

### **Justification for change to OMB #2050-0068 (EPA ICR #1360.09)**

The United States Environmental Protection Agency (EPA), Region 9 and EPA Region 6 are currently negotiating a memorandum of agreement (MOA) with the New Mexico Environment Department (NMED) and the Navajo Nation Environmental Protection Agency (NNEPA) pertaining to the regulation of underground storage tanks (USTs) in northwestern New Mexico where there has been no final uncontested federal agency action or final court determination of which agencies have jurisdiction. This MOA is intended to apply to a small universe, i.e., approximately twelve, UST facilities located on lands in the Eastern Navajo Agency other than tribal trust or allotted lands in areas where no determination has been made whether such land is Indian country, as that term is defined in 18 U.S.C. § 1151. The agreement is intended to establish joint regulation of these UST facilities. For your reference a copy of the draft agreement is attached.

To facilitate joint regulation of the UST facilities covered by the MOA, EPA would like to include a provision in the MOA that states that the parties intend to have the facilities covered by the MOA send any information submitted to all three regulatory agencies. EPA's proposed language appears in Section IV(F) of the attached MOA. This provision would be merely an agreement by the parties to request that the facilities covered by the MOA provide notifications to EPA Region 9, NMED and the NNEPA. No enforcement against any facility for its failure to comply with this request will occur.

EPA has already received approval from OMB for its information collection request, entitled "EPA Information Collection Request Number 1360.08, Underground Storage Tanks: Technical and Financial Requirements, and State Program Approval Procedures." This approval grants EPA authority to collect information from owners and operators, as specified in 40 C.F.R. Part 280, that may otherwise be subject to the Paperwork Reduction Act, including owner and operator requirements to bring a tank into service, pursuant to 40 C.F.R § 280.22, and owner and operator requirements to notify the implementing agency of any decision to permanently close or make a change-in-service at an UST system, pursuant to 40 C.F.R § 280.71. Because OMB has already approved EPA's information collection requirements found in 40 C.F.R. Part 280, the maximum additional burden on the small universe of facilities covered by this MOA would consist of the cost of making two copies of the notification form, the cost of postage to send the notifications to the two additional agencies, and the time to make two additional copies of the notification form. If these notifications are faxed or emailed to the additional agencies then the cost of this additional burden placed on this small universe of UST owners and operators would be even less.

EPA requests that OMB approve this information collection request because the de minimis burden of having a small universe of UST owners and

operators send notifications to two additional regulatory entities will substantially assist EPA in regulating the facility.