

**National Oceanic and Atmospheric Administration
FY 2015 Report on Environmental Collaboration
and Conflict Resolution (ECCR)¹
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.”

¹ 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

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Date this report is being submitted:	February 12, 2015
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1. **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.]

Office of Program Planning & Integration (PPI) - PPI is revising NOAA's policy on implementing the National Environmental Policy Act (NEPA), which establishes NOAA policy and procedures for complying with NEPA. These procedures will encourage use of environmental collaboration and conflict resolution principles and strategies as described in the 2007 CEQ "Collaboration in NEPA" Handbook and from the U.S. Institute for Environmental Conflict Resolution.

National Marine Fisheries Service (NMFS) –

Sustainable Fisheries:

While Sustainable Fisheries does not use ECCR directly, the office engages in multiple types of unassisted negotiations as part of the nature of their work and supports these activities institutionally. For instance, the processes used in development of management plans and associated regulations under the Magnuson-Stevens Fisheries Management and Conservation Act (and within the NEPA process) require interaction and negotiation between Fishery Management Councils, states, constituents, and the NMFS Service. In working with the three Interstate Marine Fisheries Commissions (Commissions), NMFS Service participates in the Commission process, which includes discussions and negotiations by all parties. As such, Sustainable Fisheries has successful methods in place to reach out directly to individual states, other Federal agencies, organizations, constituents, and other groups.

Protected Resources:

Take Reduction Teams:

Protected Resources staff around the country interact with States and Tribes on matters such as the Pacific Salmon Recovery Planning under the Endangered Species Act (ESA) and Take Reduction Teams under the Marine Mammal Protection Act. Stakeholder meetings have been used (especially with Fishery Management Councils) to develop alternative Reasonable and Prudent Alternatives under Section 7 of the ESA. Protected Resources has contracted with one entity to facilitate all Take Reduction Team meetings to increase national consistency and reduce time associated with preparing for meetings, thereby reducing costs.

NMFS notes in 2015 that this facilitator has significantly helped the agency implement best practices developed in the prior year for effectively working with Teams and turning diverse viewpoints into consensus. NMFS convened 5 facilitated marine mammal take reduction team meetings in 2015. Consensus recommendations were developed at each of the meetings, pursuant to Marine Mammal Protection Act (MMPA) requirements. As one example of success, the Greater Atlantic Regional Fisheries Office convened a meeting of the Atlantic Large Whale Take Reduction Team (Team) during January 2015. The meeting utilized Environmental Conflict Resolution facilitation services. The facilitated meetings

included updating the Team on the most recent large whale abundance, distribution, and bycatch data; considering implications of recent trends; providing Team guidance on vertical line exemption proposals put forward by Massachusetts, Rhode Island and Maine state representatives, as well as a proposal by the conservation community for seasonal closures of Jeffreys Ledge and Jordan Basin; providing feedback on exemption concepts put forward by New Hampshire, Maine and Massachusetts state representatives; providing the Team with an overview of the upcoming regulatory Amendment 16 for the black sea bass fishery in Southeast; and Team guidance on future Team direction and initiatives, with a particular focus on monitoring results and Take Reduction plan effectiveness. The Team is made of staff from NOAA Fisheries, scientific institutions, environmental groups, and partner state and federal organizations, and affected members of the fishing industry. NOAA Fisheries, in consultation with the Team, amended the Plan in May 2015 to address exemption proposals put forward by Massachusetts, Rhode Island and Maine state representatives and the proposal provided by the conservation community for seasonal closures of Jeffreys Ledge and Jordan Basin.

Mississippi River Diversions Workshop:

An additional example of environmental collaboration and conflict resolution is the Southeast Regional protected resources office's October 2015 Adaptive Management and Social Impacts workshop on Mississippi River Diversions. There is strong interest by the state in diversions of the Mississippi River designed to mitigate coastal wetland loss or rebuild lost land. These diversions are deeply controversial, as many members of the environmental community are concerned about the resulting changes to the ecosystem (freshwater invading large areas and impacting dolphin health, for example). This workshop was a key opportunity for federal, state, and public partners to discuss the impacts of diversions and inform any future Corps of Engineers projects.

Columbia River Basin Partnership:

The National Marine Fisheries Service West Coast Region (WCR) is involved in a collaborative effort with sovereign and stakeholder partners in the Columbia River basin in the Pacific Northwest. Over the next five years, NMFS West Coast Region will be making a number of significant fishery management decisions in the Columbia River basin regarding the Endangered Species Act (ESA) and recovery of ESA-listed species. These decisions must consider the broad suite of regional interests, including tribal treaty and trust responsibilities, sustainable fisheries, and other federal obligations for salmon and steelhead and the water resources in the Basin. It is our goal that these decisions reflect regional views regarding salmon and steelhead recovery in the Basin.

To begin exploring those views, in 2012 the WCR commissioned two neutral, university-based institutions – the Oregon Consensus Program at Portland State University and the William D. Ruckelshaus Center at the University of Washington – to gather the views of Columbia Basin states, tribes, federal agencies, and stakeholders regarding long-term salmon recovery strategies. The Columbia Basin

Situation Assessment Report, completed in 2013, captures the range of their perspectives. The many voices reflected in the Assessment Report express considerable support for addressing the complexities of salmon recovery in a more coherent, integrated, and efficient way.

Since then, the WCR has announced our intent to establish the Columbia Basin Partnership to lead a science-based, results-driven, transparent, and publicly-embraced partnership to develop integrated goals for ESA-listed and non-listed Columbia Basin salmon and steelhead that integrate long-term conservation and harvest/fishing goals, and regional and local efforts. In 2015, the WCR has been working with a neutral facilitator to implement the collaborative process. In December 2015, the WCR met with sovereign representatives from each of the Northwest states and regional Tribes. Additional stakeholder involvement and educational workshops are planned for 2016 to establish a common foundation for moving forward on developing long-term goals.

ESA Joint Task Force:

Another example of successful third-party facilitated natural resource management decision making is a new process of incorporating a mediator and facilitator into the workings of the Endangered Species Act Joint Task Force (Task Force). The Task Force is composed of representatives from NMFS, U.S. Fish and Wildlife Service, and several state wildlife management agencies. The members of the Task Force are high-level administrators, and the Task Force seeks to find resolution to issues of concern and build stronger bridges in federal-state cooperation on the implementation of the Endangered Species Act. Over the past year, the Task Force has employed a third-party neutral facilitator to help structure and manage the work of the task force and facilitate strong communication between the members. This facilitator is aiding in the effectiveness of the Task Force and building momentum in the Task Force's progress toward its policy goals.

In 2015, one tangible product from this joint task force is a revised and updated Policy on Cooperation with the States under the ESA. This policy, first drafted in 1994, outlines the goals and methods of cooperation pursued by NOAA Fisheries and the U.S. Fish and Wildlife Service in cooperating with the states on implementation of the ESA. The states are pleased with the revised and updated policy, which was overdue as ESA implementation has involved since 1994.

MOU for a Collaborative Approach to Restoring Fish Passage by the California Fish Passage Forum:

In October 2015, NMFS West Coast Region (WCR) signed an MOU becoming a member of the California Fish Passage Forum. The mission of the Forum is to protect and revitalize anadromous fish populations in California by restoring connectivity of freshwater habitats throughout their historic range. The MOU is intended to contribute to the protection and recovery of aquatic life, with a particular focus on anadromous fish species in California, by promoting collaboration among public and private sectors on fish passage restoration programs and activities. This

MOU expires in December 2020.

A coordinated and comprehensive fish passage improvement program is fundamental to addressing fish passage barriers. The Forum, a consortium of federal, state, nonprofit and private sector organizations, was established in response to significant declines in coho salmon, Chinook salmon, and steelhead. At least one population of all of these species are federally listed as either threatened or endangered within California, and efforts are underway to recover their populations. In addition to the salmonid species listed above, the Forum recognizes the significant impacts of passage barriers to Pacific lamprey, green sturgeon, Klamath Basin Lost River Sucker, and Shortnose sucker.

This 2015 MOU stems from a decade of collaborative efforts to address fish passage. In 1996, NMFS, California Department of Fish and Game (now California Department Fish and Wildlife (CDFW)), among others, convened to work toward solutions for fish passage permitting, design, and funding issues in California. In 1999, the California Natural Resources Agency took a leadership role in this effort and worked with this group of interested state, local, and federal agencies, fisheries conservation groups, researchers, restoration contractors, and others to continue these efforts. The success of this initial coordination led to the establishment in 2005 of the California Fish Passage Forum, of which 13 agencies and organizations were members, including NMFS. The 2005 MOU expired on September 30, 2015, and in 2015 the Forum signatories went through the process of updating and renewing the MOU to reflect the changes that have occurred in the Forum over the past decade.

Objectives:

1. Remediate barriers to effective fish migration.
2. Facilitate coordination and communication among agencies, agency staff, and other entities that may propose, review, or promulgate fish passage criteria within California.
3. Identify, assess, and prioritize the removal of fish passage barriers.
4. Disseminate Federal and State guidelines and design criteria for replacement of barriers.
5. Coordinate funding mechanisms to remove fish passage barriers.
6. Promote State and Federal permit coordination and streamlining.
7. Facilitate plans to monitor and evaluate fish passage restoration effectiveness to ensure accountability.
8. Promote state and national policy that supports fish passage improvement in California.
9. Implement education and outreach activities, targeting both the general public and fish passage practitioners.

Signatories:

U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), Forest Service (USFS), Army Corps of Engineers (ACOE), CA Department

of Fish and Wildlife (CDFW), CA Department of Water Resources (DWR), CA Department of Transportation (Caltrans), CA State Coastal Conservancy, American Rivers, California Trout, and Pacific States Marine Fisheries Commission (PSMFC)

Habitat Conservation:

Community Engagement for Restoration of the Choptank River Complex, MD:

NOAA is providing the institutional capacity and information necessary to enable dialogue, create a common vision, and align public and private conservation programs in the Choptank River basin on Maryland's Eastern Shore, one of NOAA's ten Habitat Focus Areas recently designated nationwide. The Choptank River Complex designation reflects NOAA's commitment to a collaborative investment to restore estuarine habitats from a watershed approach, in response to the state/federal Chesapeake Bay Watershed Agreement's restoration goals, including those for restoring oyster reef habitat, a major objective of the Choptank Habitat Focus Area. Throughout the Chesapeake Bay, oyster abundance has fallen to less than one percent of its historic level with detrimental impacts to the Bay's ecology and to local communities and economies. The goals established for a self-sustaining oyster population face challenges from development pressures, agricultural nutrient pollution, oyster disease, historically high oyster harvest, and oyster reef habitat degradation.

NOAA recognized that long-term success associated with this conservation effort will require active and ongoing community engagement in the Choptank watershed. To facilitate such dialogue, NOAA is supporting a third party facilitator for an "Envision the Choptank" initiative beginning with forums that bring together a diverse mix of stakeholders (conservationists, watermen, farmers, elected officials, and other community groups) to share perspectives and create a common vision and community-driven solutions to meet conservation goals and ensure the sustainability of the Choptank River ecosystem. The resulting shared vision will ensure that solutions adapt as community/societal requirements change through time.

NOAA enlisted the expertise of a second private consulting firm to develop results-based accountability metrics that quantify progress towards conservation endpoints, enhance stakeholder understanding, and inspire a stewardship ethic towards outcomes associated with the Choptank Habitat Focus Area. These metrics were developed through collaboration with the Chesapeake Bay Watershed Agreement goal teams and "Envision the Choptank" participants. This method is being tested in the Choptank for possible national application in NOAA's nine other Habitat Focus Areas.

Science Centers:

Environmental conflict resolution is completed at each Science Center through a Stock Assessment Review Committee (official name of Committee varies by

region). This group usually meets twice annually to evaluate stock assessments for specific groups of commercial fish and shellfish stocks. The Committee is typically composed of a Chair (representing the Fishery Management Council's Scientific and Statistics Committee) and 3 independent reviewers from NOAA's Center for Independent Experts. The Committee deliberations are open public meetings and are typically attended by industry and NGO scientists. It is the Committee's job to review the assessments, consider comments from the participants in the meetings, and present to the Center their assessment of the quality of the assessment.

National Ocean Service (NOS) – NOS' Office of Ocean for Coastal Management (OCM) - OCM conducts various levels of conflict resolution and mediation as part of the Coastal Zone Management Act (CZMA) program, particularly related to CZMA "national interest" areas: Federal Consistency, Changes to State CZMA Programs, Native American and Alaska Native activities, military activities, etc. These may be resolved through informal phone calls and emails or more formal processes agreed to by the parties. In FY2015, issues were informally resolved through collaborative processes. NOS's National Centers for Coastal Ocean Science (NCCOS) does not directly conduct third-party neutral assistance during environmental collaboration and environmental conflict resolution. However, NCCOS does conduct research nationwide on coastal ecosystems and coordinates with other Federal agencies, States, Tribes, local governments, and coastal managers to provide the scientific information they need to make decisions about their coasts. This scientific information may be used in potential environmental conflict situations. Some examples of how this science is used includes: Harmful Algal Bloom (HAB) assays for shellfish safety (NW tribes); Benthic and fauna coastal mapping for offshore wind farm sighting (NY); and Impact of pollution on fish populations (therefore fish management plans and catch limits).

Oceanic and Atmospheric Research (OAR) –

a. OAR continues to work through its National NEPA Coordinator and NEPA Compliance Team to ensure a consistent approach to environmental compliance across its Laboratories, Program Offices, and Staff Offices. NEPA is used within OAR as an overarching approach to environmental compliance, which includes conflict management and strategic planning. OAR has completed memoranda documenting applicability of categorical exclusions (CE) in NAO 216-6 for the majority of its routine administrative and program functions that hold no potential for significant environmental impacts. These memos include a process for consistently evaluating the appropriateness of future actions for inclusion in a CE. OAR also implemented an electronic document archive for its NEPA compliance documents.

b. OAR published a technical memorandum summarizing its NEPA implementation improvement efforts through 2014. The document is available at docs.lib.noaa.gov/noaa_documents/OAR/PPE/TM_PPE/PPE_6.pdf

National Environmental Satellite Data and Information Service (NESDIS) –

For the past six years, NESDIS has not been contacted by outside entities that would require initiating a formal ECCR response, nor that would require the need to develop formal capacity for such activity within NESDIS.

However, the ECCR concept is addressed through fully embracing an approach to environmental planning and compliance to practice aggressive risk management from project inception and with daily operations. For example, NESDIS routinely accomplishes reviews in accordance with the NEPA, and other relevant laws, early in construction planning phases to research alternatives, correspond with stakeholders, and identify potential issues of concern. NESDIS adopts a similar approach to environmental compliance issues.

A NESDIS Environmental Management Program goal is to practice good environmental stewardship as part of mission accomplishment. NESDIS relies on multi-media audits, inspections, and site visits to ensure environmental compliance. To meet this goal, development of a NESDIS-wide Environmental Management Plan (EMP) is currently underway. The EMP will support NESDIS Headquarters staff and Program Offices staff in program planning, project planning, and daily operations.

Another NESDIS Environmental Management Program goal is to accomplish an appropriate level of NEPA evaluation for all of its major actions in an effort to identify potential conflicts early in project planning stages. NEPA and good environmental stewardship will be two of the topics covered by the EMP.

NESDIS strives to educate all staff on the importance of thorough and collaborative NEPA review and on issue related to environmental compliance. This is, perhaps, the most important aspect of strong environmental compliance and NEPA programs.

During the NEPA process, NESDIS often provides information to outside agencies beyond the minimum required effort. This includes groups such as local Indian tribes, and local and state governments, near to, or otherwise associated with our various office locations.

To date, these practices and courtesies have developed good professional relationships with our stakeholders. This has prevented conflicts from arising, and hence the need for having a formal ECCR capacity within NESDIS.

National Weather Service (NWS) - Leadership, project managers and staff are aware of and utilize the ECCR process. The use of the ECCR is dependent on existing conditions for new site construction or renovations of existing facilities. There were no specific instances to highlight over the past five-year period (FY 2011 through FY 2015).

The NWS routinely implements the NEPA evaluation process early in the construction/renovation planning phase to identify any potential issues. NWS consults with other experts, such as the NOAA Office of Program Planning and

Integration (PPI), NOAA General Counsel, and other NWS internal experts located in various regional offices.

Progress and evaluation of current and proposed projects is a topic discussed at the NWS Facility Management Bi-Monthly teleconferences. This forum allows for open discussion of potential items that may warrant use of the ECCR process and possible mitigation measures. NWS strives to reduce, minimize, or eliminate conflicts by early identification of potential problem areas, use of the NEPA process, involvement of knowledgeable staff, and ongoing project review and analysis.

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.

NMFS - Overall, the NMFS participates in ECCR processes if such a process is proposed by a Federal action agency or is found to provide benefits (identified in Section 1(a) of the OMB-CEQ ECR Policy Memo) over existing appeal, elevation, and referral protocols established under the aforementioned laws. For example, the Office of Protected Resources always uses an ECCR process for Marine Mammal Protection Act Take Reduction Teams and often uses the process in difficult Endangered Species Act negotiations. The MMPA requires that Marine Mammal Take Reduction Plans be developed by consensus. ECCR is critical for achieving that consensus with diverse stakeholders. The consensus recommendations from these teams form the basis for NMFS regulations to reduce marine mammal bycatch in commercial fisheries, thereby achieving the goals of the MMPA.

NOS - NOS' OCM does not provide a separate budget for ECCR activities or hiring neutrals. However, mediation and conflict resolution are important components of Position descriptions for OCM's Senior Policy Analyst/National Interest Team Lead and OCM's Federal Consistency Specialist. Both of these positions have attended mediation classes through the agency and Alternative Dispute Resolution courses during law school. At any given time, approximately .25-.75 percent of both the Senior Policy Analyst and Federal Consistency Specialist's time may be spent on conflict resolution activities. The science provided by NOS's NCCOS may result in cost savings for information users and can improve and inform agency environmental and natural resource planning efforts.

NESDIS - As described in Question 1, there have been no concerns or issues identified where NESDIS would require the development of an ECCR capacity. Still, intangible benefits do exist from our proactive, collaborative approach to natural resource management. For example, we've experienced benefits from collaborating with host land tenants to produce mutually acceptable NEPA review documents for NESDIS-sponsored projects. It is difficult to quantify these benefits, but cost avoidance (time and funds) for maintaining positive host-tenant relationships is real, garnered through the NESDIS commitment to cooperative efforts for environmental compliance.

NWS - Economic analysis is conducted for projects to determine the net present values for different construction options. This data can be retrieved to provide a general analysis of cost avoidance and net savings related to the implementation

of the ECCR process. There have been no instances where the ECCR process was used between FY 2011 through FY 2015.

- 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.

NMFS - While it is difficult to quantify investments and results from ECCR activities the agency engaged in during FY 2015, qualitative results are demonstrated by positive outcomes generated through these processes and described in the case study portions of this report. Where a positive outcome involves the eventual cessation of litigation on a particular regulatory matter, benefits are expected to accrue in reduced hours spent by staff, leadership, and counsel on litigation preparation, planning, and record production.

ECCR can also be quantified through the number of times it was used during FY 2015. For instance, ECCR was used to help facilitate marine mammal take reduction teams in multiple meetings.

NESDIS - NESDIS collaborated with staff of the National Park Service (NPS) in Denali, Alaska for installing a Climate Reference Network (CRN) Station at the Wonder Lake Denali National Park and Preserve. By working with the NPS, we estimate a real cost avoidance of \$80,000 - \$150,000, or almost one-third of the cost of the project. This cost avoidance was not obtained through an ECCR process.

The NPS conducted an Environmental Assessment for the effort. This turned out to be a wise process. The NPS Denali staff were aware of public resistance for installing scientific equipment, even though the CRN Station would replace some old, unsightly equipment. NESDIS was not aware of such public concerns.

Key to the success of the collaboration with the NPS was respecting their expertise, and then using their products, as published, to assist in accomplishing NESDIS' independent NEPA review.

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

NMFS - Because it is not possible to determine whether a particular case of ECCR avoided litigation or reduced staff time needed for discussions on a particular issue, it is difficult to quantify those forms of cost savings resulting from ECCR. Rather, the agency addresses the benefits realized from ECCR through qualitative positive outcomes from its use.

In addition, a time lag exists between the time ECCR is used and the time benefits are realized under natural resource management regulatory cycles. The federal rulemaking process and eventual gains to the ecosystem can take several years. However, the agency frequently captures the benefits of effective regulation and management through economic studies and ecosystem valuation efforts.

5. **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 ²	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or projects completed ³	ECCR Cases or Projects sponsored ⁴	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	<u> 7 </u>	<u> 7 </u>	<u> </u>	<u> </u>	<u> </u>	<u> 7 </u>	<u> 7 </u>	<u> </u>	<u> 7 </u>
Planning	<u> 2 </u>	<u> 2 </u>	<u> </u>	<u> </u>	<u> </u>	<u> 2 </u>	<u> 2 </u>	<u> </u>	<u> 2 </u>
Siting and construction	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Rulemaking	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
License and permit issuance	<u> 1 </u>	<u> 1 </u>	<u> </u>	<u> </u>	<u> </u>	<u> 1 </u>	<u> 1 </u>	<u> </u>	<u> 1 </u>
Compliance and enforcement action	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Implementation/monitoring agreements	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Other (specify): _____	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL	<u> 10 </u>	<u> 10 </u>	<u> </u>	<u> </u>	<u> </u>	<u> 10 </u>	<u> 10 </u>	<u> </u>	<u> 10 </u>
		(the sum of the Decision Making Forums should equal Total FY 2015 ECCR Cases)							

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

³ 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.

⁴ 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.

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
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
Please see case examples provide above for NMFS.
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
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
Reflections on the lessons learned from the use of ECCR

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

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.

NMFS - NMFS engages in multiple types of negotiations as part of our regulatory program under the Magnuson-Stevens Act (MSA). Our collaboration with the regional Fishery Management Councils is a key part of our work in the conservation and management of the nation's marine resources. The agency frequently interacts with the Councils (who are composed of representatives of states, the commercial and recreational fishing sectors, and environmental, academic, and federal government interests) and conducts public hearings with stakeholders.

In addition, the agency frequently addresses cross-cutting challenges -- for instance in the offshore energy development arena -- by acting as a cooperating agency for the development of Environmental Impact Statements and through consistent staff and leadership meetings on issues of concern.

NOS – NOS' NCCOS utilizes the NEPA evaluation process for scientific research projects. This process assists management in identifying and addressing potential conflicts and with prioritizing research needs prior to making a final decision. This process includes an evaluation of applicability compliance requirements and consultation with regulatory authorities. For example ESA, MMPA, National Marine Sanctuary Act (NMSA), and MSA.

NWS - The NEPA evaluation process is used for all projects. This process assists management in identifying potential conflicts early in the project

planning stages. Where potential conflicts arise, early identification allows the NWS to develop strategies to minimize or eliminate the conflicts.

The NWS Safety and Environmental staff completed an update of the NWS Environmental Management Manual, NWSM 50-1116, in January 2013. The update included review of Procedure 14, *National Environmental Protection Act*, with references to the NOAA NAO 216-6.

The NWS NEPA Coordinator participates in the quarterly Line Office (LO) NEPA Coordinators meetings, which provides a mechanism for the LO to stay informed of emerging NEPA issues and the agency's strategy for addressing compliance.

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.*

NMFS - In FY15, NOAA Fisheries completed the development of a Safe Harbor Agreement with Sonoma County water users. This document will be signed and finalized in early March 2016. The agreement represents the culmination of several years of discussions mediated by the local water board and involving public meetings with all key constituents and water users. Safe Harbor Agreements are flexible tools under the Endangered Species Act that establish voluntary conservation programs adopted by landowners, in return for coverage for take of listed species and for assurances that federal management will remain unchanged while the agreement is in force. Safe Harbor Agreements are developed in a public process involving engagement with individual landowners, typically coordinated through local institutions. The Sonoma Safe Harbor Agreement is the first such agreement completed by NOAA Fisheries, representing a landmark use of this flexible, adaptive ESA instrument by our agency.

NOS - NOS' NCCOS routinely consults and collaborates with coastal decision makers, scientists, and government agencies regarding their scientific information needs. This interaction includes MOUs and public engagement and leads to a better understanding of the scientific information provided by NCCOS.

NESDIS - In Question #1, "ECCR Capacity Building Progress," above, NESDIS stated its proactive stance towards collaborative efforts in natural resource management.

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.

NESDIS - Suggestion: Provide a row in the table in Question 3 for non-third party, voluntary, or non-ECCR resolution efforts. This would show that positive work is being accomplished without the need of third-parties, and would help to show that ECCR has become, or is becoming, operationalized. With such data, one might conclude that ECCR is a positive program with real impact and results. As a note, collecting cost avoidance in these cases might be less than productive with current levels of agency resources, and for the level of accuracy such estimates might lack. Just listing the occurrences would be enough.

Please attach any additional information as warranted.

Report due February 15, 2016.

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

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

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