

Environmental Collaboration and Conflict Resolution (ECCR) in the Federal Government Fiscal Year 2022 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 2022 Data Collection

This annual reporting template is provided in accordance with the memo for activities in FY 2022.

The report deadline is Friday, January 27th, 2023.

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 2022 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:

January 25, 2023

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 2022, including progress made since FY 2022.

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 2021 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 FY2022 ERC developed a survey to facilitate the collection of information used to compile this report. ERC found that this mode of data collection was easy and convenient based upon survey participant feedback. As such, ERC will use this survey method to collect information for future ECCR reports. ERC is also looking at new and novel ways to enhance the use of ECCR at NOAA and to educate NOAA staff as to the benefits of using ECCR. In 2022 ERC continued to develop its in-house expertise in ECCR by having one of its staff complete a co-chair position with 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. Finally, ERC continues to meet with NOAA staff and staff from the Udall Foundation's National Center for Environmental Conflict resolution on a quarterly basis to discuss ways to better incorporate environmental collaboration and conflict resolution principles into NOAA practices and projects, including those involving Native Nations.

National Ocean Service (NOS):

NOS maintains open lines of communications between PIs, project managers, grant program managers, and with NOAA EC. Environmental Compliance Coordinators at each NOS program and at the NOS Front Office resolve any concerns at the appropriate organizational level. Each NOS program office is continually reviewing and updating environmental compliance policies, procedures, training courses, in order to address and route any ECCR issues that may arise.

National Marine Fisheries Service (NMFS):

Ongoing activity: Over the last three years, the Trustee Council for the Blackbird Mine Natural Resource Damage Assessment site in Idaho has been unsuccessfully attempting to come to an agreement on how to complete the remaining actions in the 1995 consent decree. In fall of 2022, the members of the NOAA case team worked with the Oregon Federal Executive Board Shared Neutrals Alternative Dispute Resolution program to identify a facilitator to help the Trustee Council come to a resolution. A facilitator with the right skill set was identified and then facilitated a three-day meeting with Trustee Council representatives in November 2022. The result of the meeting was a draft resolution that is in the process of being reviewed by Trustee Council representatives. Even if the resolution ultimately needs to be revised, the facilitation was a success in that it got all Trustee Council representatives talking openly about their goals and concerns. There was no charge for the facilitator's time, but NOAA's Office of Habitat Conservation paid for travel costs, which will be reimbursed by Blackbird Mine oversight funds.

- b. Please describe the trainings given in your department/agency in FY 2022. 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 2021 report to include ONLY trainings given in FY 2022. **If none, leave this section blank.**

3. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably **completed** in FY 2022). If possible, focus on an interagency ECCR case. Please limit the length to **no more than 1 page**.

Name/Identification of Problem/Conflict: <i>[Please add case “title” here]</i>
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.
None to report.
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.
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.
None to report.
Please share any reflections on the lessons learned from the use of ECCR.
None to report.

Other ECCR Notable Cases

Briefly describe any other notable ECCR cases in FY 2022. (OPTIONAL)

None to report.

4. ECCR Case Number & Context Data (OPTIONAL)

Context for ECCR Applications:	Case Numbers
Policy development	_____
Planning	_____
Siting and construction	__ 2 __
Rulemaking	_____
License and permit issuance	_____
Compliance and enforcement action	_____
Implementation/monitoring agreements	_____
Other (specify): _____	_____
TOTAL # of CASES	_____

Report due Friday, January 27th, 2023. Submit report electronically to: kavanaugh@udall.gov