

EXECUTIVE OFFICE OF THE PRESIDENT
OF THE UNITED STATES

COUNCIL ON ENVIRONMENTAL QUALITY

NATIONAL ENVIRONMENTAL POLICY ACT
IMPLEMENTING REGULATIONS

BIPARTISAN PERMITTING REFORM IMPLEMENTATION
NOTICE OF PROPOSED RULEMAKING

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VIRTUAL PUBLIC MEETING

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SATURDAY
AUGUST 26, 2023

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The Meeting was convened via
Videoconference, at 1:00 p.m. EDT, Jomar
Maldonado, Director for NEPA at the White House
Council on Environmental Quality, facilitating.

PRESENT

JOMAR MALDONADO, Director for NEPA, White House
Council on Environmental Quality

AMY COYLE, Deputy General Counsel, White House
Council on Environmental Quality

KATRY HARRIS, White House Council on
Environmental Quality

MEGAN HEALY, Deputy Director for NEPA, White
House Council on Environmental Quality

JENNIFER MOYER, Deputy Director for NEPA and
Infrastructure, White House Council on
Environmental Quality

SAM ROTH, Associate General Counsel, White House
Council on Environmental Quality

EMMA SU, Policy Analyst, White House Council on
Environmental Quality

COMMENTERS PRESENT

MARIANNE AMBROSE
JULIA BROOKS-GOODWIN
STEPHEN BUCKLEY
SHARON FRIEDMAN
JASON HILL
RON LAMB
SHAINA OLIVER
MADHAVAN PALLAN
MINDY SEAL
BOB STERN, Save Long Beach Island, Inc.
LYMAN WELCH

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

1:04 p.m.

MR. MALDONADO: Good afternoon, everyone, and thank you all for joining today's public meeting on CEQ's proposed rule revising the implementation regulations on the National Environmental Policy Act.

My name is Jomar Maldonado. I am the Director for NEPA over at the White House Council on Environmental Quality. On behalf of the Council on Environmental Quality, CEQ, I want to thank you for taking some of your time today to join us and share your input on this rule.

This is the first of our four public listening sessions on the Bipartisan Permitting Reform Implementation proposed rulemaking, which will happen all during the public comment period. Today's public listening session is an opportunity for us to receive feedback on this proposed rule.

I'm joined today by several of my colleagues at CEQ, who I would like to introduce.

1 We have Megan Healy, Amy Coyle, Sam Roth, Emma
2 Su, Jennifer Moyer, and Katry Harris.

3 To ensure that we fully capture
4 comments, today's session is being recorded, and
5 it will be transcribed as well. A few quick
6 notes about Zoom. We do not have a chat function
7 here in this Zoom environment. It is going to be
8 recorded, and the transcript will be posted
9 online publicly.

10 Please change your Zoom name to the
11 first and last names that you've registered with
12 if it has not been automatically populated. And
13 I see that a lot of you have done that. You can
14 turn on live closed captioning by clicking on
15 Show Captions. It's a button labeled CC in the
16 Meeting Controls toolbar.

17 Now I'm going to hand it over to our
18 presenters, Megan Healy and Amy Coyle.

19 And you're on mute.

20 MS. HEALY: Too many mute buttons.

21 Apologies.

22 Thank you, everyone.

1 Jomar, can you hear me now?

2 MR. MALDONADO: I can, loud and clear.

3 MS. HEALY: Great. Thank you.

4 Thank you, everyone, for joining us
5 this afternoon. My name is Megan Healy. I'm the
6 Deputy Director for the NEPA team here at CEQ,
7 and I'm joined by Amy.

8 MS. COYLE: Good afternoon. I'm Amy
9 Coyle. I'm the Deputy General Counsel at CEQ.

10 MS. HEALY: And we will be walking you
11 through an overview of our proposed rulemaking.
12 And then, at the end of this session, we will
13 focus on hearing from you and look forward to
14 hearing your verbal comments on our rule today.

15 As a reminder, we are recording and
16 transcribing. And the docket number is up here
17 on the screen for you, should you want to access
18 the transcripts once they're posted.

19 And I also wanted to note that if you
20 are looking to speak this afternoon, you will not
21 be able to turn on your controls until we get to
22 the open comment portion of this session. And

1 some folks do have specific speaker orders that
2 they've been assigned, and we will be running
3 through that list.

4 And then, if you did not register to
5 speak ahead of time, you will be given an
6 opportunity to raise your hand and jump in at the
7 end of the session as well.

8 So, with that, I am going to move us
9 into the main part of our presentation, starting
10 with just a little bit of background. I'm sure
11 most of you are already aware of this if you're
12 here and interested in NEPA, but the National
13 Environmental Policy Act was signed into law in
14 1970. And it was only amended most recently on
15 June 3rd, 2023, by the Fiscal Responsibility Act.

16 NEPA also established the Council on
17 Environmental Quality, which issued regulations
18 to help federal agencies implement NEPA across
19 the federal government. Federal agencies then
20 also issue their own individual NEPA procedures
21 that are consistent with our regulations at CEQ.

22 And on the CEQ's regulations

1 themselves, CEQ issued implementing regulations
2 first in 1978, which largely went unchanged for
3 over 40 years. In July of 2020, CEQ issued a
4 rule that we refer to as the 2020 rule, which
5 provides many of the provisions from 1978.

6 Back in April of 2022, we issued a
7 final rule that we refer to as the Phase 1 rule
8 that amended a narrow set of provisions of the
9 2020 rule. And then, on July 31st, we issued the
10 rulemaking we're here to discuss today, which is
11 our Phase 2 for our Bipartisan Permitting Reform
12 Implementation proposed rule.

13 Also just wanted to make a quick note
14 about some terms you might hear while we're
15 chatting today. There are three different levels
16 of NEPA review. One is a categorical exclusion,
17 which we also refer to as a CE; environmental
18 assessment, which we refer to as an EA; an
19 environmental impact statement, which you might
20 hear us refer to as an EIS, just for awareness
21 for folks as we work through this conversation.

22 And I am now going to turn it over to

1 Amy.

2 MS. COYLE: Thanks, Megan.

3 So I want to start just by giving you
4 a little overview of the goals of our proposed
5 rule. So, first and foremost, we are looking to
6 implement the amendment to NEPA and the Fiscal
7 Responsibility Act.

8 And then the other proposed changes
9 fall under these particular themes: so, one,
10 meaningful public engagement and transparency;
11 two, improvement to environmental and climate
12 change outcomes; three, improvement to
13 environmental justice outcomes and respecting
14 tribal sovereignty; four, informed and science-
15 based decision-making; and five, efficient
16 process and regulatory certainty.

17 So, as we move into the overview of
18 the proposed rule, I just want to note that we
19 are just providing highlights of what's in the
20 proposed rule. The notice of proposed rulemaking
21 that was published in the Federal Register
22 provides a comprehensive summary of the changes,

1 the proposed changes. And today we're just going
2 to highlight some of the key changes that fall
3 under these six categories.

4 So, first, I want to talk a little bit
5 about implementation of the Fiscal Responsibility
6 Act. So, to implement these statutory changes,
7 we have incorporated the process that allows
8 agencies to adopt and use categorical exclusions
9 established in other agencies' NEPA procedures.

10 We are proposing to clarify the roles
11 and responsibilities for lead, joint lead, and
12 cooperating agencies to align with the amendments
13 to NEPA. We are proposing to retain the
14 requirements for preparing joint environmental
15 documents, including considerations for
16 practicality and efficiency. And in that case,
17 that happens when there are multiple agencies
18 involved in a project or multiple decisions under
19 NEPA need to be made.

20 The proposed rule includes the one-
21 year deadline for completion of environmental
22 assessment and a two-year deadline for completion

1 of environmental impact statements, along with
2 page limits for environmental assessments and
3 environmental impact statements.

4 The amendment to NEPA now includes an
5 explicit requirement to include consideration of
6 adverse effects of the no-action alternative. So
7 the proposed rule includes this in the discussion
8 of alternatives in the Environmental Consequences
9 section of the Environmental Impact Statement.

10 The NEPA amendment also codified the
11 requirement for agencies to ensure professional
12 integrity, including scientific integrity, and
13 use reliable data and resources. These concepts
14 are incorporated in multiple places throughout
15 the proposal.

16 In Section 1501.3, which is the
17 determination of level of NEPA review, we're
18 proposing to consolidate in the regulations the
19 requirements related to the threshold
20 determination of assessing whether NEPA applies
21 to a proposed action, and then what level of NEPA
22 review is appropriate -- EA, EIS, or CE, as Megan

1 noted -- then what is the appropriate scope of
2 that NEPA review, and what context and intensity
3 factors agencies should consider to inform the
4 determination of whether effects are significant
5 and therefore require preparation of an EIS.

6 So this approach incorporates the
7 amendment to NEPA. It restores certain aspects
8 of the 1978 regulations. And it maintains some
9 of the 2020 concepts on threshold consideration.
10 We have also added additional clarity on the
11 roles and responsibilities of federal agencies,
12 applicants, and contractors in the preparation of
13 NEPA documents, specifically EAs or EISes.

14 I'll turn it back Megan.

15 MS. HEALY: I'm going to move us into
16 some changes that fall under the theme Amy
17 highlighted earlier of meaningful public
18 engagement and transparency.

19 In several areas of the rule, we're
20 proposing changes that support meaningful public
21 engagement and transparency in the entire
22 environmental review process, including adding

1 purpose statements to better describe the intent
2 and goal of public and governmental engagement.

3 And when agencies develop public
4 engagement and outreach strategies, several
5 changes encourage agencies to tailor those
6 strategies to consider the needs of the affected
7 communities they're working with on these
8 projects, including consideration of the primary
9 language of affected persons and what the best
10 format might be for a public hearing or meeting
11 while also considering the scope, scale, and
12 complexity of the proposed action.

13 We've also, in support of
14 transparency, codified a long-standing practice
15 for agencies to invite public comment when they
16 publish a draft environmental assessment. And
17 we're also proposing to require that agencies add
18 a unique identification number for EAs and EISes
19 to help the public track the progress of these
20 documents from start to finish, including any
21 related documents.

22 And the goal here is to help both the

1 public and other agencies better understand how
2 to find related documents and how to land on the
3 ROD, the record of decision, that was associated
4 with the draft EIS that you might not be able to
5 find easily through searching, so trying to help
6 folks locate the documents so they can be well
7 informed for the process.

8 Further changes that we're proposing
9 would require agencies to identify what we call
10 the environmentally preferable alternative at the
11 environmental impact statement stage. And the
12 goal is to have it be available and identified in
13 the draft EIS so that the public has an
14 opportunity to comment on it rather than it just
15 appearing in the record of decision, which occurs
16 toward the end of the review process, and the
17 public does not have an opportunity to provide
18 input on it.

19 We've also changed some requirements
20 to reduce the burden on how specific public
21 comments need to be. And we're also requiring
22 agencies to designate a Chief Public Engagement

1 Officer to help coordinate and facilitate
2 community engagement across the agency.

3 Next, Amy's going to take over.

4 MS. COYLE: Under the goal of
5 improving environmental and planet change
6 outcomes, in the introduction, Part 1500 of the
7 regulation, we are proposing to restore separate
8 sections on the purpose and policy of the
9 regulation, including consideration of reasonable
10 alternative that will avoid or minimize adverse
11 effects, including adding an example of a
12 reasonable alternative as one that will reduce
13 climate change related effects.

14 The proposal also encourages agencies
15 to consider the duration of effects when
16 considering significance and discuss relevant
17 risk reduction, resilience, or adaptation
18 measures in the environmental impact statement.

19 In an environmental impact statement,
20 the discussion of the environmental consequences
21 would be required to consider disproportionate
22 effects on communities with environmental justice

1 concerns as well as resiliency, adaptation, and
2 climate-related effects.

3 Where an agency relies on mitigation
4 as a component of the proposed action, the rule
5 would require agencies to prepare a monitoring
6 and compliance plan to ensure that agencies are
7 appropriately relying on mitigation for their
8 decision and to address concerns that mitigation
9 measures included in agency decisions are not
10 always carried out or monitored for
11 effectiveness.

12 CEQ is also proposing to update
13 definitions to include references to climate
14 change.

15 Now I'm going to walk us through some
16 changes focused on improving environmental
17 justice outcomes and respecting tribal
18 sovereignty. In multiple places throughout the
19 proposed rule, we've added language to ensure
20 consideration of disproportionate and adverse
21 effects on communities with environmental justice
22 concerns and adverse effects on reserved rights

1 of tribal nations in environmental reviews.

2 In particular, one area of note where
3 these changes have been proposed are within a
4 list of context and intensity factors that Amy
5 referenced earlier that agencies use to assess
6 the significance of effects.

7 We've also clarified that when
8 agencies are considering the role of a
9 cooperating agency, that special expertise, which
10 can be used to have a federal agency become a
11 cooperating agency, includes indigenous
12 knowledge. We also identify in other areas of
13 the rule that indigenous knowledge is a source of
14 high-quality information.

15 And we've added references to
16 environmental justice in multiple definitions,
17 and we've added a definition for environmental
18 justice which is in alignment with the recent
19 Executive Order 14096. And as Amy touched on
20 already briefly, the proposed role encourages
21 agencies to adopt mitigation measures that are
22 directed at effects that disproportionately and

1 adversely affect communities with environmental
2 justice concerns.

3 Next, I'm going to talk a little bit
4 about the goal of informed and science-based
5 decision-making. To support informed and
6 science-based decision-making, we are restoring
7 direction for agencies to rigorously explore and
8 objectively evaluate reasonable alternatives.

9 Where the regulations discuss the
10 affected environments and methodology and
11 scientific accuracy as a component of an EIS,
12 changes emphasize high-quality information,
13 including to describe reasonably foreseeable
14 environmental trends such as anticipated climate-
15 related changes.

16 Other changes in the rule are intended
17 to ensure that agency decision makers are well
18 informed and tie back the emphasis of
19 professional and scientific integrity that was
20 mentioned earlier in this presentation on
21 statutory changes we've incorporated into the
22 rule.

1 Back to you, Amy.

2 MS. COYLE: The last set of changes we
3 want to highlight include those focused on
4 creating a more efficient process and promoting
5 regulatory certainty.

6 CEQ is proposing to remove provisions
7 that create a litigation risk and jeopardize
8 community input, including a provision that
9 attempted to limit the ability of court to
10 provide injunctive relief when there are
11 violations of NEPA, even if a proposed action
12 could threaten public health or safety.

13 As I mentioned at the top, we have
14 revised Section 1501.3 on the levels of NEPA
15 review to consolidate and provide clarity on the
16 entirety of the process for assessing NEPA
17 applicability and the scope and level of review,
18 restoring the well understood approach of the
19 context and intensity factors when assessing the
20 significance of effects.

21 We are requiring schedules for EAs and
22 EISes and encouraging coordination between

1 agencies, project sponsors, and applicants that
2 will facilitate meeting the statutory deadlines.
3 We are placing an emphasis on consultation and
4 concurrence on schedules as well as early
5 engagement with government agencies at all levels
6 -- federal, tribal, state, and local -- where
7 they have a hole in the action or project. And
8 we have combined discussions and programmatic
9 documents codifying long-standing agency practice
10 for using these tools to promote efficiency.

11 For categorical exclusions, we are
12 proposing to clarify the definition of
13 categorical exclusion to consider both individual
14 applications and applications in the aggregate
15 for the category of actions covered by the CE and
16 added clarity around consideration of
17 extraordinary circumstances.

18 We're proposing to clarify that
19 agencies can jointly establish categorical
20 exclusions with other agencies, and we are
21 proposing a new mechanism to establish
22 categorical exclusions through a programmatic

1 environmental document or other planning process.

2 We are adding additional clarity on
3 when and how an agency can adopt another agency's
4 environmental impact statement, environmental
5 assessment, or categorical exclusion
6 determination with a focus on ensuring agencies
7 are independently reviewing the documents that
8 they are adopting and relying upon. We've also
9 added a new section on innovative approaches to
10 provide a new tool to encourage agencies to
11 innovate in the NEPA process to address extreme
12 environmental challenges.

13 And lastly, we have made additional
14 updates to the section of the regulations
15 addressing federal agency NEPA procedures, adding
16 specificity on how agencies establish new
17 categorical exclusions or revise their existing
18 categorical exclusions and codify elements of
19 CEQ's 2010 guidance on establishing CEs, such as
20 requiring agencies to include procedures for
21 reviewing their CEs every ten years.

22 And now I'll turn it back to Megan to

1 move up into the public comment portion of our
2 meeting.

3 MS. HEALY: Thank you, Amy.

4 So, first, I wanted to make sure
5 everyone is aware of how they can submit a
6 written comment, and we will put this screen up
7 again at the end of this session. A 60-day
8 comment period is currently open and ends on
9 September 29th, 2023. To submit comments, you
10 can visit regulations.gov and search for CEQ-
11 2023-0003. And you can also find all of this
12 information at the simpler website of nepa.gov.

13 We'll now be moving into the portion
14 of this meeting where we get to hear from you and
15 your feedback on our proposal. Folks, when you
16 registered, some of you indicated that you wanted
17 to speak during this session, and so you should
18 have received an email with a speaker order
19 number letting you know at which point we will be
20 calling on you.

21 When it is your turn, we will be
22 elevating you to a panelist so that you have

1 access to turn on your microphone and your camera
2 should you choose to. You will see a box on your
3 screen that says that we're trying to elevate
4 you, and you'll need to click Accept, and then
5 you'll be moved over to open up your comment.

6 After you're done speaking, you will
7 be returned to attendee mode. And after we move
8 through those who signed up and are on, we will
9 allow additional speakers to raise their hands to
10 join in to be added as a panelist as well.

11 So a few technical questions. If we
12 are elevating you to speak, there might be a
13 brief delay between being promoted to panelist or
14 being returned back to attendee status. Please
15 don't disconnect. If we call on you and you want
16 to divert your time to someone else, please state
17 that person's name, and they should raise their
18 hand so that we can enable them to just turn on
19 their microphone and speak during that time slot.

20 If you have any technical questions,
21 since we don't have access to the chat, please
22 reply to your Zoom registration confirmation

1 email, and someone is monitoring that inbox and
2 will try to assist you as quickly as possible.
3 And if you do encounter technical difficulties
4 when we get to you, we will move past you to the
5 next person, but we will circle back at the end
6 of the list to see if we've been able to help you
7 resolve your technical issue.

8 And now I am going to turn it over to
9 Sam Roth to introduce himself and move into our
10 dialogue portion.

11 Sam, over to you.

12 SAM ROTH: Thanks, Megan.

13 I'm Sam Roth, Associate General
14 Counsel here at CEQ. I'll be calling speakers by
15 name and by number.

16 Our first speaker is Kaitlynn Glover.
17 And, Kaitlynn, we don't see you in the list of
18 attendees. If you're on the phone, would you
19 press star-nine to raise your hand? And we will
20 promote you to speaker.

21 Okay. Seeing no hands were raised,
22 we're going to move on. But there will be time

1 at the end when we'll call on anyone who wasn't
2 able to speak during their slot.

3 So, next, I'll invite speaker number
4 2, Bob Stern, to make a comment.

5 MR. STERN: Can you hear me?

6 SAM ROTH: Yes.

7 MR. STERN: I can't see you on the
8 screen, but I'll just talk. Thanks for the
9 opportunity to speak to you all. My name is Bob
10 Stern. I'm leading the organization called Save
11 Long Beach Island, Incorporated, in New Jersey.
12 In a former life, I managed the NEPA affairs for
13 the Department of Energy in Washington.

14 Our supporters are very concerned
15 about what we perceive here as a very late-stage
16 process for NEPA with regard to the offshore wind
17 projects. And we do deeply care about the NEPA
18 process and making it work. But in that regard,
19 we're very concerned with the provisions in the
20 rule regarding the timing of NEPA document
21 preparation, which essentially is pushing that
22 preparation towards the very end of an agency's

1 decision-making process.

2 We believe that that serves no purpose
3 for anyone involved. However, we do recognize
4 that such language was in the recent Fiscal
5 Responsibility Act. But we do not believe that
6 is the only language that the CEQ should be
7 relying on now regarding timing.

8 For example, in the Fiscal
9 Responsibility Act itself, there was a new
10 definition of proposal which spoke to the agency
11 achieving its goals, considering alternative
12 means of doing that, and that would argue for
13 earlier NEPA document preparation.

14 So we believe the recent changes to
15 the Act have created a conflict, really. And
16 that conflict is reflected in the proposed rule
17 because you have language regarding, frankly,
18 preparing documents late versus preparing them
19 early.

20 To resolve this, we would suggest that
21 you consider more language than just what the
22 final action language was in the FRA, and take

1 the plunge and define what final action means for
2 purposes of NEPA document preparation.

3 I took a stab at it myself, and it
4 could say something like for purposes of NEPA
5 document preparation, a final agency action
6 includes any decision by a federal agency that
7 forecloses alternative means of achieving its
8 goal and that has a significant impact on the
9 human environment.

10 So that would rely on additional
11 language besides that specific final action
12 language in the FRA. And such a definition, we
13 believe, would marry the NEPA document
14 preparation to the actual decision-making process
15 that the agency undertakes as opposed to pushing
16 everything towards the very end of that process
17 and creating, really, an artificial document.

18 And we also believe that --

19 SAM ROTH: Bob, thank you so much for
20 your comments. We are at time, so if you could
21 just wrap up.

22 MR. STERN: Well, that we would hope

1 you revisit this issue because as it stands, we
2 believe that late document preparation
3 effectively is gutting much of the National
4 Environmental Policy Act. And this is a very
5 serious issue. We hope you'll consider it in a
6 different vein. Thanks a lot.

7 SAM ROTH: Thank you.

8 Now I'll invite speaker number 3,
9 Stephen Buckley.

10 MR. BUCKLEY: Yes. Hi. Thank you
11 very much.

12 Like Mr. Stern, I used to work on NEPA
13 at the Department of Energy as well, although it
14 had to do with the cleanup of nuclear weapons
15 facilities, which people are more familiar with
16 because of the Oppenheimer movie.

17 Anyway, what I want to -- and that was
18 the fifth federal agency that I worked for as a
19 NEPA specialist. So I do have some depth and
20 breadth, the depth part being that I was actually
21 -- my first job, the NEPA regulations didn't work
22 -- didn't exist.

1 And a few months after I got that job
2 in that NEPA office, my boss came in and gave me
3 -- hey, there's these proposed regulations. And
4 I'm like, well, what's the difference between
5 guidance and regulations? And I could see the
6 difference was they were using shall in the
7 regulations, and should was what was in the
8 guidance. So they were going from should to
9 shall, not suggesting it, but dictating, this is
10 how you're going to do it.

11 Unfortunately, in the next 40 years,
12 they didn't change anything in the regulations,
13 and it was just a lot of should stuff, a lot of
14 guidance. Well, you really should do this, but
15 when your boss tells you to do it something else,
16 and CEQ, some far-off bureaucrat, is telling you
17 to do it another way, then you're going to do
18 what your boss says. And it's not always
19 consistent with CEQ. I say that as someone who's
20 worked at five different agencies and familiar
21 with other ones, too.

22 So just because it's on paper doesn't

1 mean it's happening. And the only way that
2 something like that can happen is if there is
3 something where you're not just listening to each
4 -- or one person versus a NEPA compliance
5 officer for one agency because they're going to
6 tell you everything's going great, apparently.
7 And now we know from 40 years of experience it
8 hasn't been going great.

9 So I'm glad that what you're doing --
10 I applaud everything that's going on. But what I
11 want to point out, too, is that there's lots of
12 people who are still working and can't tell you
13 anything because they might lose their jobs like
14 I did. After 15 years, I was fired for pointing
15 out problems at the Department of Energy's
16 environmental cleanup program.

17 And one year after I wrote the memo
18 that my boss told me not to write, guards
19 appeared at my desk, and I was escorted out of
20 the building. So 99.9 percent of NEPA
21 specialists are keeping their heads down and are
22 not telling this stuff, and you're only hearing

1 it from the top people.

2 So, if there is a way like the public
3 engagement group for each agency -- maybe there's
4 going to be some interagency working group, but
5 there has to be a place where people who are not
6 yet fired and are newly retired or whatever --
7 they can tell you stuff that you're not going to
8 hear through the traditional channels.

9 And if you keep doing things the
10 same way, you keep -- you know, unless something
11 changes majorly in the way the system is
12 designed, it's going to keep going that
13 direction. Thank you very much.

14 SAM ROTH: Thank you.

15 Next, we'll have speaker number 4,
16 Mindy Seal.

17 Mindy, if you click the Accept button,
18 we can get you speaking. If you're having
19 trouble, you can just raise your hand, and we'll
20 figure out how to deal with those technical
21 difficulties.

22 MS. HEALY: Sam, it looks like she is

1 over in the panelist queue now.

2 SAM ROTH: Okay.

3 Mindy, whenever you're ready. Mindy,
4 we can't hear if you're speaking.

5 MS. SEAL: Can you hear me now?

6 SAM ROTH: Yes.

7 MS. SEAL: Can you hear me now? Okay.
8 Good. Okay.

9 I'm a Nevada rancher, and I wanted to
10 address you today. We're aware of the challenges
11 of climate change. Today I'm out stacking hay
12 due to the delayed winter, so I do understand
13 that. I also worked for federal agencies for 20
14 years, both in NEPA analysis and as a decision
15 maker. And I believe in the Act and its
16 importance.

17 Yet I must express my concerns about
18 this NEPA rule's approach. It appears to lean
19 towards a not-in-my-backyard stance. And I'll
20 take, for instance, the inclusion of the
21 reasonably foreseeable climate change related
22 effects in the proposed action's environmental

1 consequences.

2 This begs the question, how extensive
3 will the analysis go? Will it compare domestic
4 oil and gas development to countries with laxer
5 environmental regulations? Or for livestock
6 grazing permits, will the agency be required to
7 analyze methane gas production? And if so, will
8 this be compared to meat imports from other areas
9 such as South America?

10 While such assessments may shift
11 production elsewhere, the consumption won't
12 decrease. The American consumer will still
13 consume these products. It will just become cost
14 prohibitive to develop them in this country,
15 where we have reasonable regulations.

16 This rule proliferates the continued
17 practice of not-in-my-backyard and doesn't
18 address the climate change crisis as a whole.
19 It's segmented into a project-level outcome with
20 no significant change to the environment.

21 Furthermore, the addition of the
22 regulation rigorously explore for alternative

1 development is arbitrary. We already have the
2 definition in place for reasonable, and that
3 should continue to be the case. I worry that if
4 this continues, it will allow for environmental
5 groups, judges, agency folks to have to determine
6 what rigorously means.

7 Finally, I urge the rewrite of this
8 rule to align with the laws, not a particular
9 agenda. Extending the time for public comment is
10 essential to allow diverse voices to contribute.
11 Additionally, beyond the Federal Register notice,
12 I am curious what you did to elaborate on
13 outreach for environmental justice communities to
14 participate for input into this rule. I've seen
15 stuff for the industries. I've seen stuff for
16 environmental groups online. But I have not seen
17 where we were inclusive to the environmental
18 justice groups.

19 In conclusion, let's ensure that our
20 environmental policies are well considered,
21 balanced, and grounded in law. I'd also like to
22 commend the group on a lot of the improvements

1 you've made, such as the CXs and the timelines
2 that were passed by Congress this past year. I
3 look forward to a rewrite that can be implemented
4 at the ground level for the multiple agencies
5 that are affected by this, as well as the
6 American people. Thank you for your time.

7 SAM ROTH: Thank you.

8 And now I'll have speaker number 5,
9 Julia Brooks-Goodein. Julia, if you will click
10 Accept, we'll get you set up to speak.

11 MS. BROOKS-GOODEIN: Hello. Can you
12 hear me?

13 SAM ROTH: Yes. We can hear you.

14 MS. BROOKS-GOODEIN: Great. I'm an
15 advocate, and I'm --

16 SAM ROTH: Julia, we can't hear you
17 anymore.

18 MS. BROOKS-GOODEIN: -- advocate for
19 climate change. I believe that it is very
20 essential for us to continue to fight for climate
21 change. I believe a lot of initiatives and bills
22 has been signed, and that all has been signed.

1 And I believe that the best thing for us to
2 address this issue is to continue to let our
3 voice be heard.

4 A lot of issues going on in my area,
5 such as the power plants here where I am, they
6 need to be, they need to be slowly be shut down.
7 There's a lot of issue creation about clean air
8 and our water based on some of those issues that
9 we're facing in climate. Recently, we had code
10 red and code yellow in my area.

11 And so, as an advocate, I believe very
12 much that it's essential for us to continue to --
13 how can I say this -- continue to let our voice
14 be heard to help our communities. Thank you for
15 your time. Thank you.

16 SAM ROTH: Thank you.

17 Next, we'll have speaker number 6,
18 Andika Aditya. Andika, we don't see you in the
19 list of participants. If you're on the phone, if
20 you would hit star-nine to raise your hand.

21 Okay. We will move on. If Andika
22 joins us later, we'll have opportunity and we'll

1 circle back.

2 Speaker number 7, Urvishkumar Mehta,
3 are you here? Again, if you're on the phone,
4 feel free to press star-nine to raise your hand,
5 and we will get you set up to speak.

6 Okay. Seeing nothing, we will move on
7 to speaker number 8, Lyman Welch.

8 MR. WELCH: Hello. Can you hear me?

9 SAM ROTH: Yes.

10 MR. WELCH: Thank you. My name is
11 Lyman Welch, and I live in Sanibel, Florida. And
12 I appreciate the chance to speak and comment on
13 this regulation.

14 I am here in support of the NEPA
15 process and the regulations that you're
16 proposing, and in particular the looking at
17 climate change as part of the NEPA process and
18 considering environmental justice issues as part
19 of the NEPA process. I think those are both very
20 important inclusions to this regulatory proposal.

21 It's very important that the public
22 has the chance to participate. I believe that

1 the NEPA process and public participation leads
2 to better results in federal actions, and I am
3 glad to see the improvements to transparency and
4 public participation that are included in this
5 regulatory proposal.

6 I should also mention I'm a member of
7 the Sierra Club, and they -- was the group that
8 let me know about this opportunity to comment.
9 So I thank them for that.

10 I do want to focus on those two
11 elements, though, the environmental justice and
12 climate change components of the regulation. I
13 think it's important that you legally support
14 what you're proposing in these rules, as those
15 two elements might be subject to challenge by
16 other groups or people.

17 I took a look at the statute, the NEPA
18 statute, and I found in Section 101 Congress
19 seemed very concerned about protecting the
20 environment for all, for everyone, for all
21 Americans. And so I think the environmental
22 justice component of this rule is right in line

1 with that statutory intent. By looking at
2 environmental justice issues, you're ensuring
3 that the community is not disproportionately
4 impacted.

5 I used to live in Chicago, and there
6 was a real division between the north and south
7 side of the city. Environmental issues were
8 prevalent among the south side of the city,
9 whereas a lot of industry was moved away from the
10 north side of the city. And it was very divided
11 on racial lines.

12 And I think those types of
13 environmental justice issues are important to be
14 looking at when you're making decisions. And so
15 I'm glad to see that in there, and I think it's
16 well supported.

17 The climate change is a little more
18 challenging, but looking at Section 102, I see
19 that Congress is very concerned at looking at the
20 science when you're looking at environmental
21 issues. And climate change is well supported by
22 science and should be looked at in all the

1 decisions. And so I support that part of the
2 regulation.

3 Sanibel was recently hit by Hurricane
4 Ian and devastated our community. And these
5 types of more frequent storms that are coming
6 from climate change need to be considered in all
7 the decisions.

8 So thank you for the opportunity to
9 comment.

10 SAM ROTH: Thank you.

11 Next we'll have speaker number 9,
12 Brandi Crawford. Brandi, we don't see you in the
13 list, so if you're on the phone, press star-nine
14 to raise your hand.

15 Okay. Seeing nothing, we'll move on
16 to speaker number 10, Abdeeljalil Mekkaoui. If
17 you are on the phone, please press star-nine to
18 raise your hand.

19 Okay. We'll move on to speaker number
20 11, H.E. Wilberforce Andrews. If you are on the
21 phone, press star-nine to raise your hand because
22 we don't see you in the list of participants.

1 Okay. Seeing nothing, we'll move on
2 to speaker number 12, Elvis Zornic. Again, if
3 you're on the phone, press star-nine to raise
4 your hand, and we will get you set up to speak.

5 Okay. In that case, we'll move on to
6 speaker number 13, Carolyn White.

7 Seeing nothing, we will move on to
8 speaker number 14, Jill Young. If you're on the
9 phone, please press star-nine to raise your hand,
10 and we will get you set up to speak.

11 Okay. Those are all the people who
12 registered to speak. If you haven't registered
13 or if we had to skip you earlier and you'd like
14 to make a comment, please raise your hand, and we
15 will call on you.

16 And before we get to people who have
17 not registered to speak, I'm just going to read
18 again the list of names of people who were
19 registered who we had to skip, just in case any
20 of you are here. If you are here and you're on
21 this list, please raise your hand, or if you're
22 on the phone, press star-nine. So that's

1 Kaitlynn Glover, Andika Aditya, Urvishkumar
2 Mehta, Brandi Crawford, Abdeeljalil Mekkaoui,
3 H.E. Wilberforce Andrews, Elvis Zornic, Carolyn
4 White, and Jill Young.

5 And I see that Jill is on, so Jill,
6 please go ahead when you're ready.

7 Looks like Jill is having technical
8 difficulties. So, Marianna Ambrose, please go
9 ahead.

10 MS. AMBROSE: Aloha and hola. Can you
11 hear me?

12 SAM ROTH: Yes, we can hear you.

13 MS. AMBROSE: Okay. I got an
14 invitation from the Sierra Club. I wanted to
15 join because I am the author of the Acts of
16 Kindness series, and my books and movie's with
17 sign language characters and soundtrack by
18 Hawaiian artist Lucy and the Perfect Wave.

19 And I'm working with Susanne Sims, my
20 cowriter, and on a third book for climate change.
21 Our first book is for ocean cleanup, anti-
22 bullying, and now we're working on the climate

1 change book. So I just wanted to introduce
2 myself. We're also partnering with Leon
3 McLaughlin with Clean Water Foundation to bring
4 filters to 35 countries and worldwide schools,
5 especially through this climate change crisis.

6 So I just wanted to thank you for
7 having this. I wanted to introduce what we are
8 doing behind the scenes and podcasts and
9 educating our youth about climate change. So
10 thank you very much. Again, my name is Marianne
11 Ambrose. You can visit my website at
12 actsofkindnessseries.com. And all USA classroom
13 teachers can get copies of our books from
14 donorschoose.org. And it's back-to-school
15 season. So, again, thank you so much.

16 SAM ROTH: Thank you.

17 And I see that Jill Young is back with
18 us. Jill, if you click Accept and Unmute, you
19 are welcome to make your comment.

20 It seems like Jill is still having
21 technical difficulty. Jill, we cannot hear you
22 if you're speaking.

1 Okay. For now, we will move on. If
2 anyone else would like to make any comment, raise
3 your hand, and we will get you set up to speak.

4 Shaina Oliver, go ahead.

5 MS. OLIVER: Hi. Can you hear me?

6 SAM ROTH: Yes.

7 MS. OLIVER: All right. I'm Shaina
8 Oliver. I do work with Moms Clean Air Force, but
9 I heard about this event through the EPA email
10 contact list. And I'm not speaking as Moms Clean
11 Air Force today. I'm speaking as an individual
12 community member as well as a tribal affiliate of
13 the Navajo Nation.

14 I think there's a lot of good things
15 going on in this revision and revisiting a lot of
16 the things that were changed in NEPA. And seeing
17 the historic environmental impacts on the Navajo
18 reservation from the extraction of uranium, coal
19 mining, and oil and gas that continues to
20 perpetuate the climate crisis that we're seeing
21 now where -- you know, on the reservation of
22 Shiprock, New Mexico, my family members have been

1 suffering from extreme heat as well as concerned
2 over water quality over the years since the EPA
3 mining spill cleanup, and that led to the
4 contamination in the Animas River and San Juan
5 River.

6 And I think it's very important to
7 have these inclusions of the climate
8 action/climate change provisions and the
9 environmental justice as well as, importantly,
10 tribal sovereignty. And I think tribal
11 sovereignty shouldn't mean just tribal
12 governments speaking for our communities, but as
13 well, tribal members being heard through the
14 process.

15 We have many tribal member leaders in
16 our communities, even on the tribal reservation,
17 that are never heard. And when things are only
18 heard from political governments, a lot of voices
19 are not heard through the community. And one of
20 the speakers had mentioned being escorted for
21 bringing up concerns within the Department.

22 Our communities have been experiencing

1 that for decades, especially with the Bureau of
2 Land Management and the Bureau of Indian Affairs
3 that continue to undermine our communities. So I
4 think it's really important to center community
5 voices and tribal member voices under
6 sovereignty, tribal sovereignty, as well as --
7 and having those inclusions for environmental
8 justice and climate change.

9 Thank you for letting me speak.

10 SAM ROTH: Thank you.

11 Next, we'll have Madhavan Pallan.

12 MR. PALLAN: Sorry. Hi. Good
13 evening, you all.

14 I was wondering how to use the
15 technology aspect of, you know? Like growing
16 technologies like artificial intelligence and
17 machine learning, you know? But all the
18 environmental aspects of that, you know? We can
19 have all those tools handy whenever there is a
20 disaster happening.

21 So this is one of my biggest concerns
22 and something we can have a set of tools for our

1 Ready.gov initiatives via our CEQ initiatives
2 actually. So this is my giveaway, and this is my
3 learning, actually, from throughout all these
4 events going around. Thank you. Anything
5 particular the community wants to ask for with
6 the environmental efficiency community for the
7 UN, I'm happy to respond to that as well. Thank
8 you.

9 SAM ROTH: Thank you.

10 Next, I see Stephen Buckley has his
11 hand raised.

12 Stephen, if you will unmute, you're
13 welcome to speak.

14 MR. BUCKLEY: Okay. Here I am. Took
15 a little while to unmute.

16 Yeah. I was just wondering, looks
17 like you might have some extra time here. I know
18 you scheduled three hours, and if there -- I
19 don't -- it would be good if there was a Q&A for
20 some clarification that I'm wondering. I mean,
21 even I as a NEPA nerd have questions about some
22 of the proposals that were just -- not to debate

1 them, just to understand clarification, which
2 would be more meaningful than just comment on our
3 draft.

4 SAM ROTH: I appreciate that, but we
5 are only accepting comments. We're not doing Q&A
6 for this particular session.

7 MR. BUCKLEY: Okay. Well, maybe in
8 the future sometime. Thank you.

9 SAM ROTH: Thank you.

10 Next, Sharon Friedman. Go ahead when
11 you're ready.

12 MS. FRIEDMAN: Hello. Can you hear
13 me?

14 SAM ROTH: Yes.

15 MS. FRIEDMAN: Yeah. Okay. Yeah. My
16 question is I am a former practitioner, again,
17 like many people that are on this call. And it
18 seems like -- and I follow this. I'm with the
19 National Association of Forest Service Retirees.
20 And it seems like the Forest Service is actually
21 -- and BLM are always embroiled in you didn't
22 consider climate change appropriately in your

1 documents.

2 So I can think of maybe five off the
3 top of my head. Some of them are veg projects.
4 Some of them are energy projects. And it seems
5 to me that it would be really helpful for CEQ to
6 look at these cases and maybe think about how
7 different they are and if there's somewhat
8 baseline stuff you would like to put in your
9 regulations so that the judges won't apparently
10 totally -- it looks like, to us, totally random
11 and all over the map about what is enough.

12 Yeah. So I think that would be very
13 useful because obviously the agencies are already
14 considering climate change, and for the last like
15 20 years, they've been writing volumes about
16 possible impacts of climate change. And it seems
17 like they're just left adrift, in some sense, to
18 deal with the judges.

19 And I think you guys could help by,
20 like I said, going back and looking at some of
21 the cases and trying to give the agency some
22 guidance of especially how much is enough. So

1 thank you.

2 SAM ROTH: Thank you.

3 And I will do one last call for hands.

4 If anyone else would like to make a comment,
5 please raise your hand, and we will get you set
6 up.

7 And, Jill, I see that you are back
8 with us. If you're able and if you want to
9 speak, please raise your hand and we will get you
10 set up.

11 Okay. Seeing nothing, in that case,
12 we will move on to Jason Hill. Jason, go ahead.

13 MR. HILL: Can you hear me?

14 SAM ROTH: Yes.

15 MR. HILL: The only thing I'd suggest
16 is that you all extend the comment period on
17 this. I think a lot of people would like to
18 comment. I think it's a short period of time for
19 the changes that you all propose.

20 SAM ROTH: Thank you.

21 And now we'll move on to Ron Lamb.

22 Ron, when you're ready.

1 MR. LAMB: Hi. Thank you. I'm a
2 retired NEPA practitioner, about 30 years. Since
3 I have a little bit of time, I just want to
4 quickly -- overall, I don't have any issue with
5 the Phase 2 regulations, but there are still
6 several areas that the CEQ could really, really
7 improve upon to help practitioners.

8 I'm going to point out one for
9 agencies. I understand what the Fiscal
10 Responsibility Act put their trigger to when to
11 start the NEPA review under Section 107(g). The
12 only one that's really helpful is the start of
13 it, notice of intent. The one initial that kind
14 of says, well, when the agency thinks that it
15 needs to do an EA or an EIS is unhelpful.

16 I think agencies, agency
17 practitioners, are not going to know what to do
18 with that. So, for example, does that mean when
19 they request funding, which from a practical
20 perspective is months, maybe a year, before
21 they're actually ready to start the document --
22 so keep that in mind. And the CEQ could help

1 practitioners by adding some guidance.

2 The second area that I think really is
3 not as helpful as it could be is the revised
4 definition of significance. Context and
5 intensity is fine, but if you look at the ten
6 factors of intensity, there's some redundancy.
7 There's some conflicts. And I think it could be
8 vastly improved.

9 And I guess one of the think things
10 that I'll -- concepts to throw out, if you think
11 about it, is the media of noise. So let's say we
12 have a substantial increase in noise. How is a
13 NEPA practitioner to determine significance?
14 Again, think about noise, and then go through
15 your ten factors of significance -- context as
16 well.

17 And I think you will look at that and
18 you'll say, hey, you know what? There's really
19 nothing in here that would help a practitioner to
20 determine significance of that type of media.
21 And I think if you then went through, you could
22 come through with other examples of other

1 environmental media where you would say, you
2 know, this isn't as helpful as it could be, and
3 the CEQ could really help step up and improve
4 that.

5 I will be submitting some written
6 comments from myself and through the National
7 Association of Environmental Professionals. But
8 thanks for the time.

9 SAM ROTH: Thank you.

10 Now I see -- Madhavan Pallan, I see
11 your hand is raised again. We will get you set
12 up, and feel free to make another comment.

13 MR. PALLAN: Am I on the Zoom?

14 SAM ROTH: Yes. We can --

15 MR. PALLAN: Oh. Great. So I was
16 wondering, is there a standard issue process for
17 -- or is it a voted process in a democratized way
18 so that everyone gets to see on the Act actually
19 which gets revised every now and then? Also, I
20 was wondering, is it a metric or is it another
21 sort of situation there, you know?

22 We have 11 documents developing a few

1 kind of standards actually are -- it's some sort
2 of thing like -- where the CO2 or CO containment
3 has been really higher and you have to maintain
4 it otherwise it's going to be an environmental
5 disaster sort of situation. So this is something
6 of a topic which can be of interest to our
7 community, actually, given everyone -- everyone
8 in the community has some sort of sensors aligned
9 to their phones, and you know, handheld devices,
10 actually.

11 So that's my giveaway. Thank you.

12 SAM ROTH: Thank you.

13 If anyone else would like to make a
14 comment, please raise your hand or press star-
15 nine if you're on the phone, and we'll get you
16 set up to speak.

17 Okay. Having spoken to my colleagues,
18 I think we're going to take a five-minute break.
19 We'll reconvene at 2:12. If anyone would like to
20 make a comment, please keep your hand raised, and
21 we'll call on everyone when we return. That's
22 five minutes, 2:12, and then we'll have anyone

1 else who would like to make a comment. Thank
2 you.

3 (Whereupon, the above-entitled matter
4 went off the record at 2:07 p.m. and resumed at
5 2:12 p.m.)

6 SAM ROTH: Hello again. For speakers
7 who've already spoken, if you'd like to speak
8 again, we encourage you to join our other
9 sessions, which we've posted online. So you can
10 find all the links there.

11 Seeing no new speakers with their
12 hands raised, I will turn it over to Jomar for
13 some closing remarks.

14 MR. MALDONADO: Thank you very much,
15 Sam.

16 And thank you, everybody, for
17 attending today's presentation. As Sam indicated
18 and Megan indicated, their newer or next public
19 meeting is coming up as well. I would like to
20 ask those that have already spoken on this one
21 that are interested in speaking again to also
22 observe and sign up for the next public sessions.

1 Thank you, everybody. Your comments
2 have been recorded, and we look forward to
3 listening to your written material as well and
4 considering these comments as we move through our
5 rulemaking process. I appreciate it, and have a
6 great rest of the day. Thank you.

7 (Whereupon, the above-entitled matter
8 went off the record at 2:13 p.m.)

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19
20
21
22

A	
Abdeeljalil 39:16 41:2	19:19,20 20:6,10,16
ability 18:9	20:20 28:20 31:13
able 5:21 13:4 23:6 24:2 49:8	34:4 48:13 50:9,16
above-entitled 54:3 55:7	agencies' 9:9
Accept 22:4 30:17 34:10 42:18	agency 14:2 15:3,9 16:9,10,11 17:17 19:9 20:3,15 25:10 26:5,6 26:15 27:18 29:5 30:3 32:6 33:5 48:21 50:14 50:16
accepting 47:5	agency's 20:3 24:22
access 5:17 22:1,21	agenda 33:9
accuracy 17:11	aggregate 19:14
achieving 25:11 26:7	ahead 6:5 41:6,9 43:4 47:10 49:12
Act 1:3 3:7 6:13,15 8:7 9:6 25:5,9,15 27:4 31:15 50:10 52:18	air 35:7 43:8,11
action 10:21 12:12 15:4 18:11 19:7 25:22 26:1 26:5,11	align 9:12 33:8
action's 31:22	aligned 53:8
action/climate 44:8	alignment 16:18
actions 19:15 37:2	allow 22:9 33:4,10
Acts 41:15	allows 9:7
actsofkindnessserie... 42:12	Aloha 41:10
actual 26:14	alternative 10:6 13:10 14:10,12 25:11 26:7 32:22
adaptation 14:17 15:1	alternatives 10:8 17:8
add 12:17	Ambrose 2:2 41:8 42:11
added 11:10 15:19 16:15,17 19:16 20:9 22:10	amended 6:14 7:8
adding 11:22 14:11 20:2,15 51:1	amendment 8:6 10:4,10 11:7
addition 32:21	amendments 9:12
additional 11:10 20:2 20:13 22:9 26:10	America 32:9
Additionally 33:11	American 32:12 34:6
address 15:8 20:11 31:10 32:18 35:2	Americans 37:21
addressing 20:15	Amy 1:16 4:1,18 5:7,8 8:1 11:16 16:4,19 18:1 21:3
Aditya 35:18 41:1	Amy's 14:3
adopt 9:8 16:21 20:3	analysis 31:14 32:3
adopting 20:8	Analyst 1:21
adrift 48:17	analyze 32:7
adverse 10:6 14:10 15:20,22	Andika 35:18,18,21 41:1
adversely 17:1	Andrews 39:20 41:3
advocate 34:15,18 35:11	Animas 44:4
affairs 24:12 45:2	anti- 41:21
affect 17:1	anticipated 17:14
affiliate 43:12	anymore 34:17
afternoon 3:3 5:5,8,20	Anyway 27:17
agencies 6:18,19 9:8 9:12,17 10:11 11:3,11 12:3,5,15,17 13:1,9 13:22 14:14 15:5,6 16:5,8,21 17:7 19:1,5	Apologies 4:21
	apparently 29:6 48:9
	appeared 29:19
	appearing 13:15
	appears 31:18
	applaud 29:10
	applicability 18:17
	applicants 11:12 19:1
	applications 19:14,14
	applies 10:20
	appreciate 36:12 47:4 55:5
	approach 11:6 18:18 31:18
	approaches 20:9
	appropriate 10:22 11:1
	appropriately 15:7 47:22
	April 7:6
	arbitrary 33:1
	area 16:2 35:4,10 51:2
	areas 11:19 16:12 32:8 50:6
	argue 25:12
	artificial 26:17 45:16
	artist 41:18
	aspect 45:15
	aspects 11:7 45:18
	assess 16:5
	assessing 10:20 18:16 18:19
	assessment 7:18 9:22 12:16 20:5
	assessments 10:2 32:10
	assigned 6:2
	assist 23:2
	Associate 1:20 23:13
	associated 13:3
	Association 47:19 52:7
	attempted 18:9
	attendee 22:7,14
	attendees 23:18
	attending 54:17
	AUGUST 1:10
	author 41:15
	automatically 4:12
	available 13:12
	avoid 14:10
	aware 6:11 21:5 31:10
	awareness 7:20
	B
	back 7:6 11:14 17:18 18:1 20:22 22:14 23:5 36:1 42:17 48:20 49:7
	back-to-school 42:14
	background 6:10
	balanced 33:21
	based 8:15 35:8
	baseline 48:8
	Beach 2:6 24:11
	begs 32:2
	behalf 3:10
	believe 25:2,5,14 26:13 26:18 27:2 31:15
	34:19,21 35:1,11 36:22
	best 12:9 35:1
	better 12:1 13:1 37:2
	beyond 33:11
	biggest 45:21
	bills 34:21
	Bipartisan 1:5 3:15 7:11
	bit 6:10 9:4 17:3 50:3
	BLM 47:21
	Bob 2:6 24:4,9 26:19
	book 41:20,21 42:1
	books 41:16 42:13
	boss 28:2,15,18 29:18
	box 22:2
	Brandi 39:12,12 41:2
	breadth 27:20
	break 53:18
	brief 22:13
	briefly 16:20
	bring 42:3
	bringing 44:21
	Brooks-Goodein 2:2 34:9,11,14,18
	Buckley 2:3 27:9,10 46:10,14 47:7
	building 29:20
	bullying 41:22
	burden 13:20
	Bureau 45:1,2
	bureaucrat 28:16
	button 4:15 30:17
	buttons 4:20
	C
	call 13:9 22:15 24:1 40:15 47:17 49:3 53:21
	called 24:10
	calling 21:20 23:14
	camera 22:1
	captioning 4:14
	Captions 4:15
	capture 4:3
	care 24:17
	Carolyn 40:6 41:3
	carried 15:10
	case 9:16 33:3 40:5,19 49:11
	cases 48:6,21
	categorical 7:16 9:8 19:11,13,19,22 20:5 20:17,18
	categories 9:3
	category 19:15
	CC 4:15
	CE 7:17 10:22 19:15

center 45:4
CEQ 3:11,22 5:6,9 6:21
 7:1,3 15:12 18:6
 23:14 25:6 28:16,19
 46:1 48:5 50:6,22
 52:3
CEQ's 3:5 6:22 20:19
CEQ- 21:10
certain 11:7
certainty 8:16 18:5
CEs 20:19,21
challenge 37:15
challenges 20:12 31:10
challenging 38:18
chance 36:12,22
change 4:10 8:12 14:5
 14:13 15:14 28:12
 31:11,21 32:18,20
 34:19,21 36:17 37:12
 38:17,21 39:6 41:20
 42:1,5,9 44:8 45:8
 47:22 48:14,16
changed 13:19 43:16
changes 8:8,22 9:1,2,6
 11:16,20 12:5 13:8
 15:16 16:3 17:12,15
 17:16,21 18:2 25:14
 30:11 49:19
channels 30:8
characters 41:17
chat 4:6 22:21
chatting 7:15
Chicago 38:5
Chief 13:22
choose 22:2
circle 23:5 36:1
circumstances 19:17
city 38:7,8,10
clarification 46:20 47:1
clarified 16:7
clarify 9:10 19:12,18
clarity 11:10 18:15
 19:16 20:2
classroom 42:12
clean 35:7 42:3 43:8,10
cleanup 27:14 29:16
 41:21 44:3
clear 5:2
click 22:4 30:17 34:9
 42:18
clicking 4:14
climate 8:11 14:13
 15:13 31:11,21 32:18
 34:19,20 35:9 36:17
 37:12 38:17,21 39:6
 41:20,22 42:5,9 43:20
 44:7 45:8 47:22 48:14
 48:16

climate- 17:14
climate-related 15:2
closed 4:14
closing 54:13
Club 37:7 41:14
CO2 53:2
coal 43:18
code 35:9,10
codified 10:10 12:14
codify 20:18
codifying 19:9
colleagues 3:22 53:17
combined 19:8
come 51:22
coming 39:5 54:19
commend 33:22
comment 3:17 5:22
 12:15 13:14 21:1,6,8
 22:5 24:4 33:9 36:12
 37:8 39:9 40:14 42:19
 43:2 47:2 49:4,16,18
 52:12 53:14,20 54:1
comments 4:4 5:14
 13:21 21:9 26:20 47:5
 52:6 55:1,4
communities 12:7
 14:22 15:21 17:1
 33:13 35:14 44:12,16
 44:22 45:3
community 14:2 18:8
 38:3 39:4 43:12 44:19
 45:4 46:5,6 53:7,8
compare 32:3
compared 32:8
completion 9:21,22
complexity 12:12
compliance 15:6 29:4
component 15:4 17:11
 37:22
components 37:12
comprehensive 8:22
concepts 10:13 11:9
 51:10
concerned 24:14,19
 37:19 38:19 44:1
concerns 15:1,8,22
 17:2 31:17 44:21
 45:21
conclusion 33:19
concurrence 19:4
confirmation 22:22
conflict 25:15,16
conflicts 51:7
Congress 34:2 37:18
 38:19
consequences 10:8
 14:20 32:1
consider 11:3 12:6
 14:15,21 19:13 25:21
 27:5 47:22
consideration 10:5
 11:9 12:8 14:9 15:20
 19:16
considerations 9:15
considered 33:20 39:6
considering 12:11
 14:16 16:8 25:11
 36:18 48:14 55:4
consistent 6:21 28:19
consolidate 10:18
 18:15
consultation 19:3
consume 32:13
consumer 32:12
consumption 32:11
contact 43:10
containment 53:2
contamination 44:4
context 11:2 16:4 18:19
 51:4,15
continue 33:3 34:20
 35:2,12,13 45:3
continued 32:16
continues 33:4 43:19
contractors 11:12
contribute 33:10
controls 4:16 5:21
convened 1:12
conversation 7:21
cooperating 9:12 16:9
 16:11
coordinate 14:1
coordination 18:22
copies 42:13
cost 32:13
Council 1:2,13,15,16,17
 1:18,19,21,21 3:9,11
 6:16
Counsel 1:16,20 5:9
 23:14
countries 32:4 42:4
country 32:14
court 18:9
covered 19:15
cowriter 41:20
Coyle 1:16 4:1,18 5:8,9
 8:2 14:4 18:2
Crawford 39:12 41:2
create 18:7
created 25:15
creating 18:4 26:17
creation 35:7
crisis 32:18 42:5 43:20
curious 33:12
currently 21:8
CXs 34:1

D
data 10:13
day 55:6
deadline 9:21,22
deadlines 19:2
deal 30:20 48:18
debate 46:22
decades 45:1
decision 13:3,15 15:8
 17:17 26:6 31:14
decision-making 8:15
 17:5,6 25:1 26:14
decisions 9:18 15:9
 38:14 39:1,7
decrease 32:12
deeply 24:17
define 26:1
definition 16:17 19:12
 25:10 26:12 33:2 51:4
definitions 15:13 16:16
delay 22:13
delayed 31:12
democratized 52:17
Department 24:13
 27:13 29:15 44:21
depth 27:19,20
Deputy 1:16,18,19 5:6,9
describe 12:1 17:13
designate 13:22
designed 30:12
desk 29:19
determination 10:17,20
 11:4 20:6
determine 33:5 51:13
 51:20
devastated 39:4
develop 12:3 32:14
developing 52:22
development 32:4 33:1
devices 53:9
dialogue 23:10
dictating 28:9
difference 28:4,6
different 7:15 27:6
 28:20 48:7
difficulties 23:3 30:21
 41:8
difficulty 42:21
directed 16:22
direction 17:7 30:13
Director 1:13,15,18,19
 3:9 5:6
disaster 45:20 53:5
disconnect 22:15
discuss 7:10 14:16
 17:9
discussion 10:7 14:20
discussions 19:8

disproportionate 14:21
15:20
disproportionately
16:22 38:3
diverse 33:10
divert 22:16
divided 38:10
division 38:6
docket 5:16
document 20:1 24:20
25:13 26:2,5,13,17
27:2 50:21
documents 9:15 11:13
12:20,21 13:2,6 19:9
20:7 25:18 48:1 52:22
doing 25:12 29:9 30:9
42:8 47:5
domestic 32:3
donorschoose.org
42:14
draft 12:16 13:4,13 47:3
due 31:12
duration 14:15

E

EA 7:18 10:22 50:15
earlier 11:17 16:5 17:20
25:13 40:13
early 19:4 25:19
EAs 11:13 12:18 18:21
easily 13:5
EDT 1:12
educating 42:9
effectively 27:3
effectiveness 15:11
effects 10:6 11:4 14:11
14:13,15,22 15:2,21
15:22 16:6,22 18:20
31:22
efficiency 9:16 19:10
46:6
efficient 8:15 18:4
EIS 7:20 10:22 11:5
13:4,13 17:11 50:15
EISes 11:13 12:18
18:22
elaborate 33:12
elements 20:18 37:11
37:15
elevate 22:3
elevating 21:22 22:12
Elvis 40:2 41:3
email 21:18 23:1 43:9
embroiled 47:21
Emma 1:21 4:1
emphasis 17:18 19:3
emphasize 17:12
enable 22:18

encounter 23:3
encourage 12:5 20:10
54:8
encourages 14:14
16:20
encouraging 18:22
ends 21:8
energy 24:13 27:13
48:4
Energy's 29:15
engagement 8:10 11:18
11:21 12:2,4 13:22
14:2 19:5 30:3
ensure 4:3 10:11 15:6
15:19 17:17 33:19
ensuring 20:6 38:2
entire 11:21
entirety 18:16
environment 4:7 26:9
32:20 37:20
environmental 1:2,3,13
1:15,16,17,18,20,21
1:22 3:7,10,11 6:13
6:17 7:17,19 8:11,13
9:14,21 10:1,2,3,8,9
11:22 12:16 13:11
14:5,18,19,20,22
15:16,21 16:1,16,17
17:1,14 20:1,4,4,12
27:4 29:16 31:22 32:5
33:4,13,16,17,20
36:18 37:11,21 38:2,7
38:13,20 43:17 44:9
45:7,18 46:6 52:1,7
53:4
environmentally 13:10
environments 17:10
EPA 43:9 44:2
escorted 29:19 44:20
especially 42:5 45:1
48:22
essential 33:10 34:20
35:12
essentially 24:21
establish 19:19,21
20:16
established 6:16 9:9
establishing 20:19
evaluate 17:8
evening 45:13
event 43:9
events 46:4
everybody 54:16 55:1
everything's 29:6
example 14:11 25:8
50:18
examples 51:22
exclusion 7:16 19:13

20:5
exclusions 9:8 19:11
19:20,22 20:17,18
Executive 1:1 16:19
exist 27:22
existing 20:17
experience 29:7
experiencing 44:22
expertise 16:9
explicit 10:5
explore 17:7 32:22
express 31:17
extend 49:16
Extending 33:9
extensive 32:2
extra 46:17
extraction 43:18
extraordinary 19:17
extreme 20:11 44:1

F

facilitate 14:1 19:2
facilitating 1:13
facilities 27:15
facing 35:9
factors 11:3 16:4 18:19
51:6,15
fall 8:9 9:2 11:16
familiar 27:15 28:20
family 43:22
far-off 28:16
federal 6:18,19,19 8:21
11:11 16:10 19:6
20:15 26:6 27:18
31:13 33:11 37:2
feedback 3:19 21:15
feel 36:4 52:12
fifth 27:18
fight 34:20
figure 30:20
filters 42:4
final 7:7 25:22 26:1,5
26:11
Finally 33:7
find 13:2,5 21:11 54:10
fine 51:5
finish 12:20
fired 29:14 30:6
first 3:14 4:11 7:2 8:5
9:4 21:4 23:16 27:21
41:21
Fiscal 6:15 8:6 9:5 25:4
25:8 50:9
five 8:15 28:20 48:2
53:22
five-minute 53:18
Florida 36:11
focus 5:13 20:6 37:10

focused 15:16 18:3
folks 6:1 7:21 13:6
21:15 33:5
follow 47:18
Force 43:8,11
forecloses 26:7
foremost 8:5
foreseeable 17:13
31:21
Forest 47:19,20
format 12:10
former 24:12 47:16
forward 5:13 34:3 55:2
found 37:18
Foundation 42:3
four 3:14 8:14
FRA 25:22 26:12
frankly 25:17
free 36:4 52:12
frequent 39:5
Friedman 2:3 47:10,12
47:15
fully 4:3
function 4:6
funding 50:19
Further 13:8
Furthermore 32:21
future 47:8

G

gas 32:4,7 43:19
General 1:16,20 5:9
23:13
give 48:21
giveaway 46:2 53:11
given 6:5 53:7
giving 8:3
glad 29:9 37:3 38:15
Glover 23:16 41:1
go 32:3 41:6,8 43:4
47:10 49:12 51:14
goal 12:2,22 13:12 14:4
17:4 26:8
goals 8:4 25:11
going 4:7,17 6:8 7:22
9:1 11:15 14:3 15:15
17:3 23:8,22 28:8,10
28:17 29:5,6,8,10
30:4,7,12,12 35:4
40:17 43:15 46:4
48:20 50:8,17 53:4,18
good 3:3 5:8 31:8 43:14
45:12 46:19
government 6:19 19:5
governmental 12:2
governments 44:12,18
grazing 32:6
great 5:3 29:6,8 34:14

52:15 55:6
ground 34:4
grounded 33:21
group 30:3,4 33:22 37:7
groups 33:5,16,18
 37:16
growing 45:15
guards 29:18
guess 51:9
guidance 20:19 28:5,8
 28:14 48:22 51:1
gutting 27:3
guys 48:19

H

H.E 39:20 41:3
hand 4:17 6:6 22:18
 23:19 30:19 35:20
 36:4 39:14,18,21 40:4
 40:9,14,21 43:3 46:11
 49:5,9 52:11 53:14,20
handheld 53:9
hands 22:9 23:21 49:3
 54:12
handy 45:19
happen 3:17 29:2
happening 29:1 45:20
happens 9:17
happy 46:7
Harris 1:17 4:2
Hawaiian 41:18
hay 31:11
head 48:3
heads 29:21
health 18:12
Healy 1:18 4:1,18,20
 5:3,5,10 11:15 21:3
 30:22
hear 5:1 7:14,20 21:14
 24:5 30:8 31:4,5,7
 34:12,13,16 36:8
 41:11,12 42:21 43:5
 47:12 49:13
heard 35:3,14 43:9
 44:13,17,18,19
hearing 5:13,14 12:10
 29:22
heat 44:1
Hello 34:11 36:8 47:12
 54:6
help 6:18 12:19,22 13:5
 14:1 23:6 35:14 48:19
 50:7,22 51:19 52:3
helpful 48:5 50:12 51:3
 52:2
hey 28:3 51:18
Hi 27:10 43:5 45:12
 50:1

high-quality 16:14
 17:12
higher 53:3
highlight 9:2 18:3
highlighted 11:17
highlights 8:19
Hill 2:4 49:12,13,15
historic 43:17
hit 35:20 39:3
hola 41:10
hole 19:7
hope 26:22 27:5
hours 46:18
House 1:13,15,16,17,18
 1:19,20,21 3:9
human 26:9
Hurricane 39:3

I

Ian 39:4
identification 12:18
identified 13:12
identify 13:9 16:12
impact 7:19 10:1,3,9
 13:11 14:18,19 20:4
 26:8
impacted 38:4
impacts 43:17 48:16
implement 6:18 8:6 9:6
implementation 1:5 3:6
 3:16 7:12 9:5
implemented 34:3
implementing 1:4 7:1
importance 31:16
important 36:20,21
 37:13 38:13 44:6 45:4
importantly 44:9
imports 32:8
improve 50:7 52:3
improved 51:8
improvement 8:11,12
improvements 33:22
 37:3
improving 14:5 15:16
inbox 23:1
include 10:5 15:13 18:3
 20:20
included 15:9 37:4
includes 9:20 10:4,7
 16:11 26:6
including 9:15 10:12
 11:22 12:8,20 14:9,11
 17:13 18:8
inclusion 31:20
inclusions 36:20 44:7
 45:7
inclusive 33:17
incorporated 9:7 10:14

17:21 24:11
incorporates 11:6
increase 51:12
independently 20:7
Indian 45:2
indicated 21:16 54:17
 54:18
indigenous 16:11,13
individual 6:20 19:13
 43:11
industries 33:15
industry 38:9
inform 11:3
information 16:14
 17:12 21:12
informed 8:14 13:7
 17:4,5,18
Infrastructure 1:19
initial 50:13
initiatives 34:21 46:1,1
injunctive 18:10
innovate 20:11
innovative 20:9
input 3:13 13:18 18:8
 33:14
instance 31:20
integrity 10:12,12 17:19
intelligence 45:16
intended 17:16
intensity 11:2 16:4
 18:19 51:5,6
intent 12:1 38:1 50:13
interagency 30:4
interest 53:6
interested 6:12 54:21
introduce 3:22 23:9
 42:1,7
introduction 14:6
invitation 41:14
invite 12:15 24:3 27:8
involved 9:18 25:3
Island 2:6 24:11
issue 6:20 23:7 27:1,5
 35:2,7 50:4 52:16
issued 6:17 7:1,3,6,9
issues 35:4,8 36:18
 38:2,7,13,21

J

Jason 2:4 49:12,12
Jennifer 1:19 4:2
jeopardize 18:7
Jersey 24:11
Jill 40:8 41:4,5,5,7
 42:17,18,20,21 49:7
job 27:21 28:1
jobs 29:13
join 3:13 22:10 41:15

54:8
joined 3:21 5:7
joining 3:4 5:4
joins 35:22
joint 9:11,14
jointly 19:19
Jomar 1:12,15 3:8 5:1
 54:12
Juan 44:4
judges 33:5 48:9,18
Julia 2:2 34:9,9,16
July 7:3,9
jump 6:6
June 6:15
justice 8:13 14:22
 15:17,21 16:16,18
 17:2 33:13,18 36:18
 37:11,22 38:2,13 44:9
 45:8

K

Kaitlynn 23:16,17 41:1
Katry 1:17 4:2
keep 30:9,10,12 50:22
 53:20
keeping 29:21
key 9:2
kind 50:13 53:1
Kindness 41:16
know 21:19 29:7 30:10
 37:8 43:21 45:15,17
 45:18 46:17 50:17
 51:18 52:2,21 53:9
knowledge 16:12,13

L

labeled 4:15
Lamb 2:4 49:21 50:1
land 13:2 45:2
language 12:9 15:19
 25:4,6,17,21,22 26:11
 26:12 41:17
largely 7:2
lastly 20:13
late 25:18 27:2
late-stage 24:15
law 6:13 33:21
laws 33:8
laxer 32:4
lead 9:11,11
leaders 44:15
leading 24:10
leads 37:1
lean 31:18
learning 45:17 46:3
led 44:3
left 48:17
legally 37:13

Leon 42:2
let's 33:19 51:11
letting 21:19 45:9
level 10:17,21 18:17 34:4
levels 7:15 18:14 19:5
life 24:12
limit 18:9
limits 10:2
line 37:22
lines 38:11
links 54:10
list 6:3 16:4 23:6,17 35:19 39:13,22 40:18 40:21 43:10
listening 3:15,18 29:3 55:3
litigation 18:7
little 6:10 8:4 9:4 17:3 38:17 46:15 50:3
live 4:14 36:11 38:5
livestock 32:5
local 19:6
locate 13:6
Long 2:6 24:11
long-standing 12:14 19:9
look 5:13 34:3 37:17 48:6 51:5,17 55:2
looked 38:22
looking 5:20 8:5 36:16 38:1,14,18,19,20 48:20
looks 30:22 41:7 46:16 48:10
lose 29:13
lot 4:13 27:6 28:13,13 33:22 34:21 35:4,7 38:9 43:14,15 44:18 49:17
lots 29:11
loud 5:2
Lucy 41:18
Lyman 2:7 36:7,11

M

machine 45:17
Madhavan 2:5 45:11 52:10
main 6:9
maintain 53:3
maintains 11:8
majorly 30:11
maker 31:15
makers 17:17
making 24:18 38:14
Maldonado 1:13,15 3:3 3:8 5:2 54:14

managed 24:12
Management 45:2
map 48:11
Marianna 41:8
Marianne 2:2 42:10
marry 26:13
material 55:3
matter 54:3 55:7
McLaughlin 42:3
mean 29:1 44:11 46:20 50:18
meaningful 8:10 11:17 11:20 47:2
means 25:12 26:1,7 33:6
measures 14:18 15:9 16:21
meat 32:8
mechanism 19:21
media 51:11,20 52:1
meeting 1:7,12 3:5 4:16 12:10 19:2 21:2,14 54:19
Megan 1:18 4:1,18 5:5 8:2 10:22 11:14 20:22 23:12 54:18
Mehta 36:2 41:2
Mekkaoui 39:16 41:2
member 37:6 43:12 44:15 45:5
members 43:22 44:13
memo 29:17
mention 37:6
mentioned 17:20 18:13 44:20

methane 32:7
methodology 17:10
metric 52:20
Mexico 43:22
microphone 22:1,19
mind 50:22
Mindy 2:6 30:16,17 31:3,3
minimize 14:10
mining 43:19 44:3
minutes 53:22
mitigation 15:3,7,8 16:21
mode 22:7
Moms 43:8,10
monitored 15:10
monitoring 15:5 23:1
months 28:1 50:20
move 6:8 8:17 11:15 21:1 22:7 23:4,9,22 35:21 36:6 39:15,19 40:1,5,7 43:1 49:12 49:21 55:4

moved 22:5 38:9
movie 27:16
movie's 41:16
moving 21:13
Moyer 1:19 4:2
multiple 9:17,18 10:14 15:18 16:16 34:4
mute 4:19,20

N

name 3:8 4:10 5:5 22:17 23:15 24:9 36:10 42:10
names 4:11 40:18
narrow 7:8
Nation 43:13
National 1:3 3:6 6:12 27:3 47:19 52:6
nations 16:1
Navajo 43:13,17
need 9:19 13:21 22:4 35:6,6 39:6
needs 12:6 50:15
NEPA 1:13,15,18,19 3:9 5:6 6:12,16,18,20 7:16 8:6 9:9,13,19 10:4,10,17,20,21 11:2 11:7,13 18:11,14,16 20:11,15 24:12,16,17 24:20 25:13 26:2,4,13 27:12,19,21 28:2 29:4 29:20 31:14,18 36:14 36:17,19 37:1,17 43:16 46:21 50:2,11 51:13
nepa.gov 21:12
nerd 46:21
Nevada 31:9
never 44:17
new 19:21 20:9,10,16 24:11 25:9 43:22 54:11
newer 54:18
newly 30:6
nine 53:15
no-action 10:6
noise 51:11,12,14
north 38:6,10
not-in-my-backyard 31:19 32:17
note 5:19 7:13 8:18 16:2
noted 11:1
notes 4:6
notice 1:5 8:20 33:11 50:13
nuclear 27:14
number 5:16 12:18

21:19 23:15 24:3 27:8 30:15 34:8 35:17 36:2 36:7 39:11,16,19 40:2 40:6,8

O

objectively 17:8
observe 54:22
obviously 48:13
occurs 13:15
ocean 41:21
office 1:1 28:2
officer 14:1 29:5
offshore 24:16
Oh 52:15
oil 32:4 43:19
Okay 23:21 31:2,7,8 35:21 36:6 39:15,19 40:1,5,11 41:13 43:1 46:14 47:7,15 49:11 53:17
Oliver 2:5 41:10,13 43:4 43:5,7,8
once 5:18
one- 9:20
ones 28:21
online 4:9 33:16 54:9
open 5:22 21:8 22:5
Oppenheimer 27:16
opportunity 3:19 6:6 13:14,17 24:9 35:22 37:8 39:8
opposed 26:15
order 16:19 21:18
orders 6:1
organization 24:10
outcome 32:19
outcomes 8:12,13 14:6 15:17
outreach 12:4 33:13
overall 50:4
overview 5:11 8:4,17

P

P-R-O-C-E-E-D-I-N-G-S 3:1
p.m 1:12 3:2 54:4,5 55:8
page 10:2
Pallan 2:5 45:11,12 52:10,13,15
panelist 21:22 22:10,13 31:1
paper 28:22
part 6:9 14:6 27:20 36:17,18 39:1
participants 35:19 39:22

participate 33:14 36:22
participation 37:1,4
particular 8:9 16:2 33:8
 36:16 46:5 47:6
partnering 42:2
passed 34:2
people 27:15 29:12
 30:1,5 34:6 37:16
 40:11,16,18 47:17
 49:17
perceive 24:15
percent 29:20
Perfect 41:18
period 3:17 21:8 49:16
 49:18
permits 32:6
Permitting 1:5 3:15
 7:11
perpetuate 43:20
person 23:5 29:4
person's 22:17
persons 12:9
perspective 50:20
Phase 7:7,11 50:5
phone 23:18 35:19 36:3
 39:13,17,21 40:3,9,22
 53:15
phones 53:9
place 30:5 33:2
places 10:14 15:18
placing 19:3
plan 15:6
planet 14:5
planning 20:1
plants 35:5
please 4:10 22:14,16,21
 39:17 40:9,14,21 41:6
 41:8 49:5,9 53:14,20
plunge 26:1
podcasts 42:8
point 21:19 29:11 50:8
pointing 29:14
policies 33:20
policy 1:3,21 3:7 6:13
 14:8 27:4
political 44:18
populated 4:12
portion 5:22 21:1,13
 23:10
possible 23:2 48:16
posted 4:8 5:18 54:9
power 35:5
practical 50:19
practicality 9:16
practice 12:14 19:9
 32:17
practitioner 47:16 50:2
 51:13,19

practitioners 50:7,17
 51:1
preferable 13:10
preparation 11:5,12
 24:21,22 25:13 26:2,5
 26:14 27:2
prepare 15:5
preparing 9:14 25:18
 25:18
PRESENT 1:14 2:1
presentation 6:9 17:20
 54:17
presenters 4:18
PRESIDENT 1:1
press 23:19 36:4 39:13
 39:17,21 40:3,9,22
 53:14
prevalent 38:8
primary 12:8
problems 29:15
procedures 6:20 9:9
 20:15,20
process 8:16 9:7 11:22
 13:7,16 18:4,16 20:1
 20:11 24:16,18 25:1
 26:14,16 36:15,17,19
 37:1 44:14 52:16,17
 55:5
production 32:7,11
products 32:13
professional 10:11
 17:19
Professionals 52:7
program 29:16
programmatic 19:8,22
progress 12:19
prohibitive 32:14
project 9:18 19:1,7
project-level 32:19
projects 12:8 24:17
 48:3,4
proliferates 32:16
promote 19:10 23:20
promoted 22:13
promoting 18:4
proposal 10:15 14:14
 21:15 25:10 36:20
 37:5
proposals 46:22
propose 49:19
proposed 1:5 3:5,16,20
 5:11 7:12 8:4,8,18,20
 8:20 9:1,20 10:7,21
 12:12 15:4,19 16:3,20
 18:11 25:16 28:3
 31:22
proposing 9:10,13
 10:18 11:20 12:17

13:8 14:7 15:12 18:6
 19:12,18,21 36:16
 37:14
protecting 37:19
provide 13:17 18:10,15
 20:10
provides 7:5 8:22
providing 8:19
provision 18:8
provisions 7:5,8 18:6
 24:19 44:8
public 1:7 3:5,14,17,18
 8:10 11:17,20 12:2,3
 12:10,15,19 13:1,13
 13:17,20,22 18:12
 21:1 30:2 33:9 36:21
 37:1,4 54:18,22
publicly 4:9
publish 12:16
published 8:21
purpose 12:1 14:8 25:2
purposes 26:2,4
pushing 24:21 26:15
put 21:6 48:8 50:10

Q

Q&A 46:19 47:5
quality 1:2,13,15,16,17
 1:18,20,21,22 3:10,11
 6:17 44:2
question 32:2 47:16
questions 22:11,20
 46:21
queue 31:1
quick 4:5 7:13
quickly 23:2 50:4

R

racial 38:11
raise 6:6 22:9,17 23:19
 30:19 35:20 36:4
 39:14,18,21 40:3,9,14
 40:21 43:2 49:5,9
 53:14
raised 23:21 46:11
 52:11 53:20 54:12
rancher 31:9
random 48:10
read 40:17
ready 31:3 41:6 47:11
 49:22 50:21
Ready.gov 46:1
real 38:6
really 25:15 26:17
 28:14 45:4 48:5 50:6
 50:6,12 51:2,18 52:3
 53:3
reasonable 14:9,12

17:8 32:15 33:2
reasonably 17:13 31:21
receive 3:19
received 21:18
recognize 25:3
reconvene 53:19
record 13:3,15 54:4
 55:8
recorded 4:4,8 55:2
recording 5:15
red 35:10
reduce 13:20 14:12
reduction 14:17
redundancy 51:6
refer 7:4,7,17,18,20
referenced 16:5
references 15:13 16:15
reflected 25:16
Reform 1:5 3:16 7:11
regard 24:16,18
regarding 24:20 25:7
 25:17
register 6:4 8:21 33:11
registered 4:11 21:16
 40:12,12,17,19
registration 22:22
regulation 14:7,9 32:22
 36:13 37:12 39:2
regulations 1:4 3:6
 6:17,21,22 7:1 10:18
 11:8 17:9 20:14 27:21
 28:3,5,7,12 32:5,15
 36:15 48:9 50:5
regulations.gov 21:10
regulatory 8:16 18:5
 36:20 37:5
related 10:19 12:21
 13:2 14:13 17:15
 31:21
relevant 14:16
reliable 10:13
relief 18:10
relies 15:3
rely 26:10
relying 15:7 20:8 25:7
remarks 54:13
reminder 5:15
remove 18:6
reply 22:22
request 50:19
require 11:5 12:17 13:9
 15:5
required 14:21 32:6
requirement 10:5,11
requirements 9:14
 10:19 13:19
requiring 13:21 18:21
 20:20

reservation 43:18,21
 44:16
reserved 15:22
resilience 14:17
resiliency 15:1
resolve 23:7 25:20
resources 10:13
respecting 8:13 15:17
respond 46:7
responsibilities 9:11
 11:11
Responsibility 6:15 8:7
 9:5 25:5,9 50:10
rest 55:6
restore 14:7
restores 11:7
restoring 17:6 18:18
results 37:2
resumed 54:4
retain 9:13
retired 30:6 50:2
Retirees 47:19
return 53:21
returned 22:7,14
review 7:16 10:17,22
 11:2,22 13:16 18:15
 18:17 50:11
reviewing 20:7,21
reviews 16:1
revise 20:17
revised 18:14 51:3
 52:19
revising 3:5
revision 43:15
revisit 27:1
revisiting 43:15
rewrite 33:7 34:3
right 37:22 43:7
rights 15:22
rigorously 17:7 32:22
 33:6
risk 14:17 18:7
River 44:4,5
ROD 13:3
role 16:8,20
roles 9:10 11:11
Ron 2:4 49:21,22
Roth 1:20 4:1 23:9,12
 23:13 24:6 26:19 27:7
 30:14 31:2,6 34:7,13
 34:16 35:16 36:9
 39:10 41:12 42:16
 43:6 45:10 46:9 47:4
 47:9,14 49:2,14,20
 52:9,14 53:12 54:6
rule 3:5,13,20 5:14 7:4
 7:4,7,9,12 8:5,18,20
 9:20 10:7 11:19 15:4

15:19 16:13 17:16,22
 24:20 25:16 32:16
 33:8,14 37:22
rule's 31:18
rulemaking 1:5 3:16
 5:11 7:10 8:20 55:5
rules 37:14
running 6:2

S

safety 18:12
Sam 1:20 4:1 23:9,11
 23:12,13 24:6 26:19
 27:7 30:14,22 31:2,6
 34:7,13,16 35:16 36:9
 39:10 41:12 42:16
 43:6 45:10 46:9 47:4
 47:9,14 49:2,14,20
 52:9,14 53:12 54:6,15
 54:17
San 44:4
Sanibel 36:11 39:3
SATURDAY 1:9
Save 2:6 24:10
says 22:3 28:18 50:14
scale 12:11
scenes 42:8
scheduled 46:18
schedules 18:21 19:4
schools 42:4
science 38:20,22
science- 8:14
science-based 17:4,6
scientific 10:12 17:11
 17:19
scope 11:1 12:11 18:17
screen 5:17 21:6 22:3
 24:8
Seal 2:6 30:16 31:5,7
search 21:10
searching 13:5
season 42:15
second 51:2
section 10:9,16 18:14
 20:9,14 37:18 38:18
 50:11
sections 14:8
see 4:13 22:2 23:6,17
 24:7 28:5 35:18 37:3
 38:15,18 39:12,22
 41:5 42:17 46:10 49:7
 52:10,10,18
seeing 23:21 36:6
 39:15 40:1,7 43:16,20
 49:11 54:11
seen 33:14,15,16
segmented 32:19
sense 48:17

sensors 53:8
separate 14:7
September 21:9
series 41:16
serious 27:5
serves 25:2
Service 47:19,20
session 3:18 4:4 5:12
 5:22 6:7 21:7,17 47:6
sessions 3:15 54:9,22
set 7:8 18:2 34:10 36:5
 40:4,10 43:3 45:22
 49:5,10 52:11 53:16
Shaina 2:5 43:4,7
share 3:13
Sharon 2:3 47:10
shift 32:10
Shiprock 43:22
short 49:18
Show 4:15
shut 35:6
side 38:7,8,10
Sierra 37:7 41:14
sign 41:17 54:22
signed 6:13 22:8 34:22
 34:22
significance 14:16 16:6
 18:20 51:4,13,15,20
significant 11:4 26:8
 32:20
simpler 21:12
Sims 41:19
situation 52:21 53:5
six 9:3
skip 40:13,19
slot 22:19 24:2
slowly 35:6
somewhat 48:7
Sorry 45:12
sort 52:21 53:1,5,8
soundtrack 41:17
source 16:13
south 32:9 38:6,8
sovereignty 8:14 15:18
 44:10,11 45:6,6
speak 5:20 6:5 21:17
 22:12,19 24:2,9 34:10
 36:5,12 40:4,10,12,17
 43:3 45:9 46:13 49:9
 53:16 54:7
speaker 6:1 21:18
 23:16,20 24:3 27:8
 30:15 34:8 35:17 36:2
 36:7 39:11,16,19 40:2
 40:6,8
speakers 22:9 23:14
 44:20 54:6,11
speaking 22:6 30:18

31:4 42:22 43:10,11
 44:12 54:21
special 16:9
specialist 27:19
specialists 29:21
specific 6:1 13:20
 26:11
specifically 11:13
specificity 20:16
spill 44:3
spoke 25:10
spoken 53:17 54:7,20
sponsors 19:1
stab 26:3
stacking 31:11
stage 13:11
stance 31:19
standard 52:16
standards 53:1
stands 27:1
star- 53:14
star-nine 23:19 35:20
 36:4 39:13,17,21 40:3
 40:9,22
start 8:3 12:20 50:11,12
 50:21
starting 6:9
state 19:6 22:16
statement 7:19 10:9
 13:11 14:18,19 20:4
statements 10:1,3 12:1
STATES 1:1
status 22:14
statute 37:17,18
statutory 9:6 17:21
 19:2 38:1
step 52:3
Stephen 2:3 27:9 46:10
 46:12
Stern 2:6 24:4,5,7,10
 26:22 27:12
storms 39:5
strategies 12:4,6
stuff 28:13 29:22 30:7
 33:15,15 48:8
Su 1:21 4:2
subject 37:15
submit 21:5,9
submitting 52:5
substantial 51:12
suffering 44:1
suggest 25:20 49:15
suggesting 28:9
summary 8:22
support 11:20 12:13
 17:5 36:14 37:13 39:1
supported 38:16,21
supporters 24:14

sure 6:10 21:4
 Susanne 41:19
 system 30:11

T

tailor 12:5
take 14:3 25:22 31:20
 53:18
talk 9:4 17:3 24:8
teachers 42:13
team 5:6
technical 22:11,20 23:3
 23:7 30:20 41:7 42:21
technologies 45:16
technology 45:15
tell 29:6,12 30:7
telling 28:16 29:22
tells 28:15
ten 20:21 51:5,15
terms 7:14
thank 3:4,12 4:22 5:3,4
 21:3 26:19 27:7,10
 30:13,14 34:6,7 35:14
 35:15,16 36:10 37:9
 39:8,10 42:6,10,15,16
 45:9,10 46:4,7,9 47:8
 47:9 49:1,2,20 50:1
 52:9 53:11,12 54:1,14
 54:16 55:1,6
thanks 8:2 23:12 24:8
 27:6 52:8
theme 11:16
themes 8:9
thing 35:1 49:15 53:2
things 30:9 43:14,16
 44:17 51:9
think 36:19 37:13,21
 38:12,15 43:14 44:6
 44:10 45:4 48:2,6,12
 48:19 49:17,18 50:16
 51:2,7,9,10,14,17,21
 53:18
thinks 50:14
third 41:20
threaten 18:12
three 7:15 8:12 46:18
threshold 10:19 11:9
throw 51:10
tie 17:18
time 3:12 6:5 22:16,19
 23:22 26:20 33:9 34:6
 35:15 46:17 49:18
 50:3 52:8
timelines 34:1
timing 24:20 25:7
today 3:12,21 5:14 7:10
 7:15 9:1 31:10,11
 43:11

today's 3:4,18 4:4
 54:17
told 29:18
tool 20:10
toolbar 4:16
tools 19:10 45:19,22
top 18:13 30:1 48:3
topic 53:6
totally 48:10,10
touched 16:19
track 12:19
traditional 30:8
transcribed 4:5
transcribing 5:16
transcript 4:8
transcripts 5:18
transparency 8:10
 11:18,21 12:14 37:3
trends 17:14
tribal 8:14 15:17 16:1
 19:6 43:12 44:10,10
 44:11,13,15,16 45:5,6
trigger 50:10
trouble 30:19
try 23:2
trying 13:5 22:3 48:21
turn 4:14 5:21 7:22
 11:14 20:22 21:21
 22:1,18 23:8 54:12
two 8:11 37:10,15
two-year 9:22
type 51:20
types 38:12 39:5

U

UN 46:7
unchanged 7:2
undermine 45:3
understand 13:1 31:12
 47:1 50:9
understood 18:18
undertakes 26:15
Unfortunately 28:11
unhelpful 50:15
unique 12:18
UNITED 1:1
unmute 42:18 46:12,15
update 15:12
updates 20:14
uranium 43:18
urge 33:7
Urvishkumar 36:2 41:1
USA 42:12
use 9:8 10:13 16:5
 45:14
useful 48:13

V

vastly 51:8
veg 48:3
vein 27:6
verbal 5:14
versus 25:18 29:4
Videoconference 1:12
violations 18:11
VIRTUAL 1:7
visit 21:10 42:11
voice 35:3,13
voices 33:10 44:18 45:5
 45:5
volumes 48:15
voted 52:17

W

walk 15:15
walking 5:10
want 3:11 5:17 8:3,18
 9:4 18:3 22:15 27:17
 29:11 37:10 49:8 50:3
wanted 5:19 7:13 21:4
 21:16 31:9 41:14 42:1
 42:6,7
wants 46:5
Washington 24:13
wasn't 24:1
water 35:8 42:3 44:2
Wave 41:18
way 28:17 29:1 30:2,10
 30:11 52:17
we'll 21:13 24:1 30:15
 30:19 34:10 35:17,22
 35:22 39:11,15,19
 40:1,5 45:11 49:21
 53:15,19,21,22
we're 7:10,14 9:1 10:17
 11:19 12:17 13:8,21
 19:18 22:3 23:22
 24:19 31:10 35:9
 41:22 42:2 43:20 47:5
 53:18
we've 12:13 13:19
 15:19 16:7,15,17
 17:21 20:8 23:6 54:9
weapons 27:14
website 21:12 42:11
Welch 2:7 36:7,8,10,11
welcome 42:19 46:13
went 7:2 51:21 54:4
 55:8
White 1:13,15,16,17,18
 1:19,20,21 3:9 40:6
 41:4
who've 54:7
Wilberforce 39:20 41:3
wind 24:16
winter 31:12

wondering 45:14 46:16
 46:20 52:16,20
work 7:21 24:18 27:12
 27:21 43:8
worked 27:18 28:20
 31:13
working 12:7 29:12
 30:4 41:19,22
worldwide 42:4
worry 33:3
wrap 26:21
write 29:18
writing 48:15
written 21:6 52:5 55:3
wrote 29:17

X

Y

Yeah 46:16 47:15,15
 48:12
year 9:21 29:17 34:2
 50:20
years 7:3 20:21 28:11
 29:7,14 31:14 44:2
 48:15 50:2
yellow 35:10
Young 40:8 41:4 42:17
youth 42:9

Z

Zoom 4:6,7,10 22:22
 52:13
Zornic 40:2 41:3

0

1

1 7:7
1:00 1:12
1:04 3:2
10 39:16
101 37:18
102 38:18
107(g) 50:11
11 39:20 52:22
12 40:2
13 40:6
14 40:8
14096 16:19
15 29:14
1500 14:6
1501.3 10:16 18:14
1970 6:14
1978 7:2,5 11:8

2

2 7:11 24:4 50:5

2:07 54:4
2:12 53:19,22 54:5
2:13 55:8
20 31:13 48:15
2010 20:19
2020 7:3,4,9 11:9
2022 7:6
2023 1:10 6:15 21:9
2023-0003 21:11
26 1:10
29th 21:9

3

3 27:8
30 50:2
31st 7:9
35 42:4
3rd 6:15

4

4 30:15
40 7:3 28:11 29:7

5

5 34:8

6

6 35:17
60-day 21:7

7

7 36:2

8

8 36:7

9

9 39:11
99.9 29:20

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