

FY 2011 ECR Policy Report to OMB-CEQ

On November 28, 2005, the Director of the Office of Management and Budget (OMB), and the Chairman of the President's Council on Environmental Quality (CEQ) issued a policy memorandum on environmental conflict resolution (ECR).

The memorandum requires annual reporting by departments and agencies to OMB and CEQ on progress made each year. This joint policy statement directs agencies to increase the effective use and their institutional capacity for ECR and collaborative problem solving.

ECR is defined in Section 2 of the memorandum as:

“third-party assisted conflict resolution and collaborative problem solving in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and land use. The term “ECR” encompasses a range of assisted negotiation processes and applications. These processes directly engage affected interests and agency decision makers in conflict resolution and collaborative problem solving. 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 administrative adjudicatory disputes, to civil judicial disputes, policy/rule disputes, intra- and interagency disputes, as well as disputes with non-federal persons/entities. ECR processes can be applied during a policy development or planning process, or in the context of rulemaking, administrative decision making, enforcement, or litigation and can include conflicts between federal, state, local, tribal, public interest organizations, citizens groups and business and industry where a federal agency has ultimate responsibility for decision-making.

While ECR refers specifically to collaborative processes aided by third-party neutrals, there is a broad array of partnerships, cooperative arrangements, and unassisted negotiations that federal agencies enter into with non-federal entities to manage and implement agency programs and activities. The Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving presented in Attachment A (of the OMB/CEQ ECR Policy Memo) and this policy apply generally to ECR and collaborative problem solving. This policy recognizes the importance and value of the appropriate use of all types of ADR and collaborative problem solving.”

The report format below is provided for the sixth year of reporting in accordance with this memo for activities in FY 2011.

The report deadline is February 15, 2012.

We understand that collecting this information may be challenging; however, after compiling previous reports, the departments and agencies are requested to collect this data to the best of their abilities. The 2011 report, along with previous reports, will establish a useful baseline for your department or agency, and collect some information that can be aggregated across agencies. Departments should submit a single report that includes ECR information from the agencies and other entities within the department. The information in your report will become part of an analysis of all FY 2011 ECR reports. You may be contacted for the purpose of clarifying information in your report. For your reference, copies of prior year synthesis reports are available at www.ecr.gov.

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Name and Title/Position of person responding:	Richard Kuhlman Director
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Date this report is being submitted:	February 15, 2012

Section 1: Capacity and Progress

1. Describe steps taken by your department/agency to build programmatic/institutional capacity for ECR in 2011, including progress made since 2010. If no steps were taken, please indicate why not.

[Please refer to the mechanisms and strategies presented in Section 5 of the OMB-CEQ ECR Policy Memo, including but not restricted to any efforts to a) integrate ECR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning; b) assure that your agency's infrastructure supports ECR; c) invest in support or programs; and d) focus on accountable performance and achievement. You are encouraged to attach policy statements, plans and other relevant documents.]

The U.S. Environmental Protection Agency (EPA) has been engaging in and providing significant programmatic/institutional support for ECR for decades. As a result, the Agency now has one of the more advanced ECR programs in the executive branch. EPA continued to provide high levels of programmatic/institutional capacity for ECR during FY 2011 in each of the four areas identified in the OMB/CEQ ECR policy memorandum.

Integrate ECR objectives into Agency Mission Statements, Government Performance and Results Act Goals, and Strategic Planning

Transparency in EPA's Operations and Open Government - On April 23, 2009, EPA Administrator Lisa Jackson issued a memo entitled "Transparency in EPA's Operations," in which she articulated a set of general principles requiring Agency employees to "provide for the fullest possible public participation in decision-making" and to "take affirmative steps to solicit the views of those who will be affected" by EPA decisions. In furtherance of the Administrator's memorandum on transparency and the President's Open Government Directive of December 8, 2009, EPA released its Open Government Policy on April 7, 2010, and Data Quality Plan on May 18, 2010. Together these two documents address how EPA will approach the issues of transparency, participation and collaboration in its work. EPA has also established a web page (www.epa.gov/open) where web users can read the EPA's Open Government Plan and Data Quality Plan, view information about Agency innovations in Open Government, and be kept up to date about upcoming Open Government related events. EPA's ECR program, by promoting the "Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving" articulated in the OMB/CEQ ECR policy memorandum, plays a key role in supporting increased transparency and the principles of open government in EPA operations.

EPA's Strategic Plan - EPA's ECR program supports all five goals in EPA's 2011-2015 Strategic Plan: 1) taking action on climate change and improving air quality; 2) protecting America's waters; 3) cleaning up communities and advancing sustainable development; 4) ensuring the safety of chemicals and preventing pollution; and 5) enforcing environmental laws. EPA's Administrator, in her cover letter for the Strategic Plan, explicitly recognizes the value of dialogue on environmental issues, stating, "we will engage citizens to hear all

the voices that must be part of our nation's dialogue on environmental issues." ECR is an important way to promote and facilitate this communication. As in previous years, the Agency used ECR in activities supporting each of the five Strategic Plan goals in FY 2011. The breadth of EPA's support for ECR across the full range of the Agency's business is reflected in our response to question 3, in which we report 220 ECR cases for FY 2011 covering all ECR application contexts and decision-making forums.

ECR Strategy - During FY 2011, EPA's Conflict Prevention and Resolution Center (CPRC) completed a new strategic plan (2011- 2015) with a renewed commitment to bringing people together to solve their environmental problems. CPRC approaches this commitment in two ways. First, we respond to client requests for help with facilitation, mediation, conflict coaching, or advice. Second, we work to build EPA's conflict prevention and resolution capacity. In the coming years we will maintain a strategic focus on using good practice, demonstrating results, building knowledge and skills, and cultivating opportunity for the use of ECR and collaborative problem solving (CPS) at EPA. The strategy contains measurable performance objectives and describes the anticipated approach to reaching these objectives. In FY 2011, as in previous years, CPRC developed and implemented an annual operating plan with specific action items and dedicated personnel and funding to further the objectives of the ECR strategy.

In developing the new strategic plan, CPRC hosted a meeting of EPA stakeholders to jointly identify strategic directions that could be used as a guide or roadmap for EPA managers and staff, programs, offices, and regions planning and conducting ECR or CPS work. The group discussed the history of ECR and CPS at EPA, the internal and external environment that affects ECR and CPS use, and the strengths, weaknesses, threats, and opportunities that exist. CPRC was assisted in this process by a full time facilitator from EPA's Region 9 office. This person's facilitation of key meetings was instrumental to completing the strategic plan. Development of the CPRC's strategic plan has also prompted EPA Region 9 to initiate a multi-region effort to develop individual regional plans for ECR.

Assure that the Agency's Infrastructure Supports ECR

EPA provides a high degree of support for ECR through the Agency's infrastructure. The CPRC is headed by EPA's Dispute Resolution Specialist, who is appointed pursuant to the Administrative Dispute Resolution Act of 1996 (ADR Act of 1996). The CPRC provides policy support and access to neutral third party services for ECR as well as alternative dispute resolution (ADR) used in other contexts.

EPA's ADR Policy - The Agency's ADR policy (65 FR 81858, December 2000), which states EPA's strong support for the use of ECR and other forms of ADR to deal with disputes and potential conflicts, contains many themes in common with the OMB/CEQ ECR policy memorandum. In particular, it articulates the following expected benefits from ADR/ECR:

- Faster resolution of issues;
- More creative, satisfying and enduring solutions;
- Reduced transaction costs;

- Fostering a culture of respect and trust among EPA, its stakeholders, and its employees;
- Improved working relationships;
- Increased likelihood of compliance with environmental laws and regulation;
- Broader stakeholder support for agency programs; and
- Better environmental outcomes.

EPA's ADR policy is intended to meet the following objectives, similar to those in the OMB/CEQ ECR policy memorandum:

- Promote understanding of ADR/ECR techniques;
- Encourage routine consideration of ADR/ECR approaches to anticipate, prevent, and resolve disputes;
- Increase the use of ADR/ECR in EPA business;
- Highlight the importance of addressing confidentiality concerns in ADR/ECR processes;
- Promote systematic evaluation and reporting on ADR/ECR at EPA; and
- Further the Agency's overall mission through ADR/ECR program development.

Based on the ADR policy, EPA adopts a broad perspective on what qualifies as ECR -- any technique to address environmental issues that involves a neutral third party, whether or not the participants' goal is to reach agreement. ADR/ECR can be used in many contexts at EPA including adjudications, rulemaking, policy development, administrative and civil judicial enforcement actions, permit issuance, administration of contracts and grants, stakeholder involvement, negotiations, and litigation.

New Records Schedule for Confidential ADR Records - EPA continues to advance the quality and professionalism of ADR/ECR program services in furtherance of the Agency's ADR Policy. On May 31, 2011, the National Archives and Records Administration issued a new Document Retention Schedule 751 that CPRC developed for Agency ADR communications. The schedule establishes rules for managing and disposition of records generated or held by EPA neutral third parties and protected from disclosure under the confidentiality provisions of the ADR Act of 1996. The rules allow for destruction of protected ADR communications involving an internal agency neutral after one year. The new records schedule is available at <http://www.epa.gov/records/policy/schedule/sched/751.htm>.

Senior Leadership Support for ECR Use - Senior EPA leadership continues to provide encouragement and support for the use of ECR, as it has for more than three decades. In FY 2011, EPA's Administrator, Deputy Administrator, Assistant Administrators, and Regional Administrators engaged in and supported the use of ECR in high-profile matters, including the following cases and projects:

- Cape Cod Litigation Settlement,
- EPA-DOI-USDA Air Quality MOU,
- Oregon Fish Consumption,
- Lead and Copper Rule Roundtable Discussion,
- GE Housatonic,
- Pesticides-ESA,
- National Oceans Policy Forum,
- Chesapeake Bay Executive Order, and

- New Bedford Harbor.

ECR Outreach, Education, Training, and Career Development - As in previous years the Agency emphasized outreach, education, training, and career development activities to promote the increased use of ECR in FY 2011. Our ECR outreach, education, training, and career development activities included the following:

CPRC and Other EPA Headquarters Outreach, Education, Training, and Career Development Activities

- The CPRC continued efforts to build internal EPA capacity, offering a total of 20 workshops on nine different topics related to negotiation and ECR. More than 480 EPA staff members and others participated in these sessions. Eleven training sessions were conducted at EPA HQ and nine were conducted either in EPA regional offices or at national conferences, where the audiences were primarily regional staff members. Participants included EPA staff members from the Agency's water, waste, air, chemical safety, and pollution prevention programs; EPA staff members from the Office of the Administrator, Office of Environmental Information, Office of Research and Development, and Office of Inspector General; and EPA legal staff in the Office of Enforcement and Compliance Assurance (OECA) and the Office of General Counsel. Topics of CPRC-sponsored workshops included: "Power of Apology," "Interest Based Negotiation," "Some Like It Hot" (dealing with emotions in conflict), "Building Trust," "Lessons from Hollywood," "Getting Past the Usual Suspects" (strategies for addressing challenging ECR process participants), "Engaging Diverse Communities Through Mediation," and "Charettes - Redevelopment by Design." All of these courses were designed to build the capacity of EPA staff members to prevent or appropriately resolve disputes. Staff members in Regions 1, 7, and 5 provided critical support for CPRC-sponsored training. The CPRC evaluated each of these offerings, as described below in question 5.
- The CPRC sponsored EPA Conflict Resolution Day events in October 2010. This day of presentations coincided with International Conflict Resolution Day. Headquarters activities during the week included expert speakers on interest-based negotiations (IBN), conflict resolution concepts, and dealing with emotions in conflict, and an ECR exhibit staffed by EPA ECR experts. Several EPA regional offices also hosted presentations.
- The CPRC sponsored an exhibit, provided handouts, and gave a presentation on ECR at the 2011 National Association of Remedial Project Managers Conference.
- The CPRC sponsored an exhibit, provided handouts, and offered information on ECR services at the 2011 On Scene Coordinators Training Conference.
- The CPRC sponsored an exhibit, provided handouts, and gave and sponsored presentations at the 2011 National Community Involvement Conference.
- The CPRC provided four training presentations on collaboration, ECR, and public involvement at EPA's regularly scheduled training on the EPA Regulation Development Process.

- The CPRC conducted regular bi-weekly half-hour presentations on collaboration and ECR for new hires.
- The CPRC presented a program on the use of ECR to the 2011 North Carolina Natural Resources Leadership Institute at its annual Washington, DC, workshop. Participants included state officials, business leaders, and non-governmental organization leaders involved in a yearlong seminar program on collaboration in environmental decision making.
- The CPRC continued to implement an ECR outreach and marketing strategy for the Agency, including identification of target audiences and working with representatives from those audiences to improve communications and service delivery to on-the-ground staff.
- The Office of Water (OW) considers ECR and other CPS approaches to be necessary tools to effectively and efficiently help move towards its goals. Training staff to become more aware of potential disagreements/conflicts in real time, both internally and externally, and actions they can take to ameliorate them, is the most basic tool. OW continued to build capacity in FY 2011 by offering the following training sessions and career development opportunities:
 - The Marine Pollution Control Branch staff received training in “Conflict Management for Regulation Developers” and "Facing an Angry Public: Can Apology Diffuse Public Anger in our Work?”
 - Wetlands Division staff received training in conflict styles.
 - The Office of Wetlands, Oceans, and Watersheds (OWOW) used the Conflict Prevention and Resolution Services (CPRS) contract vehicle to obtain facilitation and training support services for an OWOW-wide training workshop. The contractor provided support to OWOW in advance of the workshop by helping OWOW compile and evaluate responses received from an office wide survey designed to gauge the morale and pulse of OWOW staff. Based on the survey results, the contractor worked with a group composed of management and staff to design a training workshop that responded in large part to the concerns/issues identified by staff in the survey vehicle. The two-day workshop consisted of a report out of survey results; strategies to improve collaboration through a better understanding of communication styles and skills; and training on diversity, sensitivity and awareness, as well as techniques and options for dealing with issues related to change morale and pace of work.
 - OWOW also used the CPRS contract vehicle to obtain executive coaching for three senior managers.
 - The Director of the Office of Science and Technology (OST) completed a 40-hour mediation training. This helped demonstrate to OST staff and the management team their leadership's belief and commitment to the power of mediation and ECR.

Regional Outreach, Education, Training, and Career Development Activities

- Region 2 (New York) supported "staff outreach, education, and training," and built "expert knowledge, skills, and capacity," consistent with Section 5(a)(2)

of the ECR policy memorandum. For example, the Office of Regional Counsel (ORC) provided training to Region 2 attorneys on IBN. One of ORC's ECR Specialists gave a keynote address about collaboration in the federal government at a conference at Cardozo Law School, trained ECR professionals on facilitating breakout groups at a conference of the Association for Conflict Resolution, and continues to serve as an EPA advisor to the Kheel Center on the Resolution of Environmental Interest Disputes

- Region 3's (Philadelphia) Collaboration Network team continued its activities to increase awareness and develop skill levels in order to implement collaborative decision-making throughout the Region. Such activities included collaboration training and workshops for EPA personnel, other federal agencies, and at conferences. In addition, collaboration trainers have been mentoring EPA project and/or team leaders and facilitating meetings. Finally, the Collaboration Network meets regularly to plan additional collaboration activities, identify opportunities to implement collaborative processes, define annual strategic plans, and to implement action items to achieve its goals.
- Region 4's (Atlanta) Office of Environmental Accountability (OEA) sponsored the following training sessions:
 - "Conflict Resolution Training" took place in July 2011 and focused on educating new attorneys and their program clients on use of ADR/ECR.
 - Larry W. Bridgesmith, J.D., Associate Professor, Institute for Conflict Management, Lipscomb University, TN, presented "Navigating the Tension: Advocate or Settlement Counsel?" on December 8, 2010, for the Region 4 legal office. Continuing Legal Education credit was approved for attendees.
- Region 9 (San Francisco) conducted training in IBN, communications, and conflict resolution skills, inserted collaborative techniques into a broad range of processes, and advised Regional staff and management on ECR resources, opportunities and techniques.

Planning for Future Outreach, Education, Training, and Career Development Activities

During FY 2011 the CPRC also prepared for several activities to be implemented in FY 2012 and beyond, including:

- Completion of an Agency-wide ECR/CPS training strategy, and
- FY 2012 Conflict Resolution Day activities, including workshops on IBN and conflict resolution concepts.

Tribal Outreach - As part of OECA's Office of Environmental Justice's efforts to expand the awareness and use of ECR in Indian country, the last in a series of Environmental Justice Collaborative Problem Solving and Dispute Resolution workshops for indigenous grassroots organizations and federally-recognized tribal governments was held for the Oneida Nation of Wisconsin in FY 2011.

International ECR Outreach – CPRC worked to develop international capacity and expertise in ECR during FY 2011, meeting with visitors from the U.S. Department of State International Visitor Leadership Program, Australia, the People's Republic of China,

South Korea, Turkey, and the United Nations Environment Programme. CPRC staff members explained EPA's public involvement and ECR programs, addressed questions, and explored the potential application of public involvement and ECR processes in these countries. CPRC staff also worked with EPA's Office of International and Tribal Affairs in designing a public participation web site for countries in the Middle East.

In July 2011, a judge from EPA's Environmental Appeals Board attended and participated in a symposium in South Korea celebrating the 20th anniversary of that country's National Environmental Dispute Resolution Commission. The judge made a presentation summarizing EPA's administrative adjudication system and ADR at EPA.

Invest in Support of Programs

Over the years, EPA has made considerable investments to support its ECR program, a trend that continued in FY 2011:

ECR Personnel - In FY 2011, the Agency had seven and a half FTEs in the CPRC (including a temporary reduction of a half FTE due to a staff member's short-term assignment to another program) and an additional two and a half FTEs in the New England, Denver, and San Francisco regional offices devoted to ECR. In addition, at least 29 other individuals support the ECR program as part of their job responsibilities or on a collateral duty basis. For example, each EPA regional office has at least one staff member who serves as a liaison for ECR activities. These regional ECR staff members support ECR education/training; draw on existing regional resources to resolve disputes; build expert knowledge, skills, and capacity; track requests for assistance/ECR cases/projects; coordinate regularly with the CPRC; and contribute to the development of the ECR annual report.

Office of Administrative Law Judges - The Office of Administrative Law Judges (OALJ) continued to make ADR a priority, offering the neutral mediation services of an administrative law judge in nearly all environmental cases filed with the Office. Over the course of the year, the parties in a majority of EPA cases affirmatively accepted ADR services from OALJ. In addition, OALJ has expanded the availability of ADR to the non-EPA cases assigned to the Office under active interagency agreements. OALJ anticipates that, if the hiring of additional ALJs is approved, the scope of the ADR program could correspondingly reach more parties and contribute to the successful and efficient resolution of enforcement actions.

Environmental Appeals Board - In February 2010, the Environmental Appeals Board (EAB) launched a pilot ADR program. The pilot program offers parties the option of participating in ADR with the assistance of an EAB Judge acting as a neutral evaluator/mediator. The primary purpose of the pilot program is to provide a neutral, confidential forum for the settlement of cases before the EAB. In FY 2011, EAB expanded the pilot program to include permit cases.

Office of Solid Waste and Emergency Response - Since 2006, the Office of Solid Waste and Emergency Response and its Office of Resource Conservation and Recovery

(ORCR), has used ECR services. These services include supporting efforts for certification programs for electronic equipment recyclers, developing an MOU and implementing a national vehicle mercury switch recovery program, facilitating stakeholder participation in a green products roundtable, planning and convening a stakeholder meeting regarding EPA's regulatory efforts concerning CERCLA 108(b) issues, establishing a stakeholder dialogue on sustainable financing of municipal solid waste recycling programs, and using an Agency dispute resolution specialist in support of ORCR efforts to foster voluntary efforts to increase the recycling of construction and demolition waste materials.

Regional Support for ECR – Some specific examples of EPA regional programmatic support for ECR include the following:

- Region 1's (Boston) culture of support for ECR has remained strong throughout FY 2011. As in previous years, the Regional ECR Program is managed by a full-time senior attorney-mediator. Approximately ten other regional staff members from a variety of program areas and professional backgrounds provide support to the ECR Program on a collateral basis by agreement of their managers. Most of them are trained mediators and facilitators with varying degrees of experience who serve as in-house neutrals when they are needed and available. The group also includes a contracts specialist from the Superfund branch who handles Region 1's ECR contracting issues and paperwork. At the highest levels of management, Regional leaders are aware of the services these individuals provide, frequently direct parties (both inside and outside of the Agency) to the Regional ECR program, and are generally receptive to the use of ECR when it is proposed for projects within their areas. ECR training sessions and seminars are publicized and endorsed by management. Workload permitting, staff with ECR skills are supported in their participation on the ECR team.
- Region 2's (New York) ECR specialists participated in consultations with case teams to help Regional staff determine which cases were appropriate for use of ECR. They also helped to advise case teams about how to effectively participate in ECR processes and serve as a liaison to neutrals on Region 2 cases. In addition, ORC provided personnel to facilitate collaborative efforts involving the Long Island Sound Study, National Estuary Program, and Department of Housing and Urban Development/Department of Transportation/EPA Sustainability Partnership.
- Region 4 (Atlanta) regularly disseminates ADR/ECR information and provides support to EPA Headquarters and Regional ECR efforts. Region 4 also has a Regional ECR team of three lawyers that meets to discuss ways to promote and support ECR in the Region. Region 4's OEA completed an office-wide survey of use of ADR, mediation, facilitation, and other forms of ECR within the Region. Results have been used to determine and promote appropriate training needs and other options for building and improving knowledge and use of ECR in Region 4.
- Region 5 (Chicago) assigned staff in the Region's ORC to support programs and worked to build partnerships with other agencies (via the Chicago Federal Executive Board shared neutral program).
- Region 6 (Dallas) is taking steps to build ECR capacity; specifically, the Region has focused on enhancing awareness of ECR, its uses, and appropriateness, throughout the Region. Region 6 has seen an increase over the past several years in

the use of ECR at the community level. The Region believes that it has been very effective in bringing together diverse interests at the community level to prevent conflict and build relationships between the parties.

- Region 7's (Kansas City, KS) management encourages and supports the use of ECR in addressing violations of environmental laws. The Region regularly participates in the ECR opportunities offered by EPA's OALJ in contested administrative cases. The Region has built institutional/programmatic ECR capacity through its ORC Counsel ECR Specialist's participation in monthly workgroup calls. In FY 2011, Region 7 also added a new ECR Specialist who brings previous ECR skill sets into the Region's ORC and who has specific performance objectives related to involvement and raising awareness of ECR in Region 7 for FY 2012. The Region frequently promotes ECR and the services provided by the CPRC through electronic notices, informational emails targeted at Regional managers, community involvement coordinators, and staff, and by offering ECR training.
- Region 8 (Denver) continues to use ECR across all statute and media programs and in new areas, such as recycling and sustainability work. In FY 2011, Region 8's ADR Coordinator began development of a region-wide ECR Network, the aim of which is to engage staff and management in the use of ECR in new ways, to make note of where effective ECR is taking place and where internal staff with ECR expertise can act as conflict assessors, process designers, and conflict coaches throughout the Region.
- Region 9 (San Francisco) undertook the following activities to increase capacity for ECR in the Region:
 - The Region added money to the CPRS contract for rapid service provision and closed out old projects to reduce monthly overhead administrative costs.
 - Region 9's Regional Facilitator (RF) facilitated numerous meetings to advance Agency goals and partnerships, and increase the effective use of ECR pursuant to the goals articulated in the ECR policy memorandum. In particular, the RF facilitated a number of internal meetings that increased Regional staff and managers' familiarity with a variety of facilitation tools, enhanced participation in Regional environmental planning and decision-making and improved skills to further Regional environmental goals. These meetings included:
 - Facilitating retreats for the Space Steering Committee and Project Action Teams, planning for EPA Region 9 future building needs, including several environmental issues associated with Regional building needs. The RF also consulted with individual teams and facilitated the ongoing Space Steering Committee meetings.
 - Working with the Regional Water Division's Clean Water Act Section 106 Tribal Grant Decision meetings and Team building meetings. This is the fifth year the RF has worked with this group to develop and refine their grant proposal evaluation process and to work on building a highly functioning team.
 - Facilitating quarterly Regional Tribal Operations Committee (RTOC) meetings and providing consultation and coaching to EPA's RTOC co-chair and Tribal Program office.

- Facilitating follow-up work on the strategic roadmap (i.e., vision and strategic directions) for the Regional Hazardous Waste Division's sustainability project.
 - Designing and facilitating a Regional session on Climate Change and Clean Energy focusing on identifying the Region's key activities, establishing links and connections, and identifying next steps.
- Region 10 (Seattle) continued its efforts to increase the effective use of ECR and to build institutional capacity by working with its programs, employees, and outside stakeholders to identify opportunities to use ECR tools. The Region worked with its ECR specialists, as well as specialists from the CPRC, to identify and evaluate ECR cases and to identify specific ECR processes to use for cases when the Region determined that the use of ECR was appropriate. Region 10 continues to have a strong ECR presence in Superfund and the Office of Water activities and is developing a greater ECR presence in other programs as is evidenced by the Air Program's recent use of ECR. In addition, the Region invested in ECR processes that were tailored to address environmental justice and tribal issues. When appropriate, Region 10 emphasizes the use of ECR tools in our decision-making to make its processes more transparent to the public. The Region's ORC encourages the routine consideration of ECR in both administrative and judicial cases.

Contracting for External ECR Services - In FY 2011, the CPRC continued providing ECR services under its seventh Conflict Prevention and Resolution Services (CPRS) Contract, which has a ceiling of \$55,000,000 over five years. The contract provides all EPA program offices, regional and field offices, and laboratories with comprehensive access to neutral third parties and related services all over the country, with most services being initiated within two weeks of a request. In FY 2011, EPA used about \$5.6 million in ECR services (e.g., neutral third parties for ECR cases, ECR training) on 106 active task orders under the CPRS Contract. This represents an increase of \$400,000 and 13 active task orders over what we reported in FY 2010.

Interagency Agreement with the U.S. Institute for Environmental Conflict Resolution – EPA's interagency agreement with the U.S. Institute for Environmental Conflict Resolution (USIECR) continues to provide cooperative support for conflict prevention and resolution assistance. The interagency agreement supports the National Roster of Environmental Dispute Resolution Professionals, training courses, and the National ECR Conference. It also provides access to neutral mediation and facilitation services for cases and matters in which EPA and USIECR have a shared interest, such as those involving the National Environmental Policy Act and intergovernmental conflicts. In FY 2011, EPA utilized more than \$300,000 of services for a total of six active projects through the interagency agreement. This represents a 100% increase in dollars and 50% increase in projects from FY 2010.

Interagency Partnerships - EPA continued to strengthen its partnership with other federal agency ECR programs during FY 2011. EPA and USIECR also continued work under their interagency agreement on a range of projects, including the EPA-Department of Interior-U.S. Department of Agriculture memorandum of agreement on air quality

issues, a dialogue between EPA, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service on issues related to pesticides programs and implementation of the Endangered Species Act, and the National Oceans Policy Forum. EPA also participated actively as a member of the ECR and Technology Steering Committee, a group of federal agency and private sector representatives engaged in dialogue about how to incorporate a range of technology tools into the practice of ECR and more effectively achieve the “Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving.”

Focus on Accountable Performance and Achievement

EPA has put a major emphasis on accountable performance and achievement for ECR. Our efforts in this area are described in the response to question 5 below.

Section 2: Challenges

2. Indicate the extent to which each of the items below present challenges or barriers that your department/agency has encountered in advancing the appropriate and effective use of ECR.

	Extent of challenge/barrier		
	Major	Minor	Not a challenge/barrier
	Check <u>only</u> one		
a) Lack of staff expertise to participate in ECR	<input type="checkbox"/>	<input type="checkbox"/>	X
b) Lack of staff availability to engage in ECR	<input type="checkbox"/>	X	<input type="checkbox"/>
c) Lack of party capacity to engage in ECR	<input type="checkbox"/>	X	<input type="checkbox"/>
d) Limited or no funds for facilitators and mediators	<input type="checkbox"/>	X	<input type="checkbox"/>
e) Lack of travel costs for your own or other federal agency staff	<input type="checkbox"/>	X	<input type="checkbox"/>
f) Lack of travel costs for non-federal parties	<input type="checkbox"/>	X	<input type="checkbox"/>
g) Reluctance of federal decision makers to support or participate	<input type="checkbox"/>	<input type="checkbox"/>	X
h) Reluctance of other federal agencies to participate	<input type="checkbox"/>	<input type="checkbox"/>	X
i) Reluctance of other non-federal parties to participate	<input type="checkbox"/>	X	<input type="checkbox"/>
j) Contracting barriers/inefficiencies	<input type="checkbox"/>	<input type="checkbox"/>	X
k) Lack of resources for staff capacity building	<input type="checkbox"/>	X	<input type="checkbox"/>
l) Lack of personnel incentives	<input type="checkbox"/>	X	<input type="checkbox"/>
m) Lack of budget incentives	<input type="checkbox"/>	X	<input type="checkbox"/>
n) Lack of access to qualified mediators and facilitators	<input type="checkbox"/>	<input type="checkbox"/>	X
o) Perception of time and resource intensive nature of ECR	<input type="checkbox"/>	X	<input type="checkbox"/>
p) Uncertainty about whether to engage in ECR	<input type="checkbox"/>	X	<input type="checkbox"/>
q) Uncertainty about the net benefits of ECR	<input type="checkbox"/>	X	<input type="checkbox"/>
r) Other(s) (please specify): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
s) No barriers (please explain): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section 3: ECR Use

3. Describe the level of ECR use within your department/agency in FY 2011 by completing the table below. [Please refer to the definition of ECR from the OMB-CEQ memo as presented on page one of this template. An ECR “case or project” is an instance of neutral third party involvement to assist parties in reaching agreement or resolving a dispute for a particular matter. In order not to double count processes, please select one category per case for decision making forums and for ECR applications.]

Note: The first table presents ECR case information using the U.S. Environmental Protection Agency’s definition of ECR, based on its ADR policy, which includes situations in which participants are using a neutral third party whether or not the participants are seeking agreement.

	Cases or projects in progress ¹	Completed Cases or projects ²	Total FY 2011 ECR Cases ³	Decision making forum that was addressing the issues when ECR was initiated:					Of the total FY 2011 ECR cases indicate how many your agency/department	
				Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)	Sponsored ⁴	Participated in but did not sponsor ⁵	
<i>Context for ECR Applications:</i>										
Policy development	10	12	22	17	0	0	5	voluntary program, state decision, misc.	21	1
Planning	8	8	16	4	0	0	12	community dialogue, facilitated dialogue, voluntary	16	0

¹ A “case in progress” is an ECR case in which neutral third party involvement began prior to or during FY 2011 and did not end during FY 2011.

² A “completed case” means that neutral third party involvement in a particular matter ended during FY 2011. 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.

³ “Cases in progress” and “completed cases” add up to “Total FY2011 ECR Cases”.

⁴ Sponsored - to be a sponsor of an ECR 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 ECR case.

⁵ Participated, but did not sponsor - an agency did not provide resources for the neutral third party's services for a given ECR case, but was either a party to the case or participated in some other significant way (e.g., as a technical expert advising the parties).

								progra m, misc.		
Siting and construction	17	4	21	18	0	0	3	misc.	19	2
Rulemaking	4	9	13	7	0	3	3	state decisio n, interag ency coordin ation	10	3
License and permit issuance	5	2	7	4	1	1	1	state standa rds	6	1
Compliance and enforcement action	34	67	101	16	67	16	2	misc.	85	16
Implementation/monitoring agreements	4	4	8	6	0	0	2	commu nity dialogu e, interag ency decisio n	7	1
Other (specify): Voluntary program, misc.	16	16	32	9	0	2	21	volunta ry progra m, intergo vernmen tal decisio n	30	2
TOTAL	100	120	220	81	68	22	49		194	26
	(the sum should equal Total FY 2011 ECR Cases)			(the sum of the Decision Making Forums should equal Total FY 2011 ECR Cases)					(the sum should equal Total FY 2011 ECR Cases)	

Note: The second table presents ECR case information using the OMB/CEQ definition of ECR.

	Cases or projects in progress ⁶	Completed Cases or projects ⁷	Total FY 2011 ECR Cases ⁸	Decision making forum that was addressing the issues when ECR was initiated:					Of the total FY 2011 ECR cases indicate how many your agency/department	
				Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)	Sponsored ⁹	Participated in but did not sponsor ¹⁰	
<i>Context for ECR Applications:</i>										
Policy development	5	2	7	4	0	0	3	state decision	6	1
Planning	1	2	3	0	0	0	3	facilitated dialogue, intergovernmental decision	3	0
Siting and construction	3	1	4	3	0	0	1	Interagency coordination	3	1
Rulemaking	2	4	6	1	0	3	2	state decision	3	3
License and permit issuance	2	1	3	1	1	1	0		3	0
Compliance and enforcement action	25	64	89	4	67	16	2	misc.	73	16
Implementation/monitoring agreements	1	0	1	1	0	0	0		1	0

⁶ A “case in progress” is an ECR case in which neutral third party involvement began prior to or during FY 2011 and did not end during FY 2011.

⁷ A “completed case” means that neutral third party involvement in a particular matter ended during FY 2011. 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.

⁸ “Cases in progress” and “completed cases” add up to “Total FY2011 ECR Cases”.

⁹ Sponsored - to be a sponsor of an ECR 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 ECR case.

¹⁰ Participated, but did not sponsor - an agency did not provide resources for the neutral third party's services for a given ECR case, but was either a party to the case or participated in some other significant way (e.g., as a technical expert advising the parties).

Other (specify): voluntary program, misc.	4	2	6	2	0	2	2	voluntary program, intergovernmental decision	4	2
TOTAL	43	76	119	16	68	22	13		96	23
	(the sum should equal Total FY 2011 ECR Cases)			(the sum of the Decision Making Forums should equal Total FY 2011 ECR Cases)					(the sum should equal Total FY 2011 ECR Cases)	

4. Is your department/agency using ECR in any of the substantive priority areas you listed in your prior year ECR Reports? Indicate if use has increased in these areas since they were first identified in your ECR report. Please also list any additional priority areas identified by your department/agency during FY 2011, and indicate if ECR is being used in any of these areas. Note: An overview of substantive program areas identified by departments/agencies in FY 2010 can be found in the FY 2010 synthesis report.

List of priority areas identified in your department/agency prior year ECR Reports	Check if using ECR	Check if use has increased in these areas
Wetlands Program (2008)*	X	<input type="checkbox"/>
Climate Change (2009)*	X	<input type="checkbox"/>
Environmental Justice (2009)*	X	X
External Civil Rights (2010)	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
List of additional priority areas identified by your department/agency in FY 2011	Check if using ECR	
_____	<input type="checkbox"/>	
_____	<input type="checkbox"/>	
_____	<input type="checkbox"/>	
_____	<input type="checkbox"/>	

Please use an additional sheet if needed.

* Beginning in FY 2012, these EPA priority areas for ECR are now part of the base ECR program and will no longer be tracked separately.

5. It is important to develop ways to demonstrate that ECR is effective and in order for ECR to propagate through the government, we need to be able to point to concrete benefits; consequently, we ask what other methods and measures are you developing in your department/agency to track the use and outcomes (performance and cost savings) of ECR as directed in Section 4 (b) of the ECR memo, which states: *Given possible savings in improved outcomes and reduced costs of administrative appeals and litigation, agency leadership should recognize and support needed upfront investments in collaborative processes and conflict resolution and demonstrate those savings and in performance and accountability measures to maintain a budget neutral environment* and Section 4 (g) which states: *Federal agencies should report at least every year to the Director of OMB and the Chairman of CEQ on their progress in the use of ECR and other collaborative problem solving approaches and on their progress in tracking cost savings and performance outcomes. Agencies are encouraged to work toward systematic collection of relevant information that can be useful in on-going information exchange across departments?* [You are encouraged to attach examples or additional data]

The U.S. Environmental Protection Agency (EPA) believes that it is very important to track the use and outcomes of ECR and has been working toward that end with other federal and state partners since before the OMB/CEQ ECR policy memorandum was issued. In FY 2011 we pursued three efforts addressing performance and accountability. First, we continued to collaborate with the U.S. Institute for Environmental Conflict Resolution (USIECR) and others to evaluate the practice of ECR. Second, we utilized multiple approaches to gauge the use of ECR at EPA. Third, we continued to evaluate ECR-related training sponsored by the Conflict Prevention and Resolution Center (CPRC). All three of these activities were initiated prior to FY 2011 and updates on each are provided below.

Evaluating the Practice of ECR

For many years we have collaborated with USIECR, and other federal and state agencies in the development and use of common evaluation instruments to assess the practice of ECR. In FY 2011, EPA continued use of the third set of evaluation instruments developed through this collaboration, continued to collect and analyze evaluation data in detail, and responded by using the results generated to help inform our ECR practice and program about potential areas for improvement.

We also continued to refine our aggregate analysis of EPA ECR cases evaluated between 2003 and 2009 to assess the relationships between various aspects of the ECR process and case outcomes. In particular we were interested in whether ECR process inputs such as the nature of parties' involvement, how they addressed substantive issues, the role of the neutral third party, and the policy context may have an impact on the substantive outcomes (e.g., durability of agreements, parties' increased understanding), procedural outcomes (e.g., extent to which parties would recommend

the ECR process), and relationship outcomes (e.g., changes in trust, changes in cooperation). We presented our refined results at the 2011 International Association for Conflict Management Conference. Our findings included the following:

- How parties address substantive issues in ECR is highly relevant. Activities such as identifying key differences among the parties on issues, seeking solutions to common needs, and having quality information seem to be particularly important ECR process inputs based on the number of relationships they have with case outcomes. Aspects of party involvement, such as having adequate resources to participate, having all participants engaged, and investing sufficient authority in the negotiators, are also related to desirable case outcomes. Seeking solutions to common needs and having all participants engaged appear to be important enabling variables for other ECR process inputs.
- Parties tend to see mediator/facilitator practices as a package (scores are similar for all such practices) and these practices have a relationship to certain case outcomes: agreement durability, expectations of working together in the future, and the extent to which parties would recommend the process
- There are differences in ECR case outcomes related to whether the case arose from a pending federal agency decision, an administrative proceeding, or a judicial proceeding and whether the case is classified as upstream (pre-decision) or downstream (post-decision). For example, downstream and litigation-related ECR cases are less likely to have improved relationships among the parties relative to upstream or federal agency decision ECR cases.
- Some ECR case outcomes (i.e., whether an agreement is reached, the durability of agreement, and the extent to which parties would recommend the process) vary with ECR process inputs or case characteristics that we have not identified and are not currently evaluating.

In FY 2012, we expect to complete our analysis and submit an article for publication in a peer-reviewed journal.

EPA believes that it is very important to make direct use of our evaluation findings to improve both the evaluation system and our ECR program. In FY 2011, we used the EPA ECR case aggregate analysis results to inform the Agency's contribution to the upcoming revision of the interagency ECR evaluation instruments, planned for FY 2012. Following our discussions with USIECR, some changes reflecting our aggregate analysis were adopted for further discussions with OMB. In FY 2011, we also engaged a group of ECR practitioners at the Association for Conflict Resolution Environment and Public Policy Section annual conference to recommend specific activities through which the aggregate evaluation results could enhance ECR practice. Their suggestions included: further documentation of what each of the identified good practices entails, additional training for agency staff on the practices, detailed case studies of some of the aggregate ECR cases to illustrate the connection between practice variables and outcomes, and a prescribed final case summary template for the Conflict Prevention and Resolution Services (CPRS) contract to highlight how good ECR practices were used in individual cases.

EPA also believes that it would greatly benefit ECR practice to develop a robust evaluation instrument for ECR cases in which the participants' goal emphasizes improving an agency's environmental decision through neutral third party facilitated public input or dialogue, while not seeking to reach an agreement. The use of such ECR techniques is very common at EPA and other agencies. In FY 2012, EPA plans to conduct a pilot test of an evaluation instrument for such cases.

Gauging the Use of ECR

EPA has three methods for gathering data about the use of ECR throughout the Agency. The first method is the CPRS contract, administered by the CPRC, which allows us to quickly and regularly identify current ECR cases where external service providers are serving as neutral third parties, and the nature of the cases. Our interagency agreement with USIECR provides similar utility for shared cases.

The second method for measuring ECR use is a network of Headquarters office and regional staff members who are designated to assist with the ECR annual reporting process, some of whom also provide additional ECR program services as needed by their respective organizational units. These individuals are able to confirm preliminary ECR case lists generated by the CPRC and supplement such lists with additional ECR cases.

The third source of information about ECR use is the CPRC's request tracking system, in which CPRC staff members log requests received for alternative dispute resolution and ECR services. In FY 2011, we undertook a major effort to streamline the tracking system to better link it to the CPRS tracking system, reduce the data entry burden on staff, and focus on collecting the most essential data elements. While none of these three methods of tracking ECR use is sufficient by itself, and each presents unique data quality challenges, together they provide EPA with the information it needs to track and understand trends in ECR use.

ECR-related Training Evaluation

In parallel to the CPRC's training efforts described in question 1 above, we continued to implement a training session evaluation approach in FY 2011. This approach measures both the satisfaction of participants with presentations and logistics and the participants' view about whether the training achieved the learning goals set out in the courses. We are using the results of the training session evaluation to make regular improvements in training delivery. In FY 2012, we plan to continue the evaluation process for CPRC-sponsored training and begin developing additional tools to assess the impact of our training.

6. Describe other significant efforts your agency has taken in FY 2011 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not fit within the Policy Memo's definition of ECR as presented on the first page of this template.

The U.S. Environmental Protection Agency (EPA) has a long history of working collaboratively with its stakeholders to further the Agency's human health and environmental mission. For disputes, the use of unassisted negotiation is very common and successful. Best efforts are made to resolve environmental conflicts without litigation, whether those conflicts arise with states, tribes, public interest groups, or facilities. EPA Headquarters and regional offices have provided examples of how we continued to collaborate in FY 2011 in ways other than the use of ECR as defined in the OMB/CEQ ECR policy memorandum. These examples are described below.

Office of Air and Radiation (OAR) - OAR increased transparency through successful stakeholder involvement in its programs. OAR is getting more parties involved and earlier in decision making processes. For example, more diverse membership for the Clean Air Act Advisory Committee has expanded the range of views in the committee. Having these new voices included in the earliest stages of developing recommendations is very helpful. OAR has also had success with addressing environmental conflict, by asking diverse parties to chair and participate in workgroups, such as it did for the Best Available Control Technology/Greenhouse Gas report. The chairs were selected from both the industry and environmental advocacy sectors to lead a balanced process.

Office of Chemical Safety and Pollution Prevention (OCSPP) - OCSPP routinely engages affected stakeholders on numerous important scientific and regulatory issues through public notice and comment opportunities and public meetings. While these procedures do not involve ECR facilitation or mediation, they draw on principles important to ECR—airing of issues in a manner that allows participation by all affected interests and a reasoned response on every issue that is raised. In addition, OCSPP makes extensive use of federal advisory committees to address complex and contentious issues. It uses the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to obtain independent peer review and advice on novel or controversial scientific issues and the Pesticide Program Dialogue Committee to explore a wide range of pesticide policies—both substantive and procedural—with a diverse group of stakeholders. Information about OCSPP's public participation process and advisory committees appears at <http://www.epa.gov/pesticides>. Information about the FIFRA SAP and other public participation processes can be found at <http://www.epa.gov/scipoly>.

Office of Enforcement and Compliance Assurance (OECA) – OECA's Office of Environmental Justice (OEJ), through its management of the National Environmental

Justice Advisory Council, a federal advisory committee, coordinated discussions about several environmental issues, including the impacts of goods movement on air quality in communities, school air toxics monitoring, and the development of nationally consistent screening approaches for identifying environmental justice populations. Federal advisory committees reflect collaborative efforts by the Agency to anticipate and provide advice for resolving environmental issues.

Although OEJ has not undertaken efforts to build programmatic capacity for the use of traditional ECR, it has created, funded, and continued to foster programs that support collaborative problem-solving among external stakeholders:

- Through work assignments under the Technical Assistance Support to Communities and Conflict Prevention and Resolution Services (CPRS) contracts, OEJ provides educational and technical assistance to support communities affected by environmental challenges. This support includes facilitated dialogue for a wide range of communities receiving assistance under a variety of EPA grant programs.
- Through the Environmental Justice Small Grants Program, OEJ supports and empowers communities working on solutions to local environmental and public health issues. The grant program assists recipients in building collaborative partnerships to help them understand and address environmental and public health issues in their communities. Successful collaborative partnerships involve not only well-designed strategic plans to build, maintain, and sustain the partnerships, but also to work towards addressing the local environmental and public health issues. More information is available at <http://www.epa.gov/environmentaljustice/grants/ej-smgrants.html>.
- Through the State Environmental Justice Cooperative Agreement (SEJCA) program, OEJ supports state projects that utilize collaborative problem solving to address environmental and public health issues, such as childhood lead poisoning and exposure to air pollution. The purpose of this new program is to promote environmental justice in state government activities and to advance strategies that result in improvements in public health and the environment. The projects supported through SEJCA are designed to build broad, results-oriented partnerships that work to improve environmental and public health in communities disproportionately exposed to environmental harms and risks. These projects are designed to be replicable in other communities facing similar challenges. More information is available at <http://www.epa.gov/environmentaljustice/grants/ej-sejca-grants.html>.
- Through its administration of the Environmental Justice Showcase Communities Project, OEJ provides funding to EPA Regional offices in support of efforts that bring together governmental and non-governmental organizations and pools their collective resources and expertise on the best ways to achieve real results in communities. The successes and lessons

learned in these demonstration projects will be used to help guide the design and implementation of future environmental justice projects and will help EPA increase its ability to address local environmental challenges in more effective, efficient, and sustainable ways. More information is available at <http://www.epa.gov/environmentaljustice/grants/ej-showcase.html>.

Office of Research and Development (ORD) - ORD does not routinely require services which involve ECR facilitation and mediation as it has a number of other mechanisms available to engage stakeholders in addressing important scientific issues. ORD includes affected stakeholders and partners on many of its important scientific issues through public notice, comment, and meetings requiring no ECR facilitation or mediation. ORD routinely uses the authorities provided under the Solid Waste Disposal Act; Clean Water Act; Safe Drinking Water Act; Clean Air Act; Toxic Substances Control Act; Federal Insecticide, Fungicide, and Rodenticide Act; Executive Orders; and other related laws, orders, and federal rules and regulations to obtain independent peer reviews and advice on addressing scientific issues, impacting research policies with stakeholders.

ORD did use the CPRS to facilitate a meeting at EPA's National Homeland Security Research Center in Cincinnati Ohio on July 27 – 28, 2011. The meeting, Review and Design of Low Dose *Bacillus anthracis* Inhalation Exposures, was designed to bring together technical experts from the federal government agencies, private research institutions, and academia.

The Agency, in partnership with other federal organizations, conducts research in the area of microbial risk assessment. The aim is to improve understanding of the human health effects of exposure to microbial agents, including *Bacillus anthracis* (*B. anthracis*) to support first responders and decision makers during a biothreat incident.

Although there have been dose response studies to evaluate the health effects of *B. anthracis*, previous research was focused on high-level exposures. EPA, in partnership with the Department of Defense and the Centers of Disease Control and Prevention, decided to conduct animal studies to inform the human health effects of acute and multiple low dose exposures to *B. anthracis*. These studies were designed to inform decisions on whether and when to reoccupy a building that has been the site of a biothreat incident

The objective of the meeting was to allow EPA to consult with other technical experts in the field on the interpretation of the results of the preliminary low dose *B. anthracis* inhalation exposure in rabbit studies and their recommendations for future more statistically robust studies, namely to:

- review the preliminary acute and multiple low dose animal exposure studies;
- identify strengths and weaknesses of the approach used for these studies; and
- design follow-on statistically robust subchronic low dose exposure studies.

There were 42 attendees in Cincinnati with additional participation by video from the EPA facilities in Research Triangle Park, North Carolina, and Washington, D.C. The meeting focused on the science and suggested recommendations for future studies

rather than on addressing policy concerns. Facilitation by a third party was critical to allow for exchange of technical ideas and perspectives from all participants to help the Agency develop its future research agenda.

Office of Solid Waste and Emergency Response (OSWER) – OSWER’s Office of Superfund Remediation and Technology Innovation typically utilizes its regional community involvement coordinators to work with local communities to help resolve site related cleanup issues. In addition, OSWER's Office of Federal Facilities Restoration and Reuse may utilize dispute resolution provisions in Federal Facility Agreements associated with federal facility Superfund sites. Also, OSWER’s Office of Resource Conservation and Recovery (ORCR) was able to resolve a long-standing complaint from commercial sectors to clarify the application of Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to pharmaceutical wastes at retail stores. By working with a number of large retailer stakeholders, ORCR provided retailers with clear guidance to help ensure the safe and responsible disposal of RCRA listed pharmaceutical residues.

In addition, OSWER has developed the Community Engagement Initiative (CEI) to enhance OSWER’s and regional offices' engagement with local communities and stakeholders to help them meaningfully participate in government decisions on land cleanup, emergency preparedness and response, and the management of hazardous substances and waste. A CEI draft Implementation Plan was released in May 2010, which lays out specific actions and activities that EPA will undertake to achieve the goals and objectives of the CEI Action Plan. It is a working document that presents guiding principles, goals and objectives for the Initiative and outlines roles and schedules. Progress and results will be assessed regularly and any changes to plans or schedules will be posted on OSWER's website. More information regarding the CEI can be found at: <http://www.epa.gov/oswer/engagementinitiative>.

Further, in January 2010, Administrator Jackson made Expanding the Conversation on Environmentalism and Working for Environmental Justice an Agency priority. This priority was incorporated into EPA’s Strategic Plan for 2011-2015. To implement this priority, EPA launched Plan EJ 2014 as the Agency’s roadmap for integrating environmental justice into its programs, policies, and activities. OSWER is the Plan EJ 2014 lead for Community Based Action Programs that advance environmental justice. As part of that effort, OSWER has developed implementation strategies and activities which include identifying how EPA funding, policies, and programs can inform or help decision makers to maximize benefits and minimize adverse impacts when considering current land uses in decision making, planning, siting, and permitting, and supporting community-based programs modeled on the Community Action for a Renewed Environment (CARE) principles.

Office of Water (OW) - OW generally strives to solicit informal input from the full range of stakeholders prior to formal notice of an action and holding public meetings is one of the opportunities it uses to accomplish this. OW also uses the public notice and comment process to formally resolve numerous issues. Below are other specific efforts

OW took in FY 2011:

- OW's Office of Ground Water and Drinking Water (OGWDW) uses the statutory National Drinking Water Advisory Council to support conflict resolution for most of their actions. The Council is composed of a diverse set of representatives, including regulators, the drinking water industry, and the general public. OGWDW has sought out diverse membership for the Council, to ensure that the range of opinions is heard. Where needed, the Council forms special subgroups to work on specific issues. OGWDW convened two meetings of the National Drinking Water Advisory Council in FY 2011 to discuss issues ranging from nutrient impacts on drinking water systems to potential revisions to the Lead and Copper Rule.
- OW's Office of Science and Technology senior management has been particularly effective in interactions with the states on approval and disapproval of state water quality standards submissions. These interactions have benefitted greatly from past experience with use of ECR.
- OW's Wetlands Division Director provided leadership support in pursuing a new Interagency Agreement with the Federal Highway Administration. Among many other objectives, the Agreement provides for conflict resolution of controversial highway projects.

Region 1 (Boston) - As in recent years, a major portion of the Region 1's ECR Program's work is devoted to anticipating, preventing, mitigating, and/or better managing conflict through enhanced communication. This often takes the form of facilitated dialogues, conferences, and other stakeholder processes aimed at sharing information, generating ideas, promoting understanding of diverging perspectives, clarifying misunderstandings, and building relationships.

One of the best examples of Region 1's success is through its work with at-risk and overburdened environmental justice communities, such as Bridgeport, Connecticut. For over 10 years the Region has invested significant resources and provided support to Bridgeport community groups to help them overcome some of the City's greatest challenges including: asthma, childhood lead poisoning, food deserts, lack of water access, stormwater management, toxic waste and contaminated land, and blight. During FY 2011, Region 1 continued to see the cumulative impacts of this long-term, multi-pronged effort.

Over the years Bridgeport has received EPA CARE grants; Healthy Communities Grants; more than a dozen Brownfields Assessment, Clean-up, and Job Training grants; and technical assistance, such as GreenScaper training and Water Boot camp, and was chosen as an "EJ Showcase Community." While the monetary support and grants are extremely helpful and necessary for addressing the City's environmental and public health challenges, by many accounts, EPA's most valuable assistance has come in the form of being an "effective convener" and meeting facilitator. Specifically, the Region has had great impact on the community by bringing people and groups together who can effectively leverage their own efforts and help build a better understanding of

community concerns and solutions.

Seven years ago, EPA's Urban Environmental Program worked with community stakeholders in Bridgeport's East End to coordinate an EJ Tour & Community Forum that planted the seeds for a growing and productive relationship between the community, the City, industry and political leaders. Several years later, as part of the CARE process, the Region's ECR Program facilitated discussions addressing environmental and quality of life concerns raised by the community over scheduled work on a major transmission line project. These Regional efforts to enhance communication helped bring community concerns forward and look for positive actions that could be endorsed by all parties. By the end of FY 2011, plans were well underway for a recent celebration that demonstrated the effectiveness of these efforts.

Meanwhile, the Region continued to play a leadership role in two matters mentioned in this section of last year's ECR Report. Building on another of its convening efforts, the Region pursued its work on the New England Green Chemistry Challenge, a multi-sector partnership aimed at promoting the awareness and application of green chemistry principles across the Region. The initiative's six strategic focus groups, working in coordination with each other, have developed their own action plans and measures of success and are now in varying degrees of implementation. In another ongoing effort, following an assessment of whether and, if so, how best to proceed with a charrette process, the Region effectively used this hands-on tool to elicit citizens' input on the advantages and disadvantages of various remedial options at the GE Housatonic RCRA Corrective Action Site in Pittsfield, Massachusetts.

Region 2 (New York) - Region 2 had numerous occasions to serve a convening role to bring together diverse stakeholders on particular issues without neutral support. For example, Region 2 hosted a conference, "The Path to Sustainable Future Through the Protection of Public Health and the Environment," which brought together panels of diverse stakeholders moderated by Region 2 staff. The Region has also been engaged in an ongoing effort on polychlorinated biphenyls in schools involving multiple concerned stakeholders and a citizen participation plan that is currently being implemented.

Region 4 (Atlanta) – Region 4 activities that might not meet the definition of ECR, but would still represent efforts to better manage and defuse environmental issues, include: case negotiations to resolve matters; training of attorneys, and Regional and state inspectors on negotiation skills; facilitation; and settlement tools, such as the use of supplemental environmental projects; and Regional/state collaborative efforts such as partnership activities and agreements (e.g., Watershed Planning Groups). The Region also has significantly expanded its environmental compliance assistance programs, such as the audit and self-disclosure program, to reduce potential human exposure to toxics and promote better environmental compliance in a non-adversarial setting.

Region 6 (Dallas) – Region 6 has focused on making changes to the way it does things with the current level of resources. The Region has tried to utilize its limited conflict resolution resources to service issues where conflict is more likely to emerge. It has prioritized situations where there are multi-party issues, generally at the community level, where the issues are complex and the views are deeply held. For example, the Region is planning to meet with concerned citizens, elected officials, local industry representatives, and other concerned parties in the Corpus Christi and Port Arthur areas to resolve current issues, foster communication to avert future conflict, and build relationships among all parties.

Region 6 has also tried to minimize conflict by making process changes. For example, it has been very successful utilizing expedited settlement agreements in the spill prevention, control, and countermeasure brine, and underground storage tank enforcement programs, and more recently, in enforcement of the risk management program under the Clean Air Act. Under these programs small enforcement actions can be resolved quickly and easily, without protracted litigation, resulting in decreased transaction costs for both EPA and the regulated community.

In addition, the Region has also tried to foster a cultural shift in which issues and problems are addressed before outright conflict ensues. This preventative culture also helps ensure that it has better communication with the individuals and entities with which it interacts, better relationships with its partners, and improved effectiveness with the scarce resources at its disposal.

Region 7 (Kansas City, KS) - Region 7 has adopted the practice of using pre-filing negotiations in all administrative enforcement actions seeking a monetary penalty. Many of these actions initiated by Region 7 in FY 2011 were settled in the pre-filing stage. Region 7's new ECR Specialist was also utilized numerous times to assist in process design and facilitation tasks by all divisions during the year, signaling a growing understanding of the benefits of facilitation methods, regardless of whether external participants sought agreements or not on various subjects.

Region 8 (Denver) - Region 8's National Environmental Policy Act program conducted an unassisted dialogue process regarding water rights on the Colorado river. These self facilitated meetings between the Army Corp of Engineers, Colorado's Department of Natural Resources, the United States Forest Service and United States Fish and Wildlife Service are intended to enhance understanding and cooperation between the parties regarding use of this limited natural resource.

Region 10 (Seattle) - As appropriate, and particularly in regards to matters of significant public interest, Region 10 worked with interested stakeholders as the Region implemented its various programs. This effort primarily manifested itself in community outreach activities and in coordination of the Region's work products with states, tribes, local communities and other stakeholders. One example is the Region's involvement in the Coeur d'Alene Basin Environmental Improvement Project

Commission, a commission made up of federal, state, tribal, and local governments that provides significant input to the Region's cleanup efforts in the Coeur d'Alene Basin.

In addition, Region 10 continues to utilize the administrative dispute resolution processes articulated in administrative orders on consent and consent decrees to resolve disputes without the assistance of a neutral. The Region also provides opportunities for pre-filing negotiations in most administrative enforcement actions. This frequently results in the Agency resolving the underlying matter without filing a case.

Section 4: Demonstration of ECR Use and Value

- 7 Briefly describe your departments'/agency's most notable achievements or advances in using ECR in this past year.

EPA ECR Cases and Expenditures Increase

The U.S. Environmental Protection Agency's (EPA's) most significant ECR achievement in FY 2011 was the Agency's continued support for ECR cases and related services. The total of 220 ECR cases reported for FY 2011 compares to 208 cases reported for FY 2010, an increase of 6%. In FY 2011, EPA sponsored 88% of its ECR cases and all Headquarters media offices and regions supported and/or participated in ECR cases. The Agency's FY 2011 ECR cases arose in all policy contexts for ECR applications and in all decision-making forums. EPA also increased the use of ECR in one of its three previously identified priority substantive program areas for ECR compared to the level of use during the fiscal year when they were first identified as Agency priorities.

Our ECR case numbers, however, tell only part of the story. As indicated in the response to question 1 above, the Agency's extramural expenditures on ECR cases and related services, as measured by dollars spent through the Conflict Prevention and Resolution Services Contract – EPA's primary mission contact for ECR -- increased in FY 2011 by \$400,000 (or 8%) over the FY 2010 expenditure level. The Agency also doubled the amount of expenditures under our interagency agreement with the U.S. Institute for Environmental Conflict Resolution and increased the number of active projects by 50% (from four to six projects). These results clearly demonstrate EPA's strong commitment to using ECR to address the fundamental governance challenge described in the OMB/CEQ ECR policy memorandum and to further the Agency's mission to protect human health and the environment.

Environmental Appeals Board Alternative Dispute Resolution Pilot Expansion

In May 2011, the parties in a matter before the Environmental Appeals Board (EAB) sought to participate in the Board's alternative dispute resolution (ADR) pilot to resolve a dispute relating to a petition for review of a Clean Air Act prevention of significant deterioration permit. Although the Board had not yet formally expanded the ADR pilot to include permit appeals, the EAB agreed to assist in resolving the dispute and, consistent with the EAB's ADR pilot procedures, designated a Settlement Judge and Settlement Attorney to act as neutral parties. The Settlement Judge and Settlement Attorney met with all parties over a two day period and engaged in follow-up communications via telephone and e-mail. Through this process, the Settlement Judge and Settlement Attorney were able to assist the parties in reaching an agreement in principle to resolve the dispute in a mutually satisfactory manner. The parties are currently in the final stages of completing a final resolution.

Given the success of the ADR pilot in the permitting context, the EAB expanded the pilot's reach. The EAB now offers parties in all matters before the Board the option of participating in the ADR pilot.

Following the expansion of the pilot and the success of the EAB's initial use of ADR, the EAB has recently received requests from all parties in five additional permit cases to participate in the pilot ADR Program. ADR is currently in progress in these cases.

Clean Air Act Advisory Committee and Environmental Justice and Permitting

In FY 2011 the Office of Air and Radiation (OAR) built upon its recent progress in implementing integrated ECR by expanding its efforts with the Clean Air Act Advisory Committee (CAAAC) and using ECR facilitation on environmental justice and permitting efforts. After two years of successful ECR efforts that resulted in a highly praised CAAAC reports, OAR asked a CAAAC workgroup to use a facilitated process to provide the office advice on Multi-Air Pollutant Strategies in Major U.S. Industry Sectors. This potentially volatile topic required a balanced input from different constituencies on the CAAAC. Since there were members on this workgroup who had participated in previous ECR efforts through the CAAAC, the process went very smoothly, leading to a timely and high quality set of recommendations delivered to OAR's senior leadership. The final report can be reviewed online at <http://www.epa.gov/air/caaac/reports.html>.

In addition, ECR, specifically used to promote stakeholder outreach, has increasingly become an integral part of EPA's environmental justice efforts regarding permitting issues. OAR and EPA's Office of General Counsel, as co-leads on this issue, held a series of facilitated conference calls with various constituencies to seek input on how to ensure that environmental justice concerns receive full consideration in permit issuance. As OAR moves forward in requesting important advice from its advisory committee and other constituencies, it is utilizing ECR strategies more frequently. OAR believes ECR strategies assist in getting timely high quality advice and the neutral third party facilitators allow OAR to participate actively and fairly in the discussions.

Region 2 (New York) Climate Change and ECR Efforts

Region 2's Office of Regional Counsel (ORC) continues to be very involved in building capacity for ECR in the context of climate change issues. One of ORC's ECR Specialists transitioned from chairing the Region 2 Climate Change Workgroup's Stakeholder Engagement Team into a temporary assignment focused on collaboration among federal agencies on climate change adaptation. This work led to the "Federal Climate Change Partners of New York/New Jersey," a multi-stakeholder process with fifteen federal agencies in Region 2 intended to address climate change mitigation and adaptation. The same ECR Specialist facilitates ongoing RA-level and working-level

meetings of the Partnership. ORC also provided support to the Region 2 Climate Change Workgroup by assisting with process design and facilitation in a Regional effort to identify potential climate change adaptation strategies.

8. ECR Case Example

- a. Using the template below, provide a description of an ECR case (preferably completed in FY 2011). Please limit the length to no more than 2 pages.

Name/Identification of Problem/Conflict
Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance, and how the ECR effort was funded
<p>On October 17, 2011, the U.S. Environmental Protection Agency (EPA) approved Oregon’s revised water quality standards for toxic pollutants to protect human health, based on a fish consumption rate of 175 grams/day, or approximately 23 fish meals a month. The new standards -- ten times the original proposal -- are the most protective of any <i>state</i> in the US (although some <i>tribes</i> have more protective standards for tribal lands). This standard protects the most vulnerable populations, tribes and environmental justice communities who rely on subsistence fishing for their food sources. The outcome of the Oregon fish consumption rate project will have national technical and policy implications, for EPA, Pacific Northwest states, and other states with tribal subpopulations and high fish consumers.</p> <p>This accomplishment could never have been achieved without the assistance of a facilitator that used ECR best practices to bring parties together that had been in disagreement for years, to establish trust among government and regulated parties, and to help the three governments managing the project move forward with nationally precedent setting rules to protect human health, most notably tribal fish consumers.</p> <p>This Oregon Fish Consumption Rate and Water Quality Standards Rule facilitated dialogue was jointly sponsored by EPA, the Confederated Tribes of the Umatilla Indian Reservation, and Oregon’s Department of Environmental Quality. The project was prompted by earlier difficult negotiations among the three governments and their commitment to approach the problem with a more collaborative approach—with the assistance of an impartial facilitator. After nearly a decade of disagreement and frustration, leaders from the three governments chose to approach this issue in a new way. They began the dialogue with a commitment to a new goal: to reach consensus among the three governments on a final recommendation for how to protect Oregon’s higher fish consumers.</p> <p>The project sponsors brought in a professional facilitation team funded by EPA, DS Consulting, in November 2006 to help design, convene, coordinate, and facilitate discussions around water quality standards in Oregon—specifically human health criteria relating to Oregon’s fish consumption rates. Over time, the project evolved into three separate phases:</p> <ul style="list-style-type: none">Phase I—Public workshops & issue identification (January 2007-October 2008);Phase II— Rule making working groups comprised of knowledgeable individuals from affected organizations and stakeholder groups (January 2009-December 2010); andPhase III—Public hearing and input (January-April 2011). <p>This project included involvement of multiple state and federal agencies; tribal governments and</p>

their staff; agricultural, environmental, forestry, industrial, municipal, public health, and small business advocates and organizations; members of the Oregon legislature; and members of the public.

Summary of how the problem or conflict was addressed using ECR, including details of any innovative approaches to ECR, and how the principles for engagement in ECR were used (See Appendix A of the Policy Memo, attached)

The Oregon Fish Consumption Rate and Water Quality Standards Rule facilitated dialogue has been a viable example of proactive intergovernmental collaboration. At all times during this process, with the guidance and on-going assessments of the facilitation team, the three-governments worked with each other to identify the necessary people, materials, presenters and topics that would help further their understanding— and the understanding of all involved— of the complex issues that could emerge from an increased human health criteria in Oregon. The lead ECR facilitator worked with the designated representatives from each government to help them:

- find, review, and provide current scientific and social data that was requested by key stakeholders to help with an informed commitment to the process;
- provide understandable information for the interested stakeholders and the public so they could truly engage on the substance, as opposed to presenting substance at too high (or low) a level of complexity for understanding;
- overcome disagreements with each other and other stakeholders by facilitating the discussions in a respectful and productive atmosphere that supported new thinking instead of old; and
- keep the executive decision makers aware of the progress and issues under discussion.

The facilitator helped the representatives set a schedule and work plan that would allow them to meet regularly (up to every other week at many times during Phase II of the dialogue) and utilized regular communication via email and telephone as issues arose in between meetings. The facilitator structured the communication process both at and between these meetings to keep the group focused on their end goal rather than on past grievances the governments might have had with each other. At critical junctures, the facilitator assisted the group members in reporting on the progress of the process to their respective executive boards and senior level administrators to assure that the progress they were making was supported by the highest levels of leadership. When policy issues arose, the facilitator made certain that the staff representatives engaged with their senior administrators to be certain that issues were resolved with their full knowledge and agreement. When necessary, the facilitator made direct calls to decision makers to discuss the planned approach, needs, and next steps.

This three government collaborative effort required, and demonstrated, a strong commitment to the process and a dedication to achieving the overall goal that the three governments had committed to in 2006. To a person, the individuals involved demonstrated a high level of integrity, professionalism and dedication to doing what they believed the science suggested was the right thing to do. They treated each other and all with whom they worked on this project with respect, even when faced with high levels of criticism and strong emotions. At the end of their joint process, the three governments reached agreement on all issues that the representatives were

authorized to address.

As a result, the final rule was approved by the Oregon Environmental Commission and finally, by EPA in 2011.

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 ECR

At the end of this four year process, the most important outcome of the dialogue was a new set of water quality standards for toxic pollutants to protect human health, based on a fish consumption rate of 175 grams/day, approximately 23 fish meals a month. The new standards -- ten times the original proposal -- are the most protective of any *state* in the US (although some *tribes* have more protective standards for tribal lands). The standard protects the most vulnerable populations, tribes and environmental justice communities who rely on subsistence fishing for their food sources.

The three governments also received the following from the facilitated dialogue to aid in their discussions and decisions related to the fish consumption rate in Oregon:

- A substantial report from the Human Health Focus Group that reviews local, regional, and national studies, and suggests that a higher fish consumption rate should be used in Oregon, based on Northwest-specific information. While such a report may have come through other means, this one was unique in that the scientists came from very different perspectives and backgrounds (e.g., public health vs. industrial vs. environmental advocacy). With the help of the facilitator, they were able to have their discussions in open sessions that led to a consensus on their report—the first time this type of dialogue had been attempted on this topic.
- A review and initial report from the Fiscal Impacts and Implementation Advisory Committee related to costs, possible benefits, and implementation strategies. The facilitator worked with the agencies to create another balanced committee and then facilitated their discussions so that the group minimized conflicts while maximizing creativity. Included in this product were a section on fiscal costs and environmental benefits and a matrix of possible implementation strategies that were further discussed during the rule making work group sessions.
- Ideas and strategies from other states that came from the lessons they have learned using various implementation tools (such as variances) and that were shared during a facilitated public session.
- Assistance from the facilitation team with language review to minimize conflicts on the draft rule that was written by Oregon DEQ staff after hearing and considering the direct input and ideas of primarily affected stakeholders, as well as a broader array of citizens from around Oregon.

The depth of discussion and amount of problem solving that was made possible through the use of the ECR process and an external professional ECR facilitator provided all participants with an opportunity to better understand the issues. This increased understanding enabled the three governments to have a clearer justification for their actions—and will support their work with key

stakeholders to implement the rule in a manner that can support new growth and innovative actions. Change is nearly always met with individuals or organizations that are resistant and, therefore, it is likely that some litigation will occur. However, the ECR approach used in this case reduced the number of strong objections that were voiced early in the process. More organizations and individuals had the opportunity to hear what the three governments heard. As a result, we expect fewer objections to the new rule—and more positive attempts to be creative in complying with the new rules – than if the rule had been developed through a traditional rulemaking process.

Reflections on the lessons learned from the use of ECR

The Oregon Fish Consumption Rate and Water Quality Standards Rule Making Project provided an opportunity for a wide range of people and interests to come together, review information, and share perspectives and data about what might work to reduce toxics in Oregon’s waterways—and the fish that live in them. The facilitated dialogue supported an open and honest exchange of ideas and data among the three governments that have, in past years, struggled to have constructive discussions about how to move forward to solve this difficult issue. The representatives of the three governments worked hard to “seek to understand, not just to be understood.” They worked hard – with each other and with those who came to the public workshops or were part of the work groups—to find data, to understand impacts, and to test statements that were made about those impacts.

The project included challenges posed by changes in staffing within the governments, difficulties mining needed data and ideas to support robust conversations in a meaningful time frame, and the inevitable overlap of meeting dates with other important public conversations, but it certainly provided an open forum for a good and thorough inquiry to occur. Because of the emotional aspects of this work, data complexities, and the need to raise the technological bar in order to achieve measurable changes in Oregon’s water quality, not everyone will agree on the end product of this effort. However, the recommendation that was forwarded to the Environmental Quality Commission in June and EPA in August 2011 was the result of honest and open discussions of all the issues raised during the course of the past four years.

- b. Section I of the ECR Policy identifies key governance challenges faced by departments/agencies while working to accomplish national environmental protection and management goals. Consider your departments'/agency's ECR case, and indicate if it represents an example of where ECR was or is being used to avoid or minimize the occurrence of the following:

	Check <u>all</u> that apply	Check if	
		Not Applicable	Don't Know
Protracted and costly environmental litigation;	X	<input type="checkbox"/>	<input type="checkbox"/>
Unnecessarily lengthy project and resource planning processes;	X	<input type="checkbox"/>	<input type="checkbox"/>
Costly delays in implementing needed environmental protection measures;	X	<input type="checkbox"/>	<input type="checkbox"/>
Foregone public and private investments when decisions are not timely or are appealed;	<input type="checkbox"/>	X	<input type="checkbox"/>
Lower quality outcomes and lost opportunities when environmental plans and decisions are not informed by all available information and perspectives; and	X	<input type="checkbox"/>	<input type="checkbox"/>
Deep-seated antagonism and hostility repeatedly reinforced between stakeholders by unattended conflicts.	X	<input type="checkbox"/>	<input type="checkbox"/>

9. Please comment on any difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future.

In general, collecting these data posed little difficulty at the U.S. Environmental Protection Agency (EPA). This ECR annual report template has provided a reasonable data collection instrument for the past several ECR annual reports and the Agency has benefited from collecting, analyzing, and reporting information about its ECR program. In light of the planned revision to the ECR policy memorandum, EPA would welcome a dialogue at a future meeting of the ECR quarterly forum on the strengths and weaknesses of the existing template as a tool for achieving the objectives of the ECR policy memorandum. We believe certain questions in the existing template remain very important, such as those dealing with the annual ECR case numbers and the case example. Others may warrant a review to assess their ongoing utility.

Please attach any additional information as warranted.

Report due February 15, 2012.

Submit report electronically to: ECRReports@omb.eop.gov

Attached A. Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving

**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