

FY 2011 ECR Policy Report to OMB-CEQ

On November 28, 2005, the Director of the Office of Management and Budget (OMB), and the Chairman of the President's Council on Environmental Quality (CEQ) issued a policy memorandum on environmental conflict resolution (ECR).

The memorandum requires annual reporting by departments and agencies to OMB and CEQ on progress made each year. This joint policy statement directs agencies to increase the effective use and their institutional capacity for ECR and collaborative problem solving.

ECR is defined in Section 2 of the memorandum as:

“third-party assisted conflict resolution and collaborative problem solving in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and land use. The term “ECR” encompasses a range of assisted negotiation processes and applications. These processes directly engage affected interests and agency decision makers in conflict resolution and collaborative problem solving. Multi-issue, multi-party environmental disputes or controversies often take place in high conflict and low trust settings, where the assistance of impartial facilitators or mediators can be instrumental to reaching agreement and resolution. Such disputes range broadly from administrative adjudicatory disputes, to civil judicial disputes, policy/rule disputes, intra- and interagency disputes, as well as disputes with non-federal persons/entities. ECR processes can be applied during a policy development or planning process, or in the context of rulemaking, administrative decision making, enforcement, or litigation and can include conflicts between federal, state, local, tribal, public interest organizations, citizens groups and business and industry where a federal agency has ultimate responsibility for decision-making.

While ECR refers specifically to collaborative processes aided by third-party neutrals, there is a broad array of partnerships, cooperative arrangements, and unassisted negotiations that federal agencies enter into with non-federal entities to manage and implement agency programs and activities. The Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving presented in Attachment A (of the OMB/CEQ ECR Policy Memo) and this policy apply generally to ECR and collaborative problem solving. This policy recognizes the importance and value of the appropriate use of all types of ADR and collaborative problem solving.”

The report format below is provided for the sixth year of reporting in accordance with this memo for activities in FY 2011.

The report deadline is February 15, 2012.

We understand that collecting this information may be challenging; however, after compiling previous reports, the departments and agencies are requested to collect this data to the best of their abilities. The 2011 report, along with previous reports, will establish a useful baseline for your department or agency, and collect some information that can be aggregated across agencies. Departments should submit a single report that includes ECR information from the agencies and other entities within the department. The information in your report will become part of an analysis of all FY 2011 ECR reports. You may be contacted for the purpose of clarifying information in your report. For your reference, copies of prior year synthesis reports are available at www.ecr.gov.

| | |
|---|---|
| Name of Department/Agency responding: | U.S. Department of Transportation |
| Name and Title/Position of person responding: | Amy Coyle, Attorney-Advisor |
| Division/Office of person responding: | Office of the Secretary/Office of General Counsel |
| Contact information (phone/email): | 202.366.0691/amy.coyle@dot.gov |
| Date this report is being submitted: | _____ |

Section 1: Capacity and Progress

1. Describe steps taken by your department/agency to build programmatic/institutional capacity for ECR in 2011, including progress made since 2010. If no steps were taken, please indicate why not.

[Please refer to the mechanisms and strategies presented in Section 5 of the OMB-CEQ ECR Policy Memo, including but not restricted to any efforts to a) integrate ECR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning; b) assure that your agency's infrastructure supports ECR; c) invest in support or programs; and d) focus on accountable performance and achievement. You are encouraged to attach policy statements, plans and other relevant documents.]

The U.S. Department of Transportation (DOT) has taken the following steps to build programmatic and institutional capacity for ECR in FY2011:

- Under the Presidential memorandum, "Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review," DOT is incorporating the principals of ECR in the implementation of its six designated "high priority" projects.
- Members of the Office of General Counsel leadership, including the Assistant General Counsels for General Law, Litigation, and Operations, met with U.S. Institute staff on January 24, 2011 to discuss challenges and opportunities in implementing an ECR program.
- The Federal Highway Administration (FHWA) Strategic Plan continues to include a core goal of collaboration, which incorporates ECR objectives by recognizing the need to partner with mutual trust, respect, support, cooperation, and communication with other federal agencies, tribes, stakeholders, and the public. FHWA successfully employed ECR in two matters involving interagency disputes.
- The Federal Transit Administration (FTA) met with representatives from the Udall Foundation at the end of FY2010 to discuss the Foundation's capabilities and experience regarding ECR. The number of FTA projects where ECR could prove valuable is increasing; therefore, FTA was interested in learning more about ECR.

FTA also actively contemplated ECR for two projects (Albany Multimodal Center (GA) and Purple Line (MD)) that would have served as demonstration projects with documented dispute system design results. The Albany project team held preliminary conversations with an Udall representative, but determined there was not enough time to establish the contract between partners and maintain the project schedule. However, the Purple Line is an ongoing project that may produce opportunities for ECR in the future.

- The Federal Aviation Administration (FAA) works collaboratively with other Operating Administrations in the Department of Transportation when issues may involve ECR. The Chief Counsel's training curriculum guide includes environmental conflict resolution training courses.
- The Federal Railroad Administration (FRA) held an informational meeting with a

representative of the U.S. Institute for Environmental Conflict Resolution to understand the services it offers if the need for ECR arises.

- The Department continues to publicize the availability of ECR online. As an example, DOT's Center for Alternative Dispute Resolution maintains a link to <http://www.ecr.gov>, the website operated by the U.S. Institute for Environmental Conflict Resolution. As another example, FHWA's online "Environmental Review Toolkit" includes a webpage dedicated to "Conflict Resolution," including papers on ECR and links to websites operated by the U.S. Institute and the National Policy Consensus Center.

Section 2: Challenges

2. Indicate the extent to which each of the items below present challenges or barriers that your department/agency has encountered in advancing the appropriate and effective use of ECR.

| | Extent of challenge/barrier | | |
|--|-------------------------------------|-------------------------------------|-------------------------------------|
| | Major | Minor | Not a challenge/barrier |
| | Check <u>only</u> one | | |
| a) Lack of staff expertise to participate in ECR | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Lack of staff availability to engage in ECR | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Lack of party capacity to engage in ECR | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Limited or no funds for facilitators and mediators | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) Lack of travel costs for your own or other federal agency staff | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| f) Lack of travel costs for non-federal parties | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| g) Reluctance of federal decision makers to support or participate | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Reluctance of other federal agencies to participate | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Reluctance of other non-federal parties to participate | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| j) Contracting barriers/inefficiencies | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| k) Lack of resources for staff capacity building | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| l) Lack of personnel incentives | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| m) Lack of budget incentives | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| n) Lack of access to qualified mediators and facilitators | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| o) Perception of time and resource intensive nature of ECR | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| p) Uncertainty about whether to engage in ECR | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| q) Uncertainty about the net benefits of ECR | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| r) Other(s) (please specify): _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| s) No barriers (please explain): _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Section 3: ECR Use

3. Describe the level of ECR use within your department/agency in FY 2011 by completing the table below. [Please refer to the definition of ECR from the OMB-CEQ memo as presented on page one of this template. An ECR “case or project” is an instance of neutral third party involvement to assist parties in reaching agreement or resolving a dispute for a particular matter. In order not to double count processes, please select one category per case for decision making forums and for ECR applications.]

| | Cases or projects in progress ¹ | Completed Cases or projects ² | Total FY 2011 ECR Cases ³ | Decision making forum that was addressing the issues when ECR was initiated: | | | | Of the total FY 2011 ECR cases indicate how many your agency/department | |
|--------------------------------------|--|--|--------------------------------------|--|-------------------------------------|----------------------|-----------------|---|--|
| | | | | Federal agency decision | Administrative proceedings /appeals | Judicial proceedings | Other (specify) | Sponsored ⁴ | Participated in but did not sponsor ⁵ |
| <i>Context for ECR Applications:</i> | | | | | | | | | |
| Policy development | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Planning | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Siting and construction | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Rulemaking | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| License and permit issuance | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Compliance and enforcement action | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| Implementation/monitoring agreements | _____ | <u>2</u> | <u>2</u> | <u>2</u> | _____ | _____ | _____ | <u>2</u> | _____ |
| Other (specify): _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
| TOTAL | | <u>2</u> | <u>2</u> | <u>2</u> | | | | <u>2</u> | |
| | (the sum should equal Total FY 2011 ECR Cases) | | | (the sum of the Decision Making Forums should equal Total FY 2011 ECR Cases) | | | | (the sum should equal Total FY 2011 ECR Cases) | |

¹ A “case in progress” is an ECR case in which neutral third party involvement began prior to or during FY 2011 and did not end during FY 2011.

² A “completed case” means that neutral third party involvement in a particular matter ended during FY 2011. The end of neutral third party involvement does not necessarily mean that the parties have concluded their collaboration/negotiation/dispute resolution process, that all issues are resolved, or that agreement has been reached.

³ “Cases in progress” and “completed cases” add up to “Total FY2011 ECR Cases”.

⁴ Sponsored - to be a sponsor of an ECR case means that an agency is contributing financial or in-kind resources (e.g., a staff mediator's time) to provide the neutral third party's services for that case. More than one sponsor is possible for a given ECR case.

⁵ Participated, but did not sponsor - an agency did not provide resources for the neutral third party's services for a given ECR case, but was either a party to the case or participated in some other significant way (e.g., as a technical expert advising the parties).

4. Is your department/agency using ECR in any of the substantive priority areas you listed in your prior year ECR Reports? Indicate if use has increased in these areas since they were first identified in your ECR report. Please also list any additional priority areas identified by your department/agency during FY 2011, and indicate if ECR is being used in any of these areas. Note: An overview of substantive program areas identified by departments/agencies in FY 2010 can be found in the FY 2010 synthesis report.

| List of priority areas identified in your department/agency prior year ECR Reports | Check if using ECR | Check if use has increased in these areas |
|---|--------------------------|---|
| Dealing with complex and controversial transportation projects | ✓ | <input type="checkbox"/> |
| Early involvement and trust building among other federal agencies & the public regarding the transportation project development process | ✓ | <input type="checkbox"/> |
| Assisting in the timely delivery of transportation projects | ✓ | <input type="checkbox"/> |
| Dealing with differing opinions on one or more major environmental issues | ✓ | <input type="checkbox"/> |
| _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| List of additional priority areas identified by your department/agency in FY 2011 | Check if using ECR | |
| _____ | <input type="checkbox"/> | |

Please use an additional sheet if needed.

5. It is important to develop ways to demonstrate that ECR is effective and in order for ECR to propagate through the government, we need to be able to point to concrete benefits; consequently, we ask what other methods and measures are you developing in your department/agency to track the use and outcomes (performance and cost savings) of ECR as directed in Section 4 (b) of the ECR memo, which states: *Given possible savings in improved outcomes and reduced costs of administrative appeals and litigation, agency leadership should recognize and support needed upfront investments in collaborative processes and conflict resolution and demonstrate those savings and in performance and accountability measures to maintain a budget neutral environment* and Section 4 (g) which states: *Federal agencies should report at least every year to the Director of OMB and the Chairman of CEQ on their progress in the use of ECR and other collaborative problem solving approaches and on their progress in tracking cost savings and performance outcomes. Agencies are encouraged to work toward systematic collection of relevant information that can be useful in on-going information exchange across departments?* [You are encouraged to attach examples or additional data]

- Because program delivery is one of FHWA’s strategic goals, FHWA has renewed its commitments identified in prior years to meet that goal: improve data sharing and decision linkages between program areas; increase public involvement and stakeholder participation in all programs and project activities; and streamline project delivery at various stages to maximize the return of federal, state, and local investments and maintain our Nation’s competitiveness in the global economy.

Additionally, in FHWA, one initiative of the Administrator’s “Every Day Counts” is shortening project delivery. Aspects being promoted under this initiative include planning and environmental linkages, expanding use of programmatic agreements and enhanced technical assistance. All of these include the use of ECR principals.

- FTA is developing a Documentation Milestone Database and will include an ECR element (e.g., track costs of environmental conflicts, track requests for ECR assistance). A position statement in support of ECR will also be placed on the FTA website, which is currently undergoing updates/improvements.
- Although there is no precise way to measure, PHMSA believes that the efforts of their Community Assistance and Technical Services (discussed further in question 6) staff assure landowners that their concerns are important. PHMSA believes that disputes are more readily resolved when landowners feel that the government understands their concerns and advocates for a fair resolution that complies with Pipeline Safety laws and easement agreements.

6. Describe other significant efforts your agency has taken in FY 2011 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not fit within the Policy Memo's definition of ECR as presented on the first page of this template.

- DOT Operating Administrations use the NEPA process to seek public comment and coordinate early with other agencies where DOT identifies environmental requirements under other laws. To the maximum extent possible, DOT Operating Administrations seek to address these issues during the NEPA process and avoid the need for formal ECR.
- As indicated in past reports, FHWA has promoted and continues to promote collaboration and self-facilitation during the project delivery process. Many projects incorporate principals and techniques of conflict and dispute resolution without the formal use of a third-party neutral.
- PHMSA's Office of Chief Counsel has issued guidance to its program offices on NEPA's application to various agency actions and the importance of public participation in the NEPA process. PHMSA's Office of Chief Counsel has also led courses for PHMSA employees on the importance of seeking broad input during regulatory and non-regulatory decision making process and has specifically mentioned the importance of seeking the "Balanced, Voluntary Representation" of the environmental community.

Although PHMSA does not participate in the construction of infrastructure, PHMSA often becomes aware of disputes between landowners and pipeline operators. These disputes most often arise during construction of a pipeline, but also after pipelines are operational. In an effort to assist with resolution of these disputes, PHMSA created the Community Assistance and Technical Services (CATS) Program. The mission of the CATS Program is to advance public safety, environmental protection, and pipeline reliability by facilitating clear communications among all pipeline stakeholders, including the public, the operators, and government officials. CATS managers provide information about the Office of Pipeline Safety programs to pipeline safety stakeholders and also work with pipeline operators to encourage prudent land use planning and prevent or mitigate excavation damage and encroachment.

- The Maritime Administration's (MARAD) programs promote the use of waterborne transportation and its seamless integration with other segments of the transportation system, and the viability of the U.S. Merchant Marine. MARAD has undertaken a review and begun the process of revising its NEPA processes and procedures in an effort to clarify procedures and requirements to the public and stakeholders, reducing the likelihood that environmental conflicts will arise. That process will continue in FY2012.

Additionally, MARAD works with the shipbuilding industry to find technological solutions to environmental problems associated with the construction and design of ships, and encourages cooperative research programs in regional and international bodies that are working to solve these problems.

- FRA typically does not encounter situations that require ECR, as common practice is to work closely with stakeholders and grantees throughout the environmental process, which encourages collaboration and reduces the frequency and severity of disputes and avoids the need for a more formalized ECR. This hands-on approach lets them identify issues and discuss them with the relevant parties before the issue turns into a larger, more protracted

dispute. By closely engaging stakeholders and spotting issues early, FRA is able to reduce the amount and severity of environmental conflicts.

- Within FAA, the 2011 Business Plan for Air Traffic includes mandatory training for executive- and managerial-level staff as a core activity, which includes conflict management. In addition, facilitation is a core business initiative, which provides highly trained and experienced internal facilitation resources for service units, including conflict resolution.
- The National Highway Traffic Safety Administration's (NHTSA) main environmental initiative is the development of environmental impact statements (EIS) for the agency's Corporate Average Fuel Economy (CAFE) rulemakings, which set fuel economy and fuel efficiency standards for light-duty vehicles and medium- and heavy-duty trucks sold in the United States. Although NHTSA has not taken affirmative steps to build programmatic/institutional capacity for traditional ECR, through the EIS program, NHTSA incorporates ECR objectives by recognizing the need to partner with other federal agencies, tribes, stakeholders, and the public to achieve its goals.

Section 4: Demonstration of ECR Use and Value

- 7 Briefly describe your departments'/agency's most notable achievements or advances in using ECR in this past year.

As a part of capacity building within the Agency, on June 7 – 9, 2011, the FHWA Nebraska Division Office sponsored the National Highway Institute course “Practical Conflict Management Skills for Environmental Issue” in Lincoln, Nebraska. The course promotes a recognition of the need for interest-based negotiation versus position-based negotiation. It also emphasizes the need for improved communication and collaboration among diverse parties to avoid and address conflict.

8. ECR Case Example

- a. Using the template below, provide a description of an ECR case (preferably completed in FY 2011). Please limit the length to no more than 2 pages.

| Name/Identification of Problem/Conflict |
|--|
| Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance, and how the ECR effort was funded |
| <p>Corridor K is an FHWA project that is part of the Appalachian Development Highway System (ADHS) proposed in the 1960s to support economic development in a thirteen-state portion of the eastern United States. The development of Corridor K was broken into four parts: Sections A, B, C, and D. Section D was designed and built in the last decade. The environmental impact analysis under the National Environmental Policy Act (NEPA) for Sections B and C (the section from Stecoah to Robbinsville) has been ongoing for some time. A decision was made in the 1990s to analyze Sections B and C separately from Section A. Section A constitutes the final piece of the project, and completion of all four sections would result in the relocation of NC Route 74. The current Route 74 is a two-lane road along a river that is heavily used by rafting and kayaking groups. It is also the major north-south route for local traffic.</p> <p>Progress on the evaluation of the environmental impacts and the resulting interagency concurrence on a preferred alternative has been stalled by disagreements over the design, location, benefits, and environmental impacts on the proposed road. Several alternatives have been evaluated, including multiple designs for a four-lane highway and improvement to existing roads. A four-lane road with a tunnel under the Appalachian Trail is currently the alternative preferred by the North Carolina Department of Transportation (NCDOT). Other federal and state agencies have not signed on to the proposed alternative for a variety of reasons including: disagreement about the feasibility of plans for mitigating environmental impacts and the real extent of the cumulative environmental effects; questions arising about the realistic economic benefits from the project; and concerns over whether the project could withstand a lawsuit by opposition groups.</p> |

In accordance with North Carolina's transportation project development process (the "merger process"), including analysis of the environmental impacts, the U.S. Army Corps of Engineers' and North Carolina Department of Environmental Review's concurrence is particularly important. Without concurrence from both agencies, the permits necessary to implement the project will not be forthcoming. In addition, the U.S. Environmental Protection Agency, which has reviewing authority under NEPA, has provided extensive comments in letters reflecting environmental concerns and data gaps.

Summary of how the problem or conflict was addressed using ECR, including details of any innovative approaches to ECR, and how the principles for engagement in ECR were used (See Appendix A of the Policy Memo, attached)

The North Carolina Division of FHWA requested an assessment of the potential for successful interagency collaboration to resolve an expected interagency impasse on proposed portions of the Corridor K, North Carolina Route 74 relocation project in Western North Carolina. The U.S. Institute for Environmental Conflict Resolution (the Institute), working with FHWA and NCDOT, developed a list of interviewees composed of federal, state and local officials as well as tribal leaders, legislators, and regional planning body staff. During February and March 2011, Institute staff, with assistance from a North Carolina mediator, interviewed 58 individuals in 33 separate calls and meetings.

The interviews identified several areas of agreement as well as the points of disagreement listed above. With regard to the collaborative process, there was general agreement that the interagency impasse needed to be resolved, and this was a good time to seek a collaborative process to the barriers to moving forward. There were also some agreements on the project itself, including that the project will seriously impact very valuable natural areas and if it proceeds, the project needs to be built in an environmentally sensitive way. There is also agreement that the Appalachian Trail needs to be protected, and that the natural environment creates economic benefits that need to be preserved and enhanced where possible.

The Institute's analysis addressed the likelihood of success of a collaborative process for the Corridor K project impasse and made recommendations for next steps. Their findings included:

- There is support from key decision makers for good-faith collaboration and for using the results of a collaborative effort
- Information is available to adequately inform discussion
- All affected parties would be willing to participate
- Important aspects of the project are negotiable
- Incentives exist for all participants to agree
- Adequate time is available for a collaborative effort

The Institute recommended, among other things, that the leadership and staff of each of the transportation agencies (FHWA and NCDOT) meet internally and then meet together to ensure continuity of perspectives regarding the degree of flexibility they would want to bring to the broader discussions and their willingness to re-examine earlier decisions. If the transportation agencies would be willing to re-examine earlier decisions and other topics identified through the interviews, they should convene a series of meetings of agency leaders and merger team member to address agency concerns.

The project is now under NCDOT's reprioritization process to consider the recommendations in light of reduced funding availability for the project.

Identify the key beneficial outcomes of this case, including references to likely alternative decision making forums and how the outcomes differed as a result of ECR

The Institute’s Assessment of the Potential for Interagency Collaboration allowed federal, state and local agencies involved in the Corridor K project to voice their perspective on the issues facing the environmental issues related to the project. As a result, all involved have had the opportunity to see and understand areas of agreement and disagreement in presumably a new light.

Reflections on the lessons learned from the use of ECR

In identifying the issues causing an impasse during the environmental review process, it may be necessary for project sponsors and/or agencies to “step back” and reconsider original decisions, flexibility in decision making, and willingness move beyond the impasse or reprioritize the project.

- b. Section I of the ECR Policy identifies key governance challenges faced by departments/agencies while working to accomplish national environmental protection and management goals. Consider your departments’/agency’s ECR case, and indicate if it represents an example of where ECR was or is being used to avoid or minimize the occurrence of the following:

| | Check <u>all</u> that apply | Check if | |
|--|-------------------------------------|-------------------------------------|--------------------------|
| | | Not Applicable | Don't Know |
| Protracted and costly environmental litigation; | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Unnecessarily lengthy project and resource planning processes; | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Costly delays in implementing needed environmental protection measures; | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Foregone public and private investments when decisions are not timely or are appealed; | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lower quality outcomes and lost opportunities when environmental plans and decisions are not informed by all available information and perspectives; and | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Deep-seated antagonism and hostility repeatedly reinforced between stakeholders by unattended conflicts. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

9. Please comment on any difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future.

Please attach any additional information as warranted.

Report due February 15, 2012.

Submit report electronically to: ECRReports@omb.eop.gov

Attached A. Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving

**Basic Principles for Agency Engagement in
Environmental Conflict Resolution and Collaborative Problem Solving**

| | |
|---|--|
| Informed Commitment | Confirm willingness and availability of appropriate agency leadership and staff at all levels to commit to principles of engagement; ensure commitment to participate in good faith with open mindset to new perspectives |
| Balanced, Voluntary Representation | Ensure balanced inclusion of affected/concerned interests; all parties should be willing and able to participate and select their own representatives |
| Group Autonomy | Engage with all participants in developing and governing process; including choice of consensus-based decision rules; seek assistance as needed from impartial facilitator/mediator selected by and accountable to all parties |
| Informed Process | Seek agreement on how to share, test and apply relevant information (scientific, cultural, technical, etc.) among participants; ensure relevant information is accessible and understandable by all participants |
| Accountability | Participate in the process directly, fully, and in good faith; be accountable to all participants, as well as agency representatives and the public |
| Openness | Ensure all participants and public are fully informed in a timely manner of the purpose and objectives of process; communicate agency authorities, requirements and constraints; uphold confidentiality rules and agreements as required for particular proceedings |
| Timeliness | Ensure timely decisions and outcomes |
| Implementation | Ensure decisions are implementable consistent with federal law and policy; parties should commit to identify roles and responsibilities necessary to implement agreement; parties should agree in advance on the consequences of a party being unable to provide necessary resources or implement agreement; ensure parties will take steps to implement and obtain resources necessary to agreement |