

FY 2017 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 in accordance with the memo for activities in FY 2017.

The report deadline is February 23, 2018.

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 2017 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 2017 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/FederalECPolicy/AnnualECRReport.aspx>

FY 17 ECCR Report Template

Name of Department/Agency responding:	<u>The National Guard Bureau (NGB)</u>
Name and Title/Position of person responding:	<u>Karen White, ADR Specialist/Mediator</u>
Division/Office of person responding:	<u>NG-EEO-ADR</u>
Contact information (phone/email):	<u>(703) 607-0770/ Karen.a.white54.civ@mail.mil</u>
Date this report is being submitted:	<u>8 February 2018</u>
Name of ECR Forum Representative	<u>N/A</u>

- 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 2017, including progress made since FY 2016. 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.]

Non-Third Party assistance Collaboration Processes..

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.

N/A

- b) Please report any (a) quantitative or qualitative investments your agency captured during FY 2017; and (b) quantitative or qualitative results (benefits) you have captured during FY 2017.

N/A

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

N/A

3. **ECCR Use:** Describe the level of ECCR use within your department/agency in FY 2017 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 2017 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	__0__	_____	_____	_____	_____	_____	_____	_____	_____
Planning	__0__	_____	_____	_____	_____	_____	_____	_____	_____
Siting and construction	__0__	_____	_____	_____	_____	_____	_____	_____	_____
Rulemaking	__0__	_____	_____	_____	_____	_____	_____	_____	_____
License and permit issuance	__0__	_____	_____	_____	_____	_____	_____	_____	_____
Compliance and enforcement action	__0__	_____	_____	_____	_____	_____	_____	_____	_____
Implementation/monitoring agreements	__0__	_____	_____	_____	_____	_____	_____	_____	_____
Other (specify): <u>__N/A__</u>	__0__	_____	_____	_____	_____	_____	_____	_____	_____
TOTAL	__0__	_____	_____	_____	_____	__0__	0	0	0
		(the sum of the Decision Making Forums should equal Total FY 2017 ECCR Cases)							

² An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2017.

³ A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2017. 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 2017 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2017 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 2017 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 2017). 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
N/A
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
N/A
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
N/A
Reflections on the lessons learned from the use of ECCR
N/A

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

N/A

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.

KYARNG: Priority areas are:

- **NEPA (REC/EA) for construction projects**
- **NEPA (REC) for Local Training Areas (LTAs)**
- **ESA informal consultation for Northern Long Ear Bat (NLEB)**
- **CWA 404 permit (State 401 permit) for work along waterways**
- **NHPA compliance through State Historic Preservation Office (SHPO)**
- **Aging infrastructure above or approaching 50 yrs old.**

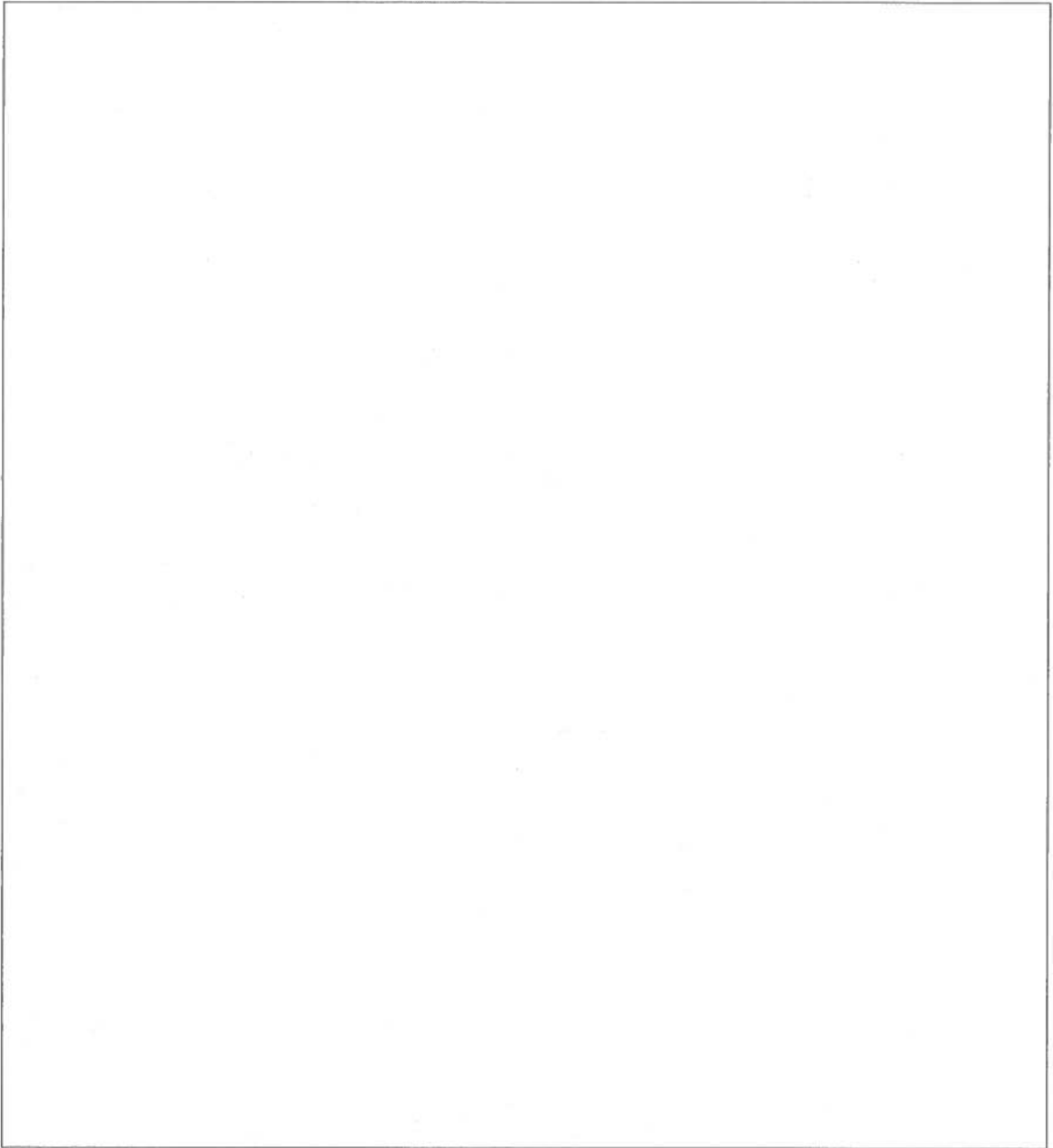
CWA, CAA and RCRA-c compliance utilizing the Kentucky Department for Environmental Protection (KDEP) Compliance Assistance Division (CAD)

7. Non-Third-Party-assisted Collaboration Processes: Briefly describe other significant uses of environmental collaboration that your agency has undertaken in FY 2017 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.*

KYARNG:

-KYARNG's G3, JAG and the Environmental Office developed a procedure to comply with National Environmental Policy Act (NEPA) for Local Training Areas (LTAs) requirements

- Utilized USF&WS Frankfort Field Office for an informal consultation concerning Northern Long Ear Bat (NLEB) and Gray Bat management. Consultation determined that a project was not needed.
- Coordinated and obtained Clean Water Act (CWA) 404 permits at multiple sites across Wendell H. Ford Regional Training Center with the USACE (Louisville District) to work along waterways.
- Coordinated and obtained CWA 401 permits from the Kentucky Department for Environmental Protection (KDEP), Division of Water to work along waterways.
- Met with the State Historic Preservation Office (SHPO) to ensure NHPA compliance on predetermined FMO projects.
- Coordinated with Kentucky Department for Environmental Protection, Compliance Assistance Division for CAA, CWA, and RCRA-c to enhance the overall compliance program.
- As a follow-on initiative from FY-16, we engaged local community through the Joint Land Use Study (JLUS) open forums to address concerns of KYARNG aviation flight patterns. This led to a follow-on tasker in FY-17 to verify and update the KYARNG Noise Compliance Act documents.
- Improved evaluation of routine internal management controls to streamline action and be more effective



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.

N/A

Please attach any additional information as warranted.

Report due February 23, 2018.

Report submitted:

Submitted by: Karen White: Karen.a.white54.civ@mail.mil

Submit report electronically to: Kathryn MacKinnon

Mackinnk@osdge.osd.mil

**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

The National Guard Bureau (NGB)

ECCR ADR FY 2017 Breakout Talley Sheet

Submitted by:

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February 2018

NOTE: Only one state, Kentucky National Guard (KYARNG), engaged in some form of Environmental ADR. The state's information is listed on the ECCR Report.

STATE	ECCR RESPONSE
Alabama	NO
Alaska	NO
Arizona	NO
Arkansas	NO
California	NO
Colorado	NO
Connecticut	NO
Delaware	NO
District of Columbia	NO
Florida	NO
Georgia	NO
Guam	NO
Hawaii	NO
Idaho	NO
Illinois	NO
Indiana	NO
Iowa	NO
Kansas	NO
Kentucky	YES
Louisiana	NO
Maine	NO
Maryland	NO
Massachusetts	NO
Michigan	NO
Minnesota	NO

Mississippi	NO
Missouri	NO
Montana	NO
Nebraska	NO
Nevada	NO
New Hampshire	NO
New Jersey	NO
New Mexico	NO
New York	NO
North Carolina	NO
North Dakota	NO
Ohio	NO
Oklahoma	NO
Oregon	NO
Pennsylvania	NO
Puerto Rico	NO
Rhode Island	NO
South Carolina	NO
South Dakota	NO
Tennessee	NO
Texas	NO
Utah	NO
Vermont	NO
Virginia	NO
Virgin Islands	NO
Washington	NO
West Virginia	NO
Wisconsin	NO
Wyoming	NO