

FY 2019
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.”

This annual reporting template is provided in accordance with the memo for activities in FY 2019.

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

The report deadline is February 22, 2020.

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 FY 2019 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 2019 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: <https://udall.gov/OurPrograms/Institute/ECCRReport.aspx>

FY 19 ECCR Report Template

Name of Department/Agency responding:	National Oceanic and Atmospheric Administration (NOAA)
Name and Title/Position of person responding:	Frank Sprtel, Attorney Advisor
Division/Office of person responding:	Office of General Counsel, Environmental Review and Coordination (OGC ERC)
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Date this report is being submitted:	21 February 2020
Name of ECCR Forum Representative	Frank M. Sprtel

1. ECCR Capacity Building Progress

- a) Describe any **NEW, CHANGED, or ACTIVELY ONGOING** steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2019, including progress made since FY 2018. Please also include any efforts to establish routine procedures for considering ECCR in specific situations or categories of cases, including any efforts to provide institutional support for non-assisted collaboration efforts. Please refer to your agency's FY2018 report to only include new, changed or actively ongoing ECCR capacity building progress. **If none, leave this section blank.**

(Please refer to the mechanisms and strategies presented in Section 5 and attachment C of the [OMB-CEQ ECCR Policy Memo](#) for additional guidance on what to include here.

Examples include but are not restricted to efforts to

- integrate ECCR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning;
- assure that your agency's infrastructure supports ECCR;
- 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 (ERC)

In 2019 ERC developed a draft strategic plan to create a centralized ECCR program at NOAA. ERC plans to work with a wide variety of line offices within NOAA to finalize and implement this plan. In 2019 ERC continued to develop its expertise in ECCR by having one of its staff complete several ECCR courses offered at NOAA through the National Environmental Conflict Resolution Center (NECRC) leading to a Udall Certificate in Environmental Collaboration. ERC staff also completed the Managing by Network course offered through the Partnership and Community Collaboration Academy. Finally, in 2019 ERC staff co-chaired the Environment and Public Policy

Section of the Association for Conflict Resolution, helped to plan the 2019 Association for Conflict Resolution national meeting, and continued to represent NOAA's interests by participating in the inter-agency ECCR forum.

NOAA Facilitation Network (FacNet)

NOAA's FacNet is comprised of NOAA employees trained in facilitation to voluntarily assist NOAA line offices with a wide variety of facilitation needs including strategic planning, goal setting, meeting planning, etc. By providing such facilitation services, FacNet helps NOAA avoid future conflicts amongst its line offices. In 2019, FacNet volunteers responded to at least 22 requests for facilitation from a wide variety of NOAA line offices. Such facilitation requests often lead to subsequent requests by various NOAA line offices for specific facilitators.

National Marine Fisheries Service (NMFS)

Aquaculture:

The Office of Aquaculture engages in multiple types of unassisted negotiations as part of the nature of their work and supports these activities institutionally. The Office attempts to foster collaboration and enhance public engagement both internally and externally. To better engage with the seafood industry and public, the Office has partnered with the regional Fisheries Commissions to issue financial assistance awards for shellfish and finfish projects. When conducting environmental review of these financial assistance awards, it is often necessary to collaborate with Fisheries Commissions, grant recipients, and state agencies to understand the scope of the research, whether required permits and consultations are current, and state laws pertaining to the research. The Office works extensively with Sea Grant to foster and support extension work to the public. The Office also works to establish public/private partnerships to minimize user conflicts and better manage conflicts. For example, an environmental review of aquaculture operations in the Pacific Islands, including input from public stakeholders and in cooperation with other agencies, is currently being developed. Additionally, in Southern California, NMFS has been actively engaged in negotiations with the aquaculture industry, U.S. Navy, U.S. Army Corps of Engineers and other agencies to address issues in siting offshore aquaculture operations in the area. 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. In the Southeast, NMFS collaborates with the U.S. Army Corps of Engineers and U. S. Environmental Protection Agency on permitting and environmental review associated with two planned offshore aquaculture facilities. The Office along with regional staff members have also participated in an inter-agency, mediated dialogue on spatially explicit approaches for permitting offshore aquaculture (i.e., Aquaculture Management Areas).

Habitat Conservation:

While the Office of Habitat Conservation does not necessarily use third-party neutrals to facilitate conflict resolution, we often coordinate and collaborate with other departments, agencies, and external stakeholders on our habitat restoration efforts to preemptively address emerging areas of conflict and cross-cutting challenges. We work in partnerships at all levels—with local, state, federal governments, private entities, and non-governmental organizations—toward shared goals and enhanced understanding.

The NOAA Habitat Focus Area (HFA) effort has been a successful approach to bring expertise and resources together to address high-priority habitat challenges in targeted

places by working with partners and communities. Two such examples of our collaborations in FY19 are provided below.

We completed the fifth year of the West Hawaii HFA partnership with the overall goal of sustaining healthy and productive nearshore fisheries and coral reefs. This year also included engagement with resort managers to help them begin addressing nutrient inputs and set the stage for innovative funding mechanisms like resort funds and reef insurance to increase private investment in coastal management.

For the NE Marine Corridor & Culebra Island, Puerto Rico HFA, we partnered with the Puerto Rican government, local, territorial, and federal agencies and private landowners to implement watershed restoration projects to reduce threats from land-based sources of pollution including stabilizing unpaved roads to reduce sediment loads to offshore coastal habitats, and recovering threatened coral populations through coral restoration efforts.

Protected Resources:

Take Reduction Teams

Protected Resources has contracted with one entity to facilitate all Marine Mammal 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 2019. Recommendations were developed, pursuant to MMPA requirements. For example, the NMFS Greater Atlantic Regional Office convened the Atlantic Large Whale Take Reduction Team (Team) twice during 2019. The meetings 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 take 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.

BOEM/NMFS Coordination

The Office of Protected Resources within the National Marine Fisheries Service (NMFS) is responsible for several regulatory actions required for implementation of the Bureau of Ocean Energy Management (BOEM) oil and gas and renewable energy programs on the outer continental shelf (OCS). In particular, BOEM will consult with NMFS where applicable under the Section 7 of the Endangered Species Act (ESA) and applicants whose activities may result in take of marine mammals will apply for authorization under the Marine Mammal Protection Act (MMPA).

These processes can be time-consuming and characterized by degrees of conflict. Staff in both organizations have described challenges and frustrations in both the MMPA authorization and/or the Endangered Species Act (ESA) Section 7 consultation processes. These challenges range from historical interpersonal tensions, to excessive workloads and overburden, to data and information decision making, and other factors. Based upon these challenges and frustrations, it was clear that inter-agency staff interactions would benefit from application of communication tools, techniques, and best practices, as well as consultation process improvements.

Through an existing contract managed by the Interior Department's Office of Collaborative Action and Dispute Resolution, NMFS and BOEM engaged Kearns &

West to interview staff to better understanding the history of NMFS/BOEM working relationships and identify challenges and potential solutions to help the agencies sort out their relationship differences and achieve their combined goals. After conducting 30 structured discussions with meeting participants, Kearns & West used the insights gained to design and implement a workshop to develop a roadmap for implement actions to improve future working relationships and work products.

BOEM/NMFS Offshore Wind Permitting Workshop

On November 18, 2019, twenty-one BOEM and NMFS staff members met at NOAA's offices in Silver Spring, Maryland to discuss the agencies' coordination around offshore wind permitting activities. The meeting was facilitated by two employees from the U.S. Institute for Environmental Conflict Resolution. Objectives for the meeting included:

- Reach a shared understanding and appreciation of each agency's role and responsibilities in the offshore wind permitting process, including what it means to be lead and cooperating agencies under NEPA;
- Refine the draft standard permitting process timeline, clarify expectations for each agency at various steps (including Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA) milestones) and identify ways the agencies can coordinate better within the timeline; and
- Identify outstanding issues for discussion at a second workshop in early 2020.

At the conclusion of the workshop, the working group identified topics for possible discussion at a follow-up workshop in 2020. These topics included:

- The surnaming and ROD signature processes;
- Outcome of the legal teams' discussions of the authorizations and concurrence points;
- Outcomes of the NEPA scope discussions;
- A draft of the EIS outline for the contractor;
- An interagency MOU for wind permitting processes, which could include an informal dispute resolution process; and
- Ways to improve the area identification process and incorporate more NMFS input in the leasing stage, including exploring the role of the task forces (this may be a longer-term discussion because future leasing is currently on hold).

Sustainable Fisheries:

When appropriate, the Office of Sustainable Fisheries collaborates with other NOAA Line Offices to achieve common goals. Sustainable Fisheries is currently working in coordination with NOS to consolidate and clarify the regulations regarding the USS Monitor and its Sanctuary. In 2019, Sustainable Fisheries issued a proposed rule specific to the fishing regulations for the Sanctuary to ensure the fishing regulations align with the goals of the Sanctuary. In 2020, Sustainable Fisheries intends to issue a final rule and will continue coordinating with NOS as necessary regarding the Sanctuary.

West Coast Region (WCR):

The NMFS WCR has been 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 the NMFS Marine Fisheries Advisory Committee (MAFAC). In its first year, the CBP Task Force members collaboratively developed a shared vision for Columbia Basin salmon and steelhead. By spring 2019, the CBP Task Force has reached agreement on common qualitative and provisional quantitative goals for long-term recovery of both ESA-listed and non-listed salmon and steelhead in the Columbia Basin to meet conservation needs and provide harvest opportunities in the future. These were presented to MAFAC in a Phase 1 report. Since then, the CBP Task Force has been working on Phase 2, discussing and considering options and recommendations for how to achieve the goals. 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 has met 12 times during their Phase 1 work (three of these meetings were in FY2019), three times in FY2019 on Phase 2, and subgroups and work teams have met numerous additional times to develop content to support the process. One meeting has occurred and three more are scheduled in FY 2020. The CBP Task Force is scheduled to complete its work by summer 2020. 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 Phase 1 report, *A Vision for Salmon and Steelhead: Goals to Restore Thriving Salmon and Steelhead to the Columbia River Basin* is attached to this report.

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 2015 through FY 2019).

The NWS routinely employs ECCR concepts as it considers potential issues early in the construction/renovation planning phase during the National Environmental Policy Act (NEPA) evaluation process. 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.

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

NESDIS integrates ECCR into the execution of its programs by applying 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 accomplish this goal, the EMP supports NESDIS Headquarters staff and Program Offices staff in program planning, project planning, and daily mission related operations. The EMP provides a complete tool for NESDIS Program Offices to help them comply with Federal and state environmental regulations. For example, it includes a working list of Federal and state environmental regulations that impact NESDIS operations.
- Another NESDIS EMP goal is to support the NESDIS to ensure that its operations comply with the National Environmental Policy Act (NEPA) and other relevant laws early in project planning phases by exploring research alternatives, corresponding with stakeholders, and identifying potential issues of concern.
- As a part of complying with NEPA, NESDIS provides information to outside Federal and state agencies near to or otherwise associated with various NESDIS office locations to minimize or avoid environmental conflicts.
- NESDIS engages land-hosts to develop environmental plans and enhance environmental compliance efforts. For example, one large land-host recently completed a Programmatic Environmental Impact Statement on land where one of NESDIS' major satellite operations resides. NESDIS secured approval for proposed actions from this land-host's environmental management office. By engaging with this land-host in a collaborative manner, NESDIS was able to enhance its compliance with NEPA and other environmental mandates.

To date, these practices have helped NESDIS develop good professional relationships with stakeholders, preventing conflicts from arising.

National Ocean Service (NOS)

NOS' Office 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. Conflicts revolving around the CZMA "national interest" areas may be resolved through informal phone calls and emails or more formal processes agreed to by the parties. In FY2019, 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 siting; and Impact of pollution on fish populations (therefore fish management plans and catch limits).

NOS' Office of National Marine Sanctuaries (ONMS) has created internal consultation guidelines and templates for staff across the national marine sanctuary system to efficiently and accurately meet the mandates of environmental statutes pertaining to ONMS actions. ONMS is also preparing programmatic environmental assessments (PEAs) for site operations work. Although not required by NEPA, ONMS solicited public comments on these draft documents in 2018. These PEAs, once complete, will standardize and expedite environmental compliance processes for routine federal actions taken in national marine sanctuaries.

- b) Please describe the trainings given in your department/agency in FY 19. Please include a list of the trainings if possible. If known, provide the course names and if possible, the total number of people trained. Please refer to your agency's FY2019 report to include only trainings given in F 2019. **If none, leave this section blank.**

ERC

In 2019 an ERC staff member completed three NECRC courses leading to the completion of the Udall Certificate in Environmental Collaboration. The ERC staff member also attended the 2019 Association for Conflict Resolution annual meeting and received additional ECCR training there. Finally, an ERC staff member completed a four month Managing by Network course offered through the Partnership and Community Collaboration Academy.

FacNet

In 2019, FacNet trained additional NOAA employees as volunteer facilitators. To date, FacNet has trained 100+ NOAA employees in basic facilitation skills. Furthermore, FacNet hosts quarterly conference call during which practical skills and tips are shared amongst those that participate in the calls to enhance their facilitation skills.

NMFS

The NMFS Headquarters NEPA office provided ECCR training through NCECR in 2019. NCECR taught five courses to thirty-four NOAA employees during the 2018-2019 timeframe.

The NMFS Office of Protected Resources convened 22 staff from regional offices, science centers, and headquarters offices to be trained by a third-party, neutral facilitator to provide in-depth learning and coaching on priority-setting and strategic planning to guide development of national research priorities needed to reduce sea turtle bycatch in

commercial fisheries. As part of the training, the workshop participants used the knowledge and techniques of priority setting to develop by consensus 7 national priorities for research.

NWS

The NWS has developed a training module that provides guidance to the organization on how to use the NEPA process and the associated documents. This training module is facilitated through YouTube and accessible to all.

NESDIS

None to report.

NOS

None to report.

2. ECCR Investments and Benefits

- a) Please describe any **NEW or CHANGED or INNOVATIVE** investments made in ECCR in FY2019. Examples of investments may include ECCR programmatic FTEs, dedicated ECCR budgets, funds spent on contracts to support ECCR cases and programs, etc.

Please refer to your agency's FY2018 report to only include new, changed, or innovative investments made in ECCR. **If none, leave this section blank.**

ERC

As mentioned above, ECR invested resources in one of its staff to obtain ECCR training and experience through NCECR courses, planning a professional conflict resolution conference, and taking the Managing by Network course. ECR has also allowed its staff person to pursue developing a formal ECCR program at NOAA.

FacNet

None to report.

NMFS

None to report.

NWS

None to report.

NESDIS

NESDIS' proactive, collaborative approach to natural resource management has led to mutually acceptable NEPA review documents for NESDIS-sponsored projects with host-tenants. Maintaining positive host-tenant relationships is real, and our stakeholders appreciate the NESDIS commitment to collaborative efforts.

NOS

None to report.

- b) Please describe any **NEW or CHANGED or INNOVATIVE** benefits realized when using ECCR.

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.

Please refer to your agency's previous report to only include new or innovative methodology to identify ECCR investments and benefits. **If none, leave this section blank.**

ERC

ECR's exposure to ECCR has led ECR to sell the benefits of ECCR on projects for which ECR is advising on and to NOAA leadership as a cost savings mechanism for contentious internal and external projects.

FacNet

None to report.

NMFS Office of Protected Resources

NMFS is improving its working relationship with BOEM on offshore wind projects. It is doing so through increased collaborative efforts and through a facilitated workshop that identified key areas within each agency's operations that, if improved, would further both agency's missions and ensure more timely decisions on offshore infrastructure projects.

NMFS WCR

An improved working relationship with numerous stakeholders is evident from the work of the MAFAC Columbia Basin Partnership Task Force. As noted in part 1 above, the Phase 1 report of this effort was finalized and approved by MAFAC in FY2019. The Assistant Administrator (AA) for Fisheries, along with West Coast Region leaders, accepted the stakeholder-endorsed shared goals in the Phase I Recommendations Report, as transmitted by MAFAC (memo found [here](#)), and noted that they provide all partners a common and coherent path for recovery of salmon and steelhead throughout the entire Columbia Basin. Regional and state partners (such as the Northwest Power and Conservation Council and a governor's task force in Idaho) have begun to consider these goals, in various planning and management processes, furthering the mission of NMFS.

NWS

None to report.

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.

NOS

None to report.

3. ECCR Use

Describe the level of ECCR use within your department/agency in FY 2019 by completing the three tables 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 2019 ECCR Cases ²	Decision making forum that was addressing the issues when ECCR was initiated:			
		Federal agency decision	Administrati ve proceeding s /appeals	Judicial proceedi ngs	Other (specify)
<i>Context for ECCR Applications:</i>					
Policy development	_____	_____	_____	_____	_____
Planning	1	1	_____	_____	_____
Siting and construction	3	3	_____	_____	_____
Rulemaking	2	2	_____	_____	_____
License and permit issuance	2	2	_____	_____	_____
Compliance and enforcement action	_____	_____	_____	_____	_____
Implementation/monitoring agreements	_____	_____	_____	_____	_____
Other (specify): Facilitation	22	_____	_____	_____	22
TOTAL	30	8	_____	_____	22
		(the sum of the Decision Making Forums should equal Total FY 2019 ECCR Cases)			

² An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2019.

<i>Context for ECCR Applications:</i>	Interagency ECCR Cases and Projects	
	Other Federal Agencies Only	Including non federal participants (includes states, Tribes, and non governmental)
Policy development	_____	1
Planning	1	_____
Siting and construction	1	2
Rulemaking	_____	2
License and permit issuance	_____	2
Compliance and enforcement action	_____	_____
Implementation/monitoring agreements	_____	_____
Other (specify): _____	_____	_____
TOTAL	2	7

<i>Context for ECCR Applications:</i>	ECCR Cases or projects completed³	ECCR Cases or Projects sponsored⁴
Policy development	_____	1
Planning	1	_____
Siting and construction	_____	_____
Rulemaking	_____	_____
License and permit issuance	_____	_____

³ A "completed case" means that neutral third party involvement in a particular ECCR case ended during FY 2019. 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 2019 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2019 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 2019 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

Compliance and enforcement action	_____	_____
Implementation/monitoring agreements	_____	_____
Other (specify): _____	_____	_____
TOTAL	1	1

4. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably **completed** in FY 2019). If possible, focus on an interagency ECCR case. Please limit the length to **no more than 1 page**.

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>ERC</u> None to report.</p> <p><u>FacNet</u> 22 cases were referred to volunteer facilitators at NOAA. These cases were wide ranging across NOAA and involved a number of different issues involving strategic planning, priority setting, etc. Funding was provided by the NOAA office hosting the meeting. Some of these meetings were one time occurrences and some of them involved issues that were previously facilitated.</p> <p><u>NMFS</u> None to report.</p> <p><u>NWS</u> None to report.</p> <p><u>NESDIS</u> None to report.</p> <p><u>NOS</u> None to report.</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.

ERC

None to report.

FacNet

None to report.

NMFS

None to report.

NWS

None to report.

NESDIS

None to report.

NOS

None to report.

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.

ERC

None to report.

FacNet

None to report.

NMFS

None to report.

NWS

None to report.

NESDIS

None to report.

NOS

None to report.

Reflections on the lessons learned from the use of ECCR.

ERC

None to report.

FacNet

None to report.

NMFS

None to report.

NWS

None to report.

NESDIS

None to report.

NOS

None to report.

5. Other ECCR Notable Cases

Briefly describe any other notable ECCR cases in the past fiscal year. **(OPTIONAL)**

ERC

None to report.

FacNet

None to report.

NMFS

None to report.

NWS

None to report.

NESDIS

None to report.

NOS

None to report.

6. Priority Uses of ECCR

Please describe your agency's **NEW or CHANGED** 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. Please refer to your agency's FY2018 report to only include new or increased priority uses. **If none, leave this section blank.**

ERC

ERC encouraged NOAA to use third-party neutral ECCR services for various issues arises from NOAA's involvement in offshore wind infrastructure projects. ERC chairs a trust resource statutes working group to address cross-cutting challenges in implementing statutes that protect NOAA's trust resources (e.g. Endangered Species Act and the Marine Mammal Protection Act) across the agency. ERC also chairs a working group to address cross-cutting NEPA challenges in implementing NOAA's myriad grants programs and to encourage collaboration among NOAA line offices in meeting these challenges.

FacNet

None to report.

NMFS

None to report.

NWS

None to report.

NESDIS

None to report.

NOS

None to report.

7. Non-Third-Party-assisted Collaboration Processes (Optional)

Briefly describe other **significant** uses of environmental collaboration that your agency has undertaken in FY 2019 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.* **If none, leave this section blank.**

ERC

See answer to question #6 above.

FacNet

None to report.

NMFS

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.

In FY19, DARRP settled or resolved 10 Natural Resource Damage Assessment cases, valued at over \$33,000,000, across 7 states and territories. These funds will largely be used to implement restoration projects that will benefit coastal and marine habitats, fish, and listed species that were impacted by oil spills, hazardous waste releases, and ship groundings. Work will be done in coordination with NOAA's federal and state trustee partners and with input from the public.

NWS

None to report.

NESDIS

None to report.

NOS

None to report.

8. Comments and Suggestions on Reporting

Please comment on any **NEW or CHANGED** difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future. Please reference your agency's FY2018 report to identify new/increased difficulties. **If none, leave this section blank.**

None to report.

Please attach any additional information as warranted.

Report due February 21, 2020.

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