

**The U.S. Environmental Protection Agency  
Safe and Environmentally Protective Use of Granular Mine Tailings known as “Chat”  
Certification and Recordkeeping Requirements**

To ensure that Site chat sales continue and that chat is used in a manner that is protective of human health and the environment, under all of the remedial alternatives considered by the U.S. Environmental Protection Agency (EPA), except the no further action alternative, all Site chat that is used, on-site or off-site, must be managed according to the criteria provided in the Chat Rule, 40 Code of Federal Regulations (CFR) Part 278, and its preamble. This means that EPA is including both the regulations that apply to transportation construction projects and the preamble guidance that applies to non-transportation, non-residential projects as requirements for the use of Site chat. Under the remedy selected in the Record of Decision (ROD), only the uses described in the preamble (including EPA’s June 2007 fact sheet; EPA530-F-07- 016B) and the transportation construction project uses described in 40 CFR Part 278 will be allowed for Site chat.

**Record keeping requirements in 40 CFR Part 278 would apply to transportation uses and non-transportation uses**

The record keeping requirements of the Chat Rule would apply to both transportation and non-transportation uses of Site chat under the ROD, with one addition. Under EPA’s remedy, a party who acquires chat for use must submit a copy of the written certification described in the Chat Rule to both the State and to the EPA Remedial Project Manager (RPM) for OU4. While the Chat Rule requires certification only to the State, EPA’s proposed remedy would require certification to the RPM as well. Chat sellers who fall under the regulatory control of Bureau of Indian Affairs (BIA) may elect to submit a copy of the certification required by the BIA to the EPA RPM. EPA intends to hold free on-site seminars explaining the requirements of the Chat Rule as they apply to the Site. Please note that the use of chat according to the provisions of the remedy would not affect a person’s obligation to comply with existing State or Federal materials specifications or other requirements. Chat that is taken off-site, must be sent only to a facility that complies with the Off-site Rule (40 CFR §300.440). The term “facility” as used here includes locations utilized for transportation projects and non-transportation projects.

**Recordkeeping**

The acquirer of chat, and any other person that receives the chat, will maintain copies of all of the following for three years (a) a copy of the certification following transmittal to the State department(s) of the environment, and, as appropriate, (b) any SPLP testing results, or (c) any site-specific risk assessments.

**Transfer**

If the chat is sold or otherwise transferred to another party, the acquirer shall provide a copy of the certification to the new owner of the chat. The new owner shall submit a certification according to (40 CFR §278.4(a)(1)). The new certification supersedes all previous certifications.

Dear \_\_\_\_\_:

In accordance with the "Criteria for the Safe and Environmentally Protective Use of Granular Mine Tailings known as "Chat", the following information is being provided to the State of \_\_\_\_\_, regarding the sale and use of chat in transportation construction projects that is being funded in whole or in part with Federal funds.

**Federal Project:**

**Seller Contact** \_\_\_\_\_

Address: \_\_\_\_\_ Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Purchaser Contact** \_\_\_\_\_

Address: \_\_\_\_\_ Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Amount of chat acquired**

\_\_\_\_\_

**Destination**

Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

I Certify under penalty of law that the chat used in this transportation project will meet EPA criteria found in Sec 278.3

\_\_\_\_\_  
Purchaser Signature

Date \_\_\_\_\_

cc: U.S. EPA Region 6 (6SF-RL)  
Ursula Lennox or Gary Baumgarten  
Remedial Project Manager (RPM)  
1445 Ross Avenue  
Dallas, Texas 75202

U.S. EPA Region 7  
Dave Drake or Mark Doolan  
Remedial Project Manager (RPM)  
901 North Fifth Street  
Kansas City, Kansas 66101