

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

“Nominations of Rear Admiral Ann Phillips, to be Administrator of the Maritime Administration; Dr. Steven Cliff, to be Administrator of the National Highway Traffic Safety Administration; and John Putnam, to be General Counsel of the Department of Transportation”

10:00 AM, December 16, 2021

253 Russell Senate Office Building

Questions for the Record from the Hon. Maria Cantwell to Rear Admiral Ann Phillips

Question: Admiral Phillips, if confirmed, will you pledge to work collaboratively with this Committee, provide thorough and timely responses to our requests for information as we put together and address important policy issues, and appear before the Committee when requested?

Answer: Should I have the honor of being confirmed, I will work collaboratively with the Committee, including on requested appearances before the Committee, and I will provide timely responses to requests for information.

Port Infrastructure. The COVID-19 pandemic resulted in Americans transitioning faster than ever to e-commerce, stressing our supply chain. According to the U.S. Census Bureau, total e-commerce sales in 2020 increased 32.4 percent from 2019. This surge resulted in congestion at U.S. ports.

MARAD administers several key programs that provide long term solutions to address supply chain congestion, such as the Port Infrastructure Development Program (“PIDP”). We need to ensure our ports have the infrastructure to meet the needs of our new economy. Now that Congress has invested \$2.25 billion in the Infrastructure Investment and Jobs Act for PIDP, we need these dollars on the ground to bring our ports into the future.

Question 1: If confirmed, will you commit to administer the PIDP program fairly and transparently while ensuring that critical investments are made to alleviate port congestion? How will you expedite distribution of IJA funding to ensure funding reaches our ports as soon as possible?

Answer:

If confirmed as Administrator, I will continue my commitment to being a steward of taxpayer dollars. I am committed to ensuring that funds entrusted to MARAD for the PIDP are appropriately administered in accordance with the statutory guidance provided by the Congress, and with applicable Federal requirements including those related to transparency.

I understand the urgency of getting grant funds out the door in an efficient manner, and I will work to do so, while safeguarding taxpayer dollars and maximizing the impact of these grant programs within the confines of Federal law and the notice of funding opportunity.

Question 2: The infrastructure bill also included additional authority for the PIDP program to make our ports more resilient to climate change, a threat facing our supply chain. Given your expertise and experience working on the development of Virginia’s Coastal Resilience Master Plan, what do you think is the most effective way to use these dollars to make our ports efficient and resilient to extreme weather and our changing climate?

Answer: While I am not yet in the Administration, my understanding of the expanded capacity for port infrastructure in the Bipartisan Infrastructure Bill includes opportunities to mitigate climate impacts, reduce emissions and improve air quality for ports and surrounding communities, and promote equity and economic growth. Based on my experience developing Virginia’s Coastal Resilience Master Plan, it will be critical that funded infrastructure and other port development activities consider and include projected climate impacts in their design and implementation, appropriate to the threats of that specific location, so that federal dollars build infrastructure support that prepares for and builds long term resilience to anticipated future climate conditions. This will be the most effective use of this generational opportunity to improve our maritime systems and port infrastructure, and to ensure that the funding equitably serves all Americans, in communities of all sizes. Should I have the honor to be confirmed, I look forward to continuing MARAD’s work to implement the additional authorities for the PIDP Program.

U.S. Merchant Marine Academy. Despite the importance of the U.S. Merchant Marine Academy (“USMMA”) to our maritime workforce, the National Academy of Public Administration found in their November 2021 report entitled “Organizational Assessment of the U.S. Merchant Marine Academy: A Path Forward” that the USMMA has “lost its way.” The report found that the Academy lacks strategic vision, oversight, and accountability, which are contributing to challenges including sexual assault and harassment, difficulties maintaining accreditation, persistent degradation of our facilities, and crumbling physical infrastructure.

Question 1: Admiral, if confirmed, you will oversee the U.S. Merchant Marine Academy. How will you draw on your 30 years of experience as a leader in the U.S. Navy to address challenges identified by the NAPA report?

Answer: Should I have the honor to be confirmed, I will draw from my Navy experience as a leader, knowing that USMMA will need strong leadership to address these challenges. My experience leading people at sea and on shore, and during times of conflict, makes me well suited to provide the vision and leadership needed for implementing change. I will focus first on safety as the foundational priority for DOT and as the “North Star” for the Maritime Administration. This includes continuing the work already underway by DOT and MARAD to address and eliminate sexual assault and sexual harassment in at the academy and in the maritime industry. I will further focus on USMMA’s infrastructure challenges, continuing and building on work initiated to ensure a safe learning and training environment, and developing a strategic, funded, Capital Improvement Program to continue infrastructure improvements long

term, and finally - working closely with the USMMA Superintendent and MARAD Staff - addressing staff and academic manpower needs, to ensure a sustained successful educational experience for our Nation's future maritime leaders.

Question 2: Specifically, the NAPA report found that the Academy lacks strategic vision to address these challenges. What is your vision for the Academy?

Answer: Independent reviews such as the NAPA report provide a blueprint of near-term and long-term actions to improve organizational function. It is my understanding that infrastructure deficiencies at the USMMA are not new, and that there is, sadly, a long history of neglect. The U.S. Merchant Marine Academy is a national gem, and must be a priority, in order to provide the bright and talented young men and women who attend the Academy with the best opportunities possible to support their safe and inclusive learning and training environment. My vision, if confirmed, is to build the path and lead actions to achieve that environment. Further, if confirmed, I intend to continue the efforts of MARAD and DOT to work closely with the USMMA Superintendent and the USMMA staff to engineer transformational change that will modernize the Academy's physical and human infrastructure.

Question 3: Lastly, the report found that the Academy lacks staffing and leadership capacity to solve these problems. Will you personally engage in these issues to restore the USMMA to meet its mission?

Answer: If confirmed, I will work closely with the USMMA Superintendent and the MARAD staff to continue the pace to restore the USMMA's staffing capacity, so that it can effectively execute its mission, educate and graduate leaders of exemplary character, and serve the national security, marine transportation and economic needs of the United States.

Sexual Assault and Sexual Harassment in the Maritime Industry. This year, brave USMMA midshipmen came forward to speak about appalling instances of sexual assault and sexual harassment at the USMMA campus and during their Sea Year. Others in the maritime industry have publicly come forward to add that sexual assault and harassment is not just restricted to the USMMA but is reflective of the industry as a whole.

During the October 2021 oversight hearing, U.S. Coast Guard Commandant Karl L. Schultz noted that in the last 10 years, the U.S. Coast Guard has had five cases related to sexual assault in the maritime industry and more needs to be done to encourage reporting. MARAD cannot solve these problems alone and will need to build strong relationships with other Federal agencies and with the maritime industry.

Question 1: Drawing on your years as a leader in the U.S. Navy, what do you believe needs to happen to change the culture at the USMMA and in the maritime industry so there is confidence in reporting and more prosecutions to convict perpetrators?

Answer: We must first build a culture of *prevention, respect, and zero tolerance* for perpetrators of harassment, intimidation and violence. But having a zero tolerance policy is not enough - from my experience in the U.S. Navy, the key and the challenge to build confidence in reporting is to ensure trust in a responsive, respectful, and supportive system and chain of command, free of retribution, and to provide the full range of medical, legal, psychological and other identified support for victims, with swift and sure action to investigate and hold perpetrators accountable. My understanding is that MARAD has begun to build this process with the EMBARC program, which replaces the previous SCCT process, instituted in 2016. There is no place in the maritime profession for a culture that allows predators to operate unchecked on our seaways. Should I have the honor to be confirmed, I am committed to creating a community that fosters mutual respect, support, and accountability.

Question 2: How will you work with the maritime industry and the Coast Guard to address sexual harassment and assault at sea?

Answer: Recognizing that the Coast Guard both regulates the maritime industry and provides law enforcement services at sea, if I am confirmed, I look forward to working closely with all stakeholders to establish a culture and climate that ensures prevention and respect, supports survivors, and punishes and removes perpetrators from seagoing vessels, whether they are operated by the U.S. government or the maritime industry.

Questions for the Record from Senator Richard Blumenthal to Rear Admiral Ann Phillips

Jones Act-Evading Time Charters. The U.S. Maritime Administration (MARAD) has failed to be transparent in reviewing time charter requests, effectively permitting non-U.S. citizens operational control of Jones Act-qualified, U.S.-flagged vessels (prohibited under law). Section 3502(b) of the Fiscal Year (FY) 2021 National Defense Authorization Act (NDAA) requires MARAD to post online detailed information about each request for a vessel charter under the general approval of time charters and, after an opportunity for public comment, the final action on the request retroactively from FY 20. To date, MARAD has posted one charter on its website, which the public comments resoundingly denounced as insufficient in detail. MARAD has also not yet posted the final action for that charter.

Question 1: When will MARAD fully comply with section 3502(b) of the FY 21 NDAA?

Answer: Should I have the honor to be confirmed, I will work with you to address these issues promptly and fulfill requirements under the NDAA.

Question 2: What steps has MARAD taken to ensure future compliance with section 3502(b), including to permit meaningful public comment on time charter approval requests?

Answer: Should I have the honor to be confirmed, I will examine the issues of concern with regards to MARAD's administration of these time charter requests.

Questions for the Record from Senator Klobuchar to Rear Admiral (USN, Ret.) Ann Claire Phillips, to be Administrator of the Maritime Administration

Port of Duluth. The Port of Duluth is the largest and busiest port on the Great Lakes with 800 vessel visits and an average of 35 million short tons of cargo per year. As a result of rising construction costs, Minnesota has deferred building a portion of the Twin Ports Interchange—a project to replace aging infrastructure and better accommodate freight access—until 2024.

Question 1: How do ports like this support rural communities?

Answer: Our Nation’s ports represent an interconnected network for the transportation of cargo, and rural communities are essential to that network. The just-enacted Infrastructure Investment and Jobs Act provides \$2.25B in funding for the Port Infrastructure Development Program, which supports both rural and urban communities. If confirmed as Maritime Administrator, I will focus on delivering on MARAD’s mission to enable the safe, reliable, and efficient movement of cargoes through financial assistance programs and by other means. Ports are centers for good-paying jobs, support American industry and benefit local and regional economies.

Question 2: What roles do smaller and inland ports play in relieving some of the congestion from our coastal ports?

Answer: Smaller ports can be the relief valve for overburdened larger ports and greater use of Marine Highways can relieve road congestion. If confirmed, I will consider every option to address the current supply chain disruptions, including ways MARAD may facilitate the use of smaller and inland ports as part of the solution.

Questions for the Record from Senator Warnock to Rear Admiral Ann Phillips

Port Development & Coastal Resilience. The Maritime Administration, through programs like the Port Infrastructure Development Program, plays a key role in supporting the economic development and viability of coastal communities in Georgia like Savannah and Brunswick – home to our two major deepwater ports. Savannah experiences some level of flooding approximately 10 times a year – up from an average of 5 times a year when I was a kid. The frequency of coastal flooding in Savannah is expected to dramatically increase, potentially up to 100 annual flooding events by 2045, if sea levels rise by just one foot. Furthermore, the communities that surround our nation’s freight shipping facilities and transportation corridors, like those around ports and intermodal connections, are subjected to higher levels of air pollution.

Question 1: If confirmed, will you commit to consider the needs of coastal communities, particularly low-income communities and communities of color, who are often the most impacted by climate change and pollution, as you work to build strengthen our port infrastructure and prevent future supply chain disruptions?

Answer:

If confirmed, I will work to strengthen coastal ports and communities as we take a whole of government approach to ensuring fairness in our decision making processes and work to redress inequities in our policies and programs. By advancing equity across the Federal Government, we can create opportunities for communities that have been historically underserved. I note also that the expanded eligibilities in the Port Infrastructure Development (PIDP) Grant Program under the Bipartisan Infrastructure Law will enable funding to be awarded to projects that reduce or eliminate port-related criteria pollutant or greenhouse gas emissions, including projects for port electrification or electrification master planning, harbor craft or equipment replacements/retrofits, and the development of port or terminal micro-grids, among other projects. If I have the honor of being confirmed, I will work to ensure that the PIDP program is implemented in a manner consistent with these expanded eligibilities, which will enable the grants to help address the effects of port operations on surrounding communities—which are too often disadvantaged communities, including communities of color.

Question 2: What actions do you believe are needed to protect ports and coastal communities from Savannah to St. Marys, and to improve both coastal resiliency and economic resiliency in the face of climate change?

Answer: Coastal ports and communities are particularly vulnerable to rising sea level impacts. Should I have the honor of being confirmed, I look forward to identifying options to address resiliency throughout the Nation’s supply chain, including through MARAD’s financial assistance programs.