

**FY 2015 TEMPLATE**  
**Environmental Collaboration and Conflict Resolution (ECCR)<sup>1</sup>**  
**Policy Report to OMB-CEQ**

On September 7, 2012, the Director of the Office of Management and Budget (OMB), and the Chairman of the President's Council on Environmental Quality (CEQ) issued a revised policy memorandum on environmental collaboration and conflict resolution (ECCR). This joint memo builds on, reinforces, and replaces the memo on ECR issued in 2005.

The memorandum requires annual reporting by departments and agencies to OMB and CEQ on progress made each year in implementing the ECCR policy direction to increase the effective use and institutional capacity for ECCR.

ECCR is defined in Section 2 of the 2012 memorandum as:

*“ . . . third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and water and land management.*

*The term Environmental Collaboration and Conflict Resolution encompasses a range of assisted collaboration, negotiation, and facilitated dialogue processes and applications. These processes directly engage affected interests and Federal department and agency decision makers in collaborative problem solving and conflict resolution.*

*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 policy and regulatory disputes to administrative adjudicatory disputes, civil judicial disputes, intra- and interagency disputes, and disputes with non-Federal persons and entities.*

*Environmental Collaboration and Conflict Resolution can be applied during policy development or planning in the context of a rulemaking, administrative decision making, enforcement, or litigation with appropriate attention to the particular requirements of those processes. These contexts typically involve situations where a Federal department or agency has ultimate responsibility for decision making and there may be disagreement or conflict among Federal, Tribal, State and local governments and agencies, public interest organizations, citizens groups, and business and industry groups.*

*Although Environmental Collaboration and Conflict Resolution refers specifically to collaborative and conflict resolution processes aided by third-party neutrals, there is a broad array of partnerships, cooperative arrangements, and unassisted negotiations that Federal agencies may pursue with non-Federal entities to plan, manage, and implement department and agency programs and activities. The Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving are presented in Attachment B. The Basic Principles provide guidance that applies to both Environmental Collaboration and Conflict Resolution and unassisted collaborative problem solving and conflict resolution. This policy recognizes the importance and value of the appropriate use of all forms collaborative problem solving and conflict resolution.”*

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<sup>1</sup> The term ‘ECCR’ includes third-party neutral assistance in environmental collaboration and environmental conflict resolution

This annual report format below is provided for the seventh year of reporting in accordance with the memo for activities in FY 2015.

The report deadline is February 15, 2016.

We understand that collecting this information may be challenging; however, the departments and agencies are requested to collect this data to the best of their abilities. The 2015 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 ECCR information from the agencies and other entities within the department. The information in your report will become part of an analysis of all FY 2015 ECCR reports. You may be contacted for the purpose of clarifying information in your report. For your reference, prior year synthesis reports are available at

<http://www.ecr.gov/Resources/FederalECRPolicy/AnnualECRReport.aspx>

## FY 2015 ECCR Report Template

Name of Department/Agency responding:	U.S. Environmental Protection Agency
Name and Title/Position of person responding:	William Hall Acting Director
Division/Office of person responding:	Conflict Prevention and Resolution Center
Contact information (phone/email):	202-564-0214 Hall.william@epa.gov
Date this report is being submitted:	February 16, 2016
Name of ECR Forum Representative	William Hall

- ECCR Capacity Building Progress:** Describe steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2015, including progress made since FY 2013. Include any efforts to establish routine procedures for considering ECCR in specific situations or categories of cases. To the extent your organization wishes to report on any efforts to provide institutional support for non-assisted collaboration efforts include it here. If no steps were taken, please indicate why not.

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

The U.S. Environmental Protection Agency (EPA) has been engaging in and providing significant programmatic/institutional support for ECCR for decades. As a result, the agency has one of the more advanced ECCR programs in the executive branch. The EPA continued to provide high levels of programmatic/institutional capacity for ECCR during FY 2015 in each of the four areas identified in the OMB/CEQ ECCR policy memorandum, Attachment C, Section a, for departments and agencies with existing ECCR programs. Much of this work also provides support for non-assisted collaboration.

## **Area 1) Integrate ECCR Objectives into Agency Mission Statements, Government Performance and Results Act Goals, and Strategic Planning**

**EPA Themes** – In September 2013, EPA Administrator Gina McCarthy issued a memorandum entitled “EPA Themes – Meeting the Challenge Ahead.” In the memorandum, she articulates a set of seven themes:

- Making a Visible Difference in Communities Across the Country
- Addressing Climate Change and Improving Air Quality
- Taking Action on Toxics and Chemical Safety
- Protecting Water: A Precious, Limited Resource
- Launching a New Era of State, Tribal and Local Partnerships
- Embracing the EPA as a High Performing Organization, and
- Working Toward a Sustainable Future

ECCR is an important tool in furthering the EPA’s work in each of these areas and the agency uses ECCR, as appropriate, in related matters.

**EPA’s Strategic Plan** – The EPA’s ECCR program supports all five goals in the EPA’s 2014-2018 Strategic Plan:

- addressing climate change and improving air quality;
- protecting America’s waters;
- cleaning up communities and advancing sustainable development;
- ensuring the safety of chemicals and preventing pollution; and
- protecting human health and the environment by enforcing laws and assuring compliance.

In the EPA Administrator’s message at the front of the Strategic Plan, she explicitly recognizes the importance of the agency’s role in promoting dialogue and engagement on environmental issues, stating, “we will convene broad-based dialogue and engagement at the national, regional, and local levels to foster innovation and collaboration.” ECCR is an important way to encourage and facilitate this dialogue and engagement. As in previous years, the agency used ECCR in activities supporting each of the five Strategic Plan goals in FY 2015. The breadth of the EPA’s support for ECCR across the full range of the agency’s business is reflected in the response to question 3, which reports 161 ECCR cases for FY 2015, covering all ECCR application contexts and decision-making forums.

**ECCR Strategy** - During FY 2015, the EPA’s Conflict Prevention and Resolution Center (CPRC) continued implementing its second strategic plan (2011- 2015) with its commitment to bringing people together to solve their environmental problems. The CPRC approaches this commitment in two ways. First, it responds to client requests for help with facilitation, mediation, training, or advice. Second, it works to build the EPA's conflict prevention and resolution capacity. The CPRC maintained a strategic focus on providing excellent services, building knowledge and skills, cultivating opportunity, and demonstrating the results of the use of ECCR at the EPA. The strategy contains measurable performance objectives and describes the anticipated approach to reaching these objectives. In FY 2015, as in previous years, the CPRC developed and implemented an annual operating plan with specific action items and dedicated personnel and funding to further the objectives of the ECCR strategy. Also in FY 2015,

the CPRC began developing its third strategic plan, which will cover the period from 2016 to 2020.

## **Area 2) Assure that the Agency's Infrastructure Supports ECCR**

The EPA provides a high degree of support for ECCR through the agency's infrastructure. The CPRC is headed by the EPA's Dispute Resolution Specialist, who is appointed pursuant to the Administrative Dispute Resolution Act of 1996 (ADR Act of 1996). The CPRC provides policy support and access to neutral third party services for ECCR as well as alternative dispute resolution (ADR) used in other contexts.

**EPA's ADR Policy** - The agency's ADR policy (65 FR 81858, December 2000), which states the EPA's strong support for the use of ECCR and other forms of ADR to deal with disputes and potential conflicts, contains many themes in common with the OMB/CEQ ECCR policy memorandum. In particular, it articulates the following expected benefits from ADR/ECCR:

- Faster resolution of issues;
- More creative, satisfying and enduring solutions;
- Reduced transaction costs;
- Fostering a culture of respect and trust among the EPA, its stakeholders, and its employees;
- Improved working relationships;
- Increased likelihood of compliance with environmental laws and regulations;
- Broader stakeholder support for agency programs; and
- Better environmental outcomes.

The EPA's ADR policy is intended to meet the following objectives, similar to those in the OMB/CEQ ECCR policy memorandum:

- Promote understanding of ADR/ECCR techniques;
- Encourage routine consideration of ADR/ECCR approaches to anticipate, prevent, and resolve disputes;
- Increase the use of ADR/ECCR in EPA business;
- Highlight the importance of addressing confidentiality concerns in ADR/ECCR processes;
- Promote systematic evaluation and reporting on ADR/ECCR at the EPA; and
- Further the agency's overall mission through ADR/ECCR program development.

Based on the ADR policy, the EPA adopts a broad perspective on what qualifies as ECCR -- any technique to address environmental issues that involves a neutral third party, whether or not the participants' goal is to reach agreement. ADR/ECCR is used in many contexts at the EPA including adjudications, rulemaking, policy development, administrative and civil judicial enforcement actions, permit issuance, administration of contracts and grants, stakeholder involvement, negotiations, and litigation.

**Senior Leadership Support for ECCR Use** - Senior EPA leadership continues to provide encouragement and support for the use of ECCR, as it has for more than three decades. In FY 2015, EPA Assistant Administrators, Regional Administrators and their

Deputies engaged in and supported the use of ECCR in high-profile matters, including the following cases and projects:

- Camp Minden Dialogue
- Cape Cod Commission 208 Water Quality Planning Process
- Clean Water Act Assumption Federal Advisory Committee
- General Electric-Housatonic Citizens Coordinating Council
- Gowanus Community Advisory Group
- Green Chemistry/Safer Choice Conference
- Green Infrastructure: ORD/New England States/Region 1 Dialogue
- Greenbelt Station Charette
- Hinkson Creek Collaborative Adaptive Management Process
- Lawrence Making a Visible Difference (MVD) Stakeholder Group
- Narragansett Tribe/Charlestown housing mediation convening
- Passaic Community Advisory Group
- Portland Harbor
- Proctor Creek Watershed Project
- Tribal/Idaho DEQ Fish Consumption Survey Collaboration

**ECCR Outreach, Education, Training, and Career Development** - As in previous years, the agency emphasized outreach, education, training, and career development activities to promote the increased use of ECCR in FY 2015. The EPA's ECCR outreach, education, training, and career development activities included the following:

***CPRC and Other EPA Headquarters Outreach, Education, Training, and Career Development Activities***

- The CPRC delivered 50 hours of ECCR training in FY 2015. There were 15 separate deliveries, and approximately 320 training attendees in FY 2015.
- CPRC training topics included interest-based negotiation, communication skills, dealing with interpersonal conflicts, and situation assessments. Audiences included internal EPA audiences from the Office of the Inspector General, Office of the Chief Financial Officer, Office of Pesticide Programs, EPA Region 4 Water Protection Division, Office of Resource Conservation and Recovery, and Office of General Counsel.
- The CPRC partnered with the U.S. Department of Justice, the U.S. Institute for Environmental Conflict Resolution (USIECR), and the U.S. Department of the Interior's (DOI's) Office of Collaborative Action and Dispute Resolution to deliver a session on Conflict Resolution and Negotiation for the National Advocacy Center's Training on Wildlife and Pollution Enforcement Issues Affecting Tribal Lands.
- The CPRC sponsored an exhibit, provided handouts, and gave a presentation on ECCR at the 2015 Community Involvement Training Conference.
- The CPRC conducted regular bi-weekly ten-minute presentations on collaboration and ECCR for new hires.
- The CPRC continued to implement an ECCR outreach and marketing strategy for the agency, including identification of target audiences and working with

representatives from those audiences to improve communications and service delivery to on-the-ground staff.

### ***Regional Outreach, Education, Training, and Career Development Activities***

- **Region 2 (New York)** conducted internal training and outreach to build capacity for ECCR. Region 2's ECCR Specialist provided a full-day internal training on interest-based negotiation to the Division of Environmental Science and Assessment's Hazardous Waste Support Branch. The Branch required the negotiations course to support training requirements for credentialed employees. The ECCR Specialist also taught a Continuing Legal Education program for the Office of Regional Counsel and other interested Divisional staff called "Strategies for Dealing with Difficult People." Also, after co-facilitating meetings of the Long Island Smart Growth Resiliency Partnership, the ECCR Specialist served as a moderator of a panel at Tuoro Law School with members of the Partnership. The panel discussion focused on the Partnership's successful collaborative process, the challenges its participants faced along the way, and the strategies to overcome those challenges. Region 2 also initiated an Effective Meetings training that, to date, has been taken by nearly all of the employees in the Region. Attendees have reported to the trainers that some of the effective meeting strategies have been used in recent meetings.
- **Region 3 (Philadelphia)** has provided mediation, negotiation, collaboration, conflict management/resolution and facilitation training to EPA employees in order to increase awareness, promote the use of ECCR, and enhance ECCR skills. One of Region 3's ECCR Specialists is a member of the Regional Training and Skills Development management workgroup. A product of this workgroup is a framework for identifying critical competencies, learning events and target audiences in order to further the goal of leading a diverse and collaborative workforce. Chief among the competencies identified are managing conflict, teamwork, communication, and self-awareness. The ECCR Specialist has been teaming with the Regional Training Officer (RTO) regarding the designing, development and presentation of learning events. In addition, the RTO, ECCR Specialist and others are designing and facilitating retreats and workshops which, among other things, assists in conflict management in intra-agency relationships as well as in inter-agency relationships and in enforcement contexts.
- **Region 4 (Atlanta)** continues to support or sponsor topical training in its efforts to promote the use of ECCR and other collaborative activities in the Region. In an effort to promote capacity building and expertise within the Region, the Region sponsored seven employees from a variety of program offices to attend the Atlanta Federal Executive Board (FEB) Mediation Skills training course in June 2015. The course provided mediation training and the opportunity to network with fellow mediation oriented employees and managers in other agencies. The training and associated certification allows additional EPA staff to join and work with the FEB Mediation corps in the Southeast.
- **Region 5 (Chicago)** worked to build partnerships with other agencies via the Chicago FEB shared neutral program and offered training, including two deliveries of "Interest-Based Negotiation" and one delivery of "Effective

Advocacy in Mediation of Administrative Environmental Cases.” Also, one of the Region 5 ECCR Specialists attended training, including a two-day training in Colorado titled "Advanced Multi-Party Negotiation of Environmental Disputes" and presented by the U.S. Institute for Environmental Conflict Resolution.

- **Region 9 (San Francisco)** offered a variety of training for EPA staff and management. Training topics included basic facilitation, designing effective meetings, group dynamics, and how to have a difficult conversation. The difficult conversation training was presented to the Region 9 Tribal Programs Office in the Land Division; all others were available to all Region 9 employees.

### ***Planning for Future Outreach, Education, Training, and Career Development Activities***

During FY 2015 the CPRC planned for FY 2016 training activities, including the possible introduction of new training topics and redesign of existing training, including the development of more opportunities to practice conflict resolution skills.

**International ECCR Outreach** – The EPA worked to develop international capacity and expertise in ECCR (and similar activities) during FY 2015, including the following activities:

- In cooperation with the Government of Chile and building on previous public participation trainings, the EPA facilitated a regional workshop in March 2015 for government and NGO representatives from Chile, Brazil, and Dominican-Central America Free Trade Agreement countries that focused on case studies and best practices of public participation and conflict resolution. A "Tools and Approaches Manual for the Latin America and Caribbean Region" (available in both English and Spanish) was developed based on the presented case studies.
- In August 2015, the EPA facilitated a training for regional government representatives throughout Chile to build their capacity for public participation, conflict resolution, use of social media, and working with indigenous communities. Region 2 supported this event by sending two staff members. The program brought together environmental ministry officials and NGOs from many countries in Central and South America, most of whom had participated in prior EPA-led ECCR training programs. The training this year focused on difficult challenges faced by the attendees, using a mock public hearing and other interactive exercises to build their ECCR skills. Following the training in Santiago, Chile, Region 2's ECCR Specialist conducted a learning session in the EPA Regional Office to discuss the cross-cultural exchanges and differences in approaches to conflict prevention and resolution in other countries.
- In FY 2015 the Office of International and Tribal Affairs (OITA), with support from the U.S. Agency for International Development, worked to improve public participation in efforts to improve urban water quality in Ouagadougou, Burkina Faso, and Accra, Ghana, as well as to increase good governance and laboratory capacity. This project is intended to serve as a model for future projects to improve urban drinking water quality throughout West Africa. EPA staff traveled to West Africa and met with leaders in government, NGOs, and representatives from civil society to assess these counties' capacities in these

three focus areas. Their assessment will inform the creation of workshops in FY 2016 where these EPA staff and West African partners will map assets, risks, needs, and opportunities to further develop capacity in these focus areas.

- The CPRC made presentations to visiting delegations on the topics of public participation and ADR. Delegations included representatives of government ministries from Southeast Asia and the Pacific Islands, South Korea, and representatives from NGOs and environmental justice community members from Brazil.

### **Area 3) Invest in Support of Programs**

Over the years, the EPA has made considerable investments to support its ECCR program, a trend that continued in FY 2015:

**ECCR Personnel** - In FY 2015, the agency had seven FTEs in the CPRC. The agency has an additional three and a half FTEs in the New England, Denver, Kansas City, and San Francisco regional offices devoted to ECCR. In addition, at least 25 other individuals support the ECCR program as part of their job responsibilities or on a collateral duty basis. For example, each EPA regional office has at least one staff member who serves as a liaison for ECCR activities. These regional ECCR staff members support ECCR education/training; draw on existing regional resources to resolve disputes; build expert knowledge, skills, and capacity; track requests for assistance/ECCR cases/projects; coordinate regularly with the CPRC; and contribute to the development of the ECCR annual report.

**Office of Administrative Law Judges** - The Office of Administrative Law Judges (OALJ) continued to make ADR a priority, offering neutral mediation services in nearly all environmental cases filed with the Office, albeit on a time-limited basis. Over the course of the year, the parties in a majority of EPA cases affirmatively accepted ADR services from OALJ.

**Environmental Appeals Board** – Since FY 2010, the EPA’s Environmental Appeals Board (EAB) has offered parties the option to resolve disputes through ECCR with the assistance of an EAB Judge acting as a neutral evaluator/mediator. The EAB’s ECCR program has proven highly effective and efficient in fostering negotiated settlements that speed up resolution of EAB cases and preserve agency resources. To date, over 85% of the matters submitted to ECCR have reached resolution.

In FY 2015, the EAB engaged in ECCR in two complex matters that are ongoing. In one matter, a Clean Air Act permit matter, the parties reached a final settlement in principle and the permit modification that effectuates their agreement is currently out for notice and comment from the public. The second ECCR process was a complex, multi-party dispute regarding four Clean Water Act permits. The process involved two Indian tribes, two environmental NGOs, two regulated entities, and EPA Region 8. The parties have reached an agreement in principle resolving all issues in dispute. Both of these matters will likely be removed from the EAB’s docket in FY 2016. In FY 2016, the EAB will continue, where appropriate, to offer parties the option to participate in, and attempt to resolve their disputes through, ECCR.

**Office of Land and Emergency Management** – The Office of Land and Emergency Management (OLEM - formerly the Office of Solid Waste and Emergency Response - OSWER) is divided into seven offices and a front office. Below are ways different organizational units within OLEM used or built capacity for ECCR use during FY 2015:

- The Office of Resource Conservation and Recovery has used ECCR services since 2006. These services have included supporting efforts for certification programs for electronic equipment recyclers, establishing a stakeholder dialogue on sustainable financing of municipal solid waste recycling programs, developing a Memorandum of Understanding and implementing a national vehicle mercury switch recovery program, and planning and convening stakeholder meetings regarding EPA's regulatory efforts concerning CERCLA 108(b) issues.
- The Office of Superfund Remediation and Technology Innovation (OSRTI), Community Involvement and Program Initiatives Branch (CIPIB) and the CPRC did several presentations to describe EPA's Technical Assistance Services for Communities (TASC) program and the CPRC's program. The presentations discussed the types of services that can be accessed through the TASC and CPRC contracts and provided information on how to use each contract.
- OSRTI CIPIB and the CPRC work closely in coordinating and assessing ECCR services for Superfund sites through the CPRC's contract. OSRTI provides support and funding to the CPRC's Superfund Just-in-Time Task Order. The purpose of this Task Order is to provide regional and headquarters staff and parties involved in Superfund related activities with ECCR assistance. This Task Order is used when immediate attention is required, and for short term projects. Projects that require longer term support are managed through site specific task orders.

**Office of Water** - The Office of Water (OW) is comprised of four offices and the Immediate Office. Below are ways different organizational units within OW used or built capacity for ECCR use during FY 2015:

- The Office of Ground Water and Drinking Water (OGWDW) made significant contributions to increasing the effective use of ECCR in FY 2015. OGWDW continued to utilize a neutral third party conflict-resolution facilitator to support the National Drinking Water Advisory Council's Working Group on Lead and Copper in its deliberations on potential revisions to the lead and copper rule. This facilitated process was designed to foster open communication early in the pre-proposal development process. Activities included four public meetings and a number of working group webinars and conference calls.
- The Office of Wetlands, Oceans and Watersheds (OWOW) has continued its implementation of recommendations from the U.S. Institute for Environmental Conflict Resolution/EPA/U.S. Army Corps of Engineers (USACE) programmatic assessment. In FY 2015, OWOW offered beginning, intermediate, and advanced Clean Water Act, Section 404 training in the EPA's regional offices. The training emphasizes communication skills, collaboration with the USACE, and early conflict prevention.

**Regional Support for ECCR** – Some specific examples of EPA regional support for ECCR include the following:

- **Region 1 (Boston)** has a culture of support for ECCR that has remained strong throughout FY 2015. As in previous years, the Regional ECCR Program is managed by a full-time senior attorney-mediator. Approximately ten other regional staff from a variety of program areas and professional backgrounds provide support to the ECCR Program on a collateral basis by agreement of their managers. Most of them are trained mediators and facilitators with varying degrees of experience who serve as in-house neutrals when they are needed and available. The group also includes a contracts specialist from the Superfund branch who handles ECCR contracting issues and paperwork. At the highest levels of management, Regional leaders are aware of the services the program provides, frequently refer parties (from both inside and outside the agency) to the ECCR program, and are generally receptive to the use of ECCR when it is proposed for projects within their areas. Because of the proliferation of collaborative approaches to environmental problem-solving, there has been a growing demand for facilitation services, which the Region is addressing, in part, with in-house resources. Workload permitting, staff with ECCR skills are supported in their participation on the ECCR team and in their efforts to develop and hone their skills.
- **Region 2 (New York)** used ECCR in the MVD program for Camden, NJ, in FY 2015 and laid the groundwork for more robust use of ECCR in other MVD communities in FY 2016. In particular, in FY 2015, the CPRC made \$10,000 in funding available to Region 2 for a facilitator for the Newburgh, NY MVD community. One of the likely uses of the facilitator will be to assist with water sharing negotiations among Newburgh, New York City, and surrounding towns. The CPRC also made funds available for the Vieques, Puerto Rico MVD community, and the Office of Water provided \$25,000 for facilitation in the Newark, NJ MVD community to identify business process changes that will help Newark City departments implement green infrastructure projects. The funding for facilitation and collaboration in FY 2015 is expected to yield ECCR benefits in MVD communities in FY 2016.
- **Region 4 (Atlanta)** Office of Regional Counsel (ORC) regularly participates in the monthly ECCR Specialist Conference Calls, which provide discussion on ways to improve and promote the use of ECCR in EPA. Region 4 ORC team members also disseminate information on ECCR processes and the types of case support provided by the agency in such efforts (e.g., contracting/funding support, mediator services and training). Region 4 is currently working on an effort to improve coordination between the various regional offices involved in ECCR and outreach programs. While the ORC already works to help provide ECCR training and case support, this is an effort to improve intra-agency connections among the Superfund, Environmental Justice, Civil Rights, and other program offices concerning collaborative activities.
- **Region 6 (Dallas)** permanently appointed one of its senior attorneys as the Region's ECCR Specialist. During FY 2015, in an effort to build the ECCR program, the Region actively supported the use of ECCR when appropriate. The Region 6 managers and program staff, as well as attorneys, are aware and familiar with ECCR as a viable option and pursue it should the need arise.

- **Region 7 (Kansas City)** continues to encourage and support the use of ECCR in addressing a wide range of agency matters, both in the Region and across the nation. The Region 7 ECCR Specialist became the Acting ADR Counsel for the Alternative Dispute Resolution Law Office within the Office of General Counsel in EPA Headquarters. This opportunity helped further educate senior management and programs within the Region as to the applications and cases elsewhere, the benefits of ECCR, and new ideas on how ECCR can be integrated within the EPA. The ECCR Specialist continued to promote region-to-region ECCR opportunities. The Region continued to regularly participate in the ECCR opportunities offered by EPA's Office of Administrative Law Judges in contested administrative cases. Particular Region 7 efforts include:
  - Region 7 provided facilitation and process design support for multiple high profile Superfund cases in FY 2015, including work with the outgoing and incoming Regional Administrators and other upper management on designing helpful processes for engagement of stakeholders and communities.
  - The Region 7 ECCR Specialist continued as a member of the nine-person Process Excellence Team in Region 7, lending facilitation and conflict resolution expertise to the team and implementing the use of ECCR tools internally as was necessary or useful. He shifted his duties in late FY 2015 to focusing the team on process enhancements and training in ECCR methods as implementation phases take place in the Process Excellence (LEAN) initiatives.

The established presence and continued high profile projects associated with ECCR in Region 7 are building an inherent understanding of the spectrum of processes available to every division and branch in the Region. All divisions participated in some form of ECCR process or training with the ECCR Specialist in FY 2015. Most interactions were consultative, coaching, and advisory in nature. In FY 2015, the process design consultative work has again increased from FY 2014. This is due to the advent of internal retreats and training featuring ECCR methodologies, a blending of ECCR into LEAN Six Sigma projects, and the higher profile of ECCR.

- The **Region 8 (Denver)** ECCR Specialist gave a presentation in May 2015 to the Region 8 Regional Leadership Team regarding several successful instances where ECCR was utilized in the preceding twelve months. At this meeting, the Regional Administrator spoke of his personal involvement in one of the processes, encouraging every management official in attendance to consider and use environmental conflict resolution tools and processes wherever appropriate. The ECCR Specialist also instituted the Region's first environmental conflict resolution resource web page on Region 8's local intranet homepage.
- **Region 10 (Seattle)** continued to support the effective use of ECCR tools and to build institutional capacity by working with programs, staff, and outside stakeholders to identify ECCR opportunities. The Region worked with its ECCR Specialists and CPRC staff to identify and evaluate potential cases, and to identify specific ECCR processes to use. The Region supported ECCR training for its staff. Superfund and water program uses were the dominant but not exclusive types of cases in the Region. The Region also continued to use ECCR processes tailored to address environmental justice and tribal issues.

Consideration of ECCR is the norm in enforcement matters and becoming more routine in non-enforcement matters. The Region anticipates that it will continue to use ECCR processes in the coming year.

**Contracting for External ECCR Services** - The EPA continued providing services under the seventh CPRS Contract which has a ceiling of \$51,000,000 over five years. The contract, now in its second year, continues to provide all EPA program offices, regional and field offices, and laboratories with comprehensive access to neutral third parties and related services all over the country, with most services being initiated within two weeks of a request. In FY 2015, the EPA spent about \$6 million on ECCR and related services (e.g., neutral third parties for ECCR cases, ECCR training) under the CPRS contract, one of the best years ever in the 28-year history of the contract. The work occurred on 59 active task orders and nearly 100 subprojects. This level of funding and projects required additional support on the part of the EPA contracting staff who assist in processing more than eight contract actions a week for this contract.

**Interagency Agreement with the U.S. Institute for Environmental Conflict Resolution** – The EPA’s interagency agreement (IA) with USIECR continues to provide cooperative support for conflict prevention and resolution assistance. The IA supports the National Roster of Environmental Dispute Resolution Professionals and provides access to neutral mediation and facilitation services for cases and matters in which the EPA and USIECR have a shared interest, such as those involving the National Environmental Policy Act and intergovernmental conflicts. For example, in FY 2015, the IA provided support for two projects, one related to intergovernmental coordination on section 404 of the Clean Water Act in the Northeast, and the other related to wetlands protection on tribal lands in the in the U.S. Southwest. In FY 2015, the EPA utilized about \$20,000 of services for two projects through the IA.

**Interagency Partnerships** – The EPA continued to strengthen its partnerships with other federal agency ECCR programs during FY 2015. Approximately 44% of the EPA’s ECCR cases involved other federal agencies, including those in which the Department of Justice was representing the EPA in a litigation context.

#### **Area 4) Focus on Accountable Performance and Achievement**

The EPA believes that it is very important to track the use and outcomes of ECCR and has been working toward that end with other federal and state partners since before the original OMB/CEQ ECCR policy memorandum was issued in 2005. In FY 2015, the EPA pursued three efforts addressing performance and accountability. First, it continued to collaborate with USIECR and others to evaluate the practice of ECCR. Second, it utilized multiple approaches to gauge the use of ECCR at the EPA. Third, it continued to evaluate ECCR-related training sponsored by the CPRC. All three of these activities were initiated prior to FY 2015 and updates on each are provided below.

**Evaluating the Practice of ECCR** - For many years the EPA has collaborated with USIECR, and other federal and state agencies in the development and use of common evaluation instruments to assess the practice of ECCR. In FY 2015, the EPA continued using the fourth set of OMB-approved evaluation instruments developed through this

collaboration and continued to collect and analyze evaluation data and uses the results to improve its program. The EPA also initiated development of a fifth set of evaluation instruments, in collaboration with USACE and DOI. The EPA will seek OMB approval for these new instruments in FY 2016.

**Gauging the Use of ECCR** – The EPA has three methods for gathering data about the use of ECCR throughout the agency. The first method is the CPRS Contract, which allows the CPRC to quickly and regularly identify current ECCR cases where external service providers are serving as neutral third parties, and the nature of the cases. The EPA’s IA with USIECR provides similar utility for shared cases.

The second method for measuring ECCR use is a network of EPA Headquarters office and regional staff members who are designated to assist with the ECCR annual reporting process, some of whom also provide additional ECCR program services as needed by their respective organizational units. These individuals are able to confirm preliminary ECCR case lists generated by the CPRC and supplement such lists with additional ECCR cases.

The third source of information about ECCR use is the CPRC’s request tracking system, in which CPRC staff members log requests received for ADR and ECCR services. While none of these three methods of tracking ECCR use is sufficient by itself, and each presents unique data quality challenges, together they provide the EPA with the information it needs to track and understand trends in ECCR use.

**ECCR-related Training Evaluation** - In parallel to the CPRC’s training efforts described above, it continued to implement a training session evaluation approach in FY 2015. This approach measures both the satisfaction of participants with presentations and logistics and the participants’ views about whether the training achieved the learning goals set out in the courses. The CPRC is using the results of the training session evaluation to make regular improvements in training delivery. In FY 2016, the CPRC plans to continue the evaluation process for CPRC-sponsored training and begin developing additional tools to assess the impact of its training.

## 2. **ECCR Investments and Benefits**

- a) Please describe any methods your agency uses to identify the (a) investments made in ECCR, and (b) benefits realized when using ECCR.

Examples of investments may include ECCR programmatic FTEs, dedicated ECCR budgets, funds spent on contracts to support ECCR cases and programs, etc.

Examples of benefits may include cost savings, environmental and natural resource results, furtherance of agency mission, improved working relationship with stakeholders, litigation avoided, timely project progression, etc.

The U.S. Environmental Protection Agency (EPA) has historically captured investments made in ECCR as part of the annual reporting process prescribed by OMB and CEQ. This year, as in previous years, the Conflict Prevention and Resolution Center (CPRC) administered a qualitative survey to each EPA Headquarters program office and regional office. Included in the questionnaire was a question substantially similar to question #1 in the annual report template that focuses on each office's and region's efforts to build programmatic and institutional capacity for ECCR. Such efforts include investments made in ECCR.

The EPA continues to identify the following quantitative indicators of the level of investment in ECCR at EPA, including:

- 1) dedicated FTEs for personnel who provide ECCR services in the CPRC and for EPA staff members serving similar functions in the regions;
- 2) the dollar amount invoiced through the Conflict Prevention and Resolution Services (CPRS) Contract on an annual basis;
- 3) the number of active task orders under the CPRS Contract on an annual basis; and
- 4) the number of ECCR cases for which the EPA is a sponsor or in which the EPA is a participant on an annual basis (see the responses to questions #1 and #3).

For the FY 2015 ECCR Annual Report, as in FY 2013 and 2014, the CPRC also collected quantitative data on the investments made in individual ECCR cases and comparative data on likely alternative scenarios, and to generate qualitative data on the benefits of ECCR. As with the past two years, the FY 2015 case investments survey contained questions concerning staff time and case duration for ECCR cases and comparison scenarios (e.g., litigation, unassisted negotiation) for the EPA staff lead involved in all known litigation-related ECCR cases that concluded in FY 2014 (N=33). The ECCR cases that were part of the survey included those that were initiated in matters before the EPA's Office of Administrative Law Judges, Environmental Appeals Board, and the Federal Courts. The results of the survey are summarized in part b, below.

To generate information about ECCR benefits in FY 2015, the CPRC included a question in a qualitative survey to EPA offices and regions concerning their views of the benefits associated with ECCR cases that occurred in FY 2015. To minimize the burden on the responding offices and regions, the CPRC asked about collective benefits of the ECCR cases in which they participated, rather than individual case benefits. The results of the benefits question are summarized in part b, below.

- b) Please report any (a) quantitative or qualitative investments your agency captured during FY 2015; and (b) quantitative or qualitative results (benefits) you have captured during FY 2015.

The qualitative and quantitative information on the EPA's investments in ECCR that the CPRC collected through its traditional ECCR annual reporting process is described in the response to question #1, above, under the section entitled "Invest in Support of Programs." The results of the CPRC's third annual effort to collect data about the investments in individual ECCR cases and benefits are described below.

**A) Investments in ECCR Cases: Comparing ECCR to Alternative Decision Making Processes**

The CPRC estimates that FY 2014 ECCR cases assessed through the case investments survey required approximately 44% fewer EPA staff lead hours per case for active periods compared to the expected alternatives, including litigation and unassisted negotiation. More specifically, the CPRC estimates a median of 30 total work hours for the EPA staff lead participating in active periods of these ECCR processes and a median of 56 hours for the likely comparison decision making processes. While the CPRC has greater confidence that the medians better represent the EPA staff lead hours devoted to active periods in these ECCR and likely comparison processes, the mean results also suggest that the time savings from using ECCR were positive – and could be as much as 65% for the EPA staff leads. The estimated mean total work hours for the EPA staff leads participating in active periods of these ECCR processes was 58 hours and the mean for the comparison processes was 164 hours. As with similar analyses in past ECCR annual reports, these results continue to reflect favorably on ECCR compared to the expected alternatives, including litigation and unassisted negotiation.

The survey results also suggest about half the elapsed time to reach a decision using ECCR for the FY 2014 cases compared to the expected alternatives, including litigation and unassisted negotiation. With respect to case duration, the CPRC estimates a median of eight total weeks for the ECCR cases and a median of 15 weeks for the likely comparison decision making processes. While the CPRC has greater confidence that the medians better represent the respective durations of the ECCR processes and likely comparison processes, it can report similar results for the means: the estimated mean duration was 10 weeks for the ECCR processes and 19 weeks for the comparison processes. As with similar analyses in past ECCR annual reports, these results continue to reflect favorably on ECCR compared to the expected alternatives, including litigation and unassisted negotiation.

These estimates and the methodology used to generate them are subject to a number of limitations. For example, the savings for the EPA lead attorneys would also be seen in savings for other EPA staff and non-personnel costs (e.g., travel for court sessions, contractor analyses), as well as savings for non- EPA participants, who are usually

corporations represented by outside legal counsel, and to other federal agencies, especially the U.S. Department of Justice, where it represented EPA. The results also do not address costs for ECCR neutral third parties nor the benefits associated with decisions reached, including any EPA personnel time savings associated with implementing a decision. In addition, the results presented here only apply to a subset of EPA ECCR cases for FY 2014; they do not include “upstream” ECCR cases that arose, for example, in the context of a federal agency decision unrelated to active litigation. Most importantly, this is only the CPRC’s third attempt to quantify time expenditures and duration for ECCR processes and likely comparison processes for a large population of cases; methods will be refined in the future as experience is gained.

While acknowledging these and other important limitations, the results do suggest a noticeable net savings of EPA staff lead time and a shorter case duration by using ECCR compared to other decision making processes for the population of cases studied. This conclusion is bolstered by the EPA staff lead responses to two qualitative questions included in the same questionnaire. The CPRC asked about the relative expense of ECCR and the likely comparison process. A clear majority of the EPA staff leads indicated that the comparison process would have been either significantly or somewhat more expensive than ECCR. The CPRC also asked the EPA staff leads whether ECCR was a good investment for the EPA in their case. Their level of agreement with this statement was about 89%.

## **B) Benefits of ECCR: Key Themes**

Key themes present in responses to the question concerning the collective benefits of FY 2014 ECCR cases in each EPA office and region can be summarized as follows:

- Efficiency: Nearly all offices and regions stated that the use of ECCR resulted in more efficient processes. The reported efficiency has two primary dimensions:
  - Maintaining timely progress: Having a neutral third party responsible for providing structure and focus to negotiations and conversations helped keep the parties’ attention on the case and moved cases along more quickly. One particular result is that the agency can better meet required case or project deadlines.
  - Resource savings: This was most often cited in the context of ECCR used for enforcement cases – e.g., the early resolution of cases resulted in cost savings (compared to the expense of litigation), quicker case resolution (compared to the time required to litigate a case), and reduction of wasteful gamesmanship, posturing, and delays between counter-offers. Resource savings was also seen as a benefit with respect to upstream, more collaborative cases as well.
- Avoidance of litigation: While efficiency was cited as a reason to avoid litigation in enforcement matters, the uncertainty associated with litigation

outcomes in some cases was also cited as a reason for using ECCR. Thus, the use of ECCR is considered beneficial in such situations.

- More productive conversations: In addition to efficiency gains, the use of ECCR produced more productive conversations in both enforcement and non-enforcement contexts. The use of a neutral third party resulted in better-designed processes; improved communication of all parties' interests, goals, and concerns; more efficient use of time; and more focused outcomes from conversations. Involving neutral facilitators and mediators can also help overcome language barriers, cultural differences, and challenges in communicating about risk. Even in enforcement cases where the parties did not reach agreement, offices and regions reported that ECCR resulted in a better understanding of the issues and perhaps narrowed the range of disagreement.
- Better outcomes: Many offices and regions stated the use of ECCR resulted in better outcomes, some of which could not have been achieved without neutral third party assistance. These include:
  - Outcomes that have improved environmental conditions when compared to non-ECCR cases: These include direct environmental benefits from decisions reached and also indirect outcomes from settlements achieved (e.g., enforcement settlement proceeds will significantly increase the pace of remedy implementation).
  - More creative outcomes: In both enforcement and upstream non-litigation cases, the use of ECCR allowed for more creative outcomes and thoughtful decisions than could have been achieved otherwise.
  - External ownership: Outside stakeholders are more likely to take ownership in the EPA's initiatives and programs.
- Improved relationships: Nearly all offices and regions stated that the use of ECCR resulted in enhanced collaboration and improved working relationships among participants, and, in particular relationships between the agency and its broad range of stakeholders. These improved relationships were exhibited during the course of the ECCR process, and also enabled more productive conversations among stakeholders following the conclusion of the ECCR process.
- Capacity building: The use of ECCR professionals helped build the capacity of the EPA and external participants to engage in collaborative processes. These capacity building measures enhanced the parties' abilities to identify common interests and develop mutually satisfactory policies or action plans. Moreover, capacity building activities enabled partnerships and workgroups to work together more effectively after neutral facilitation support ended.
- Reduced stress levels: The EPA offices and regions reported reduced stress levels among staff due to the support they received from neutral third parties, particularly with respect to difficult processes, complex issues, and challenging personalities.

- Furtherance of the EPA's mission: Nearly all offices and regions reported that the use of ECCR helped further the agency's mission to protect human health and the environment.

c) What difficulties have you encountered in generating cost and benefit information and how do you plan to address them?

As the largest user of ECCR in the Executive Branch, the EPA sees the value of evaluating ECCR and has invested significantly in such efforts over many years. The CPRC's previous evaluation work and experience in compiling information for this year's ECCR annual report do, however, suggest a number of challenges in generating cost and benefit information.

The overarching challenge concerns resources. Collecting valid and reliable quantitative information on costs and benefits for the large population of EPA ECCR cases on an annual basis is a costly endeavor, drawing from resources that would otherwise be devoted to supporting the actual use of ECCR. This applies both to creating and administering assessment tools, as well as the burden imposed on the EPA staff members to provide data on costs and benefits at the individual case level. Inadequate resources cause the EPA to favor qualitative data collection at an organizational level and simpler quantitative indicators of costs. Faced with tight budgets, the EPA will continue to allocate some resources to assessing the costs and benefits of ECCR, but the timeframes for implementing more rigorous evaluations will be elongated.

There are also several methodological challenges related to generating cost and benefit information, some perhaps particular to ECCR. One such challenge is establishing a fair baseline for comparison at the individual case level. For example, should ECCR be compared to litigation, unassisted negotiation, or something else? This is a particular concern because ECCR often runs parallel to and is influenced by other decision-making processes for the same matter. Another challenge related to the baseline issue, once a comparison scenario has been established, is the appropriate source of data for the relative costs and benefits of the alternative decision making process. For example, ECCR cases can be matched to non-ECCR cases, but a failure to match on important variables – such as those that influence parties' self-selection of ECCR – can produce invalid results. A third methodological challenge is retrospective reporting on ECCR and comparison cases. It is cognitively complex for case participants to reliably provide estimates on time and resources spent after the fact, sometimes years later. A final methodological challenge is capturing the benefits, particularly environmental benefits for individual ECCR cases. Issues here concern how such benefits can be feasibly measured and the timing of data collection.

The CPRC, in collaboration with the U.S. Army Corps of Engineers Collaboration & Public Participation Center of Expertise and the U.S. Department of the Interior Office of Collaborative Action and Dispute Resolution, is building on its earlier work to capture the comparative results and costs of agreement-seeking ECCR cases by developing a new Information Collection Request for OMB approval that is expected to address these challenges. The CPRC's new agreement seeking ECCR case questionnaire will provide a framework for choosing an appropriate set of possible process comparison counterfactual options, based on the decision-making forum from which the ECCR case arose and following the decision making forum categories used in the ECCR annual report. The questionnaire will collect data on comparative process costs and the magnitude and probability a set of substantive outcomes. The questionnaire is being intentionally designed to be applied in a wide range of agreement-seeking ECCR cases.

3. **ECCR Use:** Describe the level of ECCR use within your department/agency in FY 2015 by completing the table below. [Please refer to the definition of ECCR from the OMB-CEQ memo as presented on page one of this template. An ECCR “case or project” is an instance of neutral third-party involvement to assist parties in a collaborative or conflict resolution process. In order not to double count processes, please select one category per case for decision making forums and for ECCR applications.

	Total FY 2015 ECCR Cases <sup>2</sup>	Decision making forum that was addressing the issues when ECCR was initiated:					ECCR Cases or projects completed <sup>3</sup>	ECCR Cases or Projects sponsored <sup>4</sup>	Interagency ECCR Cases and Projects	
		Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)				Federal only	Including non federal participants
<i>Context for ECCR Applications:</i>										
Policy development	8	5	0	0	3	misc.	4	6	1	5
Planning	47	5	0	2	40	voluntarily program, collaborative planning, stakeholder action, interagency coordination, program implementation, misc.	28	45	5	24

<sup>2</sup> An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2015.

<sup>3</sup> A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2015. 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.

<sup>4</sup> Sponsored - to be a sponsor of an ECCR 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 ECCR case.

Note: If you subtract completed ECCR cases from Total FY 2015 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2015 ECCR cases it should equal total cases in which your agency or department participated but did not sponsor. If you subtract the combined interagency ECCR cases from Total FY 2015 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

Siting and construction	8	6	0	1	1	voluntar y program	4	8	0	2	
Rulemaking	9	6	0	3	0		5	6	1	4	
License and permit issuance	9	4	4	0	1	voluntar y negotiati ons	6	9	4	2	
Compliance and enforcement action	61	21	29	8	3	Shared EPA- state decision	32	54	1	14	
Implementation/monitoring agreements	5	5	0	0	0		2	5	0	3	
Other (specify): voluntary program, multiple, misc.	14	1	0	1	12	voluntar y program , misc.	7	12	0	5	
<b>TOTAL</b>	<b>161</b>	<b>53</b>	<b>33</b>	<b>15</b>	<b>60</b>		<b>88</b>	<b>145</b>	<b>12</b>	<b>59</b>	
		(the sum of the Decision Making Forums should equal <b>Total FY 2015 ECCR Cases</b> )									

#### 4. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably completed in FY 2015). Please limit the length to no more than 2 pages.

Name/Identification of Problem/Conflict
<p>Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance, and how the ECCR effort was funded</p>
<p>On October 15, 2012, an uncontrolled explosion at Camp Minden, a former defense facility, shattered windows as far as four miles away in the City of Minden, Louisiana, and generated a 7,000-foot mushroom cloud. The Louisiana State Police investigated the explosion and discovered millions of pounds of improperly stored propellants and explosives at Camp Minden. Despite the unstable nature of the material and great potential for future explosions, decisions regarding a resolution came slowly. The responsible company declared bankruptcy, criminal charges were filed, and the Governor of Louisiana proclaimed a state of emergency. After much discussion between agencies and a full two years after the explosion, the Department of Justice negotiated a consent decree between the U.S. Army, EPA, the Louisiana Department of Environmental Quality (LDEQ), and the Louisiana National Guard (LNG) to conduct an open burn of up to 80,000 pounds of M-6 artillery munitions per day.</p>
<p>This decision by the U.S. Army to use an open burn as the method of disposal was met with significant public concern. Local community members stated that the government had illegally agreed to the largest open burn in history without conducting an environmental assessment or engaging the public. The community initiated a public campaign resulting in petitions, rallies, a Facebook page with over 9,000 members, and extensive local and national press coverage. They sent a clear message to all levels of government that the community would not accept an open burn of this material, and any effort to proceed with an open burn would be met with legal and civil disobedience obstacles, leading to further delay.</p>
<p>On January 15, 2015, the EPA granted a 90-day extension to the compliance deadline to allow time to consider alternative methods of disposal. Community leaders requested that the EPA establish a dialogue committee of agency representatives and concerned stakeholders to help identify alternative technologies, using a process that was similar to one that had identified alternative methods to destroy chemical weapons at a different site. The EPA agreed to support the formation of a dialogue committee and used funding from EPA Region 6 and the Conflict Prevention and Resolution Center to engage a facilitation team for the process.</p>
<p>Summary of how the problem or conflict was addressed using ECCR, including details of any innovative approaches to ECCR, and how the principles for engagement in ECCR outlined in the policy memo were used</p>
<p>The overall goal of the dialogue process was to identify and evaluate alternative technologies to the open burn process such that key stakeholders and stakeholder groups from throughout the impacted community understood and supported the selected alternatives (<i>informed commitment</i>). The public process had to be completed within 30 days so that the government could conduct a procurement process within the 90-day extension. By comparison, the process to determine alternative methods to destroy chemical weapons at a different site took four years.</p>

In early February 2015, a diverse local planning committee selected a diverse group of stakeholders to participate in the dialogue, including individual volunteer citizens, community leaders, local and statewide organizations, scientists, elected officials and state representatives. EPA, LNG and LDEQ were ex-officio participants and the U.S. Army agreed to provide technical support to the effort (*balanced voluntary representation and group autonomy*).

The facilitation team of Kristi Parker Celico (Rocky Mountain Collaborative Solutions) and Doug Sarno (Forum Facilitation Group) designed and managed a process to allow the dialogue committee to conduct the following activities:

- Agree upon a dialogue goal and ground rules (*group autonomy, informed commitment*);
- Create a comprehensive and shared understanding of the history, conditions, and risks of the material stored at Camp Minden (*informed process*);
- Understand the full range of technical options that could be used to address the situation at Camp Minden (*informed process*);
- Hear directly from available vendors regarding the state of development and readiness of the potential technologies (*openness*);
- Identify a comprehensive list of attributes that any selected approach must achieve; and
- Identify technologies and approaches that would be most likely to satisfy the community's list of attributes.

Innovative approaches included:

- All meetings, conference calls, and webinars were open to the public and public comment was welcomed and incorporated throughout (*openness*). The technology used allowed for voice and on-line participation, real-time use of visual materials, and real-time viewing of meeting notes which were cleaned up and sent within hours of the calls. As the next call was always just days away, this openness and rapid turnaround was essential. All calls were recorded and posted to the web site for all to access.
- Since consensus was not a goal and the dialogue committee was not formally chartered under the Federal Advisory Committee Act, the final document was a "Facilitators' Report" summarizing common themes. The development of this document with the group helped refine ideas and provided the government entities with a clear, documented understanding of community desires (*accountability*).
- Agreeing to a request from the dialogue committee, the LNG selected two scientists from the dialogue process to participate directly in their technology procurement process so that the public felt confident that the dialogue ideas and concerns were directly emerged into the technology selection process (*implementation, accountability*). Having successfully used this approach in three different processes for different agencies, the facilitators have noted that procurement officials and lawyers generally express doubt about whether it is possible to have members of the public participate in procurement processes, yet there often is a way to make this happen.

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 ECCR

The overall goal of the Camp Minden Dialogue was achieved within the 30-day timeline: several alternative technologies were identified and publicly supported (*timeliness*). A procurement process quickly followed and the public and local and state officials have supported the outcome.

Other benefits included:

- **Improved Understanding.** The community was able to see the full picture with a shared understanding of the information available and the implications of different technology choices, and their own sense of shared values.
- **Improved relationships and credibility.** The EPA's relationships with the community were dramatically strengthened as a result of their dedication and patience with the process. All agencies showed the willingness to listen and adjust accordingly. Relationships between agencies were reestablished such that future deadlines were achievable.
- **Support for the selected technology.** Ultimately, the community's thoughtful and reasoned input heavily influenced the final selected technology. This was not a technology the community would have thought it would select before the process began, but was overwhelmingly supported as a result of the learning and sharing of this process.

The dialogue process was expensive and required extensive and intensive senior government official and staff involvement on very short notice. However, alternative approaches likely would have been more expensive and time consuming, and had great potential for a disruptive outcome. A protracted lawsuit would not have been an appropriate approach given that the military experts repeatedly described the increasing potential for another explosion. In addition, the potential for massive civil disobedience was very real given the 9,000 Facebook members, pre-dialogue rallies, a long history of perceived environmental injustices in the area, and the involvement of influential religious and community leaders in the issue.

#### Reflections on the lessons learned from the use of ECCR

**Success begets success.** The success of past ECCR efforts greatly ensured the success of this effort. The community recommended a dialogue process as their alternative to civil disobedience or legal action. Their recommendation was based on talking to other communities where dialogue processes have resulted in better outcomes for all. Where the community does not suggest such an approach in the future, the EPA might be able to do so in a proactive way by encouraging community members to talk with stakeholders from other sites where successful dialogues have occurred.

**The Power of The Internet and Social Media.** Community members were able to rally huge numbers of supporters through electronic discussions. They used their Facebook page to recommend daily actions (e.g., "Call your senator today with the following request!"), and it helped make the dialogue process successful. Community members learned of the dialogue process regarding chemical weapons from research and networking on the Internet. They were willing to quickly accept the facilitators that the EPA provided because they could contact community members from other sites and learn of their experiences with those facilitators. In addition, the facilitators were able to track and respond to brewing problems on the Facebook page, allowing the group to accomplish its task in record time.

**Intergovernmental Relations.** The dialogue process, which was set up to address communication with the public, resulted in improved communication between government agencies. Public, facilitated discussions often lead to clear commitments and tracking of obligations. Agency disagreements that had been highlighted in the media now were often resolved during agency conference calls to establishing the dialogue agendas.

**The Need for Speed.** The dialogue process achieved in one month what generally takes one to two years to accomplish, including establishing a stakeholder group, building relationships, conducting intense learning, evaluating options and creating informed and thoughtful input on proposed solutions.

The emergency environment created hyper-motivated stakeholders on all sides who were willing to participate in almost daily activities for 30 days. Between February 12 and March 11, 2015, the process involved two full-day in-person meetings, ten major dialogue conference calls, an open call for vendor qualifications resulting in live on-line presentations on a dozen technologies, and continuous emails, calls, and coordination. In the end, the group arrived at a result almost identical to processes that are conducted over much longer timeframes.

**5. Other ECCR Notable Cases:** Briefly describe any other notable ECCR cases in the past fiscal year. (Optional)

**Region 1 (Boston)** - In October 2014, Region 1 was approached by a group of community advocacy organizations based in Chelsea, MA, home to seven oil terminals sited in the Chelsea Creek area. They asked the EPA to convene a negotiation with the oil companies who owned and operated the terminals, seeking to secure "community benefits agreements" to address concerns, many of which had come into focus during the facilities' respective National Pollutant Discharge Elimination System permitting processes. With the support of the Regional environmental justice team, a Region 1 in-house facilitator engaged in discussions with the community groups to better understand their concerns and goals. The facilitator then reached out to the initially wary companies to determine whether there was a shared interest in pursuing the conversation. After a series of separate discussions to design an agenda that all parties could support, the citizens' representatives and company representatives met together at the EPA's Boston office for a frank exchange of interests, aspirations, and apprehensions, facilitated by the convening neutral. The relationship between the community and the companies had been strained due to some polarizing history, including legal battles, but the parties recalled that it had not always been so. They described a time when the dynamic between them was more cooperative and satisfying--a time when they were better neighbors to each other. During this first joint meeting, they agreed to resurrect the quarterly "roundtable" dinner meetings that had once served as a positive forum for communication and problem-solving among them. Details and the agenda for the first roundtable session were pinned down on one last facilitated conference call before the process was returned to the parties. The community representative who had initially reached out contacted the facilitator in the months that followed to express gratitude for the role the EPA played in helping the parties come together. Almost a year later, the roundtables are ongoing, the group is now engaged in chartering its process and expanding its membership into the local business community, and the relationships continue to grow.

**Region 2 (New York)** - Region 2 entered into two settlements this year with United Talmudical Academy of Kiryas Joel (UTA-KJ) for separate alleged violations at different construction sites. The alleged violations included discharging pollutants from a point source into waters of the U.S. without a New York State Pollution Discharge Elimination System General Permit for

Stormwater Discharges from Construction Activity (“CGP”), in violation of Sections 301 and 402 of the Clean Water Act ("Act"), as well as UTA-KJ’s failures to timely respond to information requests in violation of Section 308 of the Act. The EPA filed two successive administrative complaints against UTA-KJ, for the violations at each location, and the parties agreed to participate in an Office of Administrative Law Judges (OALJ)-sponsored mediation under 40 CFR Part 22, which resulted in agreement on all issues in both cases. The mediation process provided significant benefits in these cases. First, EPA's primary goal was to ensure environmental compliance by UTA-KJ at the two sites. While a complaint can result in a penalty settlement, it is not generally associated with injunctive relief. However, with the assistance of the OALJ neutral, the parties were able to consider creative approaches to achieve EPA's primary interest of ensuring compliance. In one case, with the help of the mediator, the Respondent agreed to implement best management practices, weekly inspections, and other requirements necessary for compliance with the CGP, and obtain coverage from the New York State Department of Conservation. These compliance efforts were carried out during the period in which the case was being mediated, which made a settlement of the penalty action possible. In the other case, during the mediation, the Respondent completed temporary stabilization of the site and agreed to achieve final stabilization by a specific date. To provide certainty about final stabilization, the parties agreed during the mediation that the EPA would issue an administrative order, as a prerequisite to settlement, reflecting Respondent’s plans for the site. The issuance of the agreed-upon administrative order made it possible for the parties to settle the penalty action. The mediator's facilitative style, use of good non-directive questions, and ability to keep the parties focused and on-track led to creative solutions that went beyond the specific relief requested in the Complaint and achieved EPA's goal of ensuring compliance. In addition, by using the OALJ neutral as the mediator, the parties were able to consider both cases at the same time, which was helpful and efficient because the cases involved related substantive claims.

**Region 3 (Philadelphia) - ECCR** was instrumental in settling a matter that involved a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cost recovery action asserted by the EPA against a number of parties (private companies/generators). The EPA and the parties were unable to negotiate a settlement of the EPA claims seeking recovery of substantial response costs and the matter likely would have proceeded to extensive litigation. At the request of potentially responsible parties/defendants, the parties agreed to pursue mediation. The EPA’s Conflict Prevention and Resolution Center (CPRC) provided a third party neutral convener to help the parties select a mediator, and also provided funding for the mediation process. Both the convener and the mediator were viewed as very effective in assisting the parties to resolve their disputes. The convener was able to work with the participants and assist them in identifying/selecting a mediator. The mediator, among other things, reviewed and evaluated evidence and substantive legal

issues, communicated with parties through private caucuses, and provided reality checks with regard to litigation risks and CERCLA liability. Ultimately, an agreement in principle was reached after four sessions, avoiding protracted litigation. The mediator remained available to assist the parties, if necessary, with the drafting of a Consent Decree.

**Region 7 (Kansas City)** continued its support for the Hinkson Creek Total Maximum Daily Load Collaborative Adaptive Management Process (CAM), now in its fourth year, with the ECCR Specialist performing a myriad of ECCR services on behalf of this effort, including mediation, stakeholder committee lead facilitation, CAM process design responsibilities, and coordination with other CAM Teams answering to the Stakeholder Committee. The CAM process, which uses Appreciative Inquiry and Adaptive Management principles within a collective three level process, is the first hybrid process blend of its kind in the nation. This year's activity also included coordination and teaming with local governments on a three-year anniversary celebration of the CAM effort and "on the ground" successes and collaborations. The Regional Administrator and Director of the Missouri Department of Natural Resources were on hand late in the summer to tour and visualize the watershed with local partners.

**Region 8 (Denver)** - The Queen City Crossing Area stakeholder process was a highly successful environmental collaboration project involving the EPA's Making a Visible Difference program. This effort began in July 2015 and ended in October 2015. EPA provided a facilitator to lead two stakeholder meetings during this timeframe. The first meeting introduced the more than 50 stakeholders to each other and outlined the work being performed in the Queen City Crossing/6<sup>th</sup> Ward area. The second meeting updated the attendees on progress made since their previous meeting and then broke the stakeholders out into five topical workgroups. This meeting ended with the participants generating a list of commitments that they collectively agreed to take forward and work on together. This facilitated process was so successful that the stakeholders may request additional facilitation support in FY 2016, and the EPA has agreed to consider providing that support.

**Office of Land and Emergency management (OLEM)** - ECCR services provided under the Conflict Prevention and Resolution Services (CPRS) contract Superfund Just-in-Time Task Order, with funding from OLEM, helped support and facilitate communication and coordination efforts at a critical time at the Colorado Smelter Site. EPA Region 8's use of the CPRS for facilitation between the EPA and local stakeholders at the site has been instrumental in moving toward resolution on contentious property issues (including coordination with Housing and Urban Development Office officials), liability, and property access concerns. Having a neutral third party facilitator has made it possible for local stakeholders, local officials, and congressional staff to engage in the EPA's clean-up efforts at the site.

Following the successful work conducted under the CPRS Superfund Just-in-Time Task Order and given the projected needs for future support of the Colorado Smelter Community Advisory Group and community, Region 8 set up a separate task order in support of the site and will continue to work with the neutral facilitator. Region 8 anticipates continued use of the facilitation services, including assistance with a tentatively scheduling community visioning session.

## 6. Priority Uses of ECCR:

Please describe your agency's efforts to address priority or emerging areas of conflict and cross-cutting challenges either individually or in coordination with other agencies. For example, consider the following areas: NEPA, ESA, CERCLA, energy development, energy transmission, CWA 404 permitting, tribal consultation, environmental justice, management of ocean resources, infrastructure development, National Historic Preservation Act, other priority areas.

The U.S. Environmental Protection Agency (EPA) has used ECCR in all its environmental program areas for many years. This outcome has been achieved by relying on the EPA offices and regions to identify a need for the use of ECCR in particular cases, rather than by specifying priority areas for the use of ECCR as a matter of policy. Since ECCR is widely used to support the agency's public health and environmental mission, it is unsurprising that ECCR makes a contribution in most of the priority areas of interest to OMB and CEQ. The following examples illustrate the use of ECCR in OMB/CEQ priority areas in FY 2015:

- Approximately 24% of ECCR cases at the EPA addressed matters related to CERCLA.
- The EPA was involved in at least two ECCR cases addressing ESA issues, including an interagency dialogue on pesticides involving the agency, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the U.S. Department of Agriculture.
- There were two NEPA-related ECCR cases; they were reported by the EPA's Region 1 and Region 6 offices.
- ECCR cases involving the CWA 404 Program were diverse. They included matters involving state assumption of the CWA 404 Program and enforcement cases.
- The EPA also sponsored or participated in a number of ECCR cases with an emphasis on tribal relations or environmental justice. Tribal ECCR cases included general relationship building, and Superfund and water quality matters in Regions 1, 9, and 10. Regions 2, 3, 4, 6, 7, and 9 made active use of ECCR for several dialogues and public meetings with a focus on environmental justice issues.

**7. Non-Third-Party-assisted Collaboration Processes:** Briefly describe other significant uses of environmental collaboration that your agency has undertaken in FY 2015 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not include a third-party neutral. *Examples may include interagency MOUs, enhanced public engagement, and structural committees with the capacity to resolve disputes, etc.*

The U.S. Environmental Protection Agency (EPA) has a long history of working collaboratively with its stakeholders to further the agency's human health and environmental mission. For disputes, the use of unassisted negotiation is very common and successful. Best efforts are made to resolve environmental conflicts without litigation, whether those conflicts arise with states, tribes, public interest groups, or facilities. EPA Headquarters and regional offices have provided examples of collaboration in FY 2015 that used methods other than ECCR as defined in the OMB/CEQ ECCR policy memorandum. These examples are described below:

**Region 1 (Boston)** – Recognizing that shrinking resources require new approaches in how ECCR staff does its work, Region 1 continues to place increasing importance on fostering and sustaining collaborative approaches with key stakeholders and partners to address New England's most significant environmental issues.

For example, Region 1 continues to support the New England Municipal Sustainability Network (NEMSN), which was spearheaded in the Region five years ago and is maintained through Region 1's logistical and administrative support today. The NEMSN is comprised of a group of sustainability directors from across the Region who have created an active peer network of towns and cities. The goal of NEMSN is to provide training, share ideas, and leverage knowledge and experience in common areas of interest to improve community sustainability throughout the Region.

In addition to supporting the NEMSN administratively, the Region has informally facilitated important gatherings that are connecting academia, foundations and government agencies to municipal sustainability directors. For example, through Region 1's ongoing pilot with Harvard Law School, the NEMSN learned about ongoing work in Newport, RI, currently being undertaken by Harvard Law School and Graduate School of Design graduate students. Through these introductions, municipal officials have gained access to potentially valuable technical assistance avenues for tackling issues related to climate resiliency and green infrastructure.

Continuing its work in cooperation with the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Transportation (DOT), Federal Emergency Management Agency (FEMA), and U.S. Department of Agriculture through the Sustainable Communities Partnership, Region 1 has been able to leverage substantial government resources to help New England communities become more livable and sustainable. Much of this work with communities is through collaborative problem solving and working to find creative solutions to complex problems through negotiation and compromise. For example, working with FEMA, Region 1 now has links to the current status of Hazard Mitigation planning in New England within the EPA's RAINE database.

Region 1 also continues to be significantly engaged in the E-Enterprise for the Environment initiative, aimed at modernizing the business of environmental protection through groundbreaking collaboration with the Environmental Council of the States and state partners. The Regional Administrator represents the regional perspective on the E-Enterprise Executive Leadership Council and the Region's emphasis on collaborating with state partners has been the cornerstone of this effort. In addition, the Region is co-leading, with Missouri Department of Natural Resources Commissioner Sarah Pauley, one of five new E-Enterprise projects that is building a local government portal to incorporate key federal and state tools and resources for communities.

Finally, some Region 1 cases or projects that have benefited from ECCR are proceeding without ongoing facilitation assistance. For example, the Regional team working on the Southeastern New England Program for Coastal Watershed Restoration is engaged in an on-going multi-faceted collaboration with the EPA's many partners. The neutral-facilitated work group meetings represent only a small part of this collaboration.

Similarly, many collaborative “derivatives” have evolved from Region 1’s facilitation. For example, the facilitated stakeholder meetings and community engagement in the Region’s Making a Visible Difference in Communities (MVD) initiative in Lawrence, MA, are a cornerstone effort. However, as a result of these sessions, a multi-party stakeholder group is becoming self-sustaining after identifying a range of community concerns and establishing a set of priorities to begin to address them. The group has created four sub-teams that will work in collaboration with but independently of the facilitated stakeholder meetings to translate their goals into actions. Specifically, they will develop implementation plans and short and long-term goals related to water, jobs, public engagement, and solid waste concerns. The groundwork now being laid to collaboratively address environmental and public health concerns in the future is a self-directed outgrowth of the earlier neutral-assisted sessions.

**Region 2 (New York)** – Region 2 continued its post-Sandy recovery partnerships in FY 2015, as the work progressed with the multi-agency Sandy Regional Infrastructure Resilience Coordination Group (SRIRC) and associated Technical Coordination Teams (TCTs). The teams include, among others, the EPA, U.S. Department of Energy, DOT, HUD, FEMA, New Jersey, New York State, Connecticut, New York City, U.S. Army Corps of Engineers, U.S. Department of the Interior, National Oceanic and Atmospheric Administration, and Port Authority of NY and NJ, and afford project applicants an opportunity to discuss project plans and permitting requirements. Each TCT is working on a different project area in an unprecedented collaboration among federal, state, and local governments to build resilience. Examples of the projects now under review by the SRIRC and TCTs include the Bay Park Sewage Treatment Plant, Bergen Point Sewage Treatment Plant Outfall replacement, Hospital Row resiliency measures in Manhattan, and the NJ Transit gas plant for emergency power. Also of importance are the HUD Rebuild by Design Projects in the Meadowlands, Staten Island, Hoboken, and the east side of Manhattan. Management of all partner agencies is kept informed each month through a Leadership Collaborative Meeting. Region 2's representative on the Wastewater TCT served as a non-neutral facilitator for numerous

project meetings. The facilitation helped the partners to achieve their objectives, which included identifying and overcoming obstacles to the projects and finding opportunities for coordination and efficient staging and implementation of the projects.

Region 2 also continued its collaboration on resilience with Antioch University this year. Region 2 signed a Memorandum of Understanding (MOU) with Antioch and several other EPA Regions to develop a three-day climate change resilience summit in 2016, which will be known as "The Second Local Solutions Conference: Northeast Climate Preparedness." Region 2 signed a second MOU with Antioch and Region 1 that builds on a FY 2014 MOU to implement a webinar series on local resilience. Pursuant to the new webinar MOU, Region 2 moderated a program on resilient energy supply.

**Region 3 (Philadelphia)** – Region 3 seeks to engage in facilitative and collaborative activities involving the EPA, states, local communities, NGOs, and other federal agencies where appropriate within the Region. Region 3 also seeks opportunities to minimize potential disputes with responsible parties in matters, when possible, through negotiation. One such example is the practice of various programs within Region 3 to issue "Show Cause" letters to responsible parties, intended to apprise such parties of statutory violations and penalty assessments and provide an opportunity for the parties to negotiate a resolution of the matter without the need of litigation.

**Region 4 (Atlanta)** – In August, Region 4 helped sponsored the 2015 EPA Community Involvement Training Conference held in Atlanta, GA. Community involvement is the process of engaging in dialogue and collaboration with community members. The three-day conference brought together more than 450 people from the EPA and its partners and stakeholders who plan and implement environmental community involvement, partnership, stewardship, outreach, and education programs. The conference also included field trips demonstrating the power of effective community involvement and cooperative conservation efforts in the Atlanta area.

**Region 7 (Kansas City)** – Region 7 continued its practice of using pre-filing negotiations in all administrative enforcement actions seeking a monetary penalty. Many actions continue to be settled in the pre-filing stage.

Another major development that has shifted some focus to collaborative activities not using neutral third parties is the reorganization of the community involvement role from Public Affairs to the Enforcement Coordination Office, which houses environmental justice and similar programs. This has allowed new strategies and new approaches to take hold that will help strengthen training and other collaborative opportunities that involve ECCR at earlier stages. This will be monitored and reported in future ECCR annual reports.

**Region 10 (Seattle)** –Region 10 developed an MOU with the State of Washington Department of Ecology that guides the EPA's and the Department's implementation of cleanup actions in the Lower Duwamish Waterway. This is particularly important since the Department is taking the lead on cleanup of upland areas of the site, and effective cleanup of this area is critical to effective cleanup of the waterway. To date, the relationship has proven to be effective. The Region effectively used enhanced public engagement to avoid or resolve disputes at the Lower Duwamish Waterway; this is particularly evident in the Region's effort to develop a Fishers Study with the benefit of community input.

**The Office of Chemical Safety and Pollution Prevention** – Since 1995, the Pesticide Program Dialogue Committee (PPDC), a representative Federal Advisory Committee Act committee has served as a productive forum for a broad range of stakeholders from across the country to meet periodically to discuss pesticide regulatory, policy and program implementation issues and to provide policy advice and recommendations to the EPA. The EPA Office of Pesticide Programs brings regulatory and policy development issues to this forum in a conceptual form so that the agency can benefit from the early thinking and expertise of these stakeholders who typically have divergent views. This forum has provided opportunities for environmental collaboration in addressing many issues, including pollinator protection, integrated pest management, pesticide spray drift, web-distributed labeling, endangered species, etc. Since FY 2012, the PPDC has established workgroups to bring together stakeholders to address pollinator protection and integrated pest management issues. The EPA has been working with federal partners and other stakeholders through a Pollinator Protection Workgroup under an advisory group, the PPDC. The workgroup has focused on pollinator protection to explore initial, science-based risk management approaches including appropriate label restrictions and training, develop information on state approaches and different authorities, transfer lessons learned by various stakeholders in order to improve existing management practices, and continue international communication.

**Office of Enforcement and Compliance Assurance** – The EPA and U.S. Coast Guard cooperate in the enforcement of the North American Emissions Control Area, which limits emissions from ocean going ships, and will improve air quality as much or more than the groundbreaking regulation of locomotives. The relationship is broadly governed by an MOU into which the EPA and the Coast Guard entered on June 27, 2011. The EPA and Coast Guard have engaged in numerous cooperative ventures under the MOU, including ongoing development of a joint boarding of vessels protocol for training and program development purposes, cooperation on development of a program to sample ship plumes from an aircraft, and development of a protocol for referral of violations between agencies. As the program rapidly evolves, the EPA and U.S. Coast Guard continue to work together to update the protocols and other guidance and policy associated with the program. On March 4, 2015, the EPA and the U.S. Coast Guard updated the protocol on referrals of violations. On January 16, 2015, the EPA released a penalty policy for violation of the sulfur fuel standard and related provisions for ships (i.e., The North American and Caribbean Sea ECAs Penalty Policy

for Violations by Ships of the Sulfur in Fuel Standard and Related Provisions). The EPA and U.S. Coast Guard also ensure close coordination on press activities (e.g., press releases, blogs).

**Office of Land and Emergency Management** – The Office of Superfund Remediation and Technology Innovation (OSRTI), Community Involvement and Program Initiatives Branch (CIPIB), the Conflict Prevention and Resolution Center (CPRC), and Community Involvement Coordinators from Regions 3 and 10 collaborated in developing and co-presenting a training session, Planning for Long-Distance Engagement, at the 2015 Community Involvement Training Conference. The purpose of the session was to inform EPA staff, as well as community stakeholders about new planning tools for community engagement in situations where travel opportunities are minimal. OSRTI CIPIB collaborated with the CPRC to develop guides to assist community involvement coordinators, public affairs specialists, and other EPA staff working with communities in planning for and executing community engagement using a variety of collaborative technologies. The guides include a guide on currently available technologies and how to access them, a planning guide for online meetings, and a planning guide for hybrid (in-person and online) meetings. These guides will assist EPA regional staff to reach communities under tight travel budgets.

**Office of Water** – The Office of Ground Water and Drinking Water (OGWDW) worked with state co-regulators and federal partners to develop a technical document to support state and local decision makers working to control Legionella. OGWDW convened a multi-agency workgroup to draft and review the document and resolve differing viewpoints over the interpretation of scientific information. It also sought stakeholder review and input on the draft through a public comment period and a public meeting/webcast.

**Office of International and Tribal Affairs** –

- EPA'S Policy on Consultation and Coordination with Indian Tribes (May 2011) is based on a federal government to tribal government relationship. Under its Consultation Policy, the EPA identifies actions and/or decisions that may affect tribal interests. Tribal government officials are given an opportunity to provide input directly to the EPA prior to a final decision. The EPA defines its consultation as a process of meaningful communication and coordination between the EPA and tribal officials prior to taking actions or implementing decisions that may affect tribes. The EPA's policy does not utilize neutral third parties in its processes. The EPA's programs and regions consulted on 75 activities in FY 2015.
- In 2014, the EPA and the U.S. Agency for International Development signed an interagency agreement to support environmental impact assessment (EIA) technical assistance in the Lower Mekong Region. In FY 2015, as part of

implementing this agreement, the EPA began to serve as a technical advisor to the Regional Technical Working Group (RTWG) on EIA. The RTWG, which was launched in FY 2015, is a group of government and civil society representatives collaborating to strengthen the policy and practice related to EIAs in the Mekong countries in order to enhance cooperation for inclusive and sustainable development of the region. The EPA will participate (either in-person or remotely) in the meetings of the RTWG and will provide content and process assistance as needed in between meetings. Technical guidance will primarily focus on public participation mechanisms in the EIA context, as well as development of training/role play modules for public participation capacity building.

- In 2014, under the auspices of Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) and in collaboration with its country members (El Salvador, Nicaragua, Guatemala, Honduras, Costa Rica and Dominican Republic), the EPA organized the Dominican Republic Forum on Best Practices for Environmental Impact Assessment and Related Permitting and Enforcement (DR Forum). The DR Forum brought together for the first time a unique mix of participants, including heads of environmental quality and evaluation, enforcement, geographic information systems (GIS)/information technology, and public outreach functions from an expanded list of countries (CAFTA-DR members, Panama, Colombia, Peru, Mexico, and Brazil) as well as international organizations (World Bank, International Development Bank, and Organization of Americas States). A report was produced and highlights twelve key messages on best or better practices, including: seek reforms in both efficiency and effectiveness on environmental review and permitting; gain greater support for EIA automation, GIS and Internet access; consider fee-based services for financing the administration of EIAs, permits, compliance monitoring and enforcement; make EIA conflict prevention and resolution a top priority for governments; and improve high-level collaboration agreements between the ministries of environment and other ministries. In FY 2015, the report was translated into Spanish and disseminated to all the participants, as well as Ministers and Vice-Ministers of Environment of each participating country. The best practices highlighted in the report are expected to provide guidance to governments as they continue to work on EIA and related permitting and enforcement issues.
- At the end of August/early September 2015, the EPA facilitated a study tour for members of the Reciclação (Recycle Action) project, a successful participatory approach to community-based solid waste management, in the Prazeres community in Rio de Janeiro, Brazil. Through panel discussions and site visits, the seminar served as a platform for the exchange of solid waste management and community development and public participation best practices, strategies, and tools. These ideas will be captured and made available for future use in communities facing similar challenges.
- In FY 2015, the EPA began developing an online public participation training; it is based on the EPA's Public Participation Guide and will also address social

media and conflict resolution practices. The approach is to create an online component for study that provides a similar experience to the training the EPA already conducts related to its Guide, establish video and other tools to provide self-study in public participation that can be done in groups throughout the world, and establish a corps of facilitators around the world that can help guide people through the materials. It will be presented first in the Middle East region (Jordan, Israel, Palestinian Authority).

- Since early 2014, the EPA's Region 10, with the encouragement and facilitation from OITA, the U.S. Department of State, and the U.S. Consulate in Vancouver, has taken steps to have more concerted discussions with counterparts in Environment Canada and the Canadian Environmental Assessment Agency about new projects in Canada with potential transboundary impacts on the states of Alaska, Washington, and Idaho. These discussions allow the Region to share information with its Canadian counterparts concerning new projects and to anticipate the release of Canadian project EIAs, such as those for new or expansions of existing mining projects; new or expanded pipelines for transmitting Canadian oil sands; or new or expanded facilities and transportation mechanisms for the expanded pipelines, liquefied natural gas facilities, and mining projects. Understanding the Canadian process and timing not only allows the Region to prioritize its work for commenting on the EIAs, but also provides opportunities for the EPA to raise concerns from the tribes affected by these activities and helps to mitigate their transboundary impacts.
- Under the EPA's Indian Environmental General Assistance Program (GAP), the EPA successfully reached agreements on 200 individual EPA-Tribal Environmental Plans (ETEPs) with 39% of all tribes receiving GAP funding. ETEPs are planning documents developed collaboratively between the EPA and individual tribal grantees. They represent a shared understanding and commitment of long-term environmental priorities and the associated roles and responsibilities of the EPA and the tribal grantee. ETEPs define long-range tribal environmental program development priorities and inform funding decisions by linking ETEP goals to annual GAP assistance agreement work plans. The ETEPs and resulting grant work plans provide a mechanism for measuring tribal progress in meeting tribally defined program development goals, consistent with EPA-administered programs. The EPA plans to expand the number ETEPs to 66% of all tribes receiving GAP funds by the end of FY 2016, 70% by the end of FY 2017, and 100% by the end of FY 2018.
- In support of effective implementation of the Minamata Convention on Mercury, the EPA works with global partners to support the development and implementation of National Action Plans to reduce or eliminate the use of mercury in artisanal and small-scale gold mining. These plans are required to include approaches to formalization and regulation of the sector and strategies for involving stakeholders in the implementation of the plans. In FY 2015, the EPA supported the development and use of guidance to assist countries in

establishing these cross-ministry, multi-stakeholder plans to address the largest source of global mercury emissions.

- 8. Comments and Suggestions re: Reporting:** 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.

The U.S. Environmental Protection Agency noted specific challenges related to collecting cost and benefit information on ECCR in our response to question #2. Otherwise, collecting these data posed little difficulty. The EPA appreciates OMB/CEQ's collaborative spirit in developing the new ECCR annual report template for FY 2013, which was reused for FY 2014 and 2015 and addresses many of the issues with past templates.

***Please attach any additional information as warranted.***

Report due February 15, 2016.

Submit report electronically to: [ECRReports@omb.eop.gov](mailto:ECRReports@omb.eop.gov)

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

<b>Informed Commitment</b>	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
<b>Balanced, Voluntary Representation</b>	Ensure balanced inclusion of affected/concerned interests; all parties should be willing and able to participate and select their own representatives
<b>Group Autonomy</b>	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
<b>Informed Process</b>	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
<b>Accountability</b>	Participate in the process directly, fully, and in good faith; be accountable to all participants, as well as agency representatives and the public
<b>Openness</b>	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
<b>Timeliness</b>	Ensure timely decisions and outcomes
<b>Implementation</b>	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