



# FY 2022 EPA ECCR Annual Report

## Environmental Collaboration and Conflict Resolution FY 2022 Annual Report

## Executive Summary

This report highlights the U.S. Environmental Protection Agency’s (EPA’s) key achievements in providing environmental collaboration and conflict resolution (ECCR) in fiscal year (FY) 2022 and the infrastructure that supports this work. In FY 2022, EPA’s Conflict Prevention and Resolution Center (CPRC) provided facilitators and mediators who helped EPA address some of its most challenging cases. CPRC provided these services either directly by its staff or, more often, through its \$53 million Conflict Prevention and Resolution Services (CPRS) contract. These professional facilitators and mediators assisted EPA on dozens of high-level cases and projects, including the Clean School Bus Program, Circular Economy Stakeholder Engagement, the National Water Reuse Action Plan, the Red Hill Administrative Order on Consent facilitation, the Portland Harbor Superfund Site and the Tijuana River Watershed Stakeholder engagement. Overall, EPA used ECCR in 118 cases and projects, and each region and most program offices utilized ECCR in their work. EPA handled slightly fewer ECCR cases in FY 2022 but maintained its position as a leader among federal agencies in ECCR use. CPRC also built EPA’s capacity to engage in ECCR practices; it trained over 866 staff and managers in 14 training sessions during FY 2022. EPA staff and managers continued to report important benefits from using ECCR, including timely outcomes, more efficient processes, better decisions, avoidance of litigation, and the advancement of EPA’s mission. ECCR continues to be an essential tool used to advance the Agency’s goals, including tackling the climate crisis, taking decisive action to advance environmental justice and civil rights, and strengthening tribal, state, and local partnerships.

## Contents

Executive Summary.....	0
Introduction .....	2
Background .....	3
ECCR Infrastructure at EPA .....	4
FY 2022 ECCR Use at EPA .....	7
Overall Use of ECCR at EPA .....	8
FY 2022 ECCR Case Highlight: .....	17
ECCR Training at EPA.....	18
ECCR Evaluation at EPA.....	19
Opportunities for ECCR at EPA.....	20
Conclusion.....	21
Appendices.....	22

## Introduction

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

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

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

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

In fiscal year (FY) 2022, EPA established its FY 2022-2026 strategic plan. This plan sets goals for the enforcement of EPA's environmental laws and ensuring clean air, water, land, and chemicals for the American public. It also includes goals for addressing climate change and advancing and integrating environmental justice and external civil rights in all of EPA's work. Now part of the new Office of Environmental Justice and External Civil Rights, CPRC is well positioned to serve as a critical component of these efforts. ECCR can help to achieve the Agency's priorities by resolving disputes, supporting meaningful public engagement, and improving communication with stakeholder groups.

---

<sup>1</sup>Office of Management and Budget & Council on Environmental Quality (2012). *Memorandum on Environmental Collaboration and Conflict Resolution*. Washington, D.C.  
[http://www.udall.gov/documents/Institute/OMB\\_CEQ\\_Memorandum\\_2012.pdf](http://www.udall.gov/documents/Institute/OMB_CEQ_Memorandum_2012.pdf).

## Background

**Alternative Dispute Resolution** (ADR) is the use of a neutral third party to conduct “any procedure that is used to resolve issues in controversy, including but not limited to, conciliation, facilitation, mediation, fact finding, mini-trials, arbitration, and use of ombuds, or any combination thereof.”<sup>2</sup> All aspects of ADR are voluntary, including the decision to participate, selection of the neutral, and the content of any final agreement. ECCR is essentially environmental ADR, but it also includes proactive collaborative decision-making, with the aim of preventing future conflict. OMB and CEQ define ECCR as “. . . third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and water and land management.”<sup>3</sup>

---

*ECCR is defined as “. . . third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and water and land management.”*

---



Photo: EPA

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

In addition to EPA, several federal agencies that implement environmental statutes and whose actions have significant environmental impacts also maintain ECCR services. In FY 2022, these agencies included the Department of the Interior (DOI), the Federal Energy Regulatory Commission (FERC), the U.S. Army Corps of Engineers (USACE), and several others. EPA has been and continues to serve as a government-wide model for effective use of ECCR. EPA has been a national leader in the practice, teaching, and evaluation of ECCR for

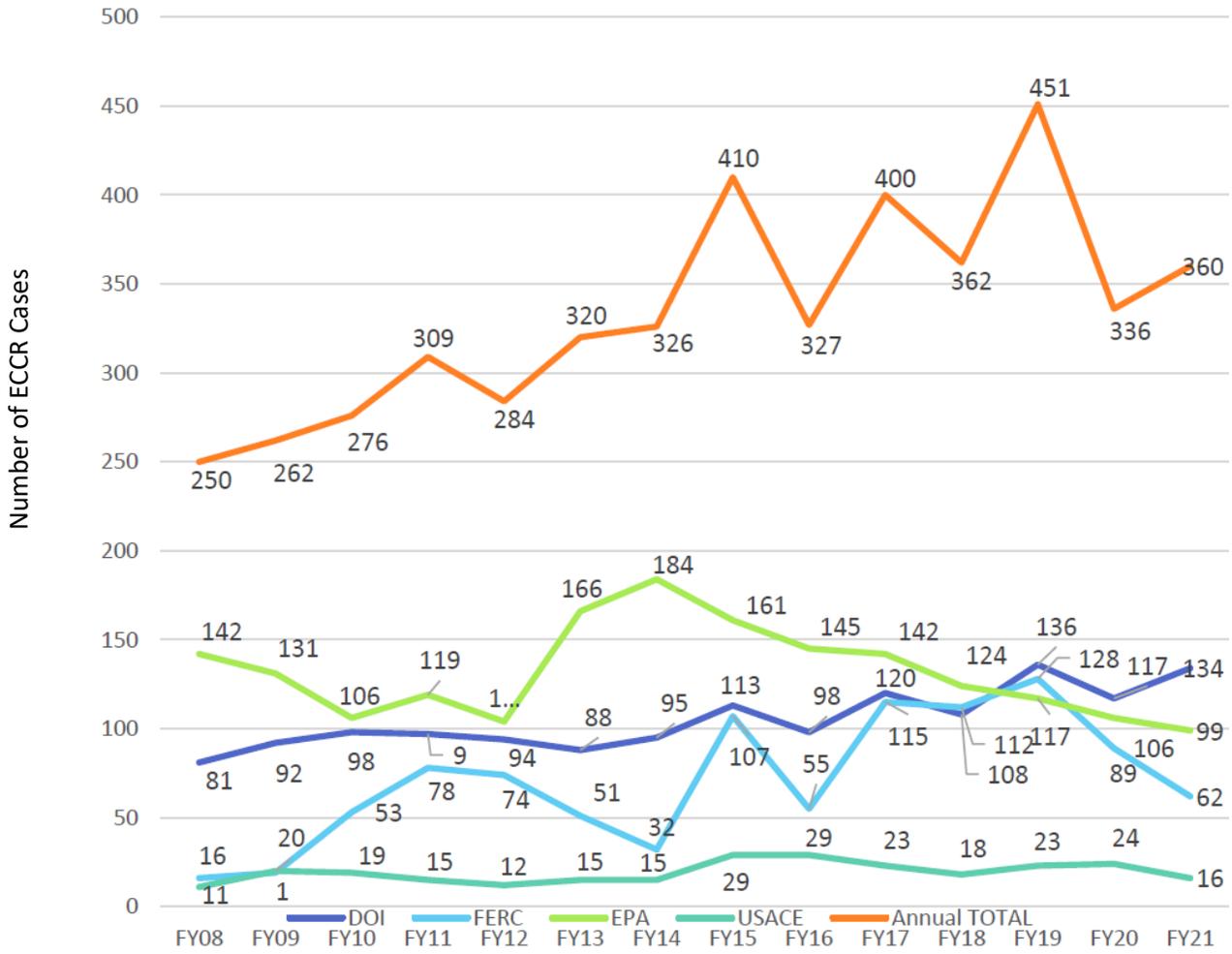
---

<sup>2</sup> 5 U.S.C. § 571(3)

<sup>3</sup> Office of Management and Budget and President's Council on Environmental Quality Memorandum On Environmental Conflict Resolution, [https://www.udall.gov/documents/Institute/OMB\\_CEQ\\_Memorandum\\_2005.pdf](https://www.udall.gov/documents/Institute/OMB_CEQ_Memorandum_2005.pdf)

close to two decades. For all but three of the past 14 years of required reporting, EPA engaged in more ECCR cases than any other federal agency<sup>4</sup> (see Figure 1).<sup>5</sup>

Figure 1: ECCR Cases in the Federal Government - FY 2008 to FY 2021



<sup>4</sup> FY 2021 data is the most current ECCR case data available from all federal agencies.

<sup>5</sup> This chart comes from the John S. McCain III National Center for Environmental Conflict Resolution. *Environmental Collaboration and Conflict Resolution (ECCR) in the Federal Government: Synthesis of FY 2020 Report*. Tuscon, AZ and is available online here:

[https://www.udall.gov/documents/ECRReports/2021/ECCR%20Forum%20Report\\_FY2021.pdf](https://www.udall.gov/documents/ECRReports/2021/ECCR%20Forum%20Report_FY2021.pdf)

## ECCR Infrastructure at EPA

CPRC is the Agency lead for ECCR services and training, and two additional EPA offices support the Agency with ECCR services consistent with the EPA's ADR policy.<sup>6</sup>

**The Conflict Prevention and Resolution Center (CPRC)** is the office that leads EPA's ECCR program and provides most ECCR services at EPA. Its director also serves as EPA's Dispute Resolution Specialist. CPRC supports the entire Agency by helping any program or regional office to collaborate, prevent, and resolve environmental disputes. With five full time employees (FTE), CPRC provides expert ECCR services, either directly by staff or, more often, through its \$53 million Conflict Prevention and Resolution Services (CPRS) contract. The contract offers access to reliable and easy-to-use services from private sector experts in the ECCR field. In addition to mediation and facilitation, CPRC staff and contracted ECCR experts provide training, coaching, and related services in support of ECCR.

CPRC also works closely with EPA's Office of External Civil Rights Compliance (OECRC), which enforces several civil rights laws, most notably Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin, including limited English proficiency, by recipients of federal financial assistance. CPRC assists OECRC by offering mediation and facilitation to parties involved in Title VI complaints when appropriate. In FY 2022 CPRC collaborated with OECRC to establish a new process to enhance communication and engagement with environmentally overburdened communities and increase their participation in the resolution of Title VI complaints. Through the collaboration between CPRC and OECRC, complainants, recipients, and EPA participate in facilitated dialogues as part of an effort to develop an Informal Resolution Agreement (IRA). CPRC facilitated six Title VI cases using this process in FY 2022.

In September 2022 CPRC moved from the Office of General Counsel, its home for more than 20 years, to the newly formed Office of Environmental Justice and External Civil Rights. Although CPRC's mission to provide all of EPA with expert collaboration and conflict resolution services remains unchanged, this move recognizes the key role that CPRC has played in helping the Agency to engage communities with environmental justice (EJ) concerns and help ensure that EPA's external civil rights process is more effectively available to the most vulnerable communities through the use of expert facilitation and mediation. This move positions CPRC to increase the use of ECCR in EJ and civil rights cases and to serve as a critical link between EPA and communities in support of the administration's priority of increasing meaningful stakeholder engagement.

CPRC's staff are augmented by 20 skilled **ECCR Specialists**, who are in all ten EPA regions and help CPRC deliver ECCR services and training. Many are attorneys in the Offices of Regional Counsel, but others work in a variety of contexts, including public involvement, EJ, and enforcement. Most do the work as collateral duty. The ECCR Specialists have been trained in a variety of ECCR skills, including facilitation, mediation, negotiation, and/or conflict coaching. ECCR Specialists advance the use and understanding of ECCR at EPA

---

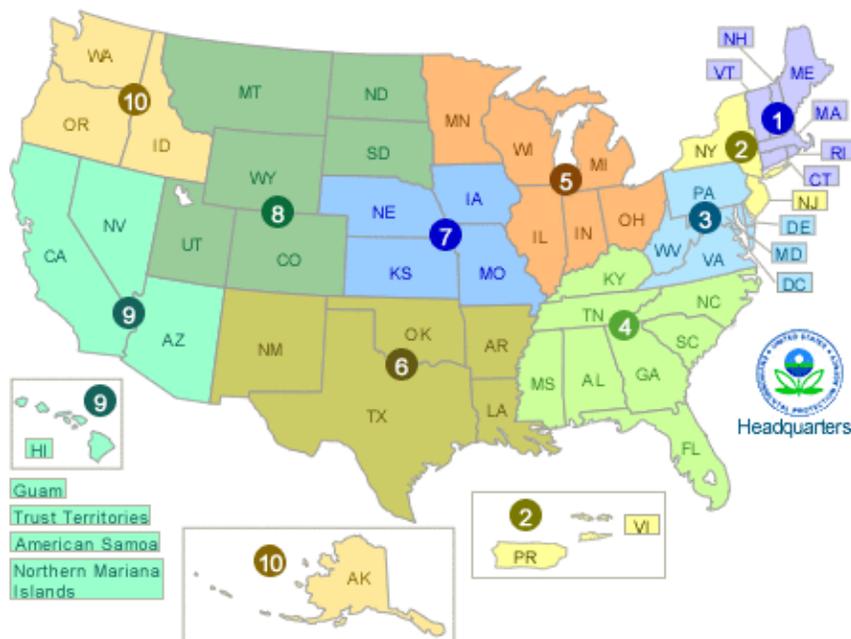
<sup>6</sup> [https://www.epa.gov/sites/production/files/2018-04/documents/epa\\_adr\\_policy.pdf](https://www.epa.gov/sites/production/files/2018-04/documents/epa_adr_policy.pdf)

by, among other things, serving as liaisons for ECCR activities; supporting ECCR education and training; building and supporting communities of practice; tracking requests for assistance, ECCR cases and projects; and contributing to the development of this annual report to OMB and CEQ. On occasion, they also serve as mediators, facilitators, and conflict coaches. EPA's network of ECCR Specialists grew and became more active in FY 2022; they served as facilitators for multiple cases and delivered multiple conflict resolution trainings.

**The Office of Administrative Law Judges (OALJ)** is an independent office in EPA's Office of Mission Support (OMS). In accordance with the Administrative Procedure Act, the administrative law judges (ALJs) conduct hearings and render decisions in enforcement and permit proceedings between the EPA and those regulated under environmental laws. The ALJs also may conduct hearings related to findings by OECRC of a violation of Title VI of the Civil Rights Act. All litigants before the ALJs are offered the opportunity to resolve cases through ECCR.

**The Environmental Appeals Board (EAB)**, also located in OMS, hears appeals of permitting decisions and administrative penalty decisions. A wide range of stakeholders appeal to the EAB, including companies, state and local governments, tribes, non-governmental organizations, and citizens. The EAB offers parties the option to resolve disputes using ECCR with the assistance and EAB judge who serves as a neutral mediator. The EAB's ECCR program has fostered negotiated settlements that speed up resolution of EAB cases and conserve government resources. In FY 2022, the EAB did not conduct mediation. With the recent filling of a vacant EAB judge position, the EAB has been offering parties the opportunity to engage in mediation and expects to be conducting mediations in FY 2023.

Figure 2: EPA Regions



## FY 2022 ECCR Use at EPA

Since 1978, EPA has used ECCR to fulfill its mission to protect human health and the environment. Using ECCR allows the EPA, its stakeholders, and the public it serves to more effectively engage with one another and develop a common understanding of environmental issues, prevent conflict, reduce differences, and resolve disagreements. In FY 2022, the use of ECCR at EPA not only increased but expanded in innovative new directions, such as facilitating dialogues with parties involved in Title VI civil rights complaints as part of an informal resolution process, which provided a forum for including Title VI complainants in that process for the first time.

### *Noted Benefits of ECCR*

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

Over the years of reporting on ECCR, EPA's program and regional offices have noted its many benefits. They've reported that ECCR use **furthered the EPA's mission and strategic goals** to protect human health and the environment by helping them establish collaborative processes to resolve environmental problems. ECCR has been used to **improve collaboration and working relationships, which has resulted in more meaningful engagement** with a broad range of stakeholders, including federal, state, tribal, and community partners. In FY 2022, multiple projects served as examples that both advanced EPA's mission and involved extensive collaboration with many stakeholders. They include the Portland Harbor Collaborative Group (page 12), the Pike and Mulberry Streets Superfund site (page 14), and the development of Region 2's Climate Adaptation Plan (page 15).

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

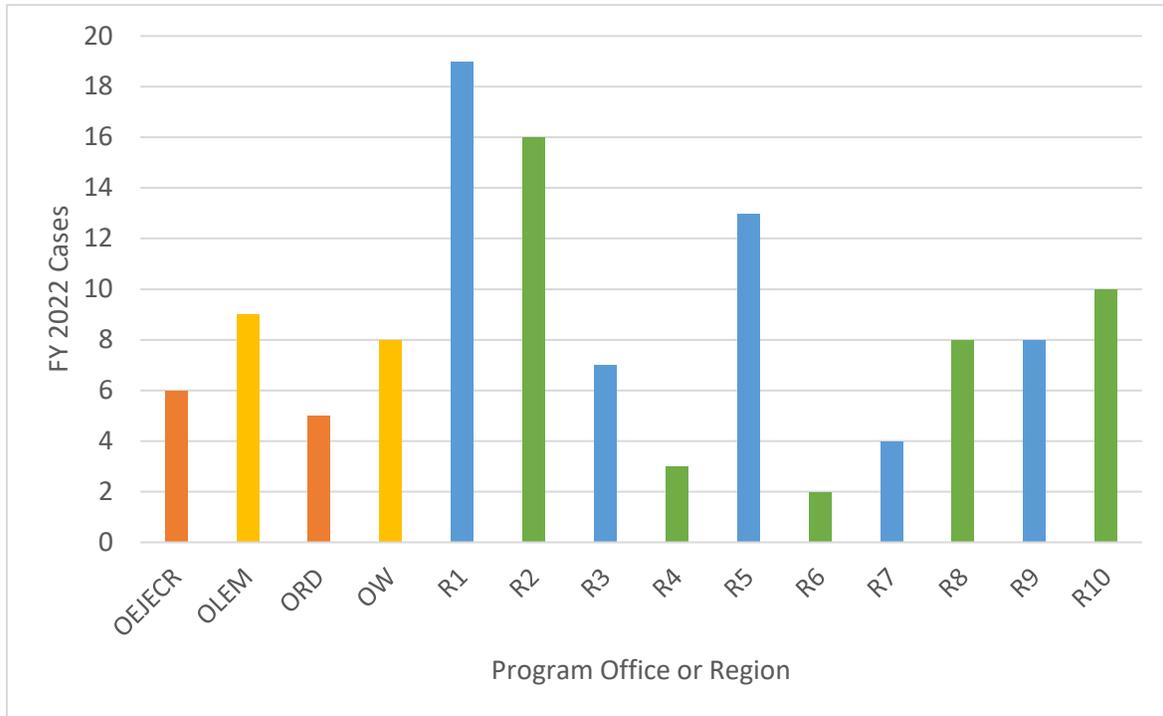
Finally, ECCR resulted in **better outcomes**, some of which could not have been achieved without neutral third-party assistance. These included outcomes that improved environmental conditions, were more creative, and fostered external stakeholder ownership in the EPA's initiatives, programs and agreements. In short, ECCR helps the Agency make better decisions, work with stakeholders more effectively, and attain sustainable environmental outcomes. For example, in FY 2022 CPRC supported the Tijuana River Watershed Stakeholder Engagement, which resulted in a more creative outcome due to stakeholder ownership (page 17),

In FY 2022 CPRC and the other ECCR offices at EPA continued to serve an important Agency function by supporting meaningful virtual public engagement through expert virtual facilitation and mediation. ECCR support for virtual engagement, which was born of necessity during the COVID-19 pandemic, has helped EPA to obtain valuable input from members of the public, many of whom may not have previously been able to participate in Agency events.

### Overall Use of ECCR at EPA

For the first time in seven years, the EPA increased its use of ECCR; there were 118 cases and projects in FY 2022, up from 99 in FY 2021. In FY 2022, EPA used ECCR in all ten regions and several program offices for a broad range of applications. Figure 3 illustrates the current level of ECCR use across EPA's program offices and regions.

*Figure 3: FY 2022 ECCR Use by EPA Program Office and Region*



Note: Cases or projects that were tied to a specific location are included in the counts for the regions; those counted as program office cases were national or programmatic in scope or were led by a program office.

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

In FY 2022, EPA used ECCR in 118 cases and projects. Every EPA region and several program offices had an ECCR case, which included matters involving Superfund cleanups, brownfields redevelopments, permit disputes, and policy development.

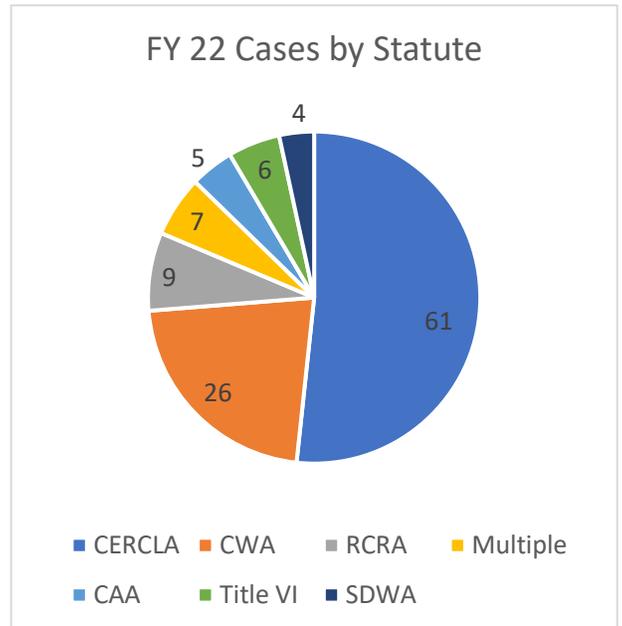
As in past years, in FY 2022 EPA used ECCR most frequently to address issues under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund, used in approximately 52% of cases) and the Clean Water Act (CWA, used in approximately 22% of cases), as seen in Figure 4. Cases classified as “multiple” were predominantly facilitated processes involving communities with several environmental issues.

In FY 2022, CPRC handled most of EPA’s ECCR cases, while EPA was also involved in several ECCR matters with other Agencies. CPRC handled 89 cases on behalf of client programs and regions, and the ECCR Specialists and other EPA facilitators were responsible for 15 cases. Of the cases that CPRC handled, six were Title VI civil rights cases where OEERC used CPRC facilitation assistance to include complainant parties from overburdened communities in meaningful dialogue about the complaint with the recipient and EPA. EPA was involved in three other matters in litigation, which were mediated with the assistance of the U.S. Department of Justice. Other federal agencies mediated or facilitated five cases to which EPA was a party. Five other ECCR cases involving EPA were handled by a combination of means (for example, multiple parties paid for a neutrally facilitated or mediated process or another federal agency led the process).

EPA senior leaders continue to use ECCR to help the Agency achieve its mission. Senior leadership actively engaged in and strongly supported the use of ECCR in several high-profile cases and projects in FY 2022, including:

- Circular Economy Stakeholder Engagement
- Clean School Bus Program Outreach
- Colorado Smelter Superfund Site Facilitation
- Columbia River Basin Restoration Program Facilitation
- Diamond Alkali/Lower Passaic River Superfund Mediation
- Federal Mining Dialogue Facilitation
- GE-Pittsfield/Housatonic Citizens Coordinating Council Facilitation
- Harbor Island Community Involvement Plan Engagement
- National Water Reuse Action Plan Facilitation
- Nampa Hispanic Community Engagement
- Portland Harbor Southeast Superfund Facilitation
- Red Hill Administrative Order on Consent Facilitation
- Tijuana River Watershed Stakeholder Engagement
- Trash Free Waters Facilitation and Public Involvement
- USS Lead Site Facilitation

Figure 4: FY 2022 ECCR Cases by Statute



---

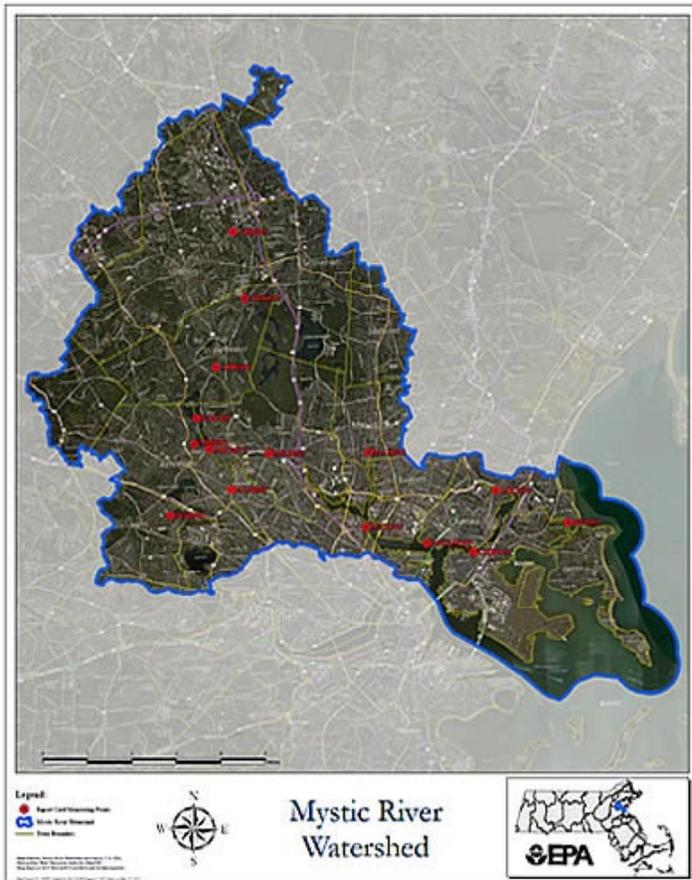
In FY 2022, EPA used ECCR in air, water, and land cases and projects under the Clean Air Act (CAA), CWA, Superfund, the Resource Conservation and Recovery Act (RCRA), and the Safe Drinking Water Act (SDWA). In FY 2022, EPA did not have any ECCR cases related to chemicals involving the Toxic Substances Control Act (TSCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). However, EPA has used ECCR in cases related to TSCA and/or FIFRA in the past and expects to do so again.

**Air** - The air program at EPA continues to consistently use ECCR services, both for facilitating efforts to reduce air pollution in communities and for mediating cases in litigation. EPA used ECCR in five air cases in FY 2022. Two cases addressed industrial facilities and fence-line communities, one involved gathering public input for a policy decision, and one dealt with asthma caused by indoor air pollution in Pacific Northwest tribal communities.

**Water** - Historically, EPA has used ECCR to resolve issues with water-related cases more than any other media, except land (i.e., Superfund and RCRA), and this continued to be the case in FY 2022. EPA has many different water programs. Contentious disputes often arise in the context of water permitting, planning, and enforcement actions. Of the 30 water-related (both CWA and SDWA) ECCR cases in FY 2022, 20 arose in seven of EPA's 10 regions and six were programmatic or national in scope. These cases involved watershed or community water-resource planning, compliance and enforcement issues, storm and hazard mitigation planning, policy dialogue facilitation, permit issuance and appeals, voluntary programs, and defensive litigation.

In Region 1, the Mystic River Watershed Partnership benefitted from ECCR support for a series of facilitated roundtable discussions to address water quality management. These roundtables contributed to more meaningful stakeholder engagement and improved water quality. The Mystic River Watershed is a highly urbanized and industrial area just north of Boston and extends into the Boston Harbor. The Partnership is a collaborative effort to both improve water quality and environmental conditions in the watershed, as well as to create and protect open space and public access to the Mystic River and its tributaries. The Partnership, which is guided by a steering committee composed of 22 governmental and non-governmental organizations, requested facilitation to support roundtable discussions with a focus on identifying funding mechanisms to achieve the partner communities' stormwater management goals.

Figure 5: Mystic River Watershed



EPA Region 1

A neutral facilitator planned and led a series of roundtables, which provided a forum for participants to discuss challenges, share ideas, and support each other's efforts to reduce nutrients and improve water quality. Effective stakeholder engagement was essential to this process and the facilitator actively involved communities, including some burdened by historic pollution.

These roundtable discussions are already benefitting impacted communities in the Mystic River Watershed by encouraging localized stakeholder discussions to identify financing mechanisms to support efforts that will lead to improvements in water quality and greater community resilience. Importantly, this project could serve as national model for similar facilitated stakeholder engagements in other EPA Regions.

**Land** - For decades, EPA's most frequent use of ECCR has been supporting Superfund cleanups. The large number of Superfund-related ECCR matters is primarily due to the legal requirement to involve communities in the

development of cleanup remedies and the financial support available through Superfund. Superfund cleanups involve planning, community involvement, outreach about complicated scientific matters, and sometimes contentious negotiations and litigation. EPA most often uses ECCR to provide support to establish and facilitate community advisory groups (CAGs), to facilitate challenging public meetings, to provide conflict coaching so EPA staff involved in site cleanups can work more effectively with stakeholders, and to mediate disputes over responsibilities and terms of cleanups. The 61 Superfund ECCR cases in FY 2022 often were CAG facilitation (13 cases), but also involved other community involvement facilitation, situation assessments and community surveys, potentially responsible party allocation negotiations, and facilitation on federal facilities.

EPA often uses ECCR to improve the functioning of community advisory groups (CAGs) at Superfund sites.

ECCR support for the Portland Harbor Collaborative Group offers an example of its effective use to manage a large and complicated Superfund site in an overburdened community. A professional facilitator worked with EPA Region 10 staff to create an “inclusive forum for interested and affected parties to share and receive updates, provide feedback, and make individual member recommendations to EPA and the Oregon Department of Environmental Quality (DEQ) regarding the Portland Harbor Superfund Site cleanup process for the life of the project.”<sup>7</sup> While EPA and DEQ co-convene the Portland Harbor Collaborative Group, this forum is driven by impacted and affected community members of the Portland Harbor Superfund Site (please see Figure 1 for the composition of the group). Community members and other interested groups envisioned the Portland Harbor Collaborative to be a hub for anyone who has a stake in the cleanup. They wanted to be able to discuss many different topics with all members present, even if a topic might be outside of one group’s scope. Since many community members in the Portland area have environmental justice concerns, this vision is particularly important.



Portland Harbor Superfund Site Public Meeting, Photo: EPA Region 10

---

<sup>7</sup> *Portland Harbor Collaborative Group Charter*, pp. 4. [https://www.triangleassociates.com/wp-content/uploads/2022/09/PH-Collaborative-Group-Charter\\_Adopted-in-Principle\\_9-14-2022.pdf](https://www.triangleassociates.com/wp-content/uploads/2022/09/PH-Collaborative-Group-Charter_Adopted-in-Principle_9-14-2022.pdf).

Developing the initial charter for the Portland Harbor Collaborative in collaboration with community members and leaders required specialized facilitation expertise. Furthermore, after a rough draft of the charter was developed, the contracted facilitator provided invaluable support in explaining the Portland Harbor Collaborative concept and attempting to gain buy-in from various community organizations, business groups, potentially responsible parties, government organizations (local, regional, state), and others. At the end of FY 2022, the Portland Harbor Collaborative included over 40 members, and every quarterly meeting is open and very well attended by observers. With the guidance of the expert neutral facilitator, the Portland Harbor Collaborative continues to grow, improve, and adapt as a powerful venue for effective community involvement at a critical Superfund site in an overburdened community.



Portland Harbor Superfund Site, Photo: Elizabeth Allen, EPA

The EPA also used ECCR in 10 RCRA cases in FY 2022. These cases involved a broad range of topics, including cleanup from hurricanes and other natural disasters, solid waste tracking and recycling, and implementation workshops with municipalities in Regions 2, 3, 5 and 9.

In addition to using ECCR to address specific environmental issues, EPA also uses it to improve the overall work of the Agency. A few notable uses of ECCR at EPA include working for EJ in communities that have disproportionately dealt with the impacts of pollution, improving transparency in government operations; and engaging the public to protect human health and the environment.

**Take Decisive Action to Advance Environmental Justice and Civil Rights** – As noted above, ECCR can be an essential element for engaging meaningfully with communities with environmental justice concerns. A neutral facilitator can help EPA design processes that help to ensure communities are heard and their concerns are addressed. In FY 2022, several EJ cases benefitted from ECCR practices, including the [Pike and Mulberry Streets PCE \(tetrachloroethylene\) Plume Superfund site](#). To better involve the public in the economically disadvantaged rural community of Martinsville, Indiana, where this site is located, a neutral facilitator worked with EPA Region 5 to enhance community engagement; support the formation, organization and healthy functioning of a Superfund CAG; support EPA outreach efforts and coordination; and improve communication amongst residents and other local stakeholders at the Pike and Mulberry Streets PCE Plume Superfund site. This all led to building capacity and trust between EPA and the community surrounding the site. Engaging in consistent communication and effective outreach was difficult while attempting to reach residents of this rural and impoverished community with numerous vapor intrusion and groundwater plumes across the city and a general distrust of government. Over 200 properties, primarily homes, needed urgent sampling and the eventual installation of vapor mitigation systems.



An EPA Community Involvement Coordinator preparing to meet with community members regarding door-to-door air sampling related to the Pike and Mulberry Site, Photo: EPA Region 5

Once it was established, the CAG helped leverage EPA resources to improve communication with residents and local stakeholders and to ensure that they had better understanding of issues at the site. For example, a nearby university research team also studying PCE contamination in the area formed their own group known as a Community Advisory Board or “CAB” causing confusion regarding the roles of a CAG versus a CAB. The neutral facilitator, and subsequently the CAG, helped to delineate the university’s work from EPA’s work and encouraged collaboration amongst both groups. This collaboration supported EPA in building a network of trust between residents, local community stakeholders and EPA, resulting in frequent visits and direct communication among all parties. The neutral third

party also provided facilitation services directly to the CAG, holding well-attended quarterly meetings with EPA and state agency participants. The neutral facilitator’s assistance was key to building this positive environment and maintaining strong and trusted relationships throughout the community.

To further support EPA’s goal of advancing environmental justice and civil rights, ECCR facilitators helped to improve the process to resolve Title VI civil rights complaints by providing a forum for members of overburdened communities who have filed complaints to engage in constructive dialogue with the state and local governments at the center of the complaints. In FY 2022, ECCR facilitators provided support for six Title VI cases and afforded parties the opportunity to have meaningful discussions about the discrimination issues raised in a complaint as part of the effort to reach an informal resolution agreement.

**Tackle the Climate Crisis** - ECCR can also be an effective tool for addressing climate change and planning for future severe weather. The causes and impacts of climate change are very complex, which makes finding consensus when dealing with them especially challenging. Using ECCR can not only help stakeholders understand complex issues, but also productively work together to find long-term, durable, solutions. An example of that is ECCR support for Region 2's Climate Adaptation Implementation Plan.

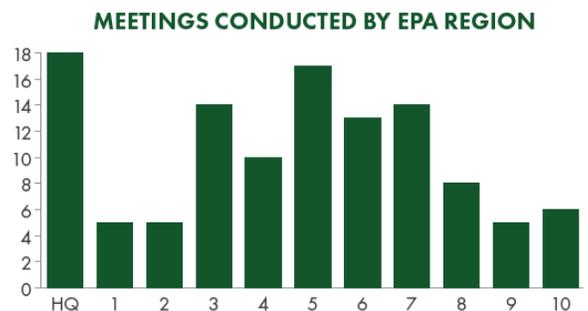
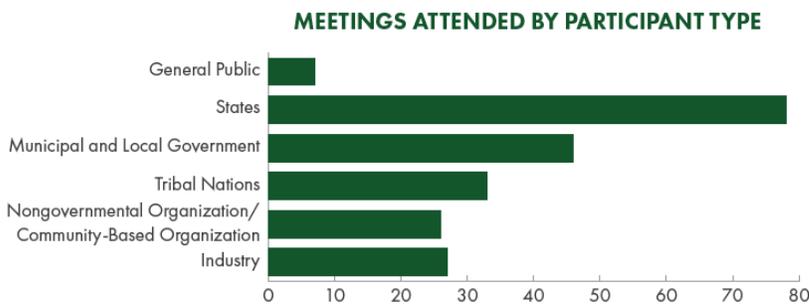
A cadre of approximately 25 Region 2 facilitators, who were trained in part by the Region 2 ECCR Specialist, supported the development of the region's Climate Adaptation Implementation Plan (CAIP) at two virtual stakeholder workshops on July 14 and 16, 2022. The workshops were designed to gather input from stakeholders on the draft CAIP, which was issued in May and assessed the climate-related vulnerabilities in the Region and identified 36 priority actions to address them. The input was used to finalize the CAIP. The facilitators led the first workshop in English with simultaneous Spanish translation. The second workshop, which focused on Puerto Rico, was conducted in Spanish with simultaneous English translation. Approximately 164 participants attended the workshops and brainstormed ideas in small simultaneous breakout rooms, which generated 141 ideas to address climate-related vulnerabilities. As a result, the Region added six new priority actions to the final plan on topics such as building community capacity to access funding, healthy public housing, heat island effect, youth engagement, green infrastructure, native plants, food security and coral reefs. The Region also amended several draft priority actions to incorporate input on funding (including translation of information on funding opportunities into Spanish), droughts and flooding, food security, impacts on utilities, and supply chains.

**Strengthen Tribal, State, and Local Partnerships and Enhance Engagement** - As the Agency's experts in public participation and the main providers of contracted public participation support, CPRC staff routinely support all EPA programs and regions to increase transparency and public participation. In FY 2022, CPRC regularly advised on how to organize public participation processes that reduce conflicts. Expert facilitators and mediators accessed through CPRC's contract supported the creation and improved functioning of CAGs at Superfund sites and helped create forums for environmental justice communities to engage with EPA throughout the country. CPRC also provided training to help EPA staff better plan, design and deliver meetings with improved public participation.

ECCR can be essential for meeting EPA's needs to engage with diverse groups from around the country and process extensive feedback. The New Circular Economy Programs offers an example of the benefits of ECCR support when gathering widespread stakeholder input. The 2021 Bipartisan Infrastructure Law provided EPA with authority and immense federal funding to develop and implement new initiatives to support communities and spur industry toward creating a circular economy for all. This funding supported the implementation of EPA's Circular Economy Strategy Series and the Solid Waste Infrastructure for Recycling grant program authorized under the Save Our Seas 2.0 Act.

To create new recycling programs that are aligned with stakeholders' needs, CPRC assisted ORCR in engaging stakeholders to develop a Recycling Education and Outreach grant program, the Solid Waste Infrastructure for Recycling grant program, and Battery Collection Best Practices and Labeling Guidelines. CPRC provided coordination and meaningful facilitation to help ORCR hold over 115 feedback sessions nationally and engage over 4,700 people across all EPA Regions. CPRC's professional facilitators and support team were essential in gathering and synthesizing stakeholder input from a wide range of groups. The stakeholder discussions generated valuable insights on recycling challenges, barriers, and needs, which were instrumental in designing EPA's new recycling programs.

Figure 6: Statistics from EPA's Circular Economy Stakeholder Engagement



**FY 2022 ECCR Case Highlight:**

While there were multiple successful ECCR cases and projects this year, the following case is this year's case highlight due to the many and diverse stakeholders involved, the building of significant trust through the process, and the critical environmental impact the project is expected to have.

A CPRC facilitator and professional facilitators hired through CPRC's contract improved public involvement and gathered key information for decisionmakers, which led to the Agency's announcement of the projects it will pursue to address the severe negative impacts to water quality, public health, and the environment in the Tijuana River watershed. In 2020, the U.S. government, through the EPA, committed \$300 million in the United States-Mexico-Canada Agreement (USMCA), to identify infrastructure solutions to mitigate this decades-old problem. The USMCA requires EPA, in coordination with eligible public entities, to carry out the planning, design, and construction of high priority treatment works in the Tijuana River watershed to address transboundary flow pollution.

When announced, there was significant concern among the public and leaders of municipalities in the San Diego area that EPA would not act quickly and would not adequately consider their concerns when deciding how to use the funds. There were also many ideas about how to address the problem and little consensus about how to proceed. Through parallel public engagement processes, the CPRC facilitator and contracted facilitators planned and led meetings with key stakeholders and the public to ensure that all who were interested were heard and had their concerns and ideas incorporated into EPA's analysis.

The facilitated meetings significantly contributed to EPA's ability to increase public confidence in proposed actions to address the long-term problem of transboundary wastewater pollution. This effort culminated in the announcement of EPA's plan to pursue a comprehensive solution in staged phases to address the problem as quickly as possible. The proactive engagement of the public and key stakeholders has likely led to the limited criticism the plan has received as it goes through National Environmental Policy Act review.



Aerial image of wastewater entering the Pacific Ocean from the Tijuana River, just south of San Diego. Photo: EPA Region 9

## ECCR Training at EPA

In FY 2022, CPRC and the ECCR Specialists led the Agency's ECCR training activities to strengthen EPA staff's skills and promote the use of ECCR. They delivered all trainings virtually in FY 2022 and trained more people than in any of the prior six years. In FY 2022, CPRC trained 866 EPA staff, in 14 sessions, totaling 57 hours of training delivery. This represents a significant increase from the 512 training participants in FY 2021. Furthermore, ECCR Specialists trained an additional 56 EPA staff in two training sessions, totaling ten hours. ECCR Specialists in Region 3 led trainings on negotiation and engaging constructively in difficult conversations.

---

*"I will use this in both my professional and personal life to come to more effective agreements."*

*- EPA Interest-Based Negotiation Trainee*

---

CPRC continually improved its trainings after each delivery and adapted in-person trainings to virtual trainings to better serve the Agency's needs while most staff were teleworking during the pandemic. For example, CPRC updated its popular *Designing Effective Public Involvement* training for virtual delivery and offered it to the entire Agency. CPRC staff and ECCR Specialists taught other core trainings, such as *Engaging Constructively in Difficult Conversations*, *Become a Better Negotiator: An Interest-Based Approach*, and *Facilitating Dialogue* virtually on multiple occasions. CPRC also delivered a new hour-long training, *De-escalation in Communication*, which helps EPA staff be aware of and defuse challenging conversations with other staff and with the public.

CPRC provided training during its 15<sup>th</sup> annual Conflict Resolution Day program in October 2021. CPRC holds this annual event to increase EPA staff and managers' awareness of ECCR services at EPA and improve their ECCR knowledge and skills. CPRC hosted four virtual sessions, open to all agency staff. The Conflict Resolution Day sessions included CPRC's *Become a Better Negotiator: An Interest-Based Approach* training, a discussion of stakeholder engagement, a panel on how facilitation has helped EPA advance EJ and address climate change, and a *De-escalation in Communication* training. Combined, the four sessions had over 419 attendees.

---

*"I now have a clear understanding of how to structure my public involvement for a particular case. The impact will be that everyone can understand up front what type of public involvement is expected and what are the desired outcomes."*

*- EPA Public Involvement Trainee*

---

### **ECCR Evaluation at EPA**

As part of its commitment to continuous improvement, CPRC continued to conduct case, training, and contract evaluations in FY 2022, the 15<sup>th</sup> year of its evaluation program. CPRC evaluated two trainings during FY 2022. CPRC used training evaluation data to improve the quality and effectiveness of the trainings it delivers for EPA employees. For example, evaluation data revealed opportunities to improve CPRC's delivery of its trainings on virtual meeting platforms. CPRC also evaluated the two Title VI facilitated IRA cases that were completed in FY 2022, and the results led to changes in the structure of facilitated meetings to better meet all parties' expectations. CPRC continued to evaluate its Conflict Prevention and Resolution Services contract by annually surveying the dozens of task order contracting officer representatives that use it. Their input helped CPRC improve the quality, efficiency, and effectiveness of the contract's use.

## Opportunities for ECCR at EPA

While EPA has effectively used ECCR in a variety of cases, as described above, there are still opportunities for greater use of ECCR in the Agency, such as in its EJ work. EPA recognizes that, for generations, people of color and low-income communities are burdened by more than their fair share of pollution. Some EPA staff may lack awareness of, or appreciation for, non-traditional stakeholder communities (e.g., informal EJ or community groups, faith groups, civil rights organizations) and the extra time and care required to authentically engage with them. ECCR can be used to help build the Agency's capacity in this area through practices such as facilitated dialogues and to more effectively bring communities together with EPA staff and other stakeholders to address long-term problems and ensure a healthy environment for future generations. Another opportunity for ECCR is to assist with potential conflicts among grant recipients. With the historic influx of grant funding EPA has received to support environmental justice, there are many more grant recipients and the potential for miscommunication and conflict among recipients working collaboratively on grant-funded projects. Additionally, in its efforts to address the urgent and complicated climate crisis, EPA can make greater use of neutral facilitators to lead processes to gather and share information on complex issues and plan for action. Finally, there are more opportunities for virtual and hybrid engagement with the public. EPA can continue to increase its use of ECCR to better engage the public in virtual and hybrid environments.



Photo: EPA

## Conclusion

In FY 2022, EPA remained a lead federal agency in the provision of ECCR services and CPRC offered easy access to high quality ECCR services to help the Agency achieve its mission and strategic goals. As described above, ECCR was used in every EPA region and most programs to assist with cases across all media in EPA (land, water, air, and chemicals). ECCR services help EPA to engage effectively and efficiently with stakeholders and facilitate informed, transparent, fair, and just decision making. As the Agency strives to combat climate change and ensure environmental justice, ECCR processes are essential tools for making progress on those goals. ECCR helps the Agency to plan as well as prevent and resolve disputes so that we better serve all communities in the United States.



Photo: EPA

## Appendices

### Appendix A - OMB & CEQ Questionnaire

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

#### 1. Agency Submission Information

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

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

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

Contact information (phone/email): 202.564.4692

Date this report is being submitted: January 27, 2023

Name of ECCR Forum Representative: Gina Langan Garcia

#### 2. ECCR Capacity Building and Investment:

Describe any **NEW, CHANGED, or ACTIVELY ONGOING** steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2022, including progress made since FY 2021.

Please also include any efforts to establish routine procedures for considering ECCR in specific situations or categories of cases, including any efforts to provide institutional support for non-assisted collaboration efforts.

Please refer to the mechanisms and strategies presented in Section 5 and attachment C of the [OMB-CEQ ECCR Policy Memo](#) for additional guidance on what to include here. Examples include but are not restricted to efforts to:

- Integrate ECCR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning;
- Assure that your agency's infrastructure supports ECCR;
- Invest in support, programs, or trainings; and focus on accountable performance and achievement.
- ECCR programmatic FTEs

- Dedicated ECCR budgets
- Funds spent on contracts to support ECCR cases and programs
- a) Please refer to your agency's FY 2021 report to only include new, changed or actively ongoing ECCR investments or capacity building. **If none, leave this section blank.** Please describe the trainings given in your department/agency in FY 2022. Please include a list of the trainings, if possible. If known, please provide the course names and total number of people trained. Please refer to your agency's FY 2021 report to include ONLY trainings given in FY 2022. **If none, leave this section blank.**

*Description of EPA infrastructure on pages 5 and 6*

*EPA ECCR trainings on pages 18*

### **3. ECCR Case Example**

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

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

#### **Other ECCR Notable Cases**

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

*ECCR case example on page 17*

*Other notable ECCR case examples on pages 10, 12, 14 and 15*

### **4. ECCR Case Numbers**

*Final ECCR Case Numbers for EPA on pages 8 and 9*

## **Appendix B – Abbreviations**

ADR - Alternative Dispute Resolution

ALJ - Administrative Law Judge

CAA – Clean Air Act

CAB – Community Advisory Board

CAG - Community Advisory Group

CAIP - Climate Adaptation Implementation Plan

CEQ - Council on Environmental Quality

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

CPRC - EPA’s Conflict Prevention and Resolution Center

CPRS - Conflict Prevention and Resolution Services contract

CWA - Clean Water Act

DOI - U.S. Department of the Interior

EAB – EPA’s Environmental Appeals Board

ECCR - Environmental Collaboration and Conflict Resolution

EJ - environmental justice

EPA - U.S. Environmental Protection Agency

FERC - U.S. Federal Energy Regulatory Commission

FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act

FTE - full-time employee

FY - fiscal year

GE – General Electric

OALJ - EPA’s Office of Administrative Law Judges

OEERC - EPA’s Office of External Civil Rights Compliance

OMB - Office of Management and Budget

PCE - tetrachloroethylene

RCRA - Resource Conservation and Recovery Act

SDWA – Safe Drinking Water Act

TSCA - Toxic Substances Control Act

USACE - U.S. Army Corps of Engineers

USMCA - United States-Mexico-Canada Trade Agreement