

Response to Written Question Submitted by Hon. John Thune to Tony Straquadine

*Question.* Mr. Straquadine, I understand the pipelines have worked with TSA to educate their inspectors and that the pipeline industry is satisfied with the overall relationship with TSA. Can you speak to what is making this relationship successful?

*Answer.* The relationship between the pipeline industry and TSA began very well. Much of the staff at TSA's Pipeline branch had familiarity with the pipeline industry by either having experience at NTSB, PHMSA or the pipeline industry itself. Many of the original visits by TSA to over 100 facilities were very informative to both the industry and TSA personnel. They shared a common goal of increased security and resiliency. Performance based goals with real world implementations are key to keep the focus on continuous improvement. Many of the lessons learned in these assessments were shared in combined TSA annual workshops that had significant participation from industry security professionals. This allowed not only the visited facilities to benefit from the common TSA assessments, but these lessons learned being communicated more widely to the industry.

While there have been reorganizations within the TSA, we have kept that cooperative attitude and have welcomed new staff that have a more diverse responsibility under the TSA management structure. The pipeline industry understands that TSA is working to add additional staff specific to this sector and we look forward to continued collaborative efforts with the agency.

Alliance Pipeline has specifically adopted proactive outreach efforts to build and maintain our relationship with the TSA. This works because it is not an adversarial or regulatory one, but rather, a collaborative approach with the agency. This relationship works well as we discuss sharing threat information and industry response efforts (such as the voluntary Cybersecurity Architecture Review discussed in my Subcommittee testimony).

Alliance Pipeline has also obtained the appropriate level of security clearances for key staff to ensure certain classified threat information can be shared by TSA on a timely basis. [Tony we need to discuss adding people to this including Canadians such as myself.] This has resulted in ongoing threat related briefings and updates related to our industry / region specific threats.

Response to Written Questions Submitted by Hon. Deb Fischer to Tony Straquadine

*Question 1.* Mr. Straquadine, in your written testimony you described another type of security threat to our nation's pipeline system, "political" security threats. Can you elaborate on this risk and how pipeline operators are working to address this challenge?

Answer. Congress anticipated that there may be security concerns due to threats by outside parties and it directed the Department of Transportation – Pipelines and Hazardous Material Safety Administration (PHMSA) to develop regulations. This resulted in the establishment of a PHMSA regulation addressing injuries or destruction of a pipeline facility. In general, PHMSA has regulatory authority over pipeline companies, but there are two exceptions in their regulations, which include: Excavators who damage a pipeline and the aforementioned "political" security threat activity. The following are PHMSA specific penalties:

***§190.291 Criminal penalties generally.***

*(a) Any person who willfully and knowingly violates a provision of 49 U.S.C. 60101 et seq. or any regulation or order issued thereunder will upon conviction be subject to a fine under title 18, United States Code, and imprisonment for not more than five years, or both, for each offense.*

*(b) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate transmission facility, any interstate pipeline facility, or any intrastate pipeline facility used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce (as those terms are defined in 49 U.S.C. 60101 et seq.) will, upon conviction, be subject to a fine under title 18, United States Code, imprisonment for a term not to exceed 20 years, or both, for each offense.*

*(c) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign, right-of-way marker, or marine buoy required by 49 U.S.C. 60101 et seq. or any regulation or order issued thereunder will, upon conviction, be subject to a fine under title 18, United States Code, imprisonment for a term not to exceed 1 year, or both, for each offense.*

PHMSA has struggled with these particular enforcement requirements for excavators. The TSA which is no longer part of the Department of Transportation has no regulatory or enforcement authority. The other branches of the Department of Homeland Security (DHS) do not typically deal in the enforcement matters. This leads then to the Federal Bureau of Investigation (FBI) which has investigative authority, and the prosecutorial responsibilities of the Department of Justice (DOJ).

In recently reported pipeline incidents, clear evidence was available about the intended actions (typically documented on social media), but it was difficult for the FBI to respond quickly to gather the threat related information. While some of this evidence was gathered, there was reluctance by the DOJ to move forward on indictments based on the PHMSA authority. Rather, the specific pipeline companies and local authorities are resorting to local statutes concerning criminal trespass.

The security posture of many critical facilities is founded on a deterrence strategy based on enforcement of penalties. Operators, local officials and the FBI gather evidence about the potential crimes but the enforcement is under the purview of the DOJ.

What are we doing to help? We are:

- Trying to educate disparate parts of the Federal government as to the problem and assist in cross communication on the issue.
- Mobilizing our staff, neighbors, security equipment and consultants to correctly and quickly capture information for these cases.
- Trying to understand why there is a reluctance to prosecute these individuals and assist in removing these impediments for Federal agencies.
- Coordinating with regulatory agencies to improve warning signs at physical locations to emphasize the severe penalties for uninformed trespassers. (However, this effort does not inhibit informed perpetrators).

*Question 2.* The TSA administrator previously testified that the agency spends just 3 percent of its budget on surface transportation programs. Several of you mentioned the lack of interaction with TSA staff in your statements.

Can you tell us about your interactions on a regular basis with TSA officials and staff? How could Congress improve TSA interactions and guidance to surface transportation operators?

Answer. The pipeline industry supports TSA's efforts to fill open management positions related to our industry sector. We have invited the TSA to participate in industry tabletop exercises and reviews. Our sector has been helping to review potential improvements to the TSA Security Guidelines.

Alliance Pipeline staff with security clearance stay in routine contact on the State and Federal level with TSA pipeline security personnel and have access to the approved security databases, appropriate to our industry. Alliance also supports TSA participation in industry related exercises and reviews with TSA pipeline personnel in our operating region.

*Question 3.* The August 2016 TWIC reader rule also states that, while not required, a maritime operator can utilize electronic TWIC inspection on a voluntary basis if they feel that this provides an additional level of security protection - and many have chosen to incorporate TWIC electronic readers into their USCG facility security plans. Are you seeing the biometric check being utilized beyond the category facilities that will be subject to USCG Final Rule?

Answer. The U.S. Coast Guard (USCG) initiated this TWIC card effort, and while there may be some applicability to overall security efforts, the inflexibility and cost of implementing this program seems to be inhibiting wider use other than what is specifically mandated by the Coast Guard. Applying the TWIC identification system outside of USCG facilities seems to be faltering and other solutions that are more flexible for more industries (e.g. electric utility industry) seem to be gaining traction in a one-stop personnel identification process.

Alliance Pipeline specifically comments that the TWIC reader program is an available security tool for USCG facilities and suggests that broad adoption of this program for non-USCG facilities would NOT enhance the security for land-based pipeline facilities. The security infrastructure, training and company-level enforcement tools needed to deploy this program for the pipeline industry as a whole would impose an undo resource and financial burden on our industry with little to no benefit to our security profile.