

1 Delaware Department of Natural Resources and  
2 Environmental Control (DNREC)  
3 Division of Fish and Wildlife Public Hearing  
4 Proposed Amendments to State of Delaware  
5 Lobster Regulations

6  
7 Docket No. 2023-R-F-0020

8  
9  
10 Moderated by Lisa Vest  
11 Thursday, December 21, 2023  
12 6:00 p.m.

13  
14 Remote Proceeding

15 DNREC

16 89 Kings Highway

17 Dover, DE 19901

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21 Reported by: Heidi Schoentube

22 JOB NO.: 6325778

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A P P E A R A N C E S

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List of Attendees:

Lisa Vest, Hearing Officer

John Clark, Presenter with DNREC

C O N T E N T S

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Mr. John Clark

PAGE

9

E X H I B I T S

2	NO.	DESCRIPTION	PAGE
3	Exhibit 1	Start Action Notice 2023-10 (Oct. 17, 2023)	12
5	Exhibit 2	Regulatory Flexibility Analysis and Impact Statement Form (Dec. 1, 2023)	12
8	Exhibit 3	Delaware Register of Regulations Notice (27 DE Reg. 410) (Dec. 1, 2023)	12
11	Exhibit 4	Legal Notice and Affidavit as published in the News Journal on Dec. 1, 2023	12
14	Exhibit 5	Legal Notice and Affidavit as published in the State News on Dec. 1, 2023	12
17	Exhibit 6	Public Hearing Notice as published on the DNREC website on Dec. 1, 2023	12
20	Exhibit 7	Public Hearing Calendar Notice as published on the State Public Meeting Calendar on Dec. 15, 2023	12

24

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NO.	DESCRIPTION	PAGE
Exhibit 8	Public Hearing Event Page on the DNREC Calendar of Events (This page)	12
Exhibit 9	Email Notification of the Hearing sent to Delaware's Federal Lobster Permit Holders (Dec. 18, 2023)	12
Exhibit 10	Notification of the Hearing posted on the DNREC Div. of Fish and Wildlife Facebook Page (Dec. 19, 2023)	12
Exhibit 11	DNREC Presentation	12

1 P R O C E E D I N G S

2 MS. VEST: Good evening. The time is  
3 6 p.m. on Thursday, December 21, 2023, and we are  
4 going to begin this evening's proceedings.

5 We are here this evening to provide the  
6 virtual platform for DNREC to conduct its formal  
7 public hearing on the proposed amendments to state of  
8 Delaware lobster regulations.

9 My name is Lisa Vest, and  
10 Cabinet Secretary Garvin has designated me to serve as  
11 the hearing officer for this regulatory matter.

12 Pursuant to DNREC's standard hearing  
13 criticals, this hearing is being conducted virtually.  
14 While there are no sign-in sheets to document physical  
15 attendance tonight, Zoom will generate a list of those  
16 that are virtually attending this proceeding, and the  
17 department will still maintain a record of those who  
18 are here tonight. And again, I thank you for your  
19 time.

20 I'm going to go through some brief  
21 parameters of what to expect tonight. One thing to  
22 note is that there were no members of the public that  
23 pre-registered to offer a live comment this evening,  
24 but that is perfectly okay because the record will

1 remain open through January 5th of 2024. And all  
2 comments bear the same weight whether they come in  
3 before the hearing, at the time of the hearing, or  
4 anytime between now and when the record closes for  
5 comment on January 5th. And they will all be  
6 incorporated into the formal hearing record and be  
7 reviewed by Secretary Garvin prior to his making a  
8 decision on this matter.

9           So, before we begin, very quickly, the  
10 following protocols apply to all DNREC public  
11 hearings.

12           Number 1: All comment received must be  
13 limited solely to the subject matter of tonight's  
14 hearing, which again are the proposed amendments to  
15 the lobster regs. All comments pertinent to the  
16 subject matter of this hearing will be incorporated  
17 into the hearing record and posted on the hearing  
18 webpage dedicated to this matter.

19           Number 2: in order to ensure that  
20 anyone who wishes to make a comment for the record and  
21 for the secretary's consideration can be accommodated.  
22 The record will remain open to accept public comment  
23 beyond tonight's proceedings, and as I've already  
24 said, the record will remain open through

1 January 5, 2024.

2 Number 3: There is only one authentic  
3 record of this hearing tonight, and it is the official  
4 court reporter's transcript. We should receive that  
5 within a few days following the hearing. And once we  
6 get it, it will be posted on the hearing page for the  
7 public to review should they wish to do so.

8 Number 4: The statutory purpose of  
9 tonight's hearing is to build the record with regard  
10 to this proposed promulgation. A record consisting of  
11 the transcript of the hearing tonight, any and all  
12 written comments that are received by the department,  
13 all exhibits, and eventually the hearing officer's  
14 report will be reviewed by Secretary Garvin. The  
15 secretary will ultimately make a decision regarding  
16 these proposals and shall issue an order following  
17 that review process. And that order will contain not  
18 only his decision but his reasoning, therefore.

19 Lastly, it's important to note that no  
20 decision has been made about this proposed amendment  
21 to the lobster regs nor will any decision be made  
22 tonight during this hearing. Again, we are just here  
23 to provide the platform to present what these proposed  
24 amendments are and the ability for the public to offer



1 comment if they had wished to do so.

2 That being said, I am going turn it  
3 over to John Clark who is the department  
4 representative for the Division of Fish and Wildlife,  
5 and John has a brief presentation regarding these  
6 proposed amendments.

7 So, John, when you are ready, you may  
8 begin.

9 MR. CLARK: Thank you, Lisa. I will  
10 get started.

11 First, a little background on the  
12 reason for this amendment, these proposed amendments  
13 to the lobster regulations.

14 The North Atlantic right whale  
15 population is at a historically low level and has been  
16 listed as endangered species under the Endangered  
17 Species Act.

18 The federal agency overseeing recovery  
19 efforts for the North Atlantic right whale, NOAA  
20 Fisheries, is trying to reduce potential hazards to  
21 these whales.

22 Whale entanglement in the floating  
23 lines of lobster pot gear was identified as a major  
24 hazard and an important source of whale mortality.

1                   NOAA Fisheries has approved several  
2 rules intended to reduce whale entanglements in  
3 lobster pot gear.

4                   And this has led to these next actions  
5 that were taken by NOAA Fisheries and the Atlantic  
6 States Marine Fisheries Commission.

7                   NOAA Fisheries promulgated a rule  
8 requiring all federal lobster permit holders to  
9 install an approved device to collect and transmit  
10 spatial data in order to participate in the pot gear  
11 fishery in federal waters.

12                   Federally permitted vessels are  
13 required to install and activate an approved device  
14 prior to beginning a trip with lobster pot gear. The  
15 device must remain on board the vessel and be powered  
16 at all times when the vessel is in the water, unless  
17 the device is authorized to power down by the  
18 principal port state.

19                   Addendum 29 to the Atlantic States  
20 Marine Fisheries Commission American Lobster Fishery  
21 Management Plan requires all states with federal  
22 lobster permit holders to take complementary action to  
23 this federal action.

24                   Atlantic States Marine Fisheries

1 Commission is providing all lobster permit holders  
2 with funding for the tracking device, and the funding  
3 will also cover several years of service for the  
4 tracking device.

5 Delaware is proposing the following, as  
6 seen on the screen here, to make Delaware in  
7 compliance with this plan and complement the federal  
8 measures. And as can be seen, the proposed amendments  
9 define the electronic tracking device and next require  
10 the electronic tracking device to remain on board the  
11 vessel, be powered during any actions of the vessel,  
12 and anytime the vessel is in the water.

13 And so that is the proposed amendments  
14 in a nutshell.

15 And finally, we have done extensive  
16 notification for this hearing and for these changes to  
17 the regulation as seen here in the exhibits for the  
18 proposed amendments.

19 And that concludes my presentation.

20 MS. VEST: Okay. Thank you, John.

21 Just a little bookkeeping for the  
22 record this evening. Are the exhibits on the screen  
23 right now, 1 through 11, the same as those that are  
24 posted on the hearing webpage dedicated to this

1 matter?

2 MR. CLARK: They are.

3 MS. VEST: And have they been changed  
4 or altered in any way since that posting?

5 MR. CLARK: No.

6 MS. VEST: Very good.

7 Let the record reflect that DNREC  
8 proposed Exhibits 1 through 11 are hereby incorporated  
9 into the formal hearing record being generated in this  
10 matter.

11 (Exhibit 1 through Exhibit 11 were  
12 marked for identification.)

13 Does the department have anything  
14 further that they wish to offer at this time?

15 MR. CLARK: We do not, Lisa. Thank  
16 you.

17 MS. VEST: Thank you.

18 And that, as they say, is pretty much  
19 it this evening, folks.

20 Normally, we would turn the floor over  
21 to anyone who had pre-registered with the department  
22 to offer comment. However, as I mentioned previously,  
23 no members of the public did sign up to do so.

24 So we're going to go ahead now and

1 close tonight's proceedings with just a couple  
2 comments before we go.

3           Again, for those that may be reading  
4 this transcript subsequent to tonight's hearing, I  
5 would encourage everybody to check out the hearing  
6 webpage. It has a lot of information. It'll have  
7 every one of these exhibits that we're talking about  
8 that just got entered into the record. And the public  
9 can certainly review them, download them, and get a  
10 fuller understanding of everything involved with these  
11 proposed amendments prior to making any comments if  
12 they wish to do so.

13           Again, all comments bear equal weight  
14 whether they came in before the hearing, tonight at  
15 the hearing, or any time between now and the fifth.  
16 As long as the department receives them no later than  
17 January 5, 2024, they will be incorporated into the  
18 hearing record.

19           I should remind the public that  
20 comments may be submitted through various ways. There  
21 is a comment form link on the hearing page. You can  
22 also send your comments in via email at  
23 DNRECHearingComments@delaware.gov or via the United  
24 States Postal Service at the physical address for

1 DNREC indicated on the hearing page as well as the  
2 numerous public notices already issued by the  
3 department in this matter.

4 It should be noted that comments to  
5 DNREC may not be submitted using any standard social  
6 media platforms such as Twitter, or X if you will,  
7 Facebook, YouTube, or any standardized text messaging.

8 I want to thank everybody for taking  
9 the time to come out and review this. Once again, as  
10 long as it's pertaining to the subject matter of  
11 tonight's hearing, it will be incorporated into the  
12 record as long as it's received by January 5th.

13 I want to thank everybody for taking  
14 the time to review this material and coming out  
15 tonight to hear more about it. Have a happy holidays,  
16 and this hearing is adjourned.

17 (Whereupon, the meeting concluded at  
18 6:10 p.m.)

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CERTIFICATE

I, HEIDI SCHOENTUBE, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



HEIDI SCHOENTUBE  
Notary Public in and for the  
Commonwealth of Pennsylvania

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CERTIFICATE OF TRANSCRIBER

I, DIANA CURTIS, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



DIANA CURTIS



<b>0</b>	<b>4</b>	<b>actions</b> 10:4 11:11	<b>audio</b> 15:8 16:3 <b>authentic</b> 8:2 <b>authorized</b> 10:17
<b>0020</b> 1:7	<b>4</b> 4:11 8:8	<b>activate</b> 10:13	
<b>1</b>	<b>410</b> 4:10	<b>addendum</b> 10:19	<b>b</b>
<b>1</b> 4:3,7,10,13,16 4:19 7:12 11:23 12:8,11	<b>5</b>	<b>address</b> 13:24	<b>b</b> 4:1 5:1
<b>10</b> 5:10	<b>5</b> 4:14 8:1 13:17	<b>adjourned</b> 14:16	<b>background</b> 9:11
<b>11</b> 5:14 11:23 12:8,11	<b>5th</b> 7:1,5 14:12	<b>affidavit</b> 4:11 4:14	<b>bear</b> 7:2 13:13
<b>12</b> 4:4,7,10,13 4:16,19,23 5:5 5:9,13,14	<b>6</b>	<b>agency</b> 9:18	<b>beginning</b> 10:14
<b>15</b> 4:23	<b>6</b> 4:17 6:3	<b>ahead</b> 12:24	<b>best</b> 15:10 16:6
<b>17</b> 4:4	<b>6325778</b> 1:22	<b>altered</b> 12:4	<b>beyond</b> 7:23
<b>18</b> 5:9	<b>6:00</b> 1:12	<b>amendment</b> 8:20 9:12	<b>board</b> 10:15 11:10
<b>19</b> 5:13	<b>6:10</b> 14:18	<b>amendments</b> 1:4 6:7 7:14 8:24 9:6,12 11:8,13,18 13:11	<b>bookkeeping</b> 11:21
<b>19901</b> 1:17	<b>7</b>	<b>american</b> 10:20	<b>brief</b> 6:20 9:5
<b>2</b>	<b>7</b> 4:20	<b>analysis</b> 4:6	<b>build</b> 8:9
<b>2</b> 4:5 7:19	<b>8</b>	<b>anytime</b> 7:4 11:12	<b>c</b>
<b>2023</b> 1:7,11 4:4 4:7,10,13,16,19 4:23 5:9,13 6:3	<b>8</b> 5:3	<b>apply</b> 7:10	<b>c</b> 2:1 3:1 6:1
<b>2023-10</b> 4:3	<b>89</b> 1:16	<b>approved</b> 10:1 10:9,13	<b>cabinet</b> 6:10
<b>2024</b> 7:1 8:1 13:17	<b>9</b>	<b>atlantic</b> 9:14,19 10:5,19,24	<b>calendar</b> 4:20 4:22 5:4
<b>21</b> 1:11 6:3	<b>9</b> 3:3 5:6	<b>attendance</b> 6:15	<b>certainly</b> 13:9
<b>25608</b> 15:16	<b>a</b>	<b>attendees</b> 2:2	<b>certificate</b> 15:1 16:1
<b>27</b> 4:9	<b>ability</b> 8:24 15:10 16:7	<b>attending</b> 6:16	<b>certify</b> 15:4 16:2
<b>29</b> 10:19	<b>accept</b> 7:22	<b>attorney</b> 15:14 16:10	<b>changed</b> 12:3
<b>3</b>	<b>accommodated</b> 7:21		<b>changes</b> 11:16
<b>3</b> 4:8 8:2	<b>accurate</b> 15:9 16:5		<b>check</b> 13:5
<b>30713</b> 16:14	<b>act</b> 9:17		<b>clark</b> 2:4 3:3 9:3,9 12:2,5,15
	<b>action</b> 4:3 10:22,23 15:12 15:16 16:8,12		

<p><b>close</b> 13:1  <b>closes</b> 7:4  <b>collect</b> 10:9  <b>come</b> 7:2 14:9  <b>coming</b> 14:14  <b>comment</b> 6:23  7:5,12,20,22  9:1 12:22  13:21  <b>comments</b> 7:2  7:15 8:12 13:2  13:11,13,20,22  14:4  <b>commission</b>  10:6,20 11:1  <b>commonwealth</b>  15:19  <b>complement</b>  11:7  <b>complementary</b>  10:22  <b>compliance</b>  11:7  <b>concluded</b>  14:17  <b>concludes</b>  11:19  <b>conduct</b> 6:6  <b>conducted</b> 6:13  <b>consideration</b>  7:21  <b>consisting</b> 8:10  <b>cont'd</b> 5:1  <b>contain</b> 8:17</p>	<p><b>control</b> 1:2  <b>counsel</b> 15:11  15:14 16:7,10  <b>couple</b> 13:1  <b>court</b> 8:4  <b>cover</b> 11:3  <b>criticals</b> 6:13  <b>curtis</b> 16:2,15</p> <p style="text-align: center;"><b>d</b></p> <p><b>d</b> 6:1  <b>data</b> 10:10  <b>days</b> 8:5  <b>de</b> 1:17 4:9  <b>dec</b> 4:7,10,13  4:16,19,23 5:9  5:13  <b>december</b> 1:11  6:3  <b>decision</b> 7:8  8:15,18,20,21  <b>dedicated</b> 7:18  11:24  <b>define</b> 11:9  <b>delaware</b> 1:1,4  4:8 6:8 11:5,6  <b>delaware's</b> 5:7  <b>delaware.gov</b>  13:23  <b>department</b> 1:1  6:17 8:12 9:3  12:13,21 13:16  14:3  <b>description</b> 4:2  5:2</p>	<p><b>designated</b>  6:10  <b>device</b> 10:9,13  10:15,17 11:2  11:4,9,10  <b>diana</b> 16:2,15  <b>digital</b> 15:8  16:3  <b>div</b> 5:11  <b>division</b> 1:3 9:4  <b>dnrec</b> 1:2,15  2:4 4:18 5:4,11  5:14 6:6 7:10  12:7 14:1,5  <b>dnrec's</b> 6:12  <b>dnrehearing...</b>  13:23  <b>docket</b> 1:7  <b>document</b> 6:14  <b>dover</b> 1:17  <b>download</b> 13:9  <b>duly</b> 15:5</p> <p style="text-align: center;"><b>e</b></p> <p><b>e</b> 2:1,1 3:1 4:1  5:1 6:1,1  <b>efforts</b> 9:19  <b>electronic</b> 11:9  11:10  <b>email</b> 5:6 13:22  <b>employed</b>  15:11,14 16:8  16:11  <b>employee</b> 15:13  16:10</p>	<p><b>encourage</b> 13:5  <b>endangered</b>  9:16,16  <b>ensure</b> 7:19  <b>entanglement</b>  9:22  <b>entanglements</b>  10:2  <b>entered</b> 13:8  <b>environmental</b>  1:2  <b>equal</b> 13:13  <b>es</b> 15:4  <b>evening</b> 6:2,5  6:23 11:22  12:19  <b>evening's</b> 6:4  <b>event</b> 5:3  <b>events</b> 5:4  <b>eventually</b> 8:13  <b>everybody</b> 13:5  14:8,13  <b>exhibit</b> 4:3,5,8  4:11,14,17,20  5:3,6,10,14  12:11,11  <b>exhibits</b> 8:13  11:17,22 12:8  13:7  <b>expect</b> 6:21  <b>extensive</b> 11:15</p> <p style="text-align: center;"><b>f</b></p> <p><b>f</b> 1:7  <b>facebook</b> 5:12  14:7</p>
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<p><b>federal</b> 5:8 9:18 10:8,11,21,23 11:7 <b>federally</b> 10:12 <b>fifth</b> 13:15 <b>finally</b> 11:15 <b>financially</b> 15:15 16:11 <b>first</b> 9:11 <b>fish</b> 1:3 5:12 9:4 <b>fisheries</b> 9:20 10:1,5,6,7,20 10:24 <b>fishery</b> 10:11 10:20 <b>flexibility</b> 4:5 <b>floating</b> 9:22 <b>floor</b> 12:20 <b>folks</b> 12:19 <b>following</b> 7:10 8:5,16 11:5 <b>foregoing</b> 15:3 15:4 16:4 <b>form</b> 4:7 13:21 <b>formal</b> 6:6 7:6 12:9 <b>fuller</b> 13:10 <b>funding</b> 11:2,2 <b>further</b> 12:14 15:13 16:9</p>	<p><b>gear</b> 9:23 10:3 10:10,14 <b>generate</b> 6:15 <b>generated</b> 12:9 <b>go</b> 6:20 12:24 13:2 <b>going</b> 6:4,20 9:2 12:24 <b>good</b> 6:2 12:6</p>	<p><b>holidays</b> 14:15</p> <p><b>i</b></p> <p><b>identification</b> 12:12 <b>identified</b> 9:23 <b>impact</b> 4:6 <b>important</b> 8:19 9:24 <b>incorporated</b> 7:6,16 12:8 13:17 14:11 <b>indicated</b> 14:1 <b>information</b> 13:6 <b>install</b> 10:9,13 <b>intended</b> 10:2 <b>interested</b> 15:15 16:12 <b>involved</b> 13:10 <b>issue</b> 8:16 <b>issued</b> 14:2 <b>it'll</b> 13:6</p>	<p><b>i</b></p> <p><b>lastly</b> 8:19 <b>led</b> 10:4 <b>legal</b> 4:11,14 <b>level</b> 9:15 <b>limited</b> 7:13 <b>lines</b> 9:23 <b>link</b> 13:21 <b>lisa</b> 1:10 2:3 6:9 9:9 12:15 <b>list</b> 2:2 6:15 <b>listed</b> 9:16 <b>little</b> 9:11 11:21 <b>live</b> 6:23 <b>lobster</b> 1:5 5:8 6:8 7:15 8:21 9:13,23 10:3,8 10:14,20,22 11:1 <b>long</b> 13:16 14:10,12 <b>lot</b> 13:6 <b>low</b> 9:15</p>
<p><b>g</b></p>	<p><b>h</b></p> <p><b>h</b> 4:1 5:1 <b>happy</b> 14:15 <b>hazard</b> 9:24 <b>hazards</b> 9:20 <b>hear</b> 14:15 <b>hearing</b> 1:3 2:3 4:17,20 5:3,7 5:10 6:7,11,12 6:13 7:3,3,6,14 7:16,17,17 8:3 8:5,6,9,11,13 8:22 11:16,24 12:9 13:4,5,14 13:15,18,21 14:1,11,16 <b>hearings</b> 7:11 <b>heidi</b> 1:21 15:2 15:17 <b>hereto</b> 15:15 16:11 <b>highway</b> 1:16 <b>historically</b> 9:15 <b>holders</b> 5:8 10:8,22 11:1</p>	<p><b>j</b></p> <p><b>january</b> 7:1,5 8:1 13:17 14:12 <b>job</b> 1:22 <b>john</b> 2:4 3:3 9:3 9:5,7 11:20 <b>journal</b> 4:12</p> <p><b>k</b></p>	<p><b>m</b></p> <p><b>made</b> 8:20,21 <b>maintain</b> 6:17 <b>major</b> 9:23 <b>make</b> 7:20 8:15 11:6 <b>making</b> 7:7 13:11 <b>management</b> 10:21 <b>marine</b> 10:6,20 10:24</p>
<p><b>g</b> 6:1 <b>garvin</b> 6:10 7:7 8:14</p>	<p><b>g</b> 6:1 <b>garvin</b> 6:10 7:7 8:14</p>	<p><b>kings</b> 1:16 <b>knowledge</b> 15:10 16:6</p>	<p><b>management</b> 10:21 <b>marine</b> 10:6,20 10:24</p>

<p><b>marked</b> 12:12  <b>material</b> 14:14  <b>matter</b> 6:11 7:8  7:13,16,18  12:1,10 14:3  14:10  <b>measures</b> 11:8  <b>media</b> 14:6  <b>meeting</b> 4:22  14:17  <b>members</b> 6:22  12:23  <b>mentioned</b>  12:22  <b>messaging</b> 14:7  <b>moderated</b>  1:10  <b>mortality</b> 9:24</p>	<p><b>notices</b> 14:2  <b>notification</b> 5:6  5:10 11:16  <b>number</b> 7:12  7:19 8:2,8  <b>numerous</b> 14:2  <b>nutshell</b> 11:14</p>	<p><b>participate</b>  10:10  <b>parties</b> 15:12  15:14 16:8,11  <b>pennsylvania</b>  15:19  <b>perfectly</b> 6:24  <b>permit</b> 5:8 10:8  10:22 11:1</p>	<p><b>prepared</b> 16:3  <b>present</b> 8:23  <b>presentation</b>  5:14 9:5 11:19  <b>presenter</b> 2:4  <b>pretty</b> 12:18  <b>previously</b>  12:22</p>
<p><b>n</b></p>	<p><b>o</b></p> <p><b>o</b> 3:1 6:1  <b>oct</b> 4:4  <b>offer</b> 6:23 8:24  12:14,22  <b>officer</b> 2:3 6:11  15:2  <b>officer's</b> 8:13  <b>official</b> 8:3  <b>okay</b> 6:24  11:20  <b>once</b> 8:5 14:9  <b>open</b> 7:1,22,24  <b>order</b> 7:19 8:16  8:17 10:10  <b>outcome</b> 15:16  16:12  <b>overseeing</b> 9:18</p>	<p><b>permitted</b>  10:12  <b>pertaining</b>  14:10  <b>pertinent</b> 7:15  <b>physical</b> 6:14  13:24  <b>plan</b> 10:21 11:7  <b>platform</b> 6:6  8:23  <b>platforms</b> 14:6  <b>population</b>  9:15  <b>port</b> 10:18  <b>postal</b> 13:24  <b>posted</b> 5:11  7:17 8:6 11:24  <b>posting</b> 12:4  <b>pot</b> 9:23 10:3  10:10,14  <b>potential</b> 9:20  <b>power</b> 10:17  <b>powered</b> 10:15  11:11  <b>pre</b> 6:23 12:21</p>	<p><b>principal</b> 10:18  <b>prior</b> 7:7 10:14  13:11 15:5  <b>proceeding</b>  1:14 6:16 16:4  <b>proceedings</b>  6:4 7:23 13:1  15:3,5,6,9 16:6  <b>process</b> 8:17  <b>promulgated</b>  10:7  <b>promulgation</b>  8:10  <b>proposals</b> 8:16  <b>proposed</b> 1:4  6:7 7:14 8:10  8:20,23 9:6,12  11:8,13,18  12:8 13:11  <b>proposing</b> 11:5  <b>protocols</b> 7:10  <b>provide</b> 6:5  8:23  <b>providing</b> 11:1  <b>public</b> 1:3 4:17  4:20,22 5:3 6:7  6:22 7:10,22</p>
<p><b>n</b> 2:1 3:1,1 6:1  <b>name</b> 6:9  <b>natural</b> 1:1  <b>neither</b> 15:11  16:7  <b>news</b> 4:12,15  <b>noaa</b> 9:19 10:1  10:5,7  <b>normally</b> 12:20  <b>north</b> 9:14,19  <b>notary</b> 15:18  <b>note</b> 6:22 8:19  <b>noted</b> 14:4  <b>notice</b> 4:3,9,11  4:14,17,20</p>	<p><b>p</b></p> <p><b>p</b> 2:1,1 6:1  <b>p.m.</b> 1:12 6:3  14:18  <b>page</b> 3:2 4:2  5:2,3,5,13 8:6  13:21 14:1  <b>parameters</b>  6:21</p>	<p><b>plan</b> 10:21 11:7  <b>platform</b> 6:6  8:23  <b>platforms</b> 14:6  <b>population</b>  9:15  <b>port</b> 10:18  <b>postal</b> 13:24  <b>posted</b> 5:11  7:17 8:6 11:24  <b>posting</b> 12:4  <b>pot</b> 9:23 10:3  10:10,14  <b>potential</b> 9:20  <b>power</b> 10:17  <b>powered</b> 10:15  11:11  <b>pre</b> 6:23 12:21</p>	<p><b>process</b> 8:17  <b>promulgated</b>  10:7  <b>promulgation</b>  8:10  <b>proposals</b> 8:16  <b>proposed</b> 1:4  6:7 7:14 8:10  8:20,23 9:6,12  11:8,13,18  12:8 13:11  <b>proposing</b> 11:5  <b>protocols</b> 7:10  <b>provide</b> 6:5  8:23  <b>providing</b> 11:1  <b>public</b> 1:3 4:17  4:20,22 5:3 6:7  6:22 7:10,22</p>

<p>8:7,24 12:23 13:8,19 14:2 15:18 <b>published</b> 4:12 4:15,18,21 <b>purpose</b> 8:8 <b>pursuant</b> 6:12</p>	<p><b>reflect</b> 12:7 <b>reg</b> 4:9 <b>regard</b> 8:9 <b>regarding</b> 8:15 9:5 <b>register</b> 4:8 <b>registered</b> 6:23 12:21 <b>regs</b> 7:15 8:21 <b>regulation</b> 11:17 <b>regulations</b> 1:5 4:9 6:8 9:13 <b>regulatory</b> 4:5 6:11 <b>related</b> 15:11 16:7 <b>relative</b> 15:13 16:10 <b>remain</b> 7:1,22 7:24 10:15 11:10 <b>remind</b> 13:19 <b>remote</b> 1:14 <b>report</b> 8:14 <b>reported</b> 1:21 <b>reporter's</b> 8:4 <b>representative</b> 9:4 <b>require</b> 11:9 <b>required</b> 10:13 <b>requires</b> 10:21 <b>requiring</b> 10:8 <b>resources</b> 1:1</p>	<p><b>review</b> 8:7,17 13:9 14:9,14 <b>reviewed</b> 7:7 8:14 <b>right</b> 9:14,19 11:23 <b>rule</b> 10:7 <b>rules</b> 10:2</p>	<p><b>source</b> 9:24 <b>spatial</b> 10:10 <b>species</b> 9:16,17 <b>standard</b> 6:12 14:5 <b>standardized</b> 14:7 <b>start</b> 4:3 <b>started</b> 9:10 <b>state</b> 1:4 4:15 4:21 6:7 10:18 <b>statement</b> 4:6 <b>states</b> 10:6,19 10:21,24 13:24 <b>statutory</b> 8:8 <b>subject</b> 7:13,16 14:10 <b>submitted</b> 13:20 14:5 <b>subsequent</b> 13:4 <b>sworn</b> 15:5</p>
<p><b>q</b></p>	<p><b>s</b></p>	<p><b>t</b></p>	
<p><b>qualified</b> 15:7 <b>quickly</b> 7:9</p>	<p><b>s</b> 2:1 3:1 4:1 5:1 6:1 <b>schoentube</b> 1:21 15:2,17 <b>screen</b> 11:6,22 <b>secretary</b> 6:10 7:7 8:14,15 <b>secretary's</b> 7:21 <b>seen</b> 11:6,8,17 <b>send</b> 13:22 <b>sent</b> 5:7 <b>serve</b> 6:10 <b>service</b> 11:3 13:24 <b>several</b> 10:1 11:3 <b>sheets</b> 6:14 <b>sign</b> 6:14 12:23 <b>signature</b> 15:16 16:14 <b>skills</b> 15:10 16:6 <b>social</b> 14:5 <b>solely</b> 7:13</p>	<p><b>state</b> 1:4 4:15 4:21 6:7 10:18 <b>statement</b> 4:6 <b>states</b> 10:6,19 10:21,24 13:24 <b>statutory</b> 8:8 <b>subject</b> 7:13,16 14:10 <b>submitted</b> 13:20 14:5 <b>subsequent</b> 13:4 <b>sworn</b> 15:5</p>	
<p><b>r</b></p>	<p><b>r</b> 1:7 2:1 6:1 <b>reading</b> 13:3 <b>ready</b> 9:7 <b>reason</b> 9:12 <b>reasoning</b> 8:18 <b>receive</b> 8:4 <b>received</b> 7:12 8:12 14:12 <b>receives</b> 13:16 <b>record</b> 6:17,24 7:4,6,17,20,22 7:24 8:3,9,10 11:22 12:7,9 13:8,18 14:12 15:9 16:5 <b>recorded</b> 15:6 <b>recording</b> 15:8 16:4 <b>recovery</b> 9:18 <b>reduce</b> 9:20 10:2 <b>reduced</b> 15:7</p>	<p><b>s</b> 2:1 3:1 4:1 5:1 6:1 <b>schoentube</b> 1:21 15:2,17 <b>screen</b> 11:6,22 <b>secretary</b> 6:10 7:7 8:14,15 <b>secretary's</b> 7:21 <b>seen</b> 11:6,8,17 <b>send</b> 13:22 <b>sent</b> 5:7 <b>serve</b> 6:10 <b>service</b> 11:3 13:24 <b>several</b> 10:1 11:3 <b>sheets</b> 6:14 <b>sign</b> 6:14 12:23 <b>signature</b> 15:16 16:14 <b>skills</b> 15:10 16:6 <b>social</b> 14:5 <b>solely</b> 7:13</p>	<p><b>t</b> 3:1,1 4:1 5:1 <b>take</b> 10:22 <b>taken</b> 10:5 15:3 15:12 16:9 <b>talking</b> 13:7 <b>testifying</b> 15:5 <b>text</b> 14:7 <b>thank</b> 6:18 9:9 11:20 12:15,17 14:8,13 <b>thing</b> 6:21</p>

<p><b>thursday</b> 1:11 6:3 <b>time</b> 6:2,19 7:3 12:14 13:15 14:9,14 <b>times</b> 10:16 <b>tonight</b> 6:15,18 6:21 8:3,11,22 13:14 14:15 <b>tonight's</b> 7:13 7:23 8:9 13:1,4 14:11 <b>tracking</b> 11:2,4 11:9,10 <b>transcriber</b> 16:1 <b>transcript</b> 8:4 8:11 13:4 16:3 16:5 <b>transcriptionist</b> 15:8 <b>transmit</b> 10:9 <b>trip</b> 10:14 <b>true</b> 15:9 16:5 <b>trying</b> 9:20 <b>turn</b> 9:2 12:20 <b>twitter</b> 14:6 <b>typewriting</b> 15:7</p>	<p><b>united</b> 13:23 <b>using</b> 14:5 <b>v</b> <b>various</b> 13:20 <b>vessel</b> 10:15,16 11:11,11,12 <b>vessels</b> 10:12 <b>vest</b> 1:10 2:3 6:2,9 11:20 12:3,6,17 <b>virtual</b> 6:6 <b>virtually</b> 6:13 6:16 <b>w</b> <b>want</b> 14:8,13 <b>water</b> 10:16 11:12 <b>waters</b> 10:11 <b>way</b> 12:4 <b>ways</b> 13:20 <b>webpage</b> 7:18 11:24 13:6 <b>website</b> 4:18 <b>weight</b> 7:2 13:13 <b>whale</b> 9:14,19 9:22,24 10:2 <b>whales</b> 9:21 <b>wildlife</b> 1:3 5:12 9:4 <b>wish</b> 8:7 12:14 13:12 <b>wished</b> 9:1</p>	<p><b>wishes</b> 7:20 <b>witness</b> 15:4 <b>written</b> 8:12 <b>x</b> <b>x</b> 4:1 5:1 14:6 <b>y</b> <b>years</b> 11:3 <b>youtube</b> 14:7 <b>z</b> <b>zoom</b> 6:15</p>
<p><b>u</b></p>		
<p><b>ultimately</b> 8:15 <b>under</b> 9:16 <b>understanding</b> 13:10</p>		