

FY 2018
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

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

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.”

This annual report format below is provided in accordance with the memo for activities in FY 2018.

The report deadline is April 15, 2019.

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 2018 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 2018 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 18 ECCR Report

Name of Department/Agency responding:	U.S. Department of Commerce, National Oceanic & Atmospheric Administration
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Date this report is being submitted:	April 12, 2019
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- 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 2018, 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.]

**Office of the General Counsel, Environmental Review & Coordination
Section (ER&C)**

ER&C continues to work on its initiative to develop a more robust NOAA-wide ECCR program. ER&C continues to survey all of NOAA's line offices to determine the extent of NOAA's current use of ECCR. As a result of this continuous survey, ER&C is working to leverage and support ECCR efforts already underway at NOAA to develop a NOAA-wide ECCR program. For example, ER&C supports and participates in ECCR training offered through the National Marine Fisheries Service (NMFS) and the U.S. Institute for Environmental Conflict Resolution Program to further enhance in-house expertise in ECCR techniques. Furthermore, ER&C continues to partner with an in-house collaboration program--the NOAA Facilitator's Network—to begin integrating ECCR principles and techniques into on-going collaboration efforts and training within NOAA. ER&C has also added a wealth of ECCR resources on its intranet website for use by all NOAA employees. Finally, ER&C represents NOAA at the inter-agency ECCR forum and actively networks with professionals in the field of conflict resolution by organizing webinars through the Association for Conflict Resolution (ACR) and acting as a co-chair for planning the 2019 ACR conference.

National Ocean Service (NOS)

NOS's National Centers for Coastal Ocean Science (NCCOS) conducts 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).

NOS' Office of Ocean for Coastal Management (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.

National Marine Fisheries Service (NMFS)

Sustainable Fisheries:

While Sustainable Fisheries work does not use ECCR directly, this program 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 Fishery Conservation and Management 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 Scientific and Statistical Committees and other Advisory Panels. For the Atlantic Highly Migratory Species directly managed by the Secretary of Commerce, NMFS uses a professional facilitator to assist with biannual Advisory Panel meetings. Working with the three Interstate Marine Fisheries Commissions (Commissions), NMFS 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.

In addition to its normal actions, NMFS completed a review of all its regulatory actions under Executive Order 13777. This review required the use of the agency's work related to the goals of environmental collaboration and conflict resolution. Specifically, for Magnuson-Stevens Act related regulations NMFS worked with the Councils using the processes described above to complete this review. This review is now an ongoing process that NMFS will continue through regular Council engagement.

Furthermore, NMFS engages with other nations to negotiate agreements on international fisheries management matters through the U.S.'s participation in a wide variety of regional fisheries management organizations and other international agreements. NMFS uses such negotiations to develop and implement collaborate solutions both domestically and internationally to manage fish stocks shared by a variety of nations. To help shape the U.S. positions during these negotiations, NMFS seeks the input of Federal and state government representatives, commercial and recreational fishing interests, and other constituents.

Aquaculture:

The Aquaculture Program engages in multiple types of unassisted negotiations as part of the nature of their work and supports these activities institutionally. For example, the Program used such processes 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 NMFS. An environmental review of aquaculture operations in the Pacific Islands, including input from stakeholders and in cooperation with other agencies, is expected to be completed in 2019.

In Southern California, NMFS has been actively engaged in negotiation with the aquaculture industry, U.S. Navy, U.S. Army Corps of Engineers and others to

address issues in siting offshore aquaculture operations in the area. Additionally in the Northwest, NMFS 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:

NOAA continues to engage in cooperative partnership for large-scale oyster habitat restoration in the Chesapeake Bay by providing funding and technical assistance. In FY18, NOAA continued to coordinate the Maryland interagency working group of the Sustainable Fisheries Goal Implementation Team and serve as a commissioner on the Maryland Oyster Advisory Commission. In addition, NOAA co-led the Virginia Interagency Oyster Team and chaired Virginia's Western Shore and Hampton Roads oyster restoration workgroups. These groups are collaborative efforts between federal and state agencies, along with NGOs and the public, which set restoration goals, develop strategies for achieving them and develop the technical specifications for implementing them. NOAA is working with these groups to help select tributaries suitable for oyster restoration, set goals in those tributaries, and create blueprints for large scale oyster restoration in all ten targeted tributaries.

Over the course of FY18, NOAA integrated feedback from over 70 conservation and restoration stakeholders and nearly 800 residents within the Choptank River watershed, a Habitat Focus Area within the Chesapeake Bay system, into a collaborative implementation plan. The implementation plan, known as the Choptank Common Agenda, is supported by a growing cross-sector partnership called Envision the Choptank, which was established through the Habitat Focus Area effort. The partnership will carry forth the goals of habitat restoration, delivering science to decision-makers, and community engagement beyond NOAA's short-term focus in the watershed through the collaborative Choptank Common Agenda, which has established strategies to enhance restoration with innovative methods, assist local decision makers in conserving natural resources, engage disenfranchised communities, and expand the Envision the Choptank as a network. In FY19 NOAA intends to shift away from the support role for the partnership and transition leadership roles to local stakeholders while remaining a participant in Envision the Choptank.

Protected Resources:

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 convened 2 facilitated marine mammal take reduction team meetings in 2018. Consensus recommendations were developed, pursuant to MMPA requirements. For example, in 2018 the False Killer Whale Take Reduction Team (FKWTRT) convened in person and via numerous teleconferences to develop recommended modifications to the False Killer Whale Take Reduction

Plan. Neutral facilitators participated in these meetings and assisted in the planning of the 2018 FKWTRT Meeting. As a second example, the NMFS Greater Atlantic Regional Office convened the Atlantic Large Whale Take Reduction Team (Team) during 2018. The meeting utilized Environmental Conflict Resolution facilitation services. The facilitated meeting included new information that fisheries-related mortality/serious injury exceeded acceptable levels for North Atlantic right whales and required that the Team develop recommendations for additional rake reduction measures. The Team is made up of staff from NMFS, scientific institutions, environmental groups, and partner state and federal organizations, and affected segments of the fishing industry.

Science Centers:

In the context of the provision of scientific advice for fishery management, environmental conflict resolution is completed via collaborative partnerships between each Science Center and its management partners. The approach utilizes various forms of a Stock Assessment Review Committee (official name of Committee varies by region). This group meets one, to several times annually (varies by region) to evaluate stock assessments for specific groups of commercial and recreational fish and shellfish stocks. The Committee is typically composed of a Chair (often representing a Fishery Management Council's Scientific and Statistical Committee) and independent reviewers from NOAA's Center for Independent Experts. The Committee deliberations are open public meetings and are typically attended by industry, recreational, and NGO representatives. It is the Committee's job to review the stock assessments, consider comments from the participants in the meetings, and present to their assessment of the quality of the science being used to inform fishery management decisions

West Coast Region (WCR):

The NMFS 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 WCR 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 CBP Task Force will make recommendations to MAFAC on common goals for long-term recovery of both ESA-listed and non-listed salmon and steelhead in the Columbia Basin. The CBP Task Force will recommend a shared vision for Columbia Basin salmon and steelhead, as well as qualitative and quantitative goals to meet conservation needs and provide harvest opportunities in the future.

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.

Since being convened in January 2017, the CBP Task Force itself has met 13 times, while subgroups and work teams have met numerous additional times to develop content to support the process. As of March 2019, the CBP Task Force has reached agreement on provisional quantitative goals and completing a report on Phase 1 of its work. The Task Force's in depth work and recommendations provide necessary input for MAFAC to formalize its advice for NOAA consideration, per the FACA processes. The MAFAC has extended the term of the Task Force for up to two years to conduct the next phase of work including discussing and considering options and recommendations for how the goals could be achieved.

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

In NESDIS, ECCR is addressed through fully embracing an approach to environmental planning and compliance that exhibits strong risk management beginning at project inception and with daily operations. For example:

- A NESDIS Environmental Management Program (EMP) goal is to practice good environmental stewardship as part of mission accomplishment. To operationalize this goal, the EMP will support NESDIS Headquarters staff and Program Offices staff in program planning, project planning, and daily mission related operations. Phase 2 of the NESDIS EMP just has been completed. The EMP provides a complete tool for NESDIS Program Offices to help them with federal and state environmental compliance. For example, it includes such support knowledge, such as, a working list of federal and state environmental compliance laws; this is a first-ever level of ability for NESDIS. It paves the way for standing up a formal Environmental Management System within NESDIS. The EMP is ISO 140001 compliant.

- Another NESDIS EMP goal is to support the NESDIS 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 welcomes the opportunity to provide information to outside agencies beyond the minimum groups 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 issues related to environmental compliance. 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.
- NESDIS takes advantage of land-host invitations for mutually developed environmental planning and compliance efforts. For example, one large land host recently completed a Programmatic Environmental Impact Statement on land where one of our major satellite operations resides. NESDIS does need to secure approval for proposed actions from this host's environmental management office. What better way to introduce our proposed actions, and gain approval, than by accepting their invitation to participate, and to help that office reach its own environmental goals?

To date, these practices and courtesies helped NESDIS develop 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 2014 through FY 2018).

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 Safety and Environmental Compliance Office (SECO), 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 Environmental and Safety Coordinators 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.

ER&C

As mentioned previously, ER&C continues to survey of all NOAA line offices to determine whether and the extent to which NOAA is using ECCR. ER&C continues to partner with and to support existing ECCR efforts already underway within NOAA in order to strengthen NOAA's use of ECCR. For example, ER&C is actively working with the NOAA Facilitator's Network to integrate ECCR techniques and principles into intra-agency collaborative efforts already underway in NOAA. Once this takes place, ER&C will be able to use the Network's process for tracking cases where collaboration services were used. This will also provide metrics for NOAA to use to better ascertain the benefits realized when using ECCR within NOAA. ER&C is also developing stronger working relationships with conflict resolution specialists through ER&C's involvement with the Association for Conflict Resolution. Finally, ER&C has invested resources to broaden a staff member's training in the area of conflict resolution through courses offered by the U.S. Institute for Environmental Conflict Resolution and by the Managing by Network course offered through the Partnership and Community Collaboration Academy.

NOS

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.

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.

NMFS

Overall, 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 during contentious ESA-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.

NESDIS

As described in Question 1, no situations have arisen where NESDIS would require the development of an ECCR capacity. Still, 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.

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 2014 through FY 2018.

- b) Please report any (a) quantitative or qualitative investments your agency captured during FY 2018; and (b) quantitative or qualitative results (benefits) you have captured during FY 2018.

ER&C

None to report.

NOS

NOS has dedicated FTE Environmental Compliance Coordinators (ECCs) in OCM, Office for Coast Survey (OCS), Office of National Geodetic Survey (NGS), Office of National Marine Sanctuaries (ONMS), Center for Operational Oceanographic Products and Services (CO-OPS), Office of Response and Restoration (ORR), Integrated Ocean Observing System Program (IOOS) and NCCOS. The NOS Assistant Administrators' Office has a full-time contracted support for environmental compliance.

NOS sponsored training for ECCs and NOS leadership.

NMFS

While it is difficult to quantify investments and results from ECCR activities the agency engaged in during FY 2018, 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 2018. For instance, ECCR was used to help facilitate marine mammal take reduction teams in multiple meetings.

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.

NWS

No instances in FY 2018.

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

ER&C

None to report.

NOS

No instances in FY 2018.

NMFS

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.

NESDIS

While costs can be tracked, it is difficult to quantify benefits, especially intangible ones. Though ECCR is important, and out benefits worthwhile, net return of developing an estimating and tracking process to quantify the benefits is beyond current manning resources capacity.

NWS

No instances in FY 2018.

3. **ECCR Use:** Describe the level of ECCR use within your department/agency in FY 2018 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 2018 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	1	1	_____	_____	_____	_____	_____	_____	_____
Planning	1	1	_____	_____	_____	_____	_____	_____	_____
Siting and construction	0	_____	_____	_____	_____	_____	_____	_____	_____
Rulemaking	2	2	_____	_____	_____	_____	_____	_____	_____
License and permit issuance	1	1	_____	_____	_____	_____	_____	_____	_____
Compliance and enforcement action	0	_____	_____	_____	_____	_____	_____	_____	_____
Implementation/monitoring agreements	1	1	_____	_____	_____	_____	_____	_____	_____
Other (specify): _____	10	10	_____	_____	_____	_____	_____	_____	_____
TOTAL	16	16	_____	_____	_____	_____	_____	_____	_____
		(the sum of the Decision Making Forums should equal Total FY 2018 ECCR Cases)							

² An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2018.

³ A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2018. 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 2018 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2018 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 2018 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 2018). 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
<p><u>ER&C</u> None to report.</p> <p><u>NOS</u> None to report.</p> <p><u>NMFS</u> None to report.</p> <p><u>NESDIS</u> None to report.</p> <p><u>NWS</u> There were no instances of construction or rehabilitation projects in FY 2018 that required the use of the ECCR process.</p>
Summary of how the problem or conflict was addressed using ECCR, including details of any innovative approaches to ECCR, and how the principles for engagement in ECCR outlined in the policy memo were used
<p><u>ER&C</u> None to report.</p> <p><u>NOS</u> None to report.</p> <p><u>NMFS</u> None to report.</p> <p><u>NESDIS</u> None to report.</p> <p><u>NWS</u> None to report.</p>

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
<p><u>ER&C</u> None to report.</p> <p><u>NOS</u> None to report.</p> <p><u>NMFS</u> None to report.</p> <p><u>NESDIS</u> None to report.</p> <p><u>NWS</u> None to report.</p>
Reflections on the lessons learned from the use of ECCR
<p><u>ER&C</u> None to report.</p> <p><u>NOS</u> None to report.</p> <p><u>NMFS</u> None to report.</p> <p><u>NESDIS</u> In the NESDIS effort to conduct good stewardship of our nation’s natural resources, we find that maintaining a proactive, collaborative perspective--which embraces other stakeholders--precludes much conflict. This, in turn, saves much effort while simultaneously building good operational relationships with local stakeholders.</p> <p><u>NWS</u> None to report.</p>

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

ER&C

None to report.

NOS

None to report.

NMFS

None to report.

NESDIS

None to report.

NWS

None to report.

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.

ER&C

ER&C provides significant support across NOAA to address both cross Line Office and interagency conflicts in implementation of NEPA. In particular, ER&C has helped develop NOAA's internal policies and guidance to implement the "One Federal Decision" mandates of Executive Order 13807 to facilitate greater intra- and inter- agency collaboration for the environmental review and authorization processes for major infrastructure projects.

ER&C chairs a quarterly cross-NOAA NEPA working group to help address any cross-cutting NEPA implementation challenges and to facilitate collaboration among NEPA professionals across NOAA's line offices. Additionally, ER&C will begin convening a NOAA Trust Resource Statutes working group to address similar challenges in implementing statutes that protect NOAA's trust resources (e.g., the ESA and MMPA) across the agency.

In addition, ER&C works closely with NOAA's Federal Preservation Officer to bolster NOAA's National Historic Preservation Program, including leveraging existing NOAA resources to either avoid or to resolve environmental conflicts involving historic resources both within and external to NOAA. For example, ER&C continues to work with an inter-agency working group comprised of historic preservation professionals in agencies that operate in the ocean environment to share historic information as well as to resolve emerging conflicts involving historic resources.

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.

NOS Program Office ECCs participate in NOS held monthly environmental compliance workgroup meetings and attend cross-line office meeting as needed.

NMFS

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.

NESDIS

In the FY 17 ECCR, NESDIS reported working with the Alaska State Historic Preservation Office (AK SHPO) upon a surprise discovery that our Fairbanks Command Data Acquisition Station (FCDAS) had been determined eligible to be a historic district. NOAA and NESDIS offices had no documentation showing how this determination came about. Work at hand was to secure AK SHPO approval for demolition of dilapidated buildings at the FCDAS.

One of the options NESDIS considered was non-participation with the AK SHPO determination. However, NESDIS policy is pro-active engagements with third parties. Furthermore, NESDIS has received great support from the AK SHPO for many projects over just as many years. NESDIS chose to maintain the good relationship and contracted a NHPA consultant to accomplish Section 106 actions for the buildings.

We are pleased to report NESDIS efforts are complete on the project. The AK SHPO recently approved our Section 106 Compliance Plan, and the Memorandum of Agreement between the offices was signed.

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 July 4, 2018. The update included review of Procedure 14, *National Environmental Protection Act*, with references to the NOAA NAO 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 2018 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.*

ER&C

See answer to question #6.

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. NOS continued development on NOS mapping and surveying PEA through collaboration with its program offices.

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.

OCM initiated the use of programmatic agreements for ESA consultations at two national estuarine research reserves to improve the consultation timelines for long-term programs, including research and monitoring program conducted at all reserves. Written concurrence was received. OCM is expanding the use of programmatic consultations at five other research reserves; concurrence is expected in 2019.

Both when proposing new actions and in the context of ongoing programs and operations, ONMS works collaboratively with other agencies and stakeholders through a variety of means, including consultation with other Federal agencies, tribal entities, and state and local governments; advisory councils; and requests for public comment. ONMS develops condition reports for each national marine sanctuary on a cyclical basis, and the process for drafting these condition reports is highly collaborative with a number of research institutions and experts, including tribal consultation.

NMFS

Habitat Conservation:

The Damage Assessment, Remediation, and Restoration Program (DARRP) engages in multiple types of negotiations without a formal facilitator. Post disaster, trustee implementation groups come together to assess damages and create restoration plans, which are shared with the public for comment. This is

a multi-stakeholder process, with trustees composed of other Federal agencies, tribes, and state governments who have authority over the damaged resources. Benefits of this process include enhanced restoration planning, assurance that damages are fully compensated, and public transparency.

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.

NWS

None to report.

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.

ER&C

None to report.

NOS

None to report.

NMFS

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 CEQ 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.

NESDIS

None to report.

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.

Submit report electronically to: owen@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