QUESTIONS FOR THE RECORD
SUBMITTED BY
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U.S. DEPARTMENT OF TRANSPORTATION
OCTOBER 2, 2017

QUESTIONS FROM SENATOR DEB FISCHER

***Question 1*. Mr. Elliott, the Transportation Security Administration is the lead agency in pipeline security. However, PHMSA maintains an important security role related to the movement of hazardous materials, including through pipelines. What do you see as the key security issues you will face at PHMSA, and how will you address them? Additionally, will you work closely with other Federal agencies to address pipeline and hazardous material security, including the TSA?**

Answer: PHMSA has a responsibility to balance the safety and security of hazardous materials across all modes of transportation. If confirmed, I will work to promote interagency and industry collaboration and information sharing.

There are two key security issues to note in particular. The first is cyber-security where control systems are vulnerable to cyber-attack from inside and outside the control system network. A person who is knowledgeable in process equipment, networks, operating systems, software applications, and other technologies could gain access to a control system and cause harm to transportation infrastructure. The second concern is those who plan and commit criminal activities. If confirmed, I will evaluate current efforts to combat cyber attacks as well as physical attacks on pipeline or transportation infrastructure, and will recommend any other action that is effective and prudent.

QUESTIONS FROM SENATOR DAN SULLIVAN

PHMSA Role in IMO Polar Code
The International Maritime Organization (IMO) is the United Nations specialized agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships.

In 2014 and 2015, the IMO adopted the International Code for Ships Operating in Polar Waters (Polar Code) and added its requirements to two existing IMO Conventions—

SOLAS, and the International Convention for the Prevention of Pollution from Ships (MARPOL)—in consideration of hazards and conditions unique to polar waters, and an expected increase in traffic in Arctic and Antarctic waters.
The associated risks with operating in polar waters that were taken into account during the development of the Polar Code include: operations in ice and low temperatures, high latitude and remoteness from resources, limited charting, and the pristine environment. In order to account for these risks, the Polar Code includes add-on technical requirements that apply in addition to the existing international safety and maritime pollution regulations.

The Polar Code, developed by the International Maritime Organization, brings together maritime regulations from multiple international conventions to support safe and environmentally-friendly shipping in the Arctic and Antarctic waters. With more and more ships navigating in polar waters, the Polar Code aims to address international concern about the protection of the polar environment and the safety of seafarers and passengers with the introduction of new regulations that all ships operating in these harsh and challenging waters must comply.

Question 1: **The Polar Code came into force on Jan. 1, 2017, and countries have until the end of the year to bring their regulations in line. Given that PHMSA plays a vital role in the safe transportation of energy and other hazardous materials, if confirmed, will you engage to ensure the views of PHMSA are taken into account on the implementation of the Polar Code?**

> Answer: Yes. PHMSA will take this opportunity to build on successful partnerships with the U.S Coast Guard, Department of the Interior, and other Federal and state agencies. If confirmed, I will ensure that PHMSA's views are provided.

Question 2: **Will you engage to determine the proper role of PHMSA with the U.S. delegation for any future discussions on the Polar Code to ensure regulation to safe Arctic transportation of hazardous materials?**

> Answer: Yes. If confirmed, I will work with Department leadership to engage relevant parties on this issue.

Question 3: **If confirmed, will you engage to determine the proper role of PHMSA in the Arctic Regulators Forum that is presently led by DOI's Bureau of Safety and Environmental Enforcement?**

> Answer: Yes. If confirmed, I will work with DOT's leadership to ensure that PHMSA's perspective on safety is represented at this forum.

QUESTIONS FROM SENATOR DEAN HELLER

Mr. Elliott— one of my greatest responsibilities in the Senate is to protect and secure Nevadans. That includes fighting against the proposed Yucca Mountain Waste Repository. This project poses a serious threat to Nevadans and anyone else along the proposed waste transportation routes.

That's why, in August, I asked Mr. Batory—the nominee for the Federal Rail Administration—whether it was possible there could be a rail accident with an ensuing radiological release?

And he told me this – "*I do not believe anyone, no matter how expert, can say with 100% certainty that an accident could never occur. Accidents are often caused by human beings. While technology, including modern trains with computerized controls and elaborately engineered special containers, goes a long way to prevent accidents, humans make mistakes and miscalculations that can result in accidents ranging from minor to tragic."*

Question 1: **Given that an accident is possible and that it could result in radiological release—can you tell me what the health and safety impact of that radiological release could be, especially if it occurs near a large city like Las Vegas?**

Answer: Radioactive waste accounts for a very small proportion of all hazardous materials shipped each year, and is one of the most highly regulated commodities transported. Overall, I believe the odds of such an accident are very small.

Transportation containers for shipping radioactive waste are designed with rigorous safety standards to protect the public from releases in the unlikely event of an accident. The designs must meet stringent design, fabrication, use, and maintenance requirements to demonstrate the ability to endure worst-case accident conditions, including high-speed crashes and fire accidents without leaking or release of its contents.

I also believe in rigorous inspections of equipment used in the transport of radiological materials and in training protocols for crews handling such materials.

QUESTIONS FROM SENATOR JIM INHOFE

Question 1. **As the PHMSA Administrator, you have significant responsibility regarding the safety of the transport of hazardous materials throughout the nation. With the extended DOT-117compliance dates, and in consideration of the shipper's responsibility for selecting tank car specifications for Class 3 Flammable Liquid shipments, would you support a progressive shipper compliance schedule? If so, can this be accomplished by the PHMSA Rulemaking process or other means?**

Answer: The FAST Act mandates a revised phase-out schedule for tank cars that do not meet the DOT 117 standard. However, if confirmed, I will work with shippers, car owners, and tank car manufacturers to identify opportunities that encourage more rapid shifts to DOT 117 tank cars.

Question 2. **Both the executive and legislative branches have shown support for the emerging LNG export industry, recognizing its importance to our economy and to national security by offering reliable energy choices to our allies. Would you be willing to ensure that PHMSA evaluates its current regulations to take advantage of proven industry best practices and risk based approaches that can improve the safety and efficiency of the emerging LNG export industry?**

Answer: If confirmed, I will work collaboratively with stakeholders to advance the work already underway that supports the safe development of the LNG industry, including the adoption of relevant safety standards.