 8680, July 9, 1965). However, the specified distances are insufficient to prevent such overlap. Nevertheless, lack of evidence of IF interference suggests that the existing lesser separations have provided adequate protection.

5. In BC Docket 80–90, the Commission applied the existing IF separation distances for the large Class B and C stations to the new intermediate size classes B1, C2, and C1. Consequently, stations in there new classes must currently meet the same requirements as the largest stations, even though they generally operate with lower effective radiated power and antenna height above average terrain. Therefore, in the *Notice* it was proposed to reduce the separations for the new classes to those necessary to provide a 30 mV/m protection level. (Preventing overlap of two stations' 30 mV/m contours is referred to herein as a "30 mV/m protection level.") This proposal was based on the current rules for the old classes, which provide protection levels varying approximately from 24 mV/m to 36 mV/m (30 being halfway between 24 and 36). The purpose of this proposal was simply to provide approximately the same protection level for these new classes as has existed for Class A, B and C stations since 1965. However, in the *Second Report*, the Commission found the record developed in response to the *Notice* with regard to the issue of IF separations to be inconclusive, and concluded that adoption then of distances based on the 30 mV/m protection level would have been premature.

6. In March 1988, the Commission issued a *Further Notice of Proposed Rule Making* (*Further Notice*) (53 FR 10259, March 30, 1988) with the goal of developing a more comprehensive record concerning the IF issue. The *Further Notice* also expanded the scope of the proposal to include consideration of existing IF distance separation requirements applicable to the pre-BC Docket 80–90 FM station classes (A, B and C) and possible new IF minimum distance separation requirements applicable to TV Channel 6 allotments and assignments in the vicinity of FM Channel 253 allotments and assignments (and vice versa).

7. In the *Further Notice*, revised IF minimum distance separation requirements were proposed for all FM station classes and for TV Channel 6 and FM Channel 253 stations based on a uniform protection level of 36 mV/m, which is the least restrictive of the current protection levels. Interested parties, particularly receiver manufacturers and organizations representing them, were invited to submit any additional data or test results either supporting or opposing on technical grounds the choice of 36 mV/m, or to suggest an alternative protection level.

8. Fourteen parties filed formal comments in response to the *Further Notice* and five submitted replies. The majority support the proposal generally, but several oppose it or suggest modifications.

9. *Discussion.* Currently, FCC rules and policies with regard to FM IF interference result in arbitrarily varying levels of protection and thus are technically inconsistent. The minimum spacings now required in 47 CFR 73.207 for IF-related stations provide different protection levels for various FM station class combinations. The distances for Classes B1 and C1 were not based on any calculated standard but were simply taken from the next larger classes (Class B and C, respectively) as a temporary measure in BC Docket 80–90. Licensees of grandfathered short-spaced stations and other applicants requesting a waiver of the IF distance separation requirements currently must show, among other things, that a proposed modification would not cause the overlap of the 20 mV/m predicted median field strength contours of IF-related stations. Finally, there are currently no requirements at all for the TV Channel 6–FM Channel 253 IF relationship, which presents at least as much potential for IF interference as do the pure FM requirements.

10. In the *Further Notice*, the Commission stated that no technical justification could be found for the disparate treatment of these similar situations. Furthermore, the Commission has seen nothing in the record in this proceeding to persuade it otherwise. An FM receiver does not need more protection from two IF-related Class B1 stations than from two IF-related Class A stations. Nor does this same receiver need less protection from TV 6–Channel 253 IF interference than it does from two IF-related Class C1 stations. The Commission believes that its technical allotment and assignment requirements should be based upon reasonably derived and consistently applied technical standards. In cases involving unique or unusual circumstances the Commission may consider waivers of technical rules, however, even in these cases the Commission believes that a clear understanding by all parties of the technical principles underlying the rule for which the waiver is sought is essential to the proper disposition of such requests. The Commission concludes that one specific protection level for IF interference should be selected and applied uniformly.

11. Obviously, there is a trade-off between protection level and site flexibility. That is, a lower level of protection permits shorter separations, which in turn allow a greater number of potential transmitter sites. Some commenters allege that this trade-off should never favor site flexibility unless it is proven that service to the public has been reduced. Others argue that the benefits to be gained, in terms of site flexibility, are limited. However, the Commission believes that licensees of certain classes of FM stations should not be unnecessarily constrained by an inconsistent technical standard, while others, operating under a less restrictive standard, do not appear to have experienced any significant problems over the years.

12. In view of years of actual operation by some classes of FM stations under requirements resulting in a protection level of 36 mV/m, the Commission believes that this level is sufficient to protect receivers currently in use. Receiver manufacturers are encouraged to design receivers that are immune to IF interference, as the record indicates this can be done without making such receivers significantly more expensive. Although some commenters recommend that the current distances be retained, the Commission sees no public benefit to retaining the technically inconsistent distances. Accordingly, the Commission is revising the required minimum FM IF spacings as proposed in the *Further Notice*. Furthermore, because the aural transmitter of a TV station operating on Channel 6 is similar to an FM station with regard to potential for IF interference, the Commission is adding a new requirement to address this interference potential.

13. In view of the recent proposal to increase the maximum permitted effective radiated power of Class A FM stations (*see Notice of Proposed Rule Making* in MM Docket 88–375, 53 FR 38743, October 3, 1988), licensees of these stations should be aware that,

although the minimum IF distance separation requirements for Class A stations is not increased herein, the Commission will do so in order to maintain the 36 mV/m protection level if the proposed power increase is ultimately adopted.

14. An analysis of FCC FM licensing records reveals that there are currently 22 pairs of IF-related licensed FM stations that are short-spaced under the current rule. Under the revised rule, 12 of these 22 station pairs will no longer be short-spaced, and will be subject to applicable IF distance separation requirements. The remaining short-spaced stations may continue to operate as authorized, however, applications to modify these stations in ways that increase the area of overlap of the stations' 36 mV/m median field strength contours will not be accepted.

15. A similar analysis using both the TV and FM engineering databases reveals 7 locations where a TV Channel 6 and FM Channel 253 are short-spaced under the new requirement. These stations may continue to operate as authorized, however, applications to modify these stations in ways that increase the area of overlap of the FM station's 36 mV/m median field strength contour and the 36 mV/m contour of the TV station's aural transmitter will not be accepted.

16. The Commission has previously determined that section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) does not apply to this rule making proceeding because it will not have a significant economic impact on a substantial number of small entities.

17. The actions contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements, and they will not incrase or decrease burden hours imposed on the public.

18. Authority for the action taken herein is contained in sections 4(i), 303(f) and 303(r) of the Communications Act of 1934, as amended. Accordingly, *It is ordered* That Part 73 of the Commission's Rules and Regulations are amended, as set forth below. *It is further ordered,* That this proceeding is terminated.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Part 73

Radio Broadcasting, FM Broadcast stations, Minimum distance separation requirements.

For the reasons set forth in the preamble, 47 CFR Part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for 47 CFR Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR 73.207 is amended by revising Table A in paragraph (b)(1), and by adding a new paragraph (c). In Table A, the first three columns, entitled "Co-channel", "200 kHz", and "400/600 kHz" remain unchanged. The fourth column, entitled "10.6/10.8 MHz", is revised to read as follows:

§ 73.207 Minimum distance separation between stations.

* * * * *

(b) * * *

(1) * * *

Table A—Minimum Distance Separation Requirements in Kilometers (Miles)

Relation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A to A	* * *	* * *	* * *	8(5)
A to B1	* * *	* * *	* * *	11(6)
A to B	* * *	* * *	* * *	14(9)
A to C2	* * *	* * *	* * *	14(9)
A to C1	* * *	* * *	* * *	21(13)
A to C	* * *	* * *	* * *	28(17)
B1 to B1	* * *	* * *	* * *	14(9)
B1 to B	* * *	* * *	* * *	17(11)
B1 to C2	* * *	* * *	* * *	17(11)
B1 to C1	* * *	* * *	* * *	24(15)
B1 to C	* * *	* * *	* * *	31(19)
B to B	* * *	* * *	* * *	20(12)
B to C2	* * *	* * *	* * *	20(12)
B to C1	* * *	* * *	* * *	27(17)
B to C	* * *	* * *	* * *	35(22)
C2 to C2	* * *	* * *	* * *	20(12)
C2 to C1	* * *	* * *	* * *	27(17)
C2 to C	* * *	* * *	* * *	35(22)
C1 to C1	* * *	* * *	* * *	34(21)
C1 to C	* * *	* * *	* * *	41(25)
C to C	* * *	* * *	* * *	48(30)

* * * * *

(c) The distances listed below apply only to allotments and assignments on Channel 253 (98.5 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any TV Channel 6 allotment or assignment are not met:

Minimum Distance Separation From TV Channel 6 (82–88 MHz)

FM Class	TV Zone I	TV Zones II & III
A	16	20
B1	19	23
B	22	26
C2	22	26
C1	29	33
C	36	41

3. 47 CFR 73.213 is amended by redesignating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 73.213 Grandfathered short-spaced stations.

* * * * *

(b) Stations at locations authorized prior to May 17, 1989, that did not meet the IF separation distances required by § 73.207 and have remained short-spaced since that time may be modified or relocated provided that the overlap area of the two stations' 36 mV/m field strength contours is not increased.

4. 47 CFR 73.610 is amended by adding a new paragraph (f) to read as follows:

§ 73.610 Minimum distance separations between stations.

* * * * *

(f) The distances listed below apply only to allotments and assignments on Channel 6 (82–88 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any FM Channel 253 allotment or assignment are not met:

Minimum Distance Separation From FM Channel 253 (98.5 MHz)

FM Class	TV Zone I	TV Zones II & III
A	16	20
B1	19	23
B	22	26
C2	22	26
C1	29	33
C	36	41

[FR Doc. 89–8913 Filed 4–13–89; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status of Hexastylis naniflora (Dwarf-flowered Heartleaf

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Hexastylis naniflora* to be a threatened species under authority of the Endangered Species Act of 1973, as amended (Act). This species is known only from a small portion of the upper piedmont of southern North Carolina and adjacent South Carolina. Most of the known populations are threatened by residential and industrial development, conversion of habitat to pasture or small ponds, timber harvesting, or cattle grazing. This action will implement the protection of the Act.

EFFECTIVE DATE: May 15, 1989.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the above address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

Hexastylis naniflora is a rare low-growing herbaceous plant in the birthwort family (Aristolochiaceae). The species was described by Blomquist (1957) in his revision of the North American members of the genus *Hexastylis*. The plant's heart-shaped leaves are dark green in color, evergreen and leathery, and are supported by long thin petioles from a subsurface rhizome. Maximum height rarely exceeds 15 centimeters (6 inches). The jug-shaped flowers are usually beige to dark brown in color and appear from mid-March to early June. The flowers are small and inconspicuous and are found near the base of the petioles. The fruit matures from mid-May to early July (Blomquist 1957, Gaddy 1980, 1981). *Hexastylis naniflora* grows in acidic soils along bluffs and adjacent slopes, in boggy areas next to streams and creekheads, and along the slopes of nearby hillsides and ravines (Gaddy 1980, 1981). The species is distinguished from other members of the genus *Hexastylis* by its small flowers and its distinctive habitat.

Hexastylis naniflora is known only from an eight-county area in the upper piedmont of North Carolina and adjacent South Carolina. There are 24 known populations of this species. The following summary of the known distribution of *Hexastylis naniflora*, by State and county, is extracted primarily from Gaddy (1980, 1981). Additional information was supplied by Rayner (South Carolina Wildlife and Marine Resources Department, personal communication, 1986, 1987), Mansberg (North Carolina Department of Natural Resources and Community Development, personal communication, 1986, 1987), and Newberry (University of South Carolina at Spartanburg, personal communication, 1987).

South Carolina

Cherokee County supports only one population of approximately 150 plants. The plants are growing in an area which has been adversely impacted by siltation from road construction.

Greenville County supports eight populations of *Hexastylis naniflora*. The populations vary in size from 50 to several hundred individuals. Most of the populations are adjacent to the rapidly expanding Greenville urban area or its suburbs and are threatened by loss of habitat to residential, commercial, or industrial construction. Agricultural activities, such as conversion of woodlands to pasture or construction of small ponds, also threaten the species. Timber harvesting, except for small, selective cuts, would also adversely impact the species.

Spartanburg County supports three populations of the species. One of these contains 2 individuals, one contains 75 individuals, and the last contains approximately 1,400 individuals. The largest population in the county once contained over 4,000 plants; however, 64 percent of the population was destroyed by reservoir construction. Most of the remaining plants in this population are being protected from further destruction by the City of Spartanburg (commissioners of public works). The smallest population (two plants) is within the right-of-way of the planned relocation of an interstate highway. The population of 75 plants has been adversely impacted by soil erosion caused by grazing cattle.

North Carolina

Cleveland County contains three populations. One of these supports only 10 plants and occurs on a poor quality site. The other 2 populations contain about 200 plants each. These two larger populations are threatened by timber harvesting, conversion of their habitat to pasture or small ponds, and cattle grazing.

Catawba County supports one large, healthy population of over 1,000 plants. This site has been protected to a limited extent through the Natural Areas Registry Program of the North Carolina Natural Heritage Program. This program alerts cooperative landowners to the significance of natural features on their property. It does not, however, provide long-term protection from the threats facing most populations of *Hexastylis naniflora*.

Burke County contains 3 populations, varying in size from 10 to approximately 500 individuals. The smallest population is on a poor quality site that is littered