FY 2016 TEMPLATE
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 10th year of reporting in accordance with the memo for activities in FY 2016.

The report deadline is February 24, 2017.

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 2016 report, along with previous reports, will establish a useful baseline for your department or agency. 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 2016 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 13 ECR Report Template

Name of Department/Agency responding:	__National Oceanic and Atmospheric Administration (NOAA)_____
Name and Title/Position of person responding:	__Rachel Lipsy / NEPA Specialist_____
Division/Office of person responding:	_General Counsel, Environmental Review and Coordination____
Contact information (phone/email):	_ rachel.lipsy@noaa.gov, 240-533-0532_____
Date this report is being submitted:	_2/24/2017_____
Name of ECR Forum Representative	_Katherine Renshaw_____

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 2016, including progress made since FY 2012. 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.]

GC Environmental Review and Coordination

The NOAA Office of the General Counsel, Environmental Review and Coordination Section (EC&R) has launched an initiative to develop a more robust NOAA-wide ECCR program. As such, EC&R began surveying all of NOAA's line offices to determine the extent of NOAA's current use of ECCR. This survey will highlight in what contexts NOAA uses ECCR, how effective ECCR has been in accomplishing NOAA's statutory missions, and where NOAA can best use ECCR as an effective problem-solving tool. Upon completion of the survey work, EC&R plans to develop a NOAA-wide ECCR policy that will incorporate existing ECCR programs within NOAA and provide resources and guidance for all NOAA offices as to when ECCR is an appropriate problem-solving tool and, if appropriate, how to use ECCR to help accomplish their mission. EC&R also intends, as part of NOAA's ECCR program, to create a training program to develop a cadre of NOAA employees as ECCR facilitators. Once trained, such employees could use their ECCR skills or collaborate with similarly trained ECCR facilitators from other Federal agencies to mediate both internal and external disputes involving NOAA.

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 FY2016, 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 assays for shellfish safety, Benthic and fauna coastal mapping for offshore wind farm sighting; and Impact of pollution on fish populations (therefore fish management plans and catch limits).

Additionally, NOS Program Offices have hired new staff for environmental compliance (Environmental Compliance Coordinators), developed environmental compliance handbooks, implemented NOS environmental compliance policy, and are developing/participating in environmental compliance training.

National Marine Fisheries Service

Sustainable Fisheries:

While NOAA Fisheries Sustainable Fisheries work does not use ECR directly, this program area engages in multiple types of unassisted negotiations as part of the nature of their work and supports these activities institutionally. The processes used to develop fishery management plans and regulations under the Magnuson-Stevens Fisheries Management and Conservation Act establishes a mechanism for interaction and negotiation through the eight regional Fishery Management Councils. The Act established the Councils to bring together federal and state government representatives, commercial and recreational fishing interests, and others constituents to determine how to manage regional fisheries in accordance with the standards set in the Magnuson-Stevens Act. Stakeholders and fishery managers also engage and problem solve through Council Science Committees and other Advisory Panels. For the Atlantic Highly Migratory Species directly managed by the Secretary of Commerce, NOAA uses a professional facilitator to assist with biannual Advisory Panel meetings. Working with the three Interstate Marine Fisheries Commissions (Commissions), NOAA Fisheries engages directly with state partners through the Commission processes, which includes discussions and negotiations by all parties. Through these mechanisms, Sustainable Fisheries has successful methods in place to reach out directly to individual states, other Federal agencies, organizations, constituents, and other groups.

Aquaculture:

The Aquaculture Program engages in multiple types of unassisted negotiations as part of the nature of their work and supports these activities institutionally. Some examples include:

- The processes used to publish regulations to implement a fishery management plan for aquaculture in the Gulf of Mexico involved interaction and negotiation between Fishery Management Councils, states, constituents, and the NMFS Service. A similar process was initiated in the Pacific Islands and is expected to be completed in 2017.
- In the northeast, NOAA Fisheries engaged with stakeholders to discuss ways to quantify, minimize, and mitigate entanglement risk from offshore longline aquaculture operation to whales and turtles
- In Southern California, NOAA Fisheries has been actively engaged in negotiation with the aquaculture industry, U.S. Navy, and others to address issues in siting offshore aquaculture operations in the area.
- In the Northwest, NOAA Fisheries is engaged in discussions with the state of Washington and local landowners to address concerns related to siting aquaculture operations in Puget Sound.

Habitat Conservation:

Advancing Restoration, Collective Impact, and Education in the Choptank River Habitat Focus Area, MD:

NOAA has continued its cooperative partnership for large-scale shellfish habitat restoration in Chesapeake Bay, through funding and technical assistance for a public/private, state/federal oyster reef restoration partnership. In FY 2016, NOAA released a progress report on the largest oyster restoration effort in the country in the Choptank River Habitat Focus Area in Maryland. Monitoring results in 2016 indicate that the survival of baby oysters planted on all of the reefs in 2012 met the threshold for restoration success. These results were essential in gaining public trust on the value of the project and in reaching state and federal consensus to continue the next phase of the oyster restoration program.

NOAA also made progress in 2016 supporting two parallel efforts. The first, Envision the Choptank, is bringing together diverse local interests and values for a collective vision for a cleaner fishable, swimmable Choptank ecosystem and stronger community wellbeing. Its strengthened steering committee, equipped with a Conservation Atlas GIS tool completed in 2016 and a community assessment getting underway, will now be able to define a common vision and priorities for a revitalized Choptank River and community. The second collaborative effort is NOAA support in 2016 for Audubon Maryland-DC's local Pickering Creek Center and the Sultana Education Foundation to integrate NOAA habitat science into county planning documents, environmental literacy curriculum, and teacher training programs.

Protected Resources:

Protected Resources staff around the country interact with States and Tribes in matters such as Pacific Salmon Recovery Planning under the Endangered Species Act (ESA) and Take Reduction Teams under the Marine Mammal Protection Act (MMPA). Stakeholder meetings have been used (especially with Fishery Management Councils) to develop alternative Reasonable and Prudent Alternatives under Section 7 of the ESA.

Take Reduction Teams:

Protected Resources has contracted with one entity to facilitate all Take Reduction Team meetings to increase national consistency and to reduce time associated with preparing for meetings, thereby reducing costs.

NMFS notes in 2016 that this facilitator has significantly helped the agency implement best practices for effectively working with Teams and turning diverse

viewpoints into consensus. NMFS convened 4 facilitated marine mammal take reduction team meetings in 2016. Consensus recommendations were developed at each of the meetings, pursuant to MMPA requirements. As one example of success, the Southeast Regional Office convened two meetings of the Atlantic Pelagic Longline Take Reduction Team (Team) during 2016. The meeting utilized Environmental Conflict Resolution facilitation services. The facilitated meetings included updating the Team on mainline length analyses that indicated the original consensus recommendation from the December 2015 meeting would not result in a conservation benefit, and allowing the Team to revisit its recommendation regarding mainline length and consider possible ways to modify the recommendation to achieve the desired conservation benefit. The Team convened twice and provided a new consensus recommendation for the mainline length requirement. The Team is made up 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, is developing a proposed rule based on the revised recommendations put forward by the Team.

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.

This effort led to the creation of the Columbia Basin Partnership Task Force (CBP Task Force) in 2016 under NMFS' Marine Fisheries Advisory Committee (MAFAC). The purpose of the CBP Task Force is to develop long-term goals for Columbia Basin salmon and steelhead that reflect both conservation and

fisheries aspirations.

As part of MAFAC, the CBP Task Force is governed by the Federal Advisory Committee Act and includes 28 members of regional stakeholders, states and Tribes. It is facilitated by a third-party, neutral facilitator. The CBP Task Force held its first formal meeting in January, 2017. It is anticipated that its work towards collaboratively developing long-term salmon goals will continue for two years.

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, FWS, 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.

Facilitated Meeting on Large Whales

Protected Resources science and management staff work to solve many challenging issues while implementing the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). On rare occasions, the two groups reach an impasse on choosing the best strategy to protect, conserve, and recover species protected under the ESA and MMPA. The large whale teams from the Greater Atlantic Regional Fisheries Office and Northeast Fisheries Science Center experienced such an impasse. The two programs utilized NOAA's Alternative Dispute Resolution Program (ADR) to resolve this conflict so as not to impede productivity or have a negative impact on the work environment.

Given the high volume of commercial fishing and shipping activity that overlap with large whales and their habitats within the Northeast and Mid-Atlantic and coupled with fluctuating resources, it was imperative that the two teams convene a meeting to coordinate and prioritize their respective large whale recovery activities. This meeting provided a venue for the teams to take stock of the current effectiveness of their current activities and better plan for future

activities given the variability of the resources. The teams shared information regarding the latest large whale science and management initiatives and used this dialogue to better understand the drivers and rationale for their respective programs, which assisted in the development of a more focused and coordinated plan and funding strategy to address the primary focus areas for advancing large whale recovery efforts in the Northeast and Mid-Atlantic.

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.

Oceanic and Atmospheric Research (OAR)

OAR continues to embrace NEPA as a strategic planning and decision-making tool, including as a means to inform and engage stakeholders and the public early in our major federal actions. This approach allows for identification and resolution of potential conflicts early in the project planning and decision-making processes. OAR often operates in partnership (such as through memoranda of agreement) with other NOAA Line Offices, other federal agencies, and state institutions in pursuit of its mission goals. Through these partnerships, OAR establishes and maintains trust in its programs and decisions.

OAR revised its NEPA Policy subsequent to revision of the NOAA Administrative Order for implementing NEPA (NAO 216-6A) to clarify roles and responsibilities for compliance within OAR. OAR is developing formal guidance for implementing its NEPA Policy and the NOAA-level guidance (NAO 216-6A Companion Manual) to facilitate a consistent approach across our Laboratories and Program Offices.

Office of Marine and Aviation Operations

OMAO participated in the Arctic Encounter Symposium in January 2016 in an attempt to understand how vessel operations conducted in the Polar regions would affect scientific research operations in areas above the 60 degree line of latitude in the wake of new and restrictive safety and environmental regulations instituted by the IMO. Moreover a significant component of the OMAO effort was dedicated to understanding the potential environmental impacts to ecosystems, aquatic life, Ozone levels, and challenges affecting native tribes and municipalities due to the increased shipping traffic. Special attention was

made by OMAO to understand the perspectives of native residents to develop strategies that would minimize the occurrence of negative incidents while conducting scientific operations.

National Environmental Satellite, Data, and Information Service (NESDIS)

In NESDIS, ECCR 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:

- A NESDIS Environmental Management Program goal is to practice good environmental stewardship as part of mission accomplishment. To operationalize this goal, Phase 2 of the NESDIS-wide Environmental Management Plan (EMP) is currently in development. The EMP will support NESDIS Headquarters staff and Program Offices staff in program planning, project planning, and daily operations.
- A NESDIS EMP goal is to support the NESDIS policy and practice to accomplish reviews in accordance with the National Environmental Policy Act (NEPA), and other relevant laws, early in project planning phases to research alternatives, correspond with stakeholders, and identify potential issues of concern.
- During the NEPA process, NESDIS routinely provides information to outside agencies beyond the minimum required effort. This include groups such as local Indian tribes and local and state governments, near to, or otherwise associated with our various office locations.
- 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.
- NESDIS adopts a similar approach to environmental compliance issues. Operationally, NESDIS relies on multi-media audits, inspections, and site visits to ensure environmental compliance.
- NESDIS responds quickly to enquiries pertaining to existing practices that have the perception of potentially adversely affecting the environment.

To date, these practices and courtesies helped NESDIS develop a good professional relationships with our stakeholders. This has prevented conflicts from arising, and hence the need for having an 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 2012 through FY 2016).

The NWS routinely implements the National Environmental Policy Act (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.

GC Environmental Review and Coordination

Investments in ECCR after developing an ECCR program include more trained ECCR-savvy employees that can use their skills to mediate internal and external disputes involving NOAA. Investments in ECCR would also include providing resources, such as a listing of non-NOAA employees trained in ECCR techniques, that NOAA could use should an ECCR-trained NOAA employee be unable, unwilling, or unsuited for mediating a particular conflict involving NOAA. Having both a pool of internally ECCR trained NOAA employees and non-NOAA employees would provide more opportunities for NOAA to resolve a conflict before litigation may result.

National Ocean Service (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.

NOS Program Offices have been working on improving relationships across their Line Office and others within NOAA to efficiently analyze proposed projects and how they may potentially impact NOAA Trust Resources.

Also, the science provided by NOS's NCCOS and other Program Offices may result in cost savings for information users and can improve and inform agency environmental and natural resource planning efforts.

National Marine Fisheries Service

Overall, the NMFS participates in ECR 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 ECR process

for Marine Mammal Protection Act Take Reduction Teams and often uses the process in difficult Endangered Species Act-related 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.

Oceanic and Atmospheric Research (OAR)

OAR projects have not resulted in conflicts regarding the environment, public lands, or natural resources. Thus, OAR has not needed to use ECCR and has not needed to invest in or develop a dedicated budget for using third-party assistance to resolve conflicts.

Office of Marine and Aviation Operations

OMAO spent $75K on an Environmental Compliance (NEPA) Contractor to ensure that our actions were in keeping with the requirements of the NEPA. OMAO also took steps to hire an environmental compliance specialist for the Marine Fleet. That person will be in charge of policy development for all marine related environmental compliance issues.

SECD and STEM have worked together to stay abreast of the changing requirements related to their Vessel General Permits (VGP) in accordance with the National Pollutant Discharge Elimination System (NPDES) which closely regulates and minimizes discharges of pollutants from our vessels. OMAO worked to develop strategies for the management and safe transfer of ballast water through establishment of procedures and long term planning to obtain special equipment for processing the effluent.

Training provided to SECD personnel increased skilled human resources to provide capability to conduct comprehensive internal investigations of environmental incidents that resulted in cost-saving corrective actions, training to the fleet in best practices, updating of NOAA internal oil pollution prevention based procedures, and a number of lessons learned.

National Environmental Satellite, Data, and Information Service (NESDIS)

As described in Question 1, no concerns or issues have arisen 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, and our stakeholders appreciate the NESDIS commitment to collaborative efforts.

National Weather Service (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 2012 through FY 2016.

b) Please report any (a) quantitative or qualitative investments your agency captured during FY 2016; and (b) quantitative or qualitative results (benefits) you have captured during FY 2016.

National Ocean Service (NOS)

NOS hired a FTE Environmental Protection Specialists in CO-OPS, ORR, and NCCOS in addition to establishing FTE Environmental Compliance Coordinators in OCM, OCS, NGS, and ONMS. IOOS and the NOS/AA have full-time contracted support for environmental compliance.

National Marine Fisheries Service

While it is difficult to quantify investments and results from ECCR activities the agency engaged in during FY 2016, 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 2016. For instance, ECCR was used to help facilitate marine mammal take reduction teams in multiple meetings.

Office of Marine and Aviation Operations

Give amount of reduction in Enviro Compliance Issues within our fleet as noted during annual fleet inspections. Conducted Oil Record Book training for all CO, ECO, and CME assigned to NOAA's fleet of ORVs. In FY16 more emphasis, time, and resources were directed towards training on how to evaluate oil spill response and develop metrics to focus on areas of improvement for the NOAA research vessel fleet. Environmental Compliance Officer training was held for more than a dozen junior and mid-grade NOAA Corps Officers as well as wage mariners. Increased focus by SECD's fleet inspection team conducting operational testing of vessel oily water separators provided invaluable training to compliance personnel as well as key lessons learned to maximize system uptime and optimizing maintenance requirements.

Vessel personnel increased focus on solid waste management processes to meet requirements specified in MARPOL Annex V especially for vessels operating in the Wider Caribbean designated special area. Specifically, focused training and attention was promulgated to ensure proper log entries are recorded into the Garbage Record Book and Ozone Depleting Substances log in accordance with the resolutions issued by the International Maritime Organization and best practice seminars given by contracted subject matter experts.

National Environmental Satellite, Data, and Information Service (NESDIS)

None directly related to ECCR. However, our office sees progress through increased education of staff with respect to NEPA within our Program Offices. This relates to the NESDIS policy and continued outreach efforts described in Question 1, above.

National Weather Service (NWS)

No instances in FY 2016.

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

National Ocean Service (NOS)

N/A- There have not been any cost/benefit information difficulties encountered.

National Marine Fisheries Service

As 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.

Office of Marine and Aviation Operations

The scope of the required NEPA compliance efforts has been difficult to quantify. OMAO has made efforts to work with other Lines and to benchmark

their NEPA compliance efforts thus ensuring consistent implementation of the NEPA requirements with respect to several distinct mission areas. Additionally OMAO has begun efforts to complete NEPA analysis of non- mission related transits by its platforms. This effort represents an area of compliance that is sprawling, complex, and at times uncertain. We are attempting to draft documents which are representative of the numerous options for task completion which were considered. Most importantly OMAO plans to show how the option which presented the least harmful impact to the affected area, species, or concern.

The initiative to develop a vessel Fleet Information System (FIS) to capture live metrics that can be utilized to measure the fleet's environmental health and the safe operation of mobile platforms should continue at a more robust pace. So far only a general requirements document has been developed by an outside consultant. Now the requirements will be evaluated, defined, verified by key OMAO stakeholders. Additional funding will be needed with an increased emphasis on developing requirements and then instituting processes to capture and then measure the data NOAA and OMAO needs to conduct safe and environmentally responsible operations.

National Environmental Satellite, Data, and Information Service (NESDIS)

None.

National Weather Service (NWS)

No instances in FY 2016.

5. **ECCR Use:** Describe the level of ECCR use within your department/agency in FY 2016 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 2016 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
Context for ECCR Applications:										
Policy development	_11___	__10___	_____	_____	_____		_10____	_10____	__1___	__9___
Planning	_1____	_____	_____	_____	_____		_____	_____	_____	_____
Siting and construction	__2___	_2____	_____	_____	_____		___2__	__2___	_____	__2___
Rulemaking	__4___	__4___	_____	_____	_____		___3__	__4___	_____	__4___
License and permit issuance	__2___	__1___	_____	_____	_____		___1__	__1___	_____	___1__
Compliance and enforcement action	__1___	_____	_____	_____	__1__	awaren ess	__1___	__1___	_____	__1___
Implementation/monitoring agreements	_____	_____	_____	_____	_____		_____	_____	_____	_____
Other (specify): _____	_____	_____	_____	_____	_____		_____	_____	_____	_____
TOTAL	**__21__**	**___17__**	_____	_____	**_1___**		**__17___**	**_18____**	**__1___**	**__17___**
		(the sum of the Decision Making Forums should equal **Total FY 2016 ECCR Cases**)								

[2] An "ECCR case" is a case in which a third-party neutral was active in a particular matter during FY 2016.

[3] A "completed case" means that neutral third party involvement in a particular ECCR case ended during FY 2016. 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 2016 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2016 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 2016 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 2016). 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
National Ocean Service (NOS) N/A **National Marine Fisheries Service** Please see the examples noted under Question 1. **National Environmental Satellite, Data, and Information Service (NESDIS)** NESDIS encountered no ECCR cases in FY 2016. **National Weather Service (NWS)** There were no instances of construction or rehabilitation projects in FY 2016 that required the use of the ECCR process.
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.

National Ocean Service (NOS)

NOS utilizes the NEPA evaluation process for scientific research projects and mission activities. 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.

Additionally, NOS holds monthly environmental compliance workgroup meetings and attends cross-line office meeting as needed.

National Marine Fisheries Service

NMFS engages in multiple types of negotiations as part of our regulatory program under the Magnuson-Stevens Act. 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.

National Environmental Satellite, Data, and Information Service (NESDIS)

No emerging areas of conflict or cross-cutting challenges are known to exist for program activities or tasks that NESDIS has initiated or is pursuing. The proactive, collaborative approach NESDIS uses, as described in a previous answers, is also applied to the areas captured in this question.

National Weather Service (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, and dated May 23, 2016. The update included review of Procedure 14, *National Environmental Protection Act*, with references to the NOAA NAO 216-6 (and subsequent revision 216-6A).

The NWS Safety and Environmental staff was also involved in the revisions to NAO 216-6A, development of the Companion Manual, and revisions to the Categorical Exclusions (CE). The NWS NEPA Coordinator regularly participates in the 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 2016 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.*

National Ocean Service (NOS)

NOS continued to collaborate on environmental compliance across its Program Offices. For example, CO-OPS has continued partnerships with other federal agencies on data standards and water level station requirements (USGS/ USACE/ NPS/) as outlined in collaborative Agreements. Additionally, 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.

National Environmental Satellite, Data, and Information Service (NESDIS)

NESDIS actively participates in NOAA policy and program improvement efforts, and maintains a high level of communications with NEPA counterparts of other Line Offices within NOAA. This collaboration strengthens mutual knowledge and smooths variances in application among our Line Office NEPA colleagues. It fosters communication and cooperation with the NOAA NEPA Office. For example, Line Office NEPA Coordinators were very active in the process to update NOAA NEPA policies and procedures successfully accomplished by the NOAA NEPA Coordinator this past year.

National Weather Service (NWS)

There were no opportunities for third-party-assisted collaboration in FY 2016.

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.

National Marine Fisheries Service

NMFS finds it challenging to fill out this reporting document. As noted earlier, many of the uses and results of ECCR are difficult to quantify, and as such, a comprehensive analysis of the number of instances and costs of using ECCR is not possible. Rather than compiling this report, it would be helpful if OMB to pursued other methods of encouraging use of ECCR across the federal government. For example, distribution of resources on use of ECCR, connections to ECCR third-party neutral providers, or trainings on when and how to use ECCR, would be valuable.

National Weather Service (NWS)

No difficulties were encountered. Information was collected by contacting NWS project managers, Regional and Staff Office Environmental/Safety Coordinators, and review of project files.

Please attach any additional information as warranted.

Report due February 24, 2017.
Submit report electronically to: kavanaugh@udall.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