



National Tribal Toxics Council

400 D Street, Suite 200 907-277-2111 Office
Anchorage, AK 99501 1-877-335-6780 Fax

www.tribaltoxics.org

[@tribaltoxics](https://www.facebook.com/tribaltoxics)

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October 31, 2017

David A. Bloom
Acting Chief Financial Officer
Office of the Chief Financial Officer
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: U.S. EPA Draft FY 2018-2022 EPA Strategic Plan

Dear Mr. Bloom,

The National Tribal Toxics Council (NTTC) appreciates the opportunity for public comment on the U.S. Environmental Protection Agency's Draft Fiscal Year 2018-2022 EPA Strategic Plan. We commend Administrator Scott Pruitt for continuing EPA's strong history of tribal consultation and collaboration by meeting with the National Tribal Caucus Chair, Mr. Evaristo Cruz. We also value the Administrator's statement from that meeting in "looking forward to working towards the agency's commitment to the 1984 EPA Indian Policy, and working closely and continuously with the National Tribal Caucus to ensure clean water, air and land for America's tribes."¹

The 565 tribes represent 5.4 million Americans² whom live lifestyles typically not addressed in risk exposure models currently used to formulate the country's environmental policies. Tribal people are then placed at unknown risk of health impacts from potential over-exposure to some chemicals. Not only are we clearly subject to potential ill health if we are not represented in exposure models, the result is an undesirable and unfair position for those manufacturers and retailers unaware that their products could be causing or contributing to increased cancers, other diseases and conditions, and death.

NTTC is an EPA tribal partnership group (TPG) that works directly with the National Tribal Caucus and the EPA Office of Pollution Prevention and Toxics. The Council's focus is providing Tribes with an opportunity for greater input on issues related to toxic

¹ "EPA Administrator Scott Pruitt Meets with National Tribal Caucus Chairman", News Releases from Headquarters, U.S. EPA Media Relations, <https://www.epa.gov/newsreleases/epa-administrator-scott-pruitt-meets-national-tribal-caucus-chairman-0>, 04/06/2017.

² Source: 2014 American Community Survey, http://factfinder.census.gov/bkmk/table/1.0/en/ACS/14_1YR/S0201//popgroup~009.

chemicals and pollution prevention, and enhancing tribal consultation and collaboration. We see increased opportunity for this work through the Toxic Substances Control Act, as amended (TSCA), and we are working to ensure appropriate Tribal consideration in its enactment. As such, NTTC appreciates EPA's introduction to Objective 1.4 and identification of implementing TSCA amendments as a top priority. "The [TSCA] amendments give EPA significant new as well as continuing responsibilities for reviewing chemicals in or entering commerce *to prevent unreasonable risks to human health and the environment, including unreasonable risks to potentially exposed or susceptible subpopulations*. Proper implementation, as Congress intended, of the TSCA amendments is one of EPA's top priorities." [Emphasis added.] Sensitive and susceptible subpopulations are not mentioned in the Plan as underlying this priority. We point out that this protection is based on the law rather than simply an Administrative choice.

In discussing subpopulations as "potentially exposed," "susceptible," and "sensitive," NTTC notes the absence of tribal lifeways. Specifically, on page 5, under the Core Mission, the Plan discusses EPA's commitment to vulnerable populations, but only gives examples of children, elderly, and minorities as vulnerable because of increased susceptibility due to age or proximity. There is no mention of increased susceptibility because of higher exposures to environmental contaminants from subsistence lifeways. EPA must reference the tribal populations. Tribal lifeways are strongly dependent on natural resources for subsistence foods and cultural resources which can lead to a higher risk of exposure to toxic chemicals that contaminate the natural environment.

Additionally, NTTC sees opportunities for EPA to address tribal concerns on chemical safety in the entire lifecycle of consumer products as identified in TSCA, from manufacturing to disposal. On page 15, Objective 1.4 - Ensure Safety of Chemicals in the Marketplace, specifically addresses TSCA and FIFRA. It is known that consumer products are not consistently disposed of as household hazardous waste as required by some ingredients in those products. As such, in communities where disposal is in unlined, but federally-approved landfills or by burning in non-compliant methods such as open barrels or on the ground, there is much greater risk of exposure to toxics. These pathways should be considered when conducting assessments of chemicals in commerce.

Continuing with Objective 1.4, on page 16, "Under the chemical data reporting (CDR) rule, EPA collects basic exposure-related information from manufacturers (including importers)..." There is no mention of what happens when manufacturers do not have exposure information. While the Draft Strategic Plan states that if there is an "insufficient information" determination, the Agency works with submitters to conduct testing. The agency must include and clarify how tribal exposures will be considered in this process when there is a risk of release into environments used by tribal members or for chemicals that have bioaccumulative properties. This is especially needed given the required timeframe to decision making.

On page 17, the Plan states that EPA will protect confidential business information. It does not mention the right of tribes and states to gain access to this information as made law in TSCA. Protection of CBI is only one part of this. Access to this information for the protection and safety and constituents is the other.

Our final comment for Objective 1.4, on page 17 is regarding the mention that EPA continues its trust responsibility by conducting education and outreach with tribes. Trust responsibility means

much more than education and outreach to EPA as identified in EPA's own policies and practices. EPA must use its authority to put protections into rule that keep tribal members from being exposed to environmental contaminants.

On page 18, is Goal 2 – Cooperative Federalism: Rebalance the power between Washington and the states to create tangible environmental results for the American people. The opening paragraph states “Further, as a part of its trust responsibilities, EPA maintains responsibility for implementing environmental programs in much of Indian country.”

NTTC appreciates EPA's continued commitment to its responsibility. One area that directly relates to this Goal, particularly to Objective 2.1, as well as to Objective 3.1 – Compliance with the Law, is NTTC's work with EPA OPPT on the Lead Risk Reduction Program. There are multiple tribes across the country who have chosen to not implement the Lead Program, and these tribes are within states which have also chosen to not implement the Lead Program. As such, the enforcement and compliance responsibility for safe lead renovation, repair and painting (RRP) continues to reside within EPA. The NTTC is raising awareness within EPA to the need for improved implementation of enforcement and compliance in remediation of during renovations and repairs in buildings in tribal communities. This will have a direct and lasting impact on reducing lead contamination and the negative health impact to children's blood lead levels and learning abilities. Representing a National Challenge in the EJ 2020 Strategic Plan, various EPA offices work on related aspects of the children's blood lead level problem, including through the President's Task Force on Environmental Health Risks and Safety Risks to Children, and through EPA OPPT, EPA Office of Enforcement and Compliance Assurance (OECA), and EPA regional office programs. NTTC works with those offices, other TPG's and our state partners to raise awareness of, and seek solutions for, how lead issues impact tribal people. One such solution being implemented as a result of NTTC's efforts is a closer working relationship between OPPT's Lead Program and OECA to evaluate more efficiently the progress of training and certifying EPA Lead-Safe Certified contractors. As a result, safe lead containment and safe disposal during renovations and repairs is facilitated.

Over the next six months, we will also be updating existing EPA lead risk educational materials to be culturally relevant and applicable to tribes. Our goal is to see that materials and training are distributed to all 567 tribes and their service providers across the Nation. An additional goal is to see increased collaboration between EPA's Lead Program and OECA to increase compliance for Lead RRP.

Additionally regarding Objective 2.1 - Enhance Shared Accountability: Improve environmental protection through joint governance and compliance assistance among state, tribal, local, and federal partners, NTTC notes on page 21 the Agency's commitment over the next four years to “enhance the compliance assurance tool box in collaboration with its state, tribal, local, federal, and industry partners.” This is extremely important to a recurring challenge that NTTC has raised with EPA for several years; that is the issue of agency-wide access to EPA-funded data collected via the Indian General Assistance Program. Multiple times the NTTC has noted in response to the agency that such data regarding tribal lifeways is available for various EPA offices to quantify consumption rates of traditional tribal foods and for exposure to contaminants in such foods, cultural resources and other tribal associations with the natural environment.

This Objective pairs neatly with Objective 3.3 - Prioritize Robust Science. Specifically, over the next four years, the Agency will strengthen alignment of its research to support EPA programs, regions, states, and tribes in accomplishing their top human health and environmental protection priorities for improved air quality, clean and safe water, revitalized land, and chemical safety. The Agency will also emphasize the translation of its work products for end user application and feedback.

In support of the strategy on page 32 for Sustainable and Healthy Communities, the Plan states that “Over the next four years, EPA will:... Assess the impact of pollution (e.g., health impact assessments) on such vulnerable groups as children, tribes, environmental justice communities, and other susceptible populations.” NTTC notes this is the only inclusion of tribes as a susceptible populations in the entire Plan. As stated previously, EPA must rectify this by including tribes as a susceptible and vulnerable subpopulation throughout the Plan.

Lastly, we commend EPA’s forward-thinking to modernize the Agency’s information technology and information management as identified on page 26 in Objective 3.5 - Improve Efficiency and Effectiveness: Provide proper leadership and internal operations management to ensure that the Agency is fulfilling its mission. This will lead to more effective collaboration among all stakeholders impacted by EPA’s mission to protect human health and the environment.

We look forward to continuing our work with your staff on behalf of tribes across the Nation. If you have any questions or comments regarding our letter, please contact us at your convenience: Dianne Barton, NTTC Chair, at (503) 731-1259 / bard@critfc.org or Fred Corey, NTTC Vice-Chair, at (207) 764-7765 / fcory@micmac-nsn.gov.

Sincerely,



Dianne C. Barton, Chair
National Tribal Toxics Council