Environmental Collaboration and Conflict Resolution (ECCR) in the Federal Government
Fiscal Year 2021 Agency Reporting Template

Background

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, and defines 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……. 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."

The 2012 memorandum requires annual reporting by Federal Departments and Agencies to OMB and CEQ on their use of Environmental Collaboration and Conflict Resolution and on the estimated cost savings and benefits realized through third-party assisted negotiation, mediation or other processes designed to help parties achieve agreement. The memo also encourages departments and agencies to work toward systematic collection of relevant information that can be useful in on-going information exchange across departments and agencies

The Udall Foundation's National Center for Environmental Conflict Resolution (National Center) has, since 2005, collected select ECCR data on behalf of Federal Departments and Agencies. *Beginning in FY 2021, the National Center is streamlining the data it collects to reduce the reporting burden on Federal Departments and Agencies and provide the most salient information on ECCR use. This updated reporting template is focused collection of ECCR case studies and data on capacity building, including ECCR training. Case numbers and context reporting are optional.*

Fiscal Year 2021 Data Collection

This annual reporting template is provided in accordance with the memo for activities in FY 2021.

The report deadline is Friday, January 28th, 2022.

Reports should be submitted to Steph Kavanaugh, NCECR Deputy Director, via e-mail at kavanaugh@udall.gov

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 a compilation of all FY 2021 ECCR reports submitted. You may be contacted for the purpose of clarifying information in your report.

For your reference, synthesis reports from past fiscal years are available at https://www.udall.gov/OurPrograms/Institute/ECRReport.aspx.

1. Agency Submission Information

Name of Department/Agency responding: **Department of Commerce, National Oceanic and Atmospheric Administration**

Name and Title/Position of person responding: **Frank M. Sprtel, Attorney-Advisor**

Division/Office of person responding: **Office of General Counsel, Environmental Review and Coordination Section (ERC)**

Contact information (phone/email): **(301)-628-1641; frank.sprtel@noaa.gov**

Date this report is being submitted: **February 4, 2022**

Name of ECCR Forum Representative: **Frank M. Sprtel**

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.**

Office of the General Counsel, Environmental Review & Coordination Section (ERC)

In 2021 ERC continued discussions with NOAA GC management concerning a draft strategic plan to create a centralized ECCR program at NOAA. Such discussions centered around the contents of an ECCR program and which NOAA line office might be best suited to host the program. In 2021 ERC also continued to develop its expertise in ECCR by having one of its staff continue to co-chair the Environment and Public Policy Section of the Association for Conflict Resolution and represent NOAA's interests by participating in the inter-agency ECCR forum. Furthermore, ERC continued to stress the importance of and provided information on ECCR to NOAA line and staff offices. Finally, ERC provided input on ways for NOAA to incorporate aspects of ECCR into its policies for interacting with Native Nations when managing natural resources under NOAA's jurisdiction.

National Marine Fisheries Service (NMFS)

Northeast Fisheries Science Center (NEFSC):

NMFS NEFSC worked with a Regional Fishery Management Council to bring a professional environmental facilitator to a stock assessment working group. NEFSC will conduct an After-Action Review to evaluate the effectiveness of the facilitation.

Southwest Fisheries Science Center (SWFSC):

NMFS SWFSC and the West Coast Regional Office (WCRO) participate in the Collaborative Science and Adaptive Management Team and its Collaborative Adaptive Management Team. CSAMP/CAMT includes California and Federal agency representatives, water users, and non-governmental conservation groups interested in the operations of California's state and federal water projects. There is a long history of legal, political and scientific conflict around water project operations and fish and wildlife conservation. CSAMP/CAMT was formed in response to a court order (since expired) that guides parties to work collaboratively on reducing scientific uncertainty about how project operations affect fish, especially protected salmon and smelt. A private consultancy organizes and facilitates frequent periodic meetings, science sharing, and research project development and funding. The group continues its work even in the absence of the court order.

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

In NESDIS, ECCR is fully integrated into our work by applying an approach to environmental planning and compliance that exhibits strong risk management that begins at project inception and applies to daily operations. For example:

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.

Office of Protected Resources (OPR)

NMFS/OPR 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/OPR convened four facilitated marine mammal take reduction team meetings in 2021. For example, the NMFS Greater Atlantic Regional Office convened the Atlantic Large Whale Take Reduction Team (Team) three times during 2021. The meetings utilized Environmental Conflict Resolution facilitation services. The facilitated meeting focused on new information that fisheries-related mortality/serious injury exceeded acceptable levels for North Atlantic right whales and required that the Team develop potential risk reduction measures to be used during public scoping meetings. 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.

National Oceanic Atmospheric Association/ National Ocean Services NOAA/NOS

National Center for Coastal Ocean Sciences (NCCOS):

NCCOS does not directly conduct third-party neutral assistance during environmental collaboration and environmental conflict resolution. However, through conducting nationwide research on coastal ecosystems, NCCOS provides scientific information for other Federal agencies, states, tribes, local governments, and coastal managers to make decisions about their coasts which can be used in potential environmental conflict situations.

NCCOS employs full time staff for environmental compliance and has developed an environmental compliance handbook, a website with resources for project managers and principal investigators, and implements NOS environmental compliance policy.

Center for Operational Oceanographic Products and Services (CO-OPS):

Continued improvement and implementation of the EC Program, updated templates and trainings, development of the Line Office PEIS.

b. 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 2020. **If none, leave this section blank.**

National Marine Fisheries Service

NEFSC:

Several staff participated in the Environmental Collaboration and Conflict Resolution for Federal Agencies Webinar in August 2021.

National Ocean Service

CO-OPS:

Informal ad-hoc trainings to new employees or new project leads to guide them on our office's environmental compliance process.

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.
NOAA National Sea Grant Office **Sea Grant address shellfish aquaculture public perceptions, permitting and policies through southern New England hub** - Connecticut Sea Grant (CTSG) is leading a shellfish

hub collaboration with Rhode Island and Massachusetts Sea Grant programs and partners to address public perception and permitting and policy objectives, with a goal of supporting the growth of beneficial and sustainable shellfish aquaculture in southern New England and beyond.

Funding - The NOAA National Sea Grant Office invests through the Sea Grant programs in the development of sustainable marine and Great Lakes aquaculture to help coastal communities maintain a safe and sustainable local seafood supply. Sea Grant's investments in aquaculture focus on research and technology transfer, often through one-on-one interactions with extension agents, to support and expand America's aquaculture industry. As part of Sea Grant's 2019 National Aquaculture Initiative, 11 funded projects are focused on accelerating the development of specific aquaculture topics through integrated teams of professionals. These teams established collaborative programs, commonly referred to as "Hubs", to plan for and appropriately focus the next generation of aquaculture investments while enhancing the synthesis and transfer of past research advances to the industry.

More information about Sea Grant Hub funding can be found on the national Sea Grant webpage: https://seagrant.noaa.gov/Our-Work/Aquaculture

More information on the CTSG project can be found on the CTSG webpage: https://seagrant.uconn.edu/2019/09/19/ctsg-to-lead-partner-on-4-aquaculture-projects-with-2m-award/

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.

NOAA National Sea Grant Office

A significant challenge limiting future growth of shellfish aquaculture in southern New England is siting new/expanding operations in the face of public perceptions regarding potential environmental impacts and human use conflicts. These negative perceptions can hinder aquaculture development by influencing investment and permitting. Full understanding of public waters as a shared resource and the legal implications of aquaculture in that context is lacking.

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.

NOAA National Sea Grant Office

RESULTS TO DATE: Connecticut Sea Grant led the establishment of a collaboration comprised of Sea Grant Programs in Connecticut, Rhode Island and Massachusetts, the Rhode Island Sea Grant Legal Program and key partners to address public perception and permitting and policy objectives, with a goal of supporting the growth of beneficial and sustainable

shellfish aquaculture in southern New England and beyond. Interpretive shellfish aquaculture signage is ready for strategic shoreline posting. Key shellfish aquaculture messages and delivery/evaluation methods are being identified. A RI aquaculture site selection tool is under construction and existing CT and MA mapping sites under revision. A RI aquaculture permitting workgroup and portal modeled after CT, convening state/federal authorities to address regulatory hurdles and develop regulatory guidance, is being established. A survey examining public values and support for shellfish aquaculture expansion was piloted.
Please share any reflections on the lessons learned from the use of ECCR.
N/A

Other ECCR Notable Cases

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

NOAA National Sea Grant Office

Addressing Policy Barriers and Promoting Opportunities for the Success of Oyster Aquaculture in Georgia - Georgia Sea Grant promoted growth in the Georgia oyster industry by identifying opportunities analyzing potential land use conflicts that may stymie its development. Many Georgians lack sufficient understanding of the ecosystem's significance and how human development impacts it. Promoting an industry that supports sustainable community development, environmental health, and resilient communities will enhance coastal communities' ability to improve the lives of coastal residents through economic development while balancing the needs of this new industry against existing interests and community values. Both the qualitative law and policy research and the survey data will provide coastal communities valuable resources to help them develop this new opportunity. The project team has organized a steering committee of practitioners and other experts connected to the development of oyster aquaculture in Georgia. This group is advising on research questions concerning land use practices related to the industry. They are also working with the project team to craft questions for a survey that will be deployed in the coming months. We are developing visualizations that will communicate how coastal residents and visitors will encounter oyster aquaculture operations. These visualizations will be used in our ongoing work to assess the tourism and experiential aspects of potential growth in the oyster industry. Finally, Georgia Sea Grant has begun a review of all of the coastal communities' planning documents and land use codes. This law and policy review examines how oyster aquaculture can be permitted under existing regulations and identifies potential barriers to it. The goal is to develop a common language and understanding of its impacts to enable community planners and leaders to effectively consider how it fits into their community vision and avoid any unnecessary conflict between the industry and local regulators.

Washington Sea Grant-funded researchers evaluate the economic and ecosystem-wide effects of Southern Resident orca recovery actions - With fewer than 80 individuals alive today, the Southern Resident orcas (Southern Residents), iconic animals of the Salish Sea, are in trouble. The 2019–2021 Washington state biennial budget funded implementation of the Southern Resident Orca Task Force's recommendations to address the human and ecological stressors that face these orcas. The recommendations include changes in fisheries and salmon hatcheries, habitat restoration, and regulations to limit vessel interactions with orcas. However, these actions do not fully account for the entire Salish Sea ecosystem or the potential economic impacts to related industries. With funding from Washington Sea Grant, researchers are adapting and applying two existing ecosystem models to evaluate the ecosystem-level impacts of the Southern Resident Orca Task Force's recommendations, as well as determining economic impacts. As part of this, the researchers will evaluate the cumulative impacts of regional human population growth, oil spills and climate change. This work could help managers and policymakers reconcile potentially conflicting values and benefits. The researchers refined the inputs for ecosystem model simulations that capture the dynamics of Southern Residents and other Salish Sea species. While the researchers originally intended for the economic simulations to examine a range of

relevant industries, this was complicated by factors including the impacts of the COVID-19 pandemic. For example, because recreational fishing was shut down, it was hard to interview recreational fishers as planned. The researchers decided to focus their economic simulations on quantifying consumer preferences regarding whale watching, and they developed a detailed analysis to measure this.

4. ECCR Case Number & Context Data (OPTIONAL)

Context for ECCR Applications:	Case Numbers
Policy development	_____
Planning	_____
Siting and construction	_____
Rulemaking	_____
License and permit issuance	_____
Compliance and enforcement action	_____
Implementation/monitoring agreements	_____
Other (specify): _____	_____
TOTAL # of CASES	_____

Report due Friday, January 28, 2022. Submit report electronically to: kavanaugh@udall.gov