



**NATIONAL  
ENVIRONMENTAL JUSTICE  
ADVISORY COUNCIL**



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**November 19, 2002**

Administrator Christine Todd Whitman  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20004

Dear Administrator Whitman,

Please find attached a copy of the report entitled “**National Environmental Justice Advisory Council Fish Consumption and Environmental Justice, November 2002.**”

EPA, through its Office of Environmental Justice, requested the National Environmental Justice Advisory Council (NEJAC) in its meeting of December 3-6, 2001 to provide advice and recommendations on how EPA could improve the quality, quantity, and integrity of our Nation’s aquatic ecosystems in order to protect the health and safety of people consuming or using fish, aquatic plants, and wildlife.

This report reflects the advice and recommendations that resulted from pre-meeting preparation, on-site discussions, public comments and subsequent analysis. Individuals and organizations with varied backgrounds and interests offered comments, suggestions and recommendations on how EPA should address fish consumption issues.

This report proposes six overarching consensus recommendations to the EPA as follows:

- (1) Require states, territories, and authorized tribes to consider specific uses, including the use of the waterbody or waterbody segment for subsistence fishing, when designating uses for a waterbody, and to set water quality criteria that support the specific designated use; *provided* that where human health criteria are established based upon consumption of toxic chemicals that bioaccumulate in fish, regulators should employ appropriate human fish consumption rates and bioaccumulation factors, including cultural practices (*e.g.*, species, fish parts used, and manner of cooking and preparation) of tribes and other indigenous and environmental justice communities using the waterbody; *provided further* that EPA should encourage and provide financial and technical support for states, territories, and authorized tribes to control effectively all sources, including both point sources and nonpoint sources, to achieve the criteria;
- (2) Work expeditiously to prevent and reduce the generation and release of those contaminants to the Nation’s waters and air that pose the greatest risk of harm to human health and aquatic resources, including but not limited to persistent bioaccumulative toxics (PBTs) (*e.g.*, mercury, dioxins, and polychlorinated biphenyls (PCBs)) and other toxic chemicals, and to clean up and restore aquatic ecosystems contaminated by pollutants;

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- (3) Protect the health of populations with high exposure to hazards from contaminated fish, aquatic

organisms and plants, and wildlife, including communities of color, low income communities, tribes, and other indigenous peoples, by making full use of authorities under the federal environmental laws and accounting for the cultural, traditional, religious, historical, economic, and legal contexts in which these affected groups consume and use aquatic and terrestrial resources;

(4) Ensure that fish and other aquatic organism consumption advisories are used by regulators as a short-term, temporary strategy for informing those who consume and use fish, aquatic organisms and plants, and wildlife of risks while water quality standards are being attained and while prioritizing and pursuing the cleanup of contamination by appropriate parties; agencies must evaluate and address such risks; and require risk-producers to prevent, reduce, and clean up contamination of waters and aquatic ecosystems;

(5) Because many American Indian and Alaska Native (AI/AN) communities are particularly prone to environmental harm due to their dependence on subsistence fishing, hunting, and gathering, conduct environmental research, fish consumption surveys, and monitoring, in consultation with federally recognized tribes and with the involvement of concerned tribal organizations, to determine the effects on, and ways to mitigate adverse effects on the health of AI/AN communities resulting from contaminated water sources and/or the food chain; and

(6) Consistent with the 1988 *EPA Indian Policy for the Administration of Environmental Programs on Indian Reservations*, the federal trust responsibility to federally recognized tribes, and federal policies recognizing tribal sovereignty and promoting self-determination and self-sufficiency, provide equitable funding and technical support for tribal programs to protect AI/AN communities and tribal resources from harm caused by contaminated water and aquatic resources and, until tribes are able to assume responsibility for such programs, implement and require compliance with the federal environmental laws within Indian country; *provided* that, in consultation with tribes, EPA should promptly develop effective and appropriate regulatory strategies for setting, implementing, and attaining water quality standards within Indian country; and *provided further* that, EPA should work with Alaska Native villages to address the special circumstances that exist in Alaska and to protect the health of Alaska Natives from environmental threats associated with their extensive subsistence lifeways.

The NEJAC is pleased to present this report to you for your review, consideration, response and action. In addition, the NEJAC appreciates any assistance you can provide in processing the recommendations in this report through the Office of Water with consultation as appropriate with the American Indian Environmental Office and the Office of Environmental Justice.

Sincerely,

Peggy Shepard  
Chair

Jana Walker  
Vice Chair

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