

**Quarterly ECR Forum**  
Council on Environmental Quality Conference Room  
722 Jackson Place  
September 15, 2010

**DRAFT**  
**MEETING SUMMARY**

**Participants**

Mark Schaefer, U.S. Institute for Environmental Conflict Resolution  
Horst Greczmiel, Council on Environmental Quality  
Lori Kowalski, U.S. General Services Administration  
Debbie Dalton, U.S. Environmental Protection Agency  
Bill Bresnick, U.S. Department of Homeland Security  
Jeff Silvyn, U.S. Institute for Environmental Conflict Resolution  
Steven Miller, U.S. Department of Energy  
David Sanborn, U.S. Department of Defense  
Hal Cardwell, U.S. Army Corps of Engineers  
Kerry Redican, U.S. Army Corps of Engineers  
Josh Hurwitz, Federal Energy Regulatory Commission  
Elena Gonzalez, U.S. Department of Interior  
Peter McVeigh, U.S. Department of Justice  
Wade Boswell, U.S. Department of Energy  
Lindsey Sexton, U.S. Institute for Environmental Conflict Resolution  
Marie Horbar, U.S. Institute for Environmental Conflict Resolution  
William Hall, U.S. Environmental Protection Agency  
Suzanne Orenstein, U.S. Institute for Environmental Conflict Resolution  
Rich Kuhlman, U.S. Environmental Protection Agency  
Dave Emmerson, U.S. Department of the Interior  
Patricia Orr, U.S. Institute for Environmental Conflict Resolution  
Pat Collins, U.S. Air Force  
Catherine Johnson, U.S. Department of Veterans Affairs  
Andrea Bedell-Loucks, U.S. Forest Service

**Welcome – Mark Schaefer, Director, U.S. Institute for Environmental Conflict Resolution, and Horst Greczmiel, Council on Environmental Quality**

Mark Schaefer and Horst Greczmiel welcomed the group and introductions were made and the agenda reviewed.

**General Updates – Mark Schaefer (USIECR) and Horst Greczmiel (CEQ)**

Mark Schaefer indicated that the FY 2009 ECR report synthesis was recently sent to OMB, CEQ and agency leadership.

Horst Greczmiel thanked David Emmerson and Patricia Orr for working with Agency ECR Points of Contact to create the FY 2009 government-wide perspective on ECR in the Federal Government.

**FACA Opportunities and Challenges – Lori Kowalski (GSA), Debbie Dalton (EPA), and Jeff Silvyn (USIECR)**

*Lori Kowalski (GSA)*

Lori provided an overview on the Federal Advisory Committee Act (FACA) and issues related to ECR work in the federal government (See PowerPoint slides for details).



## What is FACA?

- Federal Advisory Committee Act (FACA)
  - Enacted in 1972
  - Provides Objective and Accessible Advice
  - Formalizes Process for Establishing, Operating, Overseeing & Terminating FACs
  - Created the Committee Management Secretariat
  - Requires FACs to Advise and Recommend; not Decide or Implement
- E.O. 12024 (1976) Delegated all Responsibilities of the President for Implementing FACA to the GSA Administrator

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## Overview of Discussion

- What is FACA and Why Does it Exist?
- The Committee Management Secretariat
- Executive Departments and Agencies
- Types of Federal Advisory Committees
- FACA Footprint
- The Right Process
- Groups Not Subject to FACA
- Misperceptions About FACA

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## Secretariat Mission

- Under section 7 of the Act, the General Services Administration (GSA) prepares regulations on Federal advisory committees ..., issues other administrative guidelines and management controls for advisory committees, and assists other agencies in implementing and interpreting the Act.
- Responsibility for these activities has been delegated by the Administrator to the GSA Committee Management Secretariat.

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## Secretariat Mission

The Secretariat carries out its responsibilities by:

- (1) Developing and distributing Governmentwide training regarding the Act and related statutes and principles;
- (2) Conducting an annual comprehensive review of Governmentwide advisory committee accomplishments, costs, benefits, and other indicators to measure performance;

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## Secretariat Mission

- (3) Designing and maintaining a Governmentwide shared Internet-based system ([www.faca.gov](http://www.faca.gov)) to facilitate collection and use of information required by the Act;
- (4) Identifying performance measures that may be used to evaluate advisory committee accomplishments;

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## Secretariat Mission

- (5) Supporting the Interagency Committee on Federal Advisory Committee Management in its efforts to improve compliance with the Act; and
- (6) Providing recommendations for transmittal by the Administrator to the Congress and the President regarding proposals to improve accomplishment of the objectives of the Act.

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## Executive Departments/Agencies

- FACA is an Executive Branch Statute
- Approximately 50 Agencies have FACs
- Responsibilities of Agency Heads
- Committee Management Officer (CMO) and Designated Federal Officer (DFO)
- CMO List:  
<http://www.fido.gov/facadatabase/rptcmo.asp>

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## Establishment Authorities

Type	Authority	Discretionary (Y/N)
Required by Statute	Congress established by law, or directs agency or President to establish	Non-Discretionary
Presidential Authority	By Executive Order or other Presidential directive	Non-Discretionary
Authorized by Statute	Congress authorizes, but does not direct agency or President to establish	Discretionary (Ceiling on such committees)
Agency Authority	Under general agency authority in 5 U.S. C.	Discretionary (Same)

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## FACA Footprint

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Committees	915	918	924	1,024
Total Meetings	6,938	6,701	7,222	?
Total Members	65,121	63,832	81,947	?
Total Cost	\$350M	\$344M	\$361M	?
Federal Staff Compensation	\$160M	\$166M	\$172M	?
Non-Federal Compensation	\$52M	\$52M	\$58M	?
Travel & per Diem	\$59M	\$58M	\$60M	?
FTE Staff Support	1,572	1,527	1,537	?

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## What is the Right Process?

### What Type of Information Do You Need?

- Advice (Collective vs. Individual)
- Exchange Information or Facts
- Town Hall
- Public Hearing
- Collaboration

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## What Triggers FACA?

- Outside Experts vs. Other Feds
- Utilize (Manage and Control) a Group
- Consensus is not a trigger!

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## Additional Considerations

- Is there Sufficient Time to use a FAC?
- Are there Sufficient Resources to Operate a FAC?
- Is the Agency Committed to the Process?
- Do You Know How to use a FAC?

FACA Requirements vs. Agency Procedures

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## **Groups Not Subject to FACA**

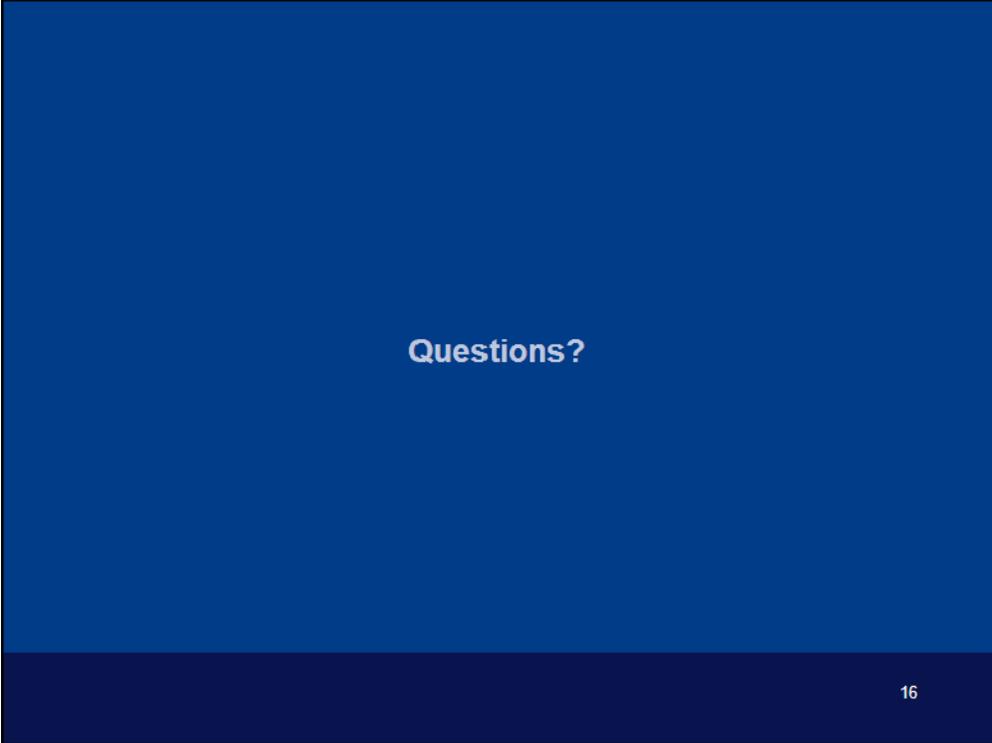
- **Solely Feds on the Group**
- **Each Person Provides Individual Advice**
- **Information Exchange/Gathering**
- **Meetings Initiated by a Group to Express Views**
- **Town Hall or Public Hearing**
- **Unfunded Mandates Reform Act Exception**
- **Groups Established, Managed, or Controlled by a Non-Federal Entity**
- **Exempt by Statute**
- **Operational Committees**

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## **Common Misperceptions About FACA**

- **FACA Itself is Too Difficult; Costly; Not Timely**
- **Administratively Impossible**
- **Membership Selection and Balance Issues**
- **SGEs vs. Representative Members**
- **Consensus at a Meeting Means FACA**

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Questions?

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Lori's presentation prompted several questions from the forum participants including:

- What agencies are most FACA-intensive in the environmental arena?
- What if you have a committee seeking advice from participants, but it's more of a discussion with non-Feds. Does this trigger FACA?
- What do we do if we want input from stakeholders and want to be collaborative?

Lori responded to the above questions and indicated she is available to assist and answer future questions as needed.

## Debbie Dalton (EPA)

Debbie gave a brief presentation on collaboration and FACA at EPA. Debbie addressed many of the issues highlighted in the following briefing.



# Collaboration and FACA at EPA

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EPA has been a leader among Federal agencies and departments in using collaborative approaches to environmental problem-solving. This guide will help EPA managers and staff to understand whether and how the Federal Advisory Committee Act impacts collaborative processes.

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## What is collaboration?

Collaboration can be thought of in two ways. First, it is an attitude that prompts people to approach their work in the spirit of cooperation and shared effort that leads to better, more creative results. Second, it is a specific approach to working with stakeholders, in which participants develop a mutually agreeable process for joint learning and problem solving.

As our environmental challenges become more complex, we are searching, jointly and cooperatively for better ways to carry out the Agency's mission. Collaboration will not replace regulation or substitute for making tough decisions, nor is it appropriate for all situations. Still, EPA has found collaboration to be effective for arriving at mutually acceptable solutions to environmental problems.

Collaborative processes can take many forms and can be either formal or informal. The degree of formality will depend upon the purpose of a collaboration process; desired end product; the number and diversity of stakeholders; the scale, scope, and complexity of the issues at hand; the duration of the process; and other factors.

EPA's role in collaborative environmental problem-solving also can take many forms. Depending on the situation, EPA may: serve in a leadership role; act as one of many interested parties in a collaborative effort established by another public or private sector entity; or simply be the beneficiary of a collaborative effort by outside parties that did not involve EPA participation.

## What is the Federal Advisory Committee Act?

The Federal Advisory Committee Act (FACA or Act), 5 U.S.C. App. 2, governs the establishment, management, and termination of advisory committees within the executive branch of the Federal government. FACA ensures that federal advisory committees are accountable to the public by maximizing public access to advisory committee deliberations and minimizing the influence of special interests through balanced committee membership. In addition, the Act seeks to reduce wasteful expenditures and improve the overall administration of advisory committees.

Federal advisory committees can significantly strengthen the Agency's collaboration processes. Moreover, establishing a Federal advisory committee can be the best approach for achieving EPA's management objectives and ensuring that advice provided to EPA is developed through a structured, transparent, and inclusive public process. EPA has a central role in the formation of a Federal advisory committee and is able to work with the committee and provide input on the substantive issues the committee addresses. Subcommittees and work groups that report back to the chartered advisory committee can further the work of the committee through collaborative processes. Agency managers and outside stakeholders generally view the advice provided by Federal advisory committees as highly credible due to the: balanced membership of the committees; thorough vetting and selection process for members; formal opportunities for members of the public to provide written and oral public comment; and transparency of the meeting process. While FACA sets up requirements that Federal advisory committees must follow, those requirements generally mirror the best practices normally used in collaborative processes.

## How does FACA affect collaborative approaches at EPA?

In general, FACA applies to collaborative efforts when all of the following criteria are met:

- 1) EPA establishes the group (that is, organizes or forms) or utilizes the group by exerting "actual management or control";
- 2) the group includes one or more individuals who are not Federal employees or elected officials of State, Tribal, or local government or employees with authority to speak on their behalf; and
- 3) the product of collaboration is group advice for EPA.

## What does FACA require EPA to do?

To help EPA management meet all of the FACA requirements, the Office of Cooperative Environmental Management has developed a handbook that explains how to set up, manage and terminate a federal advisory committee. The handbook is available at <http://intranet.epa.gov/ocem/faca>. The FACA requirements include the following:

- 1) Develop a charter and publish notice of the establishment of the committee. A charter is a two to three page document that specifies the mission and general operational characteristics of the committee.
- 2) Balance the points of view represented by the membership of the committee in relation to the function the committee is to perform.
- 3) Announce meetings in the Federal Register in advance of the meeting.
- 4) Open the meetings to the public and allow the public to send in or present comments.
- 5) Keep minutes of each meeting, make committee documents available to the public, and maintain the committee's records.
- 6) Appoint a Designated Federal Officer (DFO) to manage the committee.

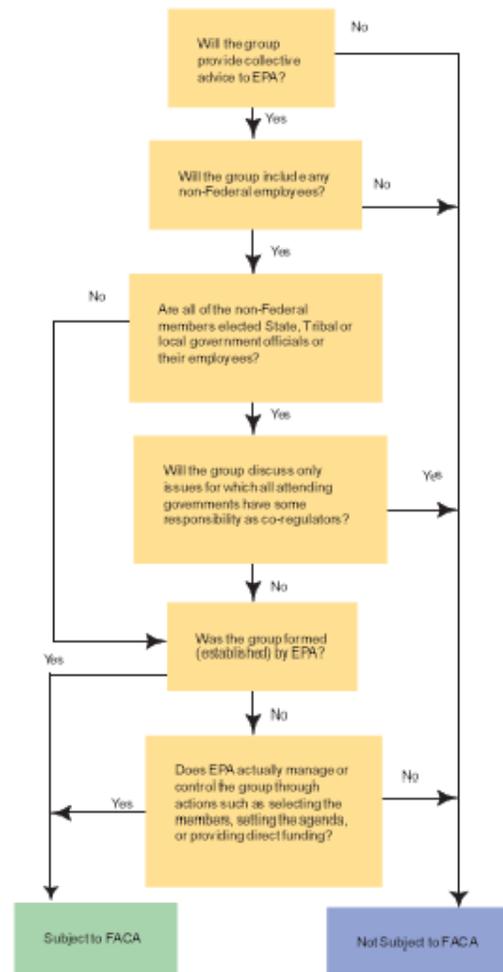
## Are there collaborative problem-solving activities that are not subject to FACA?

Collaborative processes with EPA involvement may not be subject to FACA if any of the following apply:

- 1) EPA seeks advice and recommendations from the participants on an individual basis and not from the group as a whole;
- 2) The group is composed exclusively of elected officials from Federal, State, Tribal and local governments (or their designated employees with authority to speak on their behalf) and the purpose of the group is to exchange views, information, or advice relating to issue(s) of intergovernmental responsibility and administration (in short, responsibility as co-regulators);
- 3) The group is formed or assembled by a non-Federal entity (such as a non-Federal government, a contractor or a private organization) provided that the group is not actually managed or controlled by the federal government; or
- 4) The purpose of the group is to develop advice for non-Federal entities (such as States or industry sectors).

Pre-collaboration *situation assessments* can assist EPA managers and staff by providing information about whether a collaborative approach may be appropriate in a given situation and, if so, whether FACA may apply. If the program office determines that a given collaboration effort would invoke FACA, Agency managers and staff should consult with the Office of Cooperative Environmental Management (OCEM) for guidance on setting-up and operating a Federal advisory committee. If there are any questions as to whether FACA might apply, managers and staff should consult with the FACA attorney in the Office of General Counsel, Cross-Cutting Issues Law Office.

### FACA APPLICABILITY DECISION TREE



*This decision tree is intended as general guidance only. If you have questions regarding the applicability of FACA to a specific group, you should contact the Office of General Counsel.*

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## Examples of Collaborations at EPA

Collaborative processes may or may not be subject to FACA. Following are examples of Agency collaborative processes that are subject to FACA as well as collaborative processes that are not. The description of each example provides an explanation about why it was or was not subject to FACA.

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### Collaborations subject to FACA

#### 1) Negotiated Rulemaking Committee on All Appropriate Inquiry

In 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act (“the Brownfields Law”). The law established some protections from Superfund liability. One criteria specified in the statute for obtaining the protection from liability is that landowners must conduct all appropriate inquiries (due diligence) to determine past uses and ownerships of a property prior to acquiring the property. EPA established a Negotiated Rulemaking FACA Committee consisting of both private sector stakeholders and state program officials who were familiar with and had experience in implementing processes to conduct all appropriate inquiry. The committee reached consensus on a draft regulation and agreed to support EPA’s notice of proposed rule making. This committee was subject to FACA because:

- it was formed and managed by EPA;
- it was intended to and did provide advice to EPA.

#### 2) National Advisory Council for Environmental Policy and Technology (NACEPT)

In 1988, NACEPT was established to provide advice to the EPA Administrator on a broad range of environmental policy, technology and management issues. NACEPT helps EPA tap into the knowledge, expertise, and experience (of public, private and non-profit groups) that would otherwise be unavailable to the Agency. The impact of NACEPT’s recommendations include: (1) creation of the EPA Office of Environmental Education, (2) creation of the EPA position of Chief Information Officer, and (3) establishment of the EPA Technology Innovation Office. The committee was subject to FACA because:

- it was established and managed by EPA;
- it offered group advice to EPA;
- membership included individuals who were not federal employees or elected officials of state, local, or tribal government.

#### 3) National Environmental Justice Advisory Committee (NEJAC)

The National Environmental Justice Advisory Committee (NEJAC) was established to provide advice and recommendations to the Administrator on areas relating to environmental justice issues. The members of NEJAC, who represent a wide range of stakeholders (community-based groups; industry and business; academic and educational institutions; state and local governments, federally-recognized tribes and indigenous groups; and non-governmental and environmental groups), believe it is important for governments to consider environmental justice issues when making decisions that may affect human health and the environment. NEJAC has made numerous recommendations to EPA including development of a recommended “Model Plan for Public Participation,” a tool to enhance the participation process and to promote early interaction with potentially affected communities prior to making decisions. The Plan was ultimately adopted by EPA and is currently utilized by several federal, state, and local governments. The committee is subject to FACA because:

- it was established and is managed by EPA;
- it offers group advice to EPA;
- membership includes private stakeholders as well as officials or employees of state, local, and tribal government.

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### How does this guide relate to EPA’s Public Involvement Policy?

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EPA’s Public Involvement Policy urges Agency officials to “maximize the use of existing institutional resources for consultation and involvement processes” such as FACA groups.

See the Public Involvement Policy, “Appendix 4 - Advisory Committees” at <http://www.epa.gov/publicinvolvement/policy2003/appendices234.pdf>.

## Collaborations NOT subject to FACA

### 1) Sustainable Environment for Quality of Life (SEQL)

EPA is working with stakeholders in the fast-growing area spanning Charlotte, NC, and Rock Hill, SC, to achieve a healthy environment, vibrant economy, and high quality of life. SEQL is an integrated environmental initiative for the 15-county metropolitan Charlotte region in North and South Carolina. Through technical assistance, regional vulnerability assessments and water quality monitoring, EPA has assisted leaders promote regional solutions for regional issues which is the driver for this unique and innovative partnership between the Centralina Council of Governments and the Catawba Regional Council of Governments. It promotes implementation of specific Action Items on Air Quality, Sustainable Growth and Water Resources and consideration of environmental impacts in decision-making at local and regional levels. SEQL is not subject to FACA because:

- non-Federal entities convened/assembled it;
- SEQL does not render specific advice or recommendations to the Agency;
- EPA does not manage or control it (that is, EPA does not select the membership, set the charge, or provide funding).

### 2) Unified National Strategy for Animal Feeding Operations

In 1998, the interagency Clean Water Action Plan (CWAP) identified polluted runoff as the most important remaining source of water pollution. Among other action items, the CWAP called for USDA and EPA to develop a Unified National Strategy to minimize the water quality and public health impacts of animal feeding operations (AFOs) by using an appropriate mix of regulatory and voluntary approaches. One year later, following a series of negotiations between USDA and EPA and an extensive public outreach effort including eleven national listening sessions throughout the U.S., the final AFO strategy was released. The USDA-EPA AFO Strategy partnership was not subject to FACA because:

- the partnership group included only Federal employees;
- the listening sessions were used to obtain individual public comment on the development of the strategy.

### 3) The Smart Growth Network (SGN)

EPA joined with several non-profit and government organizations to form the SGN in 1996. The Network was formed in response to increasing community concerns about the need for growth that boosts the economy, protects the environment, and enhances community vitality. Since its inception, Network partners have worked cooperatively to implement national conferences, produce publications, and launch outreach campaigns. The SGN is not subject to FACA because:

- SGN functions as a forum for developing and sharing information, innovative policies, tools and ideas;
- SGN does not provide advice to EPA;
- SGN is not subject to strict management or control by EPA.

## Who can I contact to learn more?

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For information, advice and assistance on:

- Conducting situation assessments and designing stakeholder consultation and collaboration processes:

**Conflict Prevention and Resolution Center (CPRC)**

[www.epa.gov/adr](http://www.epa.gov/adr), 202-564-2922,  
[adr@epa.gov](mailto:adr@epa.gov)

- Establishing or managing a Federal advisory committee or subcommittee:

**Office of Cooperative Environmental Management (OCEM)**

[www.epa.gov/ocem](http://www.epa.gov/ocem), 202-233-0065

- Legal issues relating to FACA:

**The Office of General Counsel (OGC)/  
Cross-Cutting Issues Law Office**

[www.epa.gov/ogc](http://www.epa.gov/ogc), 202-564-7622

Jeff Silvyn (USIECR)

Jeff provided an overview of how the Federal Advisory Committee Act relates to U.S. Institute work. The content of Jeff's presentation is captured in the following briefing:

The Federal Advisory Committee Act ("FACA"), 5 U.S.C. App. 2, imposes certain procedural requirements on a federal agency that seeks advice from a group managed or controlled by the federal agency and including non-government members. Frequently, our federal agency partners have questions about whether FACA applies to a conflict resolution or collaborative process involving non-government participants under U.S. Institute management. This document provides guidance from the perspective of the U.S. Institute on the factors that determine whether a particular collaborative process is subject to FACA.

What is FACA?

Congress enacted FACA to control the number and operation of the numerous committees, boards, and other groups established to advise federal executive branch agencies. For instance, FACA requires that advisory committee membership be balanced, meetings be noticed and open to the public, and certain records be kept.

What is the U.S. Institute and what do we do?

Congress created the U.S. Institute as part of an independent, non-partisan federal agency (the Udall Foundation) to provide neutral conflict resolution services for environmental and natural resource issues involving the federal government. 20 U.S.C. § 5604(8). The U.S. Institute works with federal agencies to design and manage collaborative efforts between federal agencies, tribal governments, local governments, affected interests and the public to resolve environmental issues. We help those involved in or affected by an environmental issue or controversy to identify areas of agreement and disagreement and, to the extent possible and appropriate, resolve those differences in a manner acceptable to them.

The specific services provided include assessment, facilitation, mediation, process design, and related services. A more complete description of these services is available at <http://www.ecr.gov/HowWeWork/Services.aspx>. These services may be used in a variety of situations such as policy development, planning, rulemaking, implementation, enforcement or litigation. OMB CEQ Joint Memorandum on Environmental Conflict Resolution, Nov. 28, 2005 ("OMB CEQ ECR memo"). The form of the process varies and is tailored to the specific issue(s) to be addressed and those involved. The hallmark of a U.S. Institute collaborative process is that the significant decisions about the process and the outcome are determined by participants, as opposed to an administrative, litigation, or other process where a neutral third party like a judge or arbitrator determines the outcome.

### Is U.S. Institute project work subject to FACA?

Generally, the conflict resolution and collaborative decision-making projects managed by the U.S. Institute are not subject to FACA, but whether a particular process might be subject to FACA depends on the purpose and structure of the process used. In some instances, the U.S. Institute participates in collaborative efforts subject to FACA, such as negotiated rulemaking committees. The factors that determine whether a particular process is subject to FACA are discussed next.

### What is the intent and purpose of the collaborative group?

FACA may apply when a federal agency seeks collective advice or recommendations on a policy or program from a group including non-government participants. FACA does not apply when the federal agency seeks the independent perspective of each participant. So, for example, a listening session, open house, public comment forum, focus group or other activity where each participant expresses a perspective but there is no goal for the participants to harmonize their perspectives to arrive at a broadly accepted view is not subject to FACA. *See* GSA comments on FACA regulations, Federal Register vol. 66, no. 139, pp. 37730, July 19, 2001; 41 C.F.R. § 102-3.40 and Appendix A to Subpart A.

### Who manages and controls the process?

Typically, FACA applies when a federal agency manages or controls the advisory committee and its proceedings. *See* 5 U.S.C. App. 2; GSA comments on FACA regulations on FACA, Federal Register vol. 66, no. 139, pp. 37729-30, July 19, 2001; 41 C.F.R. § 102-3.40 and Appendix A to Subpart A. An amendment to the U.S. Institute enabling legislation clarifies as a significant exception that when the U.S. Institute acts as an independent neutral, managing or controlling a conflict resolution process, FACA does not apply:

#### **SEC. 9. USE OF INSTITUTE BY FEDERAL AGENCY OR OTHER ENTITY.**

Section 11 of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5607b) is amended by adding at the end the following:

“(f) AGENCY MANAGEMENT OR CONTROL.—Use of the Foundation or Institute to provide independent and impartial assessment, mediation, or other dispute or conflict resolution under this section shall not be considered to be the establishment or use of an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).” Pub. Law 111-90, Nov. 3, 2009.

This amendment clarified that the U.S. Institute may convene and manage a conflict resolution or collaborative process to address environmental or natural resource issues without

triggering the requirements of FACA. *See Miccosukee Tribe of Indians of Florida v. U.S.*, 420 F.Supp.2d 1324 (S.D. Fl. 2006) (U.S. Army Corps of Engineers did not violate FACA based on participation in process to resolve disputes over preferred alternative for an EIS when the process was managed and controlled by the U.S. Institute).

There are a number of factors that establish who manages or controls a collaborative process and, as a result, whether or not the process is subject to FACA. There is not the type of federal agency management or control necessary to trigger FACA coverage when:

Participation: The federal agency charged with decision-making authority over the subject matter of the collaborative effort does not exercise sole control over group membership (i.e. does not have the right to pick representatives of other interests and does not have sole veto authority over membership). Rather, who participates and how is determined by participants or by the U.S. Institute, typically in consultation with some or all participants (i.e. interest groups each responsible for picking their own representative to a process, the U.S. Institute determines who to invite to participate, etc.).

Procedural matters: Procedural matters such as the agenda for meetings, operating rules, and decision-making rules are not determined by the decision-making federal agency, but rather are determined collectively by the group or the U.S. Institute in consultation with some or all members of the group.

As long as the guidelines discussed above are followed, the process does not meet the definition for an advisory committee subject to FACA.

Jeff's presentation prompted several questions including:

How do you operationalize this new provision?

Why is it different when EPA convenes a group and it triggers FACA?

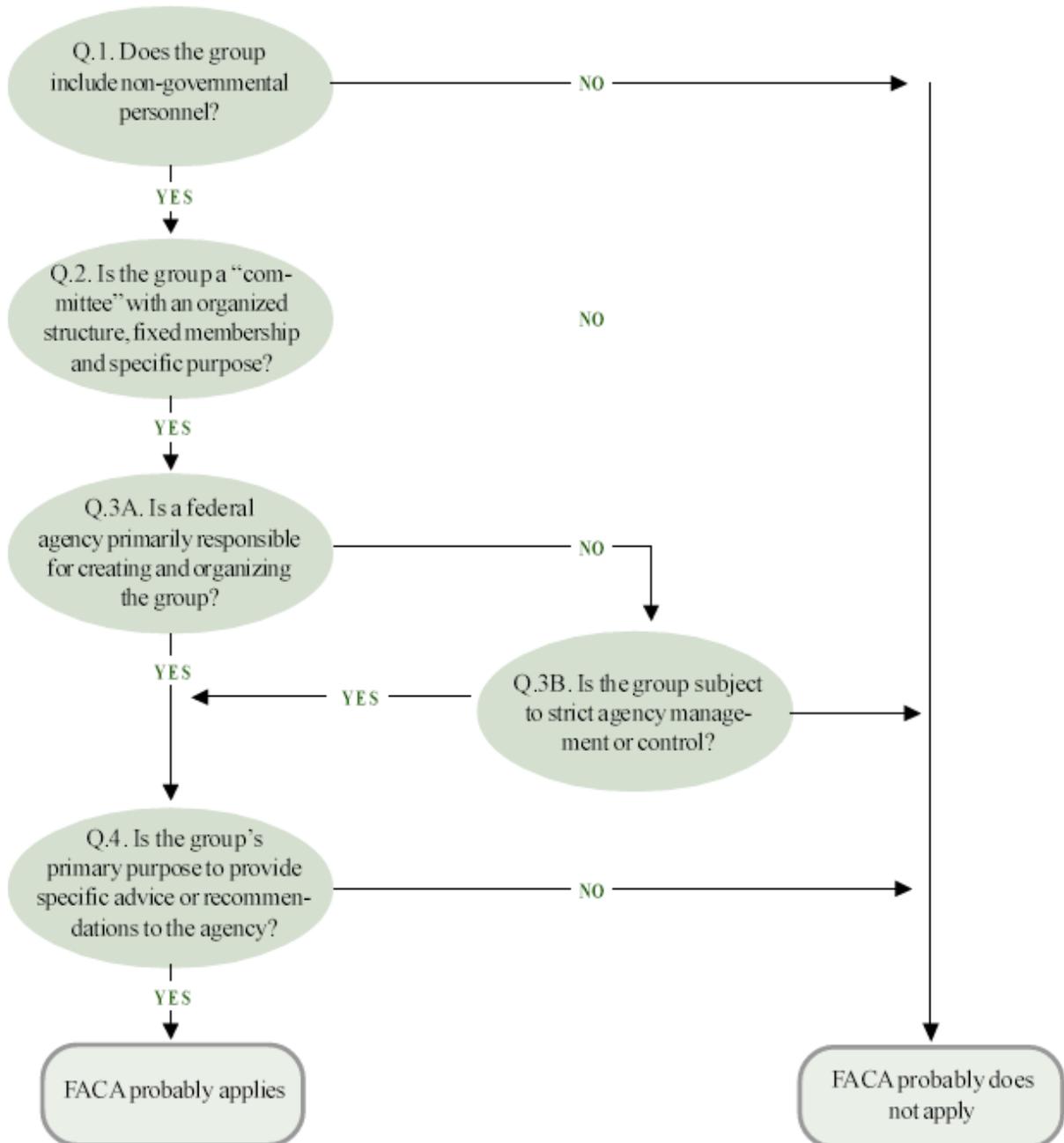
What's the difference between input and advice?

How many FACA related litigation cases are there?

Jeff responded to the above questions and indicated that he is available as needed to address other questions if they arise in the future.

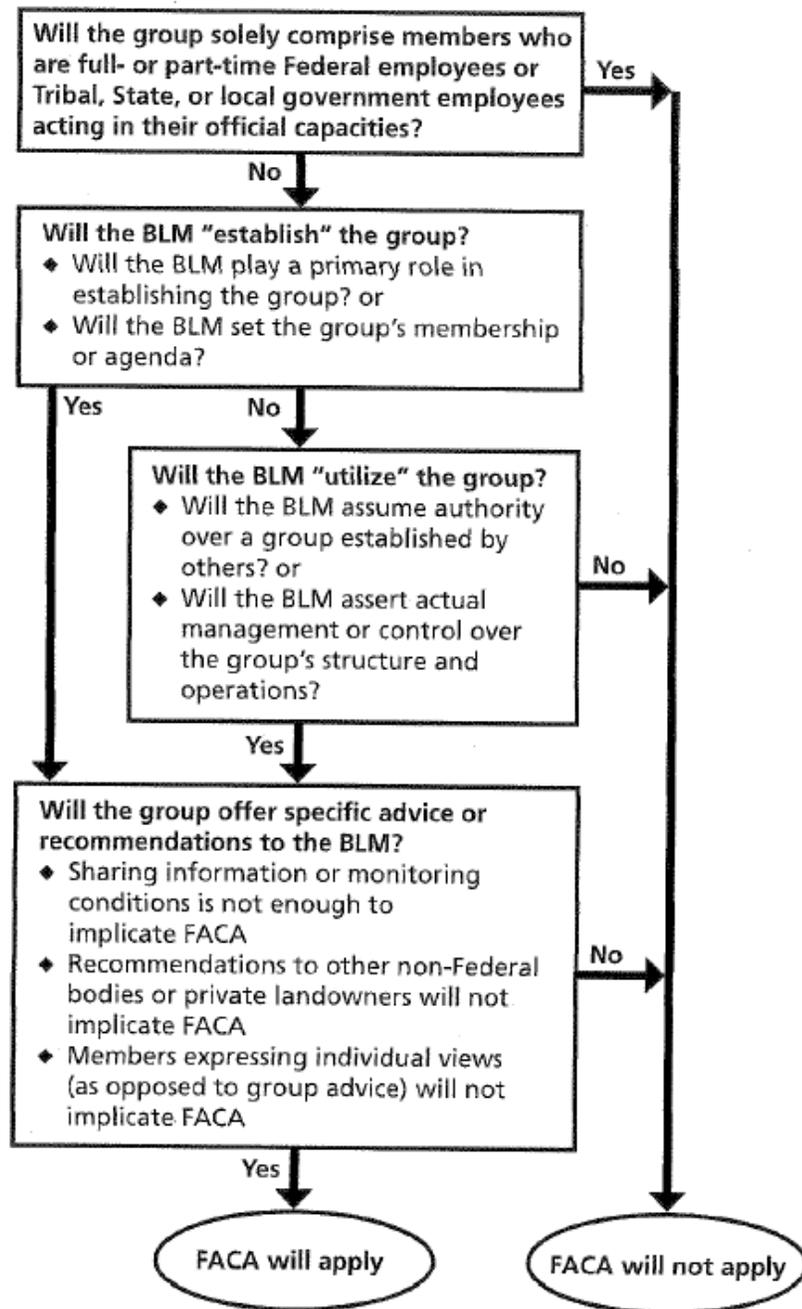
Jeff also distributed the following FACA flowcharts for BLM and USDA as reference resources for forum participants.

## How to Decide if FACA Might Apply to Your Situation



## Does FACA Apply?

*Indicators for determining the applicability of the Federal Advisory Committee Act (FACA) to the Bureau of Land Management's Alternative Dispute Resolution-based Collaborative Community Working Groups*



*Note: This chart was derived from a decision tree published in the Administrative Law Journal in 1996, included in the Further Information section at the end of this guidebook.*

**Update on the work of the National Technology and ECR Coordinating Committee – Patricia Orr (USIECR), Dave Emmerson (DOI), Hal Cardwell (USACE), and Will Hall, (EPA)**

Patricia, Dave, Hal and Will provided an update on current initiatives of the National Technology and ECR Coordinating Committee:

- In May 2009, close to 90 participants representing the different levels of government, academia, technology providers, and environmental conflict resolution (ECR) practitioners participated in a technology and ECR strategic planning effort hosted by the U.S. Institute.
- The effort resulted in a series of suggestions for the ECR community including the development of best practices for integrating technologies into ECR processes, the establishment of an annual innovation award, and the creation of a National Technology and ECR Coordinating Committee.
- Following the 2009 meeting, a Technology and ECR Coordinating Committee was formed. The committee represents an informal gathering of individuals interested in furthering the integration of emerging technologies into ECR and natural resource management decision making.
- One of the first tasks undertaken by the newly formed Technology and ECR Committee was the drafting of broadly applicable guiding principles for increasing the appropriate and effective use of technology-enhanced ECR. This project was undertaken in partnership with the U.S. Institute and the U.S. Department of the Interior's Office of Collaborative Action and Dispute Resolution.
- The resulting principles, which should be finalized in late 2010, are designed as a guide for ECR practitioners, technologists, agency staff, process stakeholders, and others seeking to adopt collaborative technologies.
- The guidelines are based on generally accepted foundational principles of alternative dispute resolution and ECR, and the premise that the use of technologies should not compromise the working principles of ECR. The guiding principles identify where the ECR and technology fields intersect, and resulting implications including: new responsibilities for practitioners, budget considerations for project sponsors, new challenges and opportunities related to the use of new tools by process participants.
- Patricia indicated that once the guiding principles are ready for review, the Technology and ECR Coordinating Committee would welcome feedback from the forum participants, as well as assistance disseminating the principles once they are finalized.
- Patricia, Dave, Hall and Will indicated they will provide a more detailed briefing on the work of the Technology and ECR Coordinating Committee at the next quarterly forum.

The September 2010 forum was adjourned at 4pm.

**The next ECR Policy Forum is scheduled for March 2011 (Date TBD).**