



U.S. Environmental Protection Agency

Environmental Collaboration and Conflict Resolution
FY 2021 Annual Report

Executive Summary

This report highlights the U.S. Environmental Protection Agency’s (EPA’s) key achievements in providing environmental collaboration and conflict resolution (ECCR) in fiscal year (FY) 2021 and the infrastructure that supports this work. In FY 2021, EPA’s Conflict Prevention and Resolution Center (CPRC) provided facilitators and mediators who helped EPA address some of its most challenging cases. CPRC provided these services either directly by its staff or, more often, through its \$53 million Conflict Prevention and Resolution Services (CPRS) contract. These professional facilitators and mediators assisted EPA on dozens of high-level cases, including the Diamond Alkali/Lower Passaic River Superfund mediation, the GE-Pittsfield/Housatonic River site, the National Water Reuse Action Plan, the Red Hill Administrative Order on Consent facilitation and the Tijuana River Watershed Stakeholder engagement. Overall, EPA used ECCR in 99 cases and projects, and each region and most program offices utilized ECCR in their work. EPA handled slightly fewer ECCR cases in FY 2021 but maintained its position as a leader among federal agencies in ECCR use. CPRC also built EPA’s capacity to engage in ECCR practices; it trained over 512 staff and managers in 15 training sessions during FY 2021. EPA staff and managers continued to report important benefits from using ECCR, including timely outcomes, more efficient processes, better decisions, avoidance of litigation, and the advancement of EPA’s mission. ECCR continues to be an essential tool used to advance the Agency’s goals, including tackling the climate crisis, taking decisive action to advance environmental justice and civil rights, and strengthening tribal, state, and local partnerships.

Contents

Executive Summary	1
Introduction.....	2
Background.....	3
ECCR Infrastructure at EPA.....	5
FY 2021 ECCR Use at EPA.....	7
Benefits of Using ECCR	14
Opportunities for ECCR at EPA	15
Conclusion	16
Appendixes	17
Appendix A - OMB & CEQ Questionnaire.....	17
Appendix B – Abbreviations	19

Introduction

Throughout its history, EPA has sought input from the public, worked with stakeholders to reach common ground, and negotiated agreements on contentious issues as it strives to fulfill its mission. Each action EPA takes to serve the public is the product of dialogue with a diverse set of stakeholders. Developing environmental policies and involving multiple stakeholders in decision-making processes is often complicated. A neutral facilitator or mediator who specializes in ECCR can help EPA staff and managers work more effectively with stakeholders. CPRC serves as the primary office to help EPA meet the challenges of stakeholder engagement and overcome environmental conflicts.

CPRC staff advise EPA staff and managers on topics such as public meeting design and communication with stakeholders. CPRC also provides facilitators and mediators who help stakeholders have a voice in EPA's decisions, often resulting in more acceptable, cost-effective, and timely outcomes than traditional alternatives. CPRC offers services directly through its staff and through its Conflict Prevention and Resolution Services contract, which provides every EPA office with timely access to professional neutral facilitators, mediators, and trainers who specialize in ECCR.

Neutral professionals also mediate cases before the Environmental Appeals Board and the Office of Administrative Law Judges. With CPRC's services, and with mediations by the Environmental Appeals Board and the Office of Administrative Law Judges, EPA frequently uses ECCR more than any other federal agency. EPA continues to be a leader in federal government ECCR practice and expertise.

This annual report is required by the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ)¹ and is prepared by CPRC with input from its Regional ECCR Specialists. While it is important for a cross-government understanding of the use of ECCR, this report is also a tool for EPA management, staff, and the public to understand EPA's use of ECCR and to enlighten readers about the variety of situations in which ECCR can be used to reduce conflict and to achieve better outcomes.

In FY 2021, EPA continued to implement its FY 2018-2022 strategic plan, while also preparing for the implementation of its FY 2022-2026 strategic plan. Both plans set goals for the enforcement of EPA's environmental laws and ensuring clean air, water, land, and chemicals for the American public. The draft plan for FY 2022-2026 also includes goals of addressing climate change and advancing environmental justice. ECCR has a place in achieving these goals by improving communication with stakeholder groups and the public. Effective use of ECCR, led by CPRC, has supported achievement of EPA's priorities by providing effective and efficient means to resolve disputes and engage stakeholders.

¹Office of Management and Budget & Council on Environmental Quality (2012). *Memorandum on Environmental Collaboration and Conflict Resolution*. Washington, D.C.

http://www.udall.gov/documents/Institute/OMB_CEQ_Memorandum_2012.pdf.

Background

Alternative Dispute Resolution (ADR) is the use of a neutral third party to conduct “any procedure that is used to resolve issues in controversy, including but not limited to, conciliation, facilitation, mediation, fact finding, mini-trials, arbitration, and use of ombuds, or any combination thereof.”² All aspects of ADR are voluntary, including the decision to participate, selection of the neutral, and the content of any final agreement. ECCR is essentially environmental ADR, but it also includes proactive collaborative decision-making, with the aim of preventing future conflict. OMB and CEQ define ECCR 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.”³

ECCR is defined 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.”



Photo: EPA

Several statutes direct or support EPA’s work providing ECCR. These include: the **Administrative Dispute Resolution Act** (1996), which encourages the use of ADR in agency actions, directs all federal agencies to appoint a Dispute Resolution Specialist, promulgate an agency ADR policy, and provides guidance on the issue of confidentiality during ADR processes; the **Negotiated Rulemaking Act** (1996), which encourages the use of facilitated consensus in developing federal regulations; and the **Alternative Dispute Resolution Act** (1998), which directs the federal courts to establish ADR provisions and processes. **EPA’s ADR policy** (65 FR 81858) affirms the Agency’s support for using ADR to address environmental conflicts, among others.

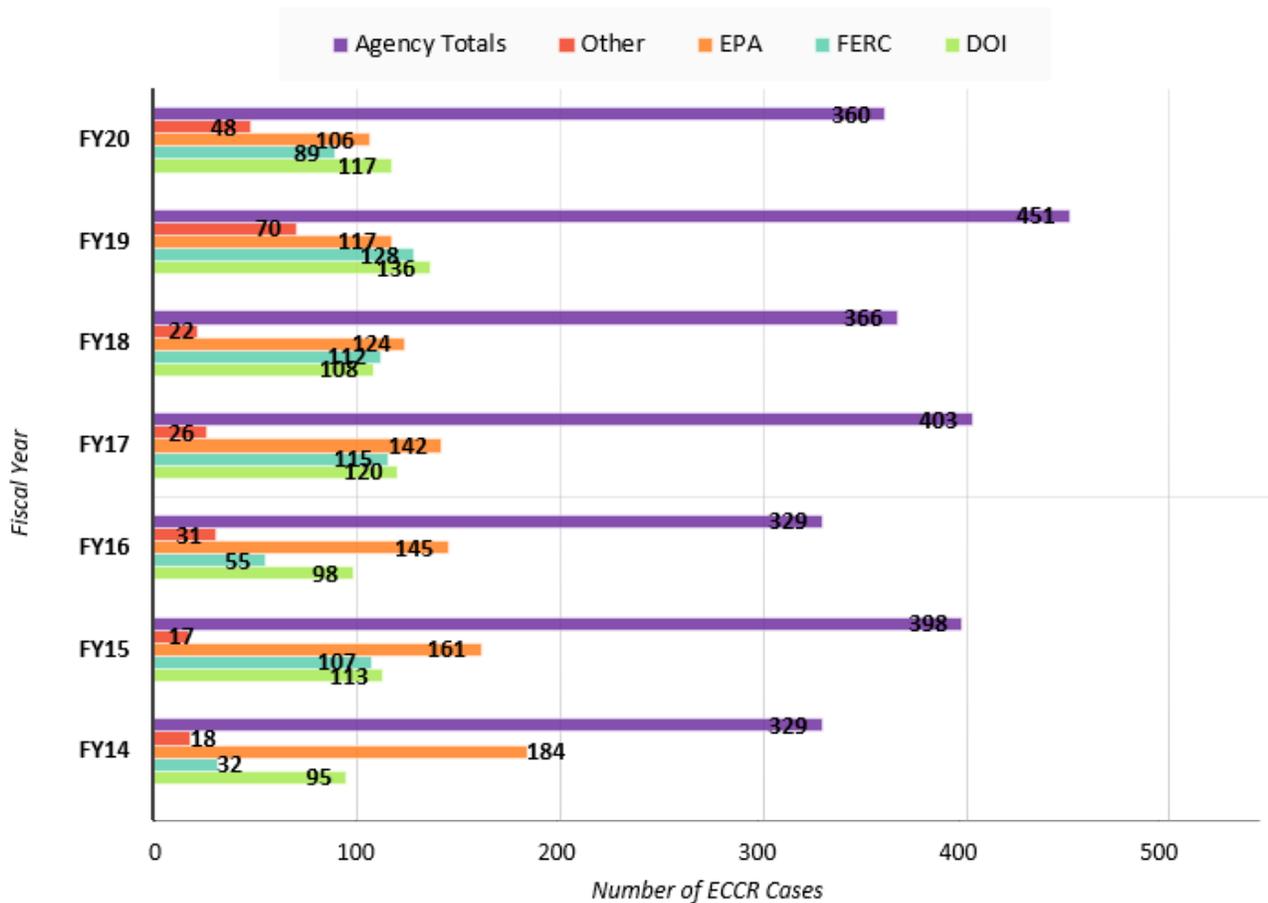
In addition to EPA, several federal agencies which implement environmental statutes and whose actions have significant environmental impacts also maintain ECCR services. In FY 2021, these agencies included the Department of the Interior (DOI), the Federal Energy Regulatory Commission (FERC), the U.S. Army Corps of Engineers

² 5 U.S.C. § 571(3)

³ Office of Management and Budget and President's Council on Environmental Quality Memorandum On Environmental Conflict Resolution, https://www.udall.gov/documents/Institute/OMB_CEQ_Memorandum_2005.pdf

(USACE), and several others. EPA has been and continues to serve as a government-wide model for effective use of ECCR. EPA has been a national leader in the practice, teaching, and evaluation of ECCR for close to two decades. For all but two of the past 14 years of required reporting, EPA engaged in more ECCR cases than any other federal agency (see Figure 1).

Figure 1: ECCR Cases in the Federal Government - FY 2014 to FY 2020⁴



⁴ This chart comes from the forthcoming John S. McCain III National Center for Environmental Conflict Resolution. *Environmental Collaboration and Conflict Resolution (ECCR) in the Federal Government: Synthesis of FY 2020 Report*. Tuscon, AZ. Last year's report is available online here:

https://www.udall.gov/documents/ECRReports/2019/FY19%20ECCR%20Synthesis%20Report_Final.pdf

ECCR Infrastructure at EPA

While CPRC is the Agency lead for ECCR services and training, two additional EPA offices support the Agency with ECCR services consistent with the EPA's policy on conflict resolution⁵.

The Conflict Prevention and Resolution Center (CPRC), within EPA's Office of General Counsel (OGC), is the office that leads EPA's ECCR program and provides most ECCR services at EPA. Its director also serves as EPA's Dispute Resolution Specialist. CPRC supports the entire Agency by helping any program or regional office to collaborate, prevent, and resolve disputes. CPRC gained one full-time employee (FTE) in FY 2021 and now has five total FTE. CPRC provides expert ECCR services, either directly by CPRC staff or, more often, through its \$53 million Conflict Prevention and Resolution Services (CPRS) contract. The contract offers access to reliable and easy-to-use services from private sector experts in the ECCR field. CPRC also works closely with EPA's External Civil Rights Compliance Office (ECRCO), which enforces several civil rights laws, most notably Title VI of the Civil Rights Act of 1964, which prohibits discrimination by applicants for, and recipients of, federal financial assistance from EPA. CPRC assists ECRCO by offering mediation and facilitation to parties involved in Title VI complaints when appropriate. CPRC's services help the Agency more effectively engage states, tribes, and local stakeholders to achieve better environmental outcomes. In addition to mediation and facilitation, CPRC staff and contracted ECCR experts provide training, coaching, and related services in support of ECCR.

CPRC also works with 20 skilled **ECCR Specialists** located in all ten EPA regions to help deliver ECCR services and training. Many are attorneys in the Offices of Regional Counsel, but others work in a variety of contexts, including public involvement, environmental justice, and enforcement. Most do the work as collateral duty. The ECCR Specialists have been trained in a variety of ECCR skills, including facilitation, mediation, negotiation, and/or conflict coaching. ECCR Specialists advance the use and understanding of ECCR at EPA by, among other things, serving as liaisons for ECCR activities; supporting ECCR education and training; building and supporting communities of practice; tracking requests for assistance, ECCR cases and projects; and contributing to the development of this annual report to OMB and CEQ. On occasion, they also serve as mediators, facilitators, and conflict coaches. EPA's network of ECCR Specialists remained strong and active in FY 2021.

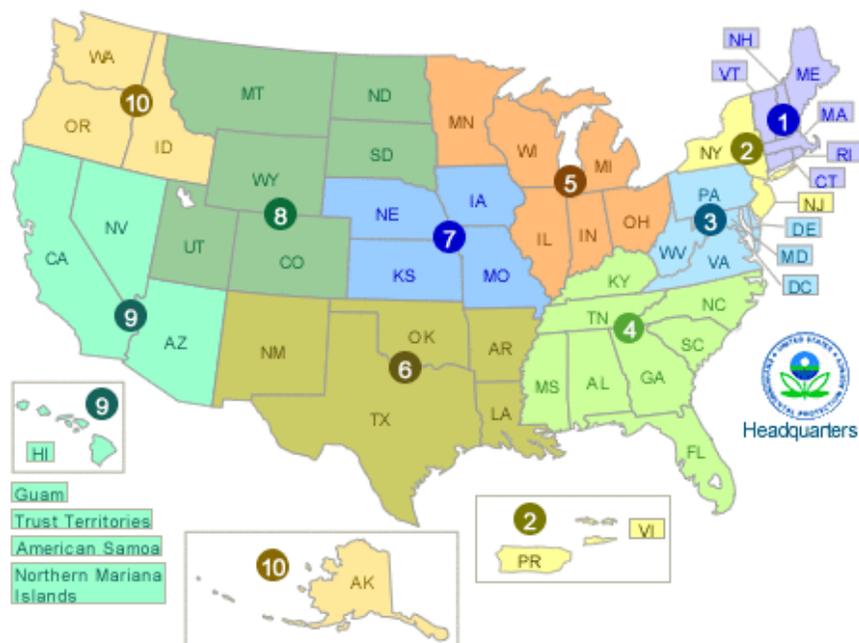
The Office of Administrative Law Judges (OALJ) is an independent office in EPA's Office of Mission Support (OMS). In accordance with the Administrative Procedure Act, the administrative law judges (ALJs) conduct hearings and render decisions in enforcement and permit proceedings between the EPA and those regulated under environmental laws. The ALJs also may conduct hearings related to findings by

⁵ https://www.epa.gov/sites/production/files/2018-04/documents/epa_adr_policy.pdf

ECRCO of a violation of Title VI of the Civil Rights Act. All litigants before the ALJs are offered the opportunity to resolve cases through ECCR.

The Environmental Appeals Board (EAB), also located in OMS, currently hears appeals of permitting decisions and administrative penalty decisions. A wide range of stakeholders appeal to the Board, including companies, state and local governments, tribes, non-governmental organizations, citizens, and in penalty cases, the EPA itself is the complainant. The EAB offers parties the option to resolve disputes through ECCR with the assistance of a neutral mediator who is often an EAB judge. The EAB's ECCR program has fostered negotiated settlements that sped up resolution of EAB cases and conserved government resources. In FY 2021, the EAB did not conduct mediation, but they expect to do so again in FY 2022, as they recently filled an EAB judge vacancy on the Board.

Figure 2: EPA Regions



epa.gov/aboutepa/visiting-regional-office

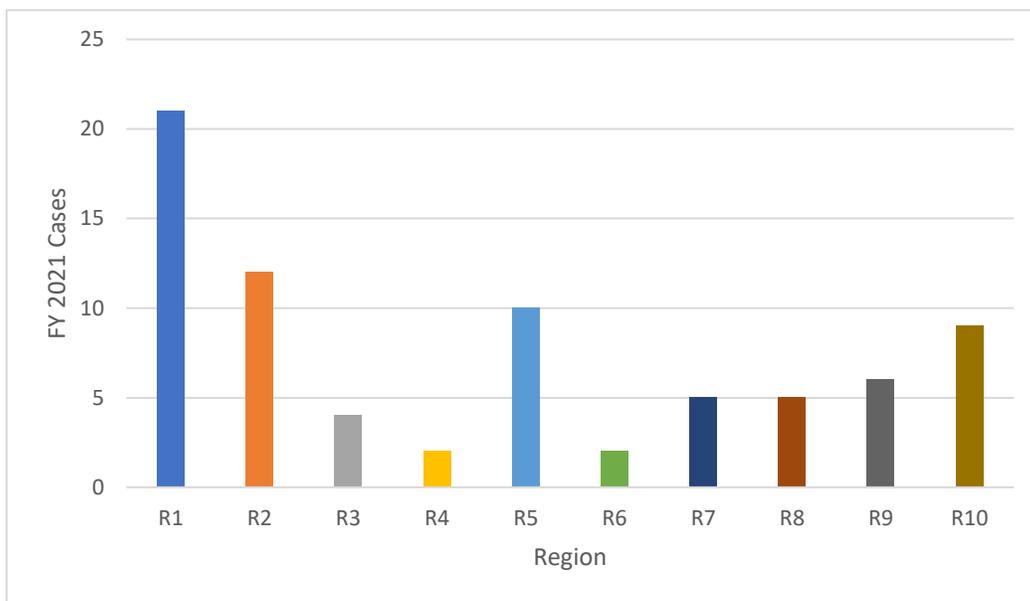
FY 2021 ECCR Use at EPA

Since 1978, EPA has used ECCR to fulfill its mission to protect human health and the environment. Using ECCR allows the EPA, its stakeholders, and the citizens it serves to more effectively engage with each other and develop a common understanding of environmental issues, prevent conflict, reduce differences, and resolve disagreements. In short, ECCR helps the Agency make better decisions, work with stakeholders in a more effective manner, and attain sustainable environmental outcomes.

Overall Use of ECCR at EPA

In FY 2021, the EPA used ECCR in all ten regions and most program offices for a broad range of applications. Figure 3 illustrates the current level of ECCR use across the EPA regions.

Figure 3: ECCR Cases by Region

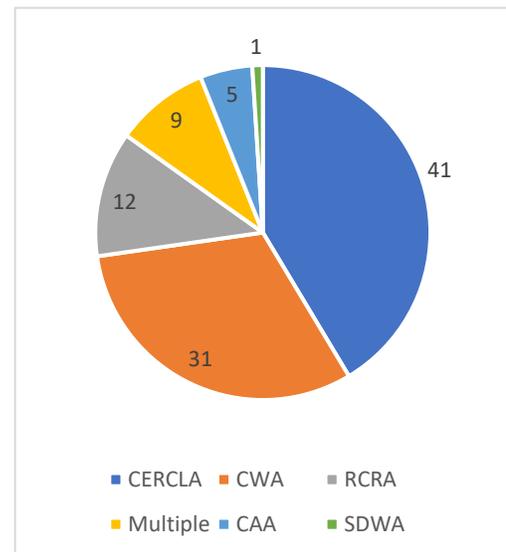


Note: this chart does not include 23 ECCR cases that were national or programmatic in scope and were led by a program office.

EPA also used ECCR in a wide variety of circumstances. For example, EPA used ECCR to mediate disputes over Superfund cleanups, facilitate rulemaking meetings, gather public input during complex and high-tension meetings, and mediate enforcement disputes. In these matters, facilitators and mediators designed and led meetings so EPA staff could focus on technical and substantive issues and keep projects moving forward.

- In FY 2021, EPA used ECCR in 99 cases. Every EPA region and nearly every program office had an ECCR case, which included matters involving Superfund cleanups, brownfields redevelopments, permit disputes, and policy development.
- Similar to past years, in FY 2021 EPA used ECCR most frequently to address issues under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as “Superfund”, used in about 42% of cases) and the Clean Water Act (CWA, in approximately 31% of cases), as seen in Figure 4. Cases classified as “multiple” were predominantly facilitated processes involving communities with several environmental issues.

Figure 4: FY 2021 ECCR Cases by Statute



- In FY 2021, all offices with specific mandates to support ADR successfully supported mediations and other cases. CPRC handled 70 cases on behalf of client programs and regions, and the ECCR Specialists were responsible for 10 cases. In addition, the ALJs mediated one case to resolution. ECRCO referred one Civil Rights Title VI case to CPRC for facilitation assistance. EPA was involved in two other matters in litigation, which were mediated with the assistance of the U.S. Department of Justice. Four additional cases were mediated through the U.S. District Court mediation program. Other federal agencies mediated or facilitated four cases to which EPA was a party. Eight other ECCR cases involving EPA were handled by a combination of means (for example, multiple parties paid for a neutrally facilitated or mediated process or another federal agency led the process).

EPA senior leaders continue to use ECCR to help the Agency achieve its mission. Senior leadership actively engaged in and strongly supported the use of ECCR in several high-profile cases in FY 2021, including:

- Colorado Smelter Superfund Site Facilitation
- Columbia River Basin Restoration Program
- Diamond Alkali/Lower Passaic River Superfund Mediation
- Natural Disaster Debris Stakeholder Engagement
- Federal Mining Dialogue Facilitation
- GE Housatonic Citizens Coordinating Council Facilitation
- National Water Reuse Action Plan
- Portland Harbor Southeast Superfund Facilitation
- Red Hill Administrative Order on Consent Facilitation
- Tijuana River Watershed Stakeholder Engagement
- Trash Free Waters

In FY 2021, EPA used ECCR in air, water, and land cases under the Clean Air Act (CAA), CWA, Superfund, the Resource Conservation and Recovery Act (RCRA), and the Safe Drinking Water Act (SDWA). In FY 2021, EPA did not have any ECCR cases related to chemicals involving the Toxic Substances Control Act (TSCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). However, EPA has used ECCR in cases related to TSCA and/or FIFRA in the past and expects to do so again.

Air - The air program at EPA continues to consistently use ECCR services, both for facilitating efforts to reduce air pollution in communities and for mediating cases in litigation. EPA used ECCR in five air cases in FY 2021. One case addressed industrial facilities and fence-line communities, two were enforcement actions against manufacturers, one involved public and government meetings regarding a port, and one dealt with asthma caused by indoor air pollution in Pacific Northwest tribal communities.

Water - Historically, EPA has used ECCR to resolve issues with water-related cases more than any other media, except land (i.e., Superfund and RCRA), and this continued to be the case in FY 2021. EPA has many different water programs. Contentious disputes often arise in the context of water permitting, planning, and enforcement actions. Of the 31 water-related ECCR cases that occurred in FY 2021, 22 arose in nine of EPA's 10 regions and nine were programmatic or national in scope. These cases involved watershed or community water-resource planning (13 cases), compliance and enforcement issues (one), storm and hazard mitigation planning (two), policy dialogue facilitation (five) permit issuance and appeals (one), voluntary programs (four), defensive litigation (three), and rulemaking (two).

EPA uses ECCR to creatively implement wastewater treatment permits, as shown by the [Great Bay permit facilitation](#) in EPA Region 1. Following a contentious permitting process, EPA issued a wastewater treatment permit to 13 coastal municipalities. This creative permit allowed the municipalities to opt into an adaptive management regulatory approach. This was a departure from the Agency's traditional, more narrowly focused approach to permitting individual treatment plants. The success and cost-effectiveness of the adaptive management approach depended in part on the number of municipalities opting into the group permit and their ability to coordinate their efforts. In early 2021, the key stakeholders accepted Region 1's offer of in-house facilitation services to convene exploratory discussions.

At several junctures, the parties' interests appeared irreconcilable. The parties reported that the EPA facilitators helped them have frank discussions in a safe space, where they could focus on solutions. As one participant said, without a facilitator, "it would have been impossible to have this type of conversation where we could throw out ideas and think creatively about solutions." Due to the COVID-19 pandemic, the entire negotiation was conducted remotely. With persistence and expert facilitation, the parties reached an agreement that averted further litigation, enhanced permittee accountability, formalized a mechanism for ongoing stakeholder engagement, and created incentives that maximized the number of municipalities opting into the adaptive management approach.

Land - For decades, EPA's most frequent use of ECCR has been supporting Superfund cleanups. The large number of Superfund-related ECCR matters is primarily due to the legal requirement to involve communities in the development of cleanup remedies and the financial support available through Superfund. Superfund cleanups involve planning, community involvement, outreach about complicated scientific matters, and sometimes contentious negotiations and litigation. EPA most often uses ECCR to provide support to establish and facilitate community advisory groups (CAGs), to facilitate challenging public meetings, to provide conflict coaching so EPA staff involved in site cleanups can work more effectively with stakeholders, and to mediate disputes over responsibilities and terms of cleanups. The 41 Superfund ECCR cases in FY 2021 included: CAG facilitation (15), other community involvement facilitation (12), situation assessments and community surveys (three), potentially responsible party allocation negotiations (three), facilitation on federal facilities (three) and general facilitation (five).

EPA often uses ECCR to improve the functioning of community advisory groups (CAGs) at Superfund sites. A professional facilitator provided by CPRC's contract worked with EPA Region 3 staff to facilitate CAG meetings at the [Lower Darby Creek Area Superfund site](#). The site is in the Eastwick community of Philadelphia, a community overburdened by a history of storm-related flooding, toxic dumping, and heavy industry. Members of the community distrusted government agencies because of their lack of progress in addressing many local issues, including historic and ongoing dumping, health risks from contamination, and severe flooding during major rain events.



An Eastwick CAG meeting.
Photo: Eastwick CAG

The EPA site team and the facilitator helped the community to establish the CAG in FY 2015, and the facilitator has managed the CAG's monthly meetings on an as-needed basis. The facilitator's involvement fostered transparency and open dialogue and laid the groundwork for an improved relationship with EPA. As a result, EPA's cleanup actions moved forward in partnership with the community, and the CAG and site team worked together to respond to other community issues, such as storm-related flooding. In FY 2021, the Lower Darby Creek CAG won EPA's Citizen Excellence in Community Involvement award, a national award that recognizes outstanding achievements in environmental protection and community involvement leadership during the site cleanup process. The facilitator supported Region 3 staff in the development of the successful award nomination.

The EPA also used ECCR in 12 RCRA cases in FY 2021. These cases involved a broad range of topics including cleanup from hurricanes and other natural disasters, solid waste tracking and recycling, and implementation workshops with municipalities in Regions 1, 2, 5, and 9.

The EPA not only uses ECCR to address specific environmental issues, but it also uses it to improve how the Agency's work is done. A few notable uses of ECCR at EPA include working for environmental justice in communities that have disproportionately dealt with the impacts of pollution, improving transparency in government operations; and engaging the public to protect human health and the environment.

Environmental Justice - Several environmental justice (EJ) cases benefitted from ECCR practices, including the Memphis and Shelby County Lead Safe Collaborative. The Collaborative has been working with Region 4 for the past nine years to resolve their concerns with lead in Memphis, Tennessee. In FY 2021, the EPA held three listening sessions and four facilitated workshops that built on the efforts of the previous years and included additional stakeholders. The workshops used a facilitation approach called "appreciative inquiry" (AI), where participants identify the strengths and resources of the community and find ways to build on those to overcome challenges. In FY 2021, the members of the Collaborative formed several partnerships and began to apply for EPA grants and contracts collaboratively. The members noted an increased appreciation for each organization's individual contributions and strengths towards addressing lead.

Transparency and Public Participation - As the Agency's experts in public participation and the main providers of contracted public participation support, CPRC staff routinely support all EPA programs and regions to increase transparency and public participation. In FY 2021, CPRC regularly advised on how to organize public participation processes that reduce conflicts. Expert facilitators and mediators accessed through CPRC's contract supported the creation and improved functioning of Community Advisory Groups at Superfund sites and helped create forums for environmental justice communities to engage with EPA throughout the country. CPRC also provided training to help EPA staff better plan, design and deliver meetings with improved public participation.

FY 2021 Case Highlight:

A professional neutral facilitator worked with EPA Region 9 to rebuild relationships and strengthen capacity to resolve conflicts with tribal representatives, tribal members, community members and stakeholders at the Sulphur Bank Mercury Mine Superfund Site. The 160-acre Sulphur Bank Mercury Mine was once one of the largest producers of mercury in California. It left approximately two million cubic yards of mercury-contaminated mine wastes and tailings distributed across the site. The mine waste fell into the sediments of Clear Lake, which extends off the mine property into areas on the Elem Indian Colony tribal reservation. There are numerous tribes in the Clear Lake drainage basin in Lake County, and they have been greatly impacted by the mine's pollution. Tribal communities have long voiced frustration, anger, and sadness about the health of Clear Lake and lack of EPA action on this issue.

The neutral facilitator planned two well-attended virtual forums in 2021, one for the tribes and one for the broader community. Through these forums, EPA engaged, tribal, state, and local governments, as well as another federal agency and other stakeholders. The forums also fostered open communication and allowed EPA to provide site cleanup updates and hear concerns from the community. After the forums, the facilitator provided recommendations for EPA, including monthly coffee chats with tribal representatives and members on various topics. In addition, the facilitator helped draft a Tribal Communities Action Plan between EPA and Tribes in Lake County describing community involvement activities EPA will conduct as part of the cleanup process.



EPA Sulphur Bank Mercury Mine Superfund site
Photo: E2 Consulting (used by permission)

ECCR Training at EPA

“The negotiation training provided examples and hands-on practice of how to communicate more clearly with my colleagues, as well as how to negotiate more effectively with parties outside EPA.”

- EPA Interest-Based Negotiation Trainee

In FY 2021, CPRC and the ECCR Specialists led the Agency’s ECCR training activities to strengthen EPA staff’s skills and promote the use of ECCR. They delivered all trainings virtually in FY 2021 and trained more people than in any of the prior five years.

CPRC continually improved its trainings after each delivery and adapted in-person trainings to virtual trainings to better serve the Agency’s needs while most staff were teleworking during the pandemic. For example, CPRC updated its popular “Become a Better Negotiator: An Interest-Based Approach” for virtual presentation and delivered this training and other core trainings, such as “Difficult Conversations” and “Bridging Cultural Divides,” virtually on multiple occasions. CPRC also delivered a new training, “Facilitating Dialogue,” which helps EPA staff better manage challenging conversations with other staff and with the public.

CPRC provided training during its 14th annual Conflict Resolution Day program in October 2020. CPRC holds this annual event to increase EPA staff and managers' awareness of ECCR services at EPA and improve their ECCR knowledge and skills. CPRC hosted three virtual sessions, open to all agency staff. The Conflict Resolution Day sessions included CPRC's "Difficult Conversations" training, an overview of CPRC's services, and training on virtual meeting facilitation, delivered by trainers hired through CPRC's contract. Combined, the three sessions had over 280 attendees.

In FY 2021, CPRC trained **512 EPA staff, in 15 sessions, totaling 74 hours of training delivery**. This represents a significant increase from the 154 training participants in FY 2020.

Furthermore, ECCR Specialists trained **162 EPA staff in 6 training sessions, totaling 15.5 hours**. ECCR Specialists in Regions 1, 2, 3, and 9 led trainings on interest-based negotiation, virtual meeting facilitation, bridging cultural divides, and engaging constructively in difficult conversations. Following CPRC's efforts to build the capacity of ECCR Specialists to deliver CPRC trainings, ECCR Specialists contributed to a substantial increase in the number of EPA staff trained in ECCR in FY 2021.

ECCR Evaluation at EPA

As part of its commitment to continuous improvement, CPRC evaluated eight trainings during the 14th year of its evaluation program. CPRC used training evaluation data to improve the quality and effectiveness of the trainings it delivers for EPA employees. CPRC continued to evaluate its Conflict Prevention and Resolution Services contract by annually surveying the dozens of task order contracting officer representatives that use it. Their input helped CPRC improve the quality, efficiency, and effectiveness of the contract's use.

"It was helpful to see real people talking about their experiences using techniques to take on difficult conversations. [The training] makes it more realistic and approachable and gives me more confidence to employ the techniques myself."

*- EPA Difficult Conversations
Trainee*

Benefits of Using ECCR

Over the years of reporting on ECCR, EPA's program and regional offices have noted the following benefits of ECCR:

EPA offices and regions reported that ECCR use **furthered the Agency's mission and strategic goals** to protect human health and the environment by helping them establish collaborative processes to resolve environmental problems.

ECCR use resulted in **improved collaboration and working relationships** across a broad range of stakeholders as EPA enhanced its collaboration with federal, state, tribal, and community partners.

The use of ECCR made **processes more efficient and cost effective**. When the Agency used a neutral third party, it provided structure and focus to negotiations and moved cases along more quickly. Offices also noted that, compared to litigation, ECCR provided an opportunity for early resolution of enforcement cases, which resulted in cost savings.

Some noted that ECCR produced **more productive conversations** in both enforcement and non-enforcement contexts.

ECCR resulted in **better outcomes**, some of which could not have been achieved without neutral third-party assistance. These included outcomes that have improved environmental conditions when compared to non-ECCR cases, more creative outcomes, and external stakeholder ownership in the EPA's initiatives, programs and agreements.

Noted Benefits of ECCR

- *Furtheres EPA's mission and strategic goals*
 - *Improves relationships*
 - *Greater efficiency*
 - *More productive conversations*
 - *Better outcomes*
-

Opportunities for ECCR at EPA

While EPA uses ECCR to support some of its work, there are more opportunities for ECCR use, including managing virtual engagement with the public. During the COVID-19 pandemic, CPRC and the other ECCR offices at EPA played an important role in helping to manage virtual public engagement by offering virtual facilitation and mediation. Through these efforts, EPA obtained input from members of the public, many of whom may not have previously been able to participate in Agency events. EPA can continue to increase its use of ECCR to better engage the public in virtual and hybrid environments. Additionally, EPA knows that dealing with the climate crisis is urgent and complicated, and it can make greater use of neutral facilitators to lead processes to gather information on complex issues. Finally, EPA recognizes that generations of poor and minority groups have had to deal with more than their fair share of pollution. ECCR processes, such as dialogue, can help EPA staff and managers understand the history and needs of these groups as the Agency works to clean up long-term problems and ensure a healthy environment for future generations. Although EPA has used ECCR to improve its environmental justice work, it is a tool that can be used more often in the Agency's engagement with the public.



Photo: EPA

Conclusion

In FY 2021, EPA remained a lead federal agency in the provision of ECCR services and continued to offer easy access to high quality ECCR services to help the Agency achieve its mission and strategic goals. CPRC supported EPA's program and regional offices in their use of ECCR as an important tool to carry out effective work with stakeholders. As described above, ECCR was used in every EPA region and most programs to assist with cases across all media in EPA (land, water, air, and chemicals). ECCR services help EPA to engage effectively and efficiently with stakeholders and facilitate informed, transparent, and just decision making. As the Agency strives to combat climate change and ensure environmental justice, ECCR processes help to achieve those goals. ECCR helps the Agency to plan as well as prevent and resolve disputes so that we better serve the American public.



Photo: EPA

Appendixes

Appendix A - OMB & CEQ Questionnaire

In collaboration with the John S. McCain III National Center for Environmental Conflict Resolution (the Agency which collects and summarizes these reports for OMB and CEQ), EPA continued to produce a reformatted ECCR Annual Report. EPA did this to make the report more understandable and useful for the reader. Below are the summarized questions from the OMB and CEQ questionnaire and references to where the corresponding answers can be found in this report (in *italics*).

1. Agency Submission Information

Name of Department/Agency responding: U.S. Environmental Protection Agency

Name and Title/Position of person responding: Jake Strickler, Conflict Resolution Specialist

Division/Office of person responding: Conflict Prevention and Resolution Center

Contact information (phone/email): 202.564.4692

Date this report is being submitted: February 25, 2022

Name of ECCR Forum Representative: Gina Cerasani

2. ECCR Capacity Building and Investment:

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 2021, including progress made since FY 2020.

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 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 focus on accountable performance and achievement.
 - ECCR programmatic FTEs
 - Dedicated ECCR budgets
 - Funds spent on contracts to support ECCR cases and programs
- a) Please refer to your agency's FY 2020 report to only include new, changed or actively ongoing ECCR investments or capacity building. **If none, leave this section blank.** Please describe the trainings given in your department/agency in FY 2021. Please include a list of the trainings, if possible. If known, please provide the course names and total number of people trained. Please refer to your agency's FY 2020 report to include ONLY trainings given in FY 2021. **If none, leave this section blank.**

Description of EPA infrastructure on pages 5 and 6

EPA ECCR trainings on pages 12 & 13

3. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably **completed** in FY 2021). If possible, focus on an interagency ECCR case. Please limit the length to **no more than 1 page**.

- Name/Identification of Problem/Conflict: *[Please add case "title" here]*
- 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.
- Summary of how the problem or conflict was addressed using ECCR, including details of any innovative approaches to ECCR, and how the principles for engagement in ECCR outlined in the policy memo were used.
- Identify the key beneficial outcomes of this case, including references to likely alternative decision-making forums and how the outcomes differed as a result of ECCR.
- Please share any reflections on the lessons learned from the use of ECCR.

Other ECCR Notable Cases

Briefly describe any other notable ECCR cases in FY 2021. **(OPTIONAL)**

ECCR case example on page 11 and 12

Other notable ECCR case examples on pages 9, 10 and 11

4. ECCR Case Numbers

Final ECCR Case Numbers for EPA on page 8

Appendix B – Abbreviations

AI - appreciative inquiry

ADR - Alternative Dispute Resolution

ALJ - Administrative Law Judge

CAA – Clean Air Act

CAG - Community Advisory Group

CEQ - Council on Environmental Quality

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act, also known as “Superfund”

CPRC - EPA’s Conflict Prevention and Resolution Center

CPRS - Conflict Prevention and Resolution Services contract

CWA - Clean Water Act

DOI - U.S. Department of the Interior

EAB – EPA’s Environmental Appeals Board

ECCR - Environmental Collaboration and Conflict Resolution

ECRCO - EPA’s External Civil Rights Compliance Office

EJ - environmental justice

EPA - U.S. Environmental Protection Agency

FERC - U.S. Federal Energy Regulatory Commission

FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act

FTE - full-time employee

FY - fiscal year

GE – General Electric

OALJ - EPA’s Office of Administrative Law Judges

OMB - Office of Management and Budget

RCRA - Resource Conservation and Recovery Act

SDWA – Safe Drinking Water Act

TSCA - Toxic Substances Control Act

USACE - U.S. Army Corps of Engineers