

## EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (former SIP section)
*	*	*	*	*
<i>Chapter 20 General Provisions</i>				
*	*	*	*	*
<b>Part II—Air Quality Programs</b>				
*	*	*	*	*
5–20–204 .....	Nonattainment areas .....	6/4/03	8/9/04 FR page citation]	
*	*	*	*	*
<i>Chapter 40—Existing Stationary Sources</i>				
*	*	*	*	*
<b>Part II—Emission Standards</b>				
*	*	*	*	*
<i>Article 4—Emission Standards for General Process Operations (Rule 4–4)</i>				
*	*	*	*	*
5–40–310A.–E .....	Standard for nitrogen oxides .....	6/4/03	8/9/04 FR page citation]	
*	*	*	*	*

[FR Doc. 04–18023 Filed 8–6–04; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 300**

[FRL–7798–3]

**National Oil and Hazardous Substance  
Pollution Contingency Plan; National  
Priorities List****AGENCY:** Environmental Protection  
Agency.**ACTION:** Direct final notice of deletion of  
the Sharon Steel Superfund Site from  
the National Priorities List.**SUMMARY:** The Environmental Protection  
Agency (EPA) Region 8 is publishing a  
Direct Final Notice of Deletion of the  
Sharon Steel Superfund Site (Site),  
located in Midvale, Utah, from the  
National Priorities List (NPL).The NPL, promulgated pursuant to  
Section 105 of the Comprehensive  
Environmental Response,  
Compensation, and Liability Act  
(CERCLA) of 1980, as amended, is

Appendix B to 40 CFR part 300, the  
National Oil and Hazardous Substances  
Pollution Contingency Plan (NCP). This  
direct final deletion is being published  
by EPA with the concurrence of the  
State of Utah, through the Utah  
Department of Environmental Quality  
(UDEQ), based on EPA's determination  
that all appropriate response actions  
under CERCLA, other than five-year  
reviews and operation & maintenance,  
have been completed at the Site and,  
therefore, further remedial action  
pursuant to CERCLA is not appropriate.  
**DATES:** This direct final deletion will be  
effective September 24, 2004, unless  
EPA receives adverse comments on or  
before September 8, 2004. If EPA  
receives significant adverse comment(s),  
EPA will withdraw the Direct Final  
Notice of Deletion and it will not take  
effect.

**ADDRESSES:** Comments should be  
mailed to: Armando Saenz, Remedial  
Project Manager (RPM), Mail Code:  
8EPR-SR, U.S. EPA Region 8, 999 18th  
Street, Suite 300, Denver, Colorado  
80202–2466.Information Repositories:  
Comprehensive information is available

for viewing and copying at the following  
information repositories for the Site: (1)  
U.S. EPA Region 8 Superfund Records  
Center, 999 18th Street, Fifth Floor,  
Denver, Colorado 80202–2466, Monday  
through Friday, 8 a.m.–4:30 p.m.; and,  
(2) Utah Department of Environmental  
Quality, Division of Environmental  
Response & Remediation, 168 North  
1950 West, Salt Lake City, Utah 84116,  
Monday through Friday, 8 a.m.–4:30  
p.m.

**FOR FURTHER INFORMATION CONTACT:**Armando Saenz, Remedial Project  
Manager (RPM), (303) 312–6559, Mail  
Code: 8EPR–SR, U.S. EPA Region 8, 999  
18th Street, Suite 300, Denver, Colorado  
80202–2466.**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

**I. Introduction**EPA Region 8 is publishing this Direct  
Final Notice of Deletion of the Sharon  
Steel Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action, pursuant to EPA's authority under CERCLA and the NCP.

Because EPA considers this action to be noncontroversial, this action is being taken without prior publication of a notice of intent to delete. This action will be effective September 24, 2004, unless EPA receives adverse comments on this document on or before September 8, 2004. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of this Notice and the comments already received. There will be no additional opportunity to comment on this deletion process.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Sharon Steel Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

## II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants,

or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, EPA policy requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate or order remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

## III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with Utah on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) Utah concurred with deletion of the Site from the NPL.

(3) Concurrent with the publication of this Direct Final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete was published today in the "Proposed Rules" section of the **Federal Register**, is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If significant adverse comments are received within the 30-day public comment period on this notice, EPA will publish a timely notice of withdrawal of this Direct Final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude

eligibility for future response actions, should future conditions warrant such actions.

## IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

### *Site Location & History*

The Sharon Steel Superfund Site is located in Midvale, Utah, approximately 12 miles south of Salt Lake City and consists of two operable units. Operable Unit 1 (OU1) consists of approximately 260 undeveloped acres and is a primary source of contamination. OU1 included a mill, processing plants, outbuildings and the 10 million cubic yard waste tailings pile. OU1 underwent a cleanup remedy that capped the large contaminated soil and tailings pile and construction was declared complete in 1999. Operable Unit 2 (OU2) consists of approximately 200 acres of formerly contaminated residential and commercial properties adjacent to OU1. OU2's cleanup of almost 600 properties was completed in 1998.

OU1 is bounded on the north by 7800 South Street and the Midvale Slag Site, on the south and west by the Jordan River and on the east by a residential/commercial section of Midvale City. OU2 includes approximately 200 acres of formerly contaminated residential and commercial properties adjacent to OU1. OU2 is bounded on the north by 9th Avenue Street, on the South by Ivy Drive, on the east by Chapel Street and on the west by Sharon Steel OU1.

The area is drained by the Jordan River that is used primarily for agricultural irrigation. The subsurface beneath Salt Lake Valley includes substantial groundwater resources, consisting of shallow unconfined, confined, and deep confined aquifers some of which are used for domestic, agricultural, and industrial applications. Approximately 44,000 people live within a 2-mile radius of the Site.

The Site was previously the location of various ore processing operations. Various companies processed huge quantities of ore that had high concentrations of heavy metals from 1906 to 1971. Byproducts, with high levels of arsenic and lead from milling operations, were transported from the processing plant to a large waste tailings pile west of the mill, as well as to a small 2.3-acre area on the west side of the Jordan River. Sharon Steel Corporation signed an agreement to purchase the Site in 1979 and took ownership in November of 1981.

In 1982, the Utah Department of Environmental Quality (UDEQ) and EPA

determined that there was a serious threat to public health in Midvale associated with the Sharon Steel Site. Investigations conducted by local, State, and Federal agencies from 1982 to 1990 determined that soils on the Sharon Steel property, as well as on nearby residential and commercial properties, had arsenic and lead concentrations at levels that posed unacceptable risks to residents. The Site was proposed for the National Priorities List (NPL) in 1984 and listed on the NPL on February 14, 1991.

Pursuant to a Partial Consent Decree (PCD) entered by the United States District Court for the District of Utah in 1990, EPA settled with the three Potentially Responsible Parties (ARCO, UV Industries and Sharon Steel) for approximately \$64 million dollars. The money was designated to assist with remedial action activities for both the Sharon Steel and Midvale Slag Superfund Sites.

From May through June of 1991, EPA's Emergency Response Branch (ERB) removed dangerous chemicals and bottled gases from the remaining mill buildings on the Site. From September of 1992 through December of 1993, EPA's ERB demolished the remaining mill buildings. Building debris was placed on the tailings pile and eventually covered when the remedy for OU1 was completed in January 1999. The remedy for OU2 was completed in November 1998.

#### *Remedial Investigations (RIs)*

An RI was completed in June of 1988. A more extensive groundwater investigation was also conducted from 1988 to 1990. The investigations determined that tailings from the Site were blowing into the surrounding

communities and citizens were using the tailings as yard/garden fill. It was determined that a significant endangerment existed due to exposure to the tailings either from on-site direct contact, wind deposition and/or use as yard fill. In addition, arsenic and lead contamination in residential and commercial soils from historical smelting and milling presented a significant risk to human health. Several heavy metals were found in the shallow groundwater under the tailings, but arsenic was the primary metal of concern as it was the most mobile.

#### *Remedial Actions*

OU1. The Remedial Action (RA) for OU1 has been completed in accordance with the OU1 Record of Decision (ROD) dated December 9, 1993 and the OU1 Remedial Design (RD). The following remedial activities were conducted from May 1995 to January 1999:

- Tailings within 150 feet of the center line of the Jordan River were excavated and distributed on top of the existing tailings pile. The tailings pile contained an estimated 10 million cubic yards of material and was up to 60 feet thick in places;
- The top two feet of soil in the mill building area was excavated and distributed on top of the existing tailings pile. Clean fill was brought in to replace the soil which was removed and the area re-vegetated;
- Wetlands along the Jordan River were dredged to remove contaminated sediments. The dredged material was distributed on top of the existing tailings pile and the wetlands were returned to their natural state;
- Tailings on a 2.3 acre area on the west bank of the Jordan River were

excavated and distributed on top of the existing tailings pile;

- A RCRA-equivalent composite cap was installed over the entire tailings pile. The cap includes a geo-composite drain underlain by a flexible membrane liner which, in turn, is underlain by a geo-synthetic clay liner that reduce the potential for water infiltration through the tailings pile. The cap is overlain by 18 inches of earth fill and 6 inches of top soil and re-vegetated throughout. In case of slope failure, the cap is designed to contain tailings within a buffer zone to protect the Jordan River. The cap was also designed to allow access to pedestrian traffic;

- An interceptor trench was installed along the eastern edge of the tailings pile to control lateral shallow groundwater flow;

- The OU1 ROD called for the Galena Canal to be cleaned up and filled in. When the ROD was signed, information was missing that showed the flow in the Galena Canal had been discontinued and the canal decommissioned. According to the Remedial Action Report, the canal was removed and not rehabilitated. This was the only change in the remedy;

- Fifteen groundwater monitoring wells were installed on OU1; and,

- The OU2 ROD called for the placement of contaminated soils from the cleanup of 600 properties on the OU1 tailings pile. Contaminated soil from the Midvale Slag OU1 cleanup was also placed on the OU1 tailings pile.

The RD for OU1 was completed in October 1994. The United States Bureau of Reclamation (BOR) performed the RD for EPA. UDEQ formally awarded the RA contract on May 30, 1995, thereby initiating the RA activities described below:

Description	Start date–end date
Mobilization .....	June 1995–November 1995.
General earth work .....	August 1995–September 1996.
Interceptor trench installation .....	March 1996–October 1996.
Cap installation .....	June 1996–October 1996.
Wetlands construction .....	August 1996–September 1996.
Well installation/Site improvements .....	August 1996–May 1997.

A pre-final inspection of OU1 was conducted on August 13, 1998. The inspection covered punch-list items remaining to complete the RA. The punch list included items such as removing fences, replacing minor sections of eroded sod, removing equipment from the Site and controlling weeds.

The final inspection was conducted on January 6, 1999. Present were EPA,

UDEQ, BOR, U.S. Fish and Wildlife Service, the RA contractor and the land owners representative. Each item of the remaining punch list was discussed. The cap, fences, wetlands, and other properties were inspected and UDEQ determined that all items were complete and EPA concurred.

OU2. The RA for OU2 has been completed in accordance with the OU2 ROD dated September 24, 1990, the

OU2 Explanation of Significant Differences (ESD) dated June 23, 1994, the OU2 ESD dated December 1998 and the OU2 RD. The following remedial activities were conducted from July 1991 to November 1998:

- Contaminated soils and associated vegetation were removed from 595 residential and commercial properties in Midvale City. Clean fill was brought in to replace the soil, the area was

graded to the original contour and re-vegetated;

- Soils removed from the residential areas were transported to OU1. The remedy selected for OU1 addressed the tailings at the mill site as well as the contaminated soils from OU2 placed there as a result of this action;

- Following outdoor cleanup, homes were tested to determine if household dust exceeded the action levels for arsenic and lead (70 and 500 mg/kg, respectively). If action levels were exceeded, the homes were cleaned;
- Trees and shrubs were removed and replaced, if soil removal affected their viability.

The RA for OU2 was conducted using a phased approach. Six phases were originally planned and separate RODs were prepared for each phase. Implementation of the phased approach is described below:

Phase	Description	Start date–end date
I .....	Curb/gutter improvement .....	July 1991–November 1991.
II .....	Remediation of 114 properties .....	May 1993–November 1993.
III .....	Remediation of 192 properties .....	March 1994–November 1994.
IV .....	Remediation of 142 properties .....	March 1995–November 1995.
V .....	Remediation of 135 properties .....	May 1996–October 1997.
Va .....	Remediation of 2 properties .....	July 1998–November 1998.
VI .....	Cancelled.	

Phase VI was to be conducted to clean up potentially contaminated soils along the interstate highway and railroad right-of-ways. However, re-construction of Interstate 15 within OU2 boundaries addressed this issue. The BOR designed the remedy and was the oversight contractor during remedy construction.

Each property cleaned up was inspected at the time of completion and each landowner signed a document accepting the work as completed. A one-year warranty period was also provided by UDEQ and their contractor to provide for repairs should any remediation related problems arise. EPA issued a letter to each landowner, certifying that his/her property was clean up and no human health problems existed.

#### *Institutional Controls*

OU1. The 1990 Partial Consent Decree (PCD, Civil Action No. 86–C–924J, U.S. District Court of Utah) contained several institutional controls in the form of restrictive covenants as follows:

- A grant of access to EPA and UDEQ at all reasonable times for purposes of conducting, supervising, supporting and monitoring the remedy, including operation or maintenance;

- A requirement that the property owners not interfere with, obstruct or disturb performance of the remedy, including any operation or maintenance activities, and not take any action which may affect the integrity or effectiveness of the remedy; and,

- A requirement that the property owner provide notice to later purchasers of the conditions of the PCD. The OU1 ROD includes the following ICs:

- Only structures determined to be suitable for placement on the cap will be permitted in order to prevent breaches in the integrity of the cap and to ensure that erosion is prevented. The determination of the type and number of

structures will be finalized by EPA during remedial design; and,

- No domestic wells will be permitted onsite through deed restrictions to prevent any ingestion of contaminated groundwater. This restriction is regulated by the State of Utah. Utah will retain final authority to restrict or appropriate groundwater use at this Site. Additional ICs to protect nearby residents/businesses from any contaminated groundwater are the requirements of Salt Lake Valley Health Department Regulation #11 providing criteria for water quality and legitimate water rights for any development choosing not to access the public water system of Midvale City. Also, under Section II of the Salt Lake Valley Interim Groundwater Management Plan, well applications will not be granted in areas where a public water system is available. Nearby residents and businesses are all connected to the municipal water system.

Future redevelopment at the Site will be governed by the Site Modification Plan for Redevelopment (ERM, February 2004), the OU1 ESD dated July 2, 2004, and the Institutional Control Process Plan (Midvale City, May 2004) which is Appendix A of the OU1 ESD and corresponding modifications to the 1990 PCD.

The Institutional Control Process Plan establishes legal requirements to maintain protectiveness during and after redevelopment of the Site.

Redevelopment of the Site will require the use of more diverse and complex ICs than originally planned in the OU1 ROD. Public and private ICs will be integrated to effectively address changes to the current remedy due to future redevelopment.

OU2. The OU2 ROD included ICs to provide special provisions for future excavation of contaminated soils due to

gardening and construction. These ICs were reevaluated and lifted in 1994 and 1998. The June 1994 ESD determined that garden soils outside the 500 mg/kg lead and 70 mg/kg arsenic boundary did not need to be cleaned up to 200 mg/kg lead and subjected to ICs. The December 1998 ESD (confirmed later in July 2003) narrowed the scope of the OU2 RA by excluding properties owned and selected by Midvale City and transportation right-of-ways. ICs associated with garden soils and future residential construction were also removed based on post-remedial soil data and analysis.

#### *Remedial Action Objectives and Cleanup Standards*

OU1. The RA for OU1 has met all RA objectives as defined in the OU1 ROD. The RA has met the following objectives:

- Prevented exposure to contaminated soil/tailings on the Site by isolating tailings and soils with contaminant concentrations exceeding health-based action levels for lead (500 mg/kg) and for arsenic (70 mg/kg).

- Prevented migration of and exposure to contaminated groundwater with arsenic concentrations greater than the health-based action levels of 50 ug/L for wells on the north side of the Site and 190 ug/L for wells on the west side of the Site.

- Reduced flow of water through the tailings and further contamination of the shallow groundwater.

The OU1 ROD contained a contingency remedy for groundwater. Groundwater monitoring wells were installed along the northern and western boundaries to function as points of compliance to determine if shallow groundwater contaminated with arsenic was migrating from the Site. If groundwater action levels for arsenic

were exceeded in these compliance wells, EPA and UDEQ could institute a pump and treat system for the groundwater at these boundaries to prevent off-site migration of groundwater contamination.

EPA and UDEQ have determined that no pump and treat action is necessary for the groundwater component of the remedy given seven years of monitoring data. Data collected from the Jordan River (which borders the western boundary of OU1) does not indicate measurable increases in arsenic levels. Also, only one of fifteen compliance wells has exceeded the arsenic action level of 190 ug/L (along the western boundary) on a consistent basis.

Additional investigations of the well have shown that the source of arsenic contamination is not the Sharon Steel tailings pile, but the Bingham Creek tailings. The well is completed in the old Bingham Creek channel which contains tailings washed down from the Kennecott Site. The Bingham Creek tailings will be addressed under the separate cleanup of the Kennecott Site. The investigations also indicated that a pump and treat system would not be technically feasible nor cost effective given the hydro-geological characteristics of the area of the well.

OU2. The RA for OU2 has met all RA objectives as defined in the OU2 ROD and OU2 ESDs dated June 23, 1994 and December 1998 (later confirmed in July 2003). The RA has eliminated the exposure to contaminated soil in residential and commercial properties with the removal of soil with contaminant concentrations exceeding health-based action levels for lead (500 mg/kg) and arsenic (70 mg/kg) and replacement of the soil with clean fill.

#### *Operation and Maintenance (O&M)*

All O&M activities pertain to OU1. OU2 does not require O&M. O&M activities are required at the Site to maintain and monitor the performance and protectiveness of the implemented remedy. The objectives of O&M for OU1 are to: (1) Maintain the engineered cover and vegetation; (2) maintain the drainage systems and erosion protection features; (3) monitor the groundwater on an annual basis; (4) prevent the Jordan River from invading the Site and eroding the cap and/or tailings; (5) control future development and groundwater use at the Site; and (6) provide reports to document conditions at the Site including problems, repairs and development activities.

O&M activities are currently being conducted by UDEQ pursuant to a cooperative agreement with EPA and in accordance with the Operation,

Maintenance, and Monitoring Manual for Sharon Steel Superfund Site, Operable Unit 1 (BOR, October 2001). Groundwater is being monitored annually and no pump and treatment is currently needed at the Site. The Site is inspected quarterly to monitor the remedy and detect maintenance needs. There are currently no structures over the composite cap and the remedy is functioning as intended.

Future redevelopment of the Site will modify the scope, but not the objectives of O&M. Accordingly, specific changes to current O&M activities and roles/responsibilities will be addressed in the Operation, Maintenance, and Monitoring Manual.

#### *Five-Year Reviews*

Pursuant to CERCLA section 121(c), 42 U.S.C. 9621(c), five-year reviews are required at sites with remaining hazardous substances, pollutants, or contaminants above levels that allow for unlimited use and unrestricted exposure. Hazardous substances above health-based levels were left on-site and, therefore, five-year reviews are required at this Site. The first Five-Year Review Report was completed on February 26, 1999. The next five-year review is due in 2004.

#### *Community Involvement*

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket, which EPA relied on for recommendation of the deletion from the NPL, are available to the public in the information repositories.

#### **V. Deletion Action**

The EPA, with concurrence from the State of Utah through UDEQ, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than five-year reviews and operation & maintenance, are necessary. Therefore, EPA is taking this action to delete the Site from the NPL.

Because EPA considers this action to be noncontroversial, this action is being taken without prior publication of a notice of intent to delete. This action will be effective September 24, 2004 unless EPA receives adverse comments on or before September 8, 2004. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take

effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment on this deletion process.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution, Water supply.

Dated: July 28, 2004.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

■ For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

#### **PART 300—[AMENDED]**

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

#### **Appendix B—[Amended]**

■ 2. Table 1 of Appendix B to Part 300 is amended by removing the site “Sharon Steel Corp. (Midvale Tailings), Midvale, UT.”

[FR Doc. 04–17875 Filed 8–6–04; 8:45 am]

BILLING CODE 6560–50–U

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 2, 25, 74, 90, and 101**

[IB Docket No. 02–364; ET Docket No. 00–258; FCC 04–134]

#### **Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands; Allocation of Spectrum Below 3 GHz for Mobile and Fixed Services To Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Federal Communications Commission (Commission) adopts a spectrum sharing plan in the Big LEO bands to promote more efficient use of spectrum without causing harmful interference operators in those bands.