

US EPA ARCHIVE DOCUMENT

---

## ACKNOWLEDGMENTS

### Authors

**Deborah Dalton** is a Senior Conflict Management Specialist at U.S. EPA's Conflict Prevention and Resolution Center. Ms. Dalton advises EPA on public involvement and dispute resolution processes for developing rules, policies, enforcement actions and other environmental decisions. She has assisted in the design and conduct of more than twenty regulatory negotiations and policy dialogues at EPA and other federal agencies. Ms. Dalton is the project officer for EPA's national contract which provides neutral facilitators and mediators for public involvement and dispute resolution activities nationwide.

**Philip J. Harter** is the Earl F. Nelson Professor of Law and a member of the Center for the Study of Dispute Resolution at the University of Missouri – Columbia. Mr. Harter was previously Director of the Program on Consensus, Democracy and Governance at the Vermont Law School, a program funded by the Hewlett Foundation, and Visiting Associate Professor of Law. He has been a pioneer in the theory and practice of the use of consensus and other forms of dispute resolution involving government agencies.

### Contributors

**Stephen Garon, Ph.D.** is a Senior Public Involvement and Dispute Resolution Professional with SRA International. Dr. Garon has facilitated numerous policy, planning, public involvement, and/or site-specific dialogues for U.S. EPA and other federal clients; performed public involvement and dispute resolution research, including the first Agency-wide evaluation of EPA's public involvement practices; and managed a roster of neutrals for EPA.

**Suzanne Orenstein** has been a public policy mediator and facilitator for environmental disputes for over twenty years. Ms. Orenstein has mediated over 40 major cases, conducted more than fifty training courses, and managed rosters of mediators. She has written about the intersection of public involvement and conflict resolution, as well as the application of environmental conflict resolution strategies to development disputes, endangered species, and water conflicts. Ms. Orenstein is currently in private practice in Massachusetts.



# BETTER DECISIONS THROUGH CONSULTATION AND COLLABORATION

## TABLE OF CONTENTS

<b>INTRODUCTION</b> . . . . .	<b>1</b>
A. Purpose of the Handbook . . . . .	1
B. EPA’s Public Involvement Policy . . . . .	2
C. Involving the Public Helps You . . . . .	4
D. Early Planning is IMPORTANT . . . . .	5
E. Understanding the Continuum of Consultation and Collaboration. . . . .	6
F. Introduction to the Range of Stakeholder Involvement Outcomes. . . . .	7
<b>STAGE 1: SITUATION ASSESSMENT — INTERNAL.</b> . . . . .	<b>19</b>
A. Conducting an Internal Assessment . . . . .	19
B. Involving Other EPA Staff in Your Decision . . . . .	21
C. Determining if Agency Action Warrants Stakeholder Involvement . . . . .	22
D. Making a Preliminary Decision . . . . .	24
Questions to Answer in the Internal Assessment Stage . . . . .	25
<b>STAGE 2: SITUATION ASSESSMENT — EXTERNAL</b> . . . . .	<b>29</b>
A. What is External Situation Assessment. . . . .	29
B. When to Start - Four General Tips . . . . .	30
C. When to Use a Neutral Convener. . . . .	31
D. Suggestions for Finding Stakeholders . . . . .	32
E. Conducting the External Assessment Process . . . . .	33
F. The Convener’s Report. . . . .	37
G. The Results of the External Assessment Process. . . . .	38
Questions to Answer in the External Situation Assessment Stage. . . . .	40
<b>STAGE 3: DESIGNING THE PROCESS — WHAT, WHEN, WHO, HOW</b> . . . . .	<b>43</b>
A. Analyzing the Process Choice: “What” . . . . .	43
B. Process Structure: “When, Who, How”. . . . .	45
C. Process Design . . . . .	49
D. Integration with Other EPA Processes . . . . .	62
Design Consideration Questions . . . . .	63
<b>STAGE 4: CONDUCTING THE PROCESS</b> . . . . .	<b>67</b>
A. Five Roles for EPA Staff. . . . .	67
B. How to Work Well with a Facilitator/Mediator . . . . .	68
C. Adapting Your Process to Changing Circumstances. . . . .	69
D. Knowing When the Process is Over . . . . .	71
Questions to Consider in Conducting the Stakeholder Involvement Process . . . . .	68

## Better Decisions through Consultation and Collaboration

<b>STAGE 5: BENEFITING FROM THE RESULTS</b> . . . . .	<b>75</b>
A. Incorporating the Results into Decisions . . . . .	75
B. Providing Appropriate Feedback . . . . .	78
C. Learning from Your Experience . . . . .	79
D. Telling Your Story . . . . .	81
Questions Regarding Benefiting from the Stakeholder Involvement Process.	83

### APPENDICES

APPENDIX I	Collaboration and FACA at EPA. . . . .	85
APPENDIX II	Best Practices for Government Agencies: Guidelines for Using Collaborative Agreement Seeking Processes . . . . .	91
APPENDIX III	Choosing an Appropriate Facilitator . . . . .	105
APPENDIX IV	Ethical Standards of Professional Responsibility . . . . .	109
APPENDIX V	Case Studies . . . . .	113
Case Study A	Information Exchange: On-line Dialogue on Public Involvement in EPA Decisions. . . . .	113
Case Study B	Information Exchange: Listening Sessions for the Total Maximum Daily Load Rulemaking . . . . .	115
Case Study C	Information Exchange: Forum on Ritualistic Uses of Mercury . . . . .	117
Case Study D	Recommendations Process: Endocrine Disruptors Screening and Testing Advisory Committee (EDSTAC) . . . . .	119
Case Study E	Recommendations Process: Murray Smelter Site-Specific Facilitated Discussion . . . . .	122
Case Study F	Recommendations Process: Federal Facilities Environmental Restoration Dialogue Committee (FFERDC) . . . . .	124
Case Study G	Agreement Process: Negotiated Rulemaking On Performance Standards for Woodburning Stoves . . . . .	127
Case Study H	Agreement Process: Washington Navy Yard Permit Mediation . . . . .	129
Case Study I	Agreement Process: McKin Superfund Site . . . . .	131
Case Study J	Agreement Process: Negotiated Rulemaking to Develop the All Appropriate Inquiry Standard Required under the Small Business Liability Relief and Brownfields Revitalization Act. . . . .	133
APPENDIX VI	Selected Stakeholder Involvement References . . . . .	135