

Chairman John Thune
Questions for the Record
Commerce Committee Hearing on the Nomination of
Marie Therese Dominguez to be PHMSA Administrator
July 22, 2015

1. Ms. Dominguez, pipeline and hazmat safety are PHMSA's primary responsibilities. Should you be confirmed, how will the agency consider other factors, including the environment, when establishing rules and prioritizing agency resources under your leadership? While other factors may impact your decision making, would you agree that safety always needs to be the paramount consideration for PHMSA?

Safety is PHMSA's top priority. Our mission is to protect people and the environment from the risks of hazardous materials transportation. We achieve our mission by ensuring infrastructure is built and operated safely.

2. Ms. Dominguez, in your response to the Committee questionnaire, you described a challenge facing PHMSA as "assess[ing] agency legal authorities in order to develop enhanced enforcement capabilities." What enhanced enforcement capabilities do you have in mind and want to develop, should you be confirmed?

PHMSA is a safety agency and our goal is to have zero deaths or injuries. While PHMSA has seen a decrease in the number of significant incidents over the last ten years, there is more work to do. I am committed to using all tools at our disposal—including strong regulations, rigorous safety inspections, outreach and education—to improve safety. Enforcement authorities are a critical aspect of preventing and deterring accidents. If confirmed, I will assess our enforcement capabilities and determine how PHMSA can use them more effectively.

3. OMB delays in reviewing proposed PHMSA regulations give OMB a share of the blame for missing deadlines under the 2011 Pipeline Safety Act. Should you be confirmed as PHMSA administrator, what will you do to make pipeline safety a higher priority within this Administration?

During my 16 years of public service, I have worked extensively through the administrative, regulatory and legislative processes, and I have experience working with OMB and stakeholders. The rulemaking process is methodical, inclusive and transparent. It enables PHMSA to fully consider stakeholder input and to ensure that new regulations stand up to cost-benefit scrutiny. I believe this process results in meaningful rules that can be implemented. If confirmed to serve as PHMSA Administrator, I will work within the Department, with OMB and stakeholders to prioritize and complete the remaining mandates and recommendations.

4. Ms. Dominguez, the 2011 Pipeline Safety Act required a report to Congress on expanding integrity management beyond populated areas for natural gas transmission pipelines. This report appears to be a year late in terms of being completed. When will this report be submitted to Congress?

PHMSA continues to raise the bar on safety as part of our integrity management program. PHMSA's Report to Congress regarding its evaluation of expanding pipeline integrity

management beyond High-Consequence Areas and whether such expansion would mitigate the need for gas pipeline class location requirements is currently under review, and I will continue to work with the Department and OMB to complete it by the end of the calendar year.

5. Ms. Dominguez, Congress responded to requests last year for more PHMSA funding by increasing PHMSA's pipeline safety budget by 23 percent in FY 2015. Should you be confirmed, how will you as PHMSA Administrator ensure these funds yield tangible pipeline safety improvements?

On behalf of the Department, I'd like to thank Congress for its support in approving the 2015 increase in funding for PHMSA. Those resources present PHMSA with the opportunity to grow our workforce by approximately 25 percent. As we bring on new staff and encounter a changing economy, I will assess the agency to ensure we're structured for success and to use the resources you have given us effectively. Of the 122 additional positions we are hiring for, 109 of those are in the pipeline area. About 80 percent of the new pipeline positions will be working in inspection and enforcement—the vast majority of them out in the field. These new inspectors and enforcement personnel will allow us to conduct additional inspections and training and improve enforcement of our regulations and standards. I will ensure we leverage these resources to mitigate risk, drive innovation and improve safety.

6. Ms. Dominguez, PHMSA Acting Administrator Stacy Cummings testified recently at a House hearing that the agency has so far hired about half of the 100-plus new PHMSA employees expected under the FY 2015 funding increase provided by Congress. Should you be confirmed, what will you do as PHMSA Administrator to complete this hiring, and what will you do to ensure that new staff is qualified, trained, and on the job improving pipeline safety?

PHMSA is committed to using every available tool to hire qualified staff more quickly. We are leveraging existing resources and personnel to implement an agency-wide recruitment strategy aimed at removing barriers and increasing accountability within our organization. We are also investing in new media tools to identify well-qualified candidates. We are working to reduce hiring times and mitigate fierce industry competition for candidates with the necessary qualifications, by prioritizing efficiency in our hiring and offering incentives and other strategies to increase our hiring. We are also targeting professional organizations and are looking to partner with colleges and universities to create a pipeline of candidates interested in public service. As we onboard these new hires, we are developing and implementing a rigorous training program to ensure they are able to maintain the highest level of safety.

7. Ms. Dominguez, in your response to the Committee questionnaire, you described a challenge facing PHMSA as “improv[ing] partnerships with state and local governments, the industry and other key stakeholders.” Do you support joint PHMSA and industry efforts to improve pipeline inspection technology research and development?

If confirmed, my priority will be to drive innovation to further our safety mission. PHMSA's grant programs, research and development forums and outreach initiatives support the development of new technologies and best practices that enhance safety. Thanks to generous congressional support, PHMSA's nearly \$45 million in investments have contributed to 22 patent applications and 25 new pipeline technologies entering the market. These tools can help detect engineering defects, safety risks and possible incidents, and play a contributing role in

helping us reach zero deaths and incidents. If confirmed, I will work to ensure that PHMSA continues to communicate with all stakeholders to identify and address common safety challenges.

8. Currently, PHMSA does not have regulations for natural gas storage facilities. In 2011, PHMSA did seek to develop a regulatory program for natural gas storage facilities, as part of an advanced notice of proposed rulemaking. In the meantime, industry has developed a set of safety standards for these facilities, which could be used by PHMSA to jumpstart the creation of a federal safety program. Will you commit to getting a federal oversight program for these facilities initiated during your tenure?

PHMSA is working to improve our understanding of trends and innovations in our economy and energy landscape. If confirmed, I will continue PHMSA's work to develop regulations that provide certainty and reflect new standards for the design, construction and operation of natural gas storage facilities. I will coordinate with other federal agencies to address the safety and regulatory issues related to these facilities.

9. Do you use an official government e-mail account for official business?

Yes.

10. Do you use an alternate, alias, or other official account (apart from your primary official account) for official business?

No.

- a. If so, is the Department's Chief FOIA Officer aware of this practice?

Not Applicable.

- b. Have you ever used a non-official e-mail account for official business? If yes, please explain your purpose and justification for this practice.

No.

- c. Have you ever used a personal, non-official device to send and/or receive text messages for official business? If yes, please explain your purpose and justification for this practice.

No.

- d. Have you ever used any internal instant messaging system for official business? If so, are these messages properly archived?

No. I have not used an internal instant messaging system for official business.

- e. Have you ever used any external instant messaging system, such as Google Chat, for official business? If yes, please explain your purpose and justification for this practice.

No.

- 11. Are you aware of any other Department or Administration officials who use or have used non-official e-mail accounts and/or personal, non-official devices for official business?

I am not aware of Department or Administration officials who use or have used non-official email accounts for official business, but DOT employees are permitted to access their DOT email accounts from personal devices through remote access solutions, including Outlook Web Access and Virtual Desktop Infrastructure. Activity is monitored/captured by the DOT system and is in line with all cybersecurity guidelines.

- 12. Are you aware of any unlawful or accidental removal, alteration, or destruction of electronic federal records in the Department's custody or control, including e-mails? If so, has the Department reported these incidents to NARA? Please provide details of any such incidents, including the dates, number and type of records, and custodians involved, as well as any reports, including dates, made to NARA.

No. I am not aware of any unlawful or accidental removal, alteration, or destruction of electronic federal records, including emails, in the Department's custody or control.

- 13. Are you aware of any Department employee's use of a private or independent e-mail server to conduct official business?

No.

- a. If yes, who approved its use?

Not Applicable.

- b. What was the rationale or justification for its use?

Not Applicable.

Senator Roy Blunt
Questions for the Record
Commerce Committee Hearing on the Nomination of
Marie Therese Dominguez to be PHMSA Administrator
July 22, 2015

1. PHMSA has established a 120-day internal time schedule for the processing of special permits and approvals. Other industrialized nations take three to four weeks. Will you commit to streamlining this process?

It is my understanding that the special permits and approvals process has been improved in recent years, and I am committed to ensuring that all our processes achieve safety in an effective and efficient manner. PHMSA is working to complete regulatory proposals that will incorporate a large number of special permits into regulations, expand the standard operating procedures in the regulations, reduce redundant approval procedures, and streamline the special permit process.

2. One of the bottlenecks to the efficient processing of explosives classification approvals is the re-examination of the classification recommendations from PHMSA-approved labs of the thousands of applications submitted annually. Currently, PHMSA has approved five labs to perform this task. Has PHMSA considered committing resources to oversee the operations of the five-approved labs so that their classifications recommendations could be accepted without reexamination?

As I look to assess the organization to determine opportunities for efficiency, I am aware that PHMSA has, through rulemaking, authorized Fireworks Certification Agencies (FCA) to act as third-party laboratories to certify new consumer fireworks. As a result, there are six FCAs that have helped improve PHMSA's efficiency in processing firework applications. Moving forward, as we continue to assess the organization and our processes, we will look for additional efficiencies in this area.

Senator Dan Sullivan
 Questions for the Record
 Commerce Committee Hearing on the Nomination of
 Marie Therese Dominguez to be PHMSA Administrator
 July 22, 2015

1. The 2011 Pipeline Safety Act had 42 obligations for PHMSA to complete. It's my understanding that there are 16 still outstanding. If confirmed, you will be taking on these obligations. What is the specific reasoning for this lack of completion? How much time will you need to complete these remaining items?

To date, PHMSA, in coordination with the Department, has completed 26 of the 42 mandates in the 2011 Pipeline Safety Act. Completing all congressional mandates is critical to PHMSA's pipeline safety program because it allows us to meaningfully strengthen our oversight program. PHMSA is diligently pursuing closure of the remaining mandates and has made significant progress.

In the past month alone, in coordination with the Department and OMB, PHMSA issued two notices of proposed rulemaking on incident notification requirements for pipeline operators and operator qualifications, and the expansion of excess flow valve requirements. Two of PHMSA's highest rulemaking priorities, the notices of proposed rulemaking titled "Safety of Gas Transmission Pipelines" and "Safety of Hazardous Liquid Pipelines," address a number of the remaining mandates and will be published by the end of the year.

PHMSA will address several mandates and actions through additional rulemakings that are already in progress and reports to Congress that are currently under review or edit. Report topics include integrity management and class location, CO₂ pipelines, and non-petroleum hazardous liquid transportation. PHMSA will address the remaining mandates and actions through future regulatory activities and possible information collection activities, which will be advanced over the course of the next 18 months.

A more complete status report, which includes the most recent actions taken on each mandate, is available on PHMSA's homepage at <http://phmsa.dot.gov/pipeline/psa/phmsa-progress-tracker-chart>.

2. Please list the pending rules from PHMSA and the expected completion date for each.

PHMSA RULEMAKINGS	STATUS (as of 8/3/2015)
Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains	Final rule announced by Secretary Foxx on 5/1/2015. Final rule published in the Federal Register on 5/8/2015. Received five appeals to date.
Pipeline Safety: Enforcement of State Excavation Damage Laws	Final rule published July 23, 2015
Hazardous Materials: Reverse Logistics	Final Rule publication anticipated in August 2015.
Hazardous Materials: Miscellaneous Amendments	Final Rule scheduled for publication in November 2015.

Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives	Final rule publication anticipated in August 2015.
Hazardous Materials: Special Permit SOP and Evaluation	Final Rule in formal concurrence; scheduled for publication in September 2015.
Hazardous Materials: Corrections Rulemaking	Publication of Final Rule tentatively scheduled for September 2015.
Hazardous Materials: Special Permit Incorporation	Final Rule scheduled for publication by October 2015.
Pipeline Safety: Issues related to the Use of Plastic Pipe in Gas Pipeline Industry	NPRM published May 21, 2015; comment period ended 7/31/2015
Pipeline Safety: Excess Flow Valves In Applications Other Than Single-Family Residences in Gas Distribution Systems	NPRM published July 15, 2015; comment period ends September 14, 2015
Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Changes (RRR)	NPRM published July 10, 2015; comment period ends September 8, 2015
Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines	Under OMB review; expect to publish NPRM by end of 2015
Pipeline Safety: Gas Transmission	Under OMB review; expect to publish NPRM by end of 2015
Hazardous Materials: ASME Code	Supplemental NPRM (SNPRM) is tentatively scheduled for August 2015. SNPRM is currently under review.
Hazardous Materials: Cylinder Petitions	NPRM publication scheduled September 2015.
Hazardous Materials: Oil Spill Planning and Information Sharing for High-Hazard Flammable Trains.	NPRM under Agency review; expected publication November 2015.
Hazardous Materials: Wetlines	Under Agency review; expected publication November 2015.
Hazardous Materials: Notification of the Pilot in Command and Response to Air related Petitions for Rulemaking	Publication of NPRM tentatively scheduled for November 2015.
Hazardous Materials: Response to Petitions for Rulemaking	Publication of NPRM tentatively scheduled for November 2015.
Hazardous Materials: Review and Update of Rail Carrier Regulations in Part 174	Drafting NPRM; expected publication December 2015.
Pipeline Safety: Amendments to Parts 192 and 195 to require Valve installation and Minimum Rupture Detection Standards	NPRM in development; expected to publish Feb. 2016

3. API recently released Recommended Practice 1173, *Pipeline Safety Management Systems*. I understand PHMSA participated in the development of this Recommended Practice. What is your view of the role safety management systems have in pipeline operations and your view of this guidance for the industry?

Safety is our priority, and Safety Management Systems (SMS) promote a higher level of safety by encouraging operators to enhance their safety cultures. Safety Management Systems have improved safety performance in a variety of industries, including aviation, nuclear and healthcare. I believe SMS can help drive necessary improvements to pipeline safety in the U.S.

4. It's my understanding that with respect to the regulation of small-scale natural gas facilities, PHMSA is currently using standards that are more than a decade old. These standards, updated several

time since 2001 by the same standard setting group (National Fire Protection Association), are slowing the construction of facilities designed to supply LNG as a fuel. Do you believe that PHMSA should base its regulatory regime on the most up to date standards?

I believe that PHMSA's regulations must keep pace with innovation, and, if confirmed, ensuring that the agency is predictive and innovative will be a top priority for me. PHMSA is working to develop regulations that provide certainty for the design, construction and operation of LNG facilities and reduce the need for special permits. To expedite the rulemaking process, PHMSA is focusing on updating outdated codes and standards in current regulations.

Senator Steve Daines
Questions for the Record
Commerce Committee Hearing on the Nomination of
Marie Therese Dominguez to be PHMSA Administrator
July 22, 2015

1. As we previously discussed, Montana produces 63 billion cubic feet of natural gas annually. Additionally, we have another 590 billion cubic feet of natural gas reserves. With natural gas as the most widely used energy source to heat homes during cold Montana winters, nearly 54% of households, it is important to streamline its production.

I have heard that PHMSA has told businesses that special permits, waivers, or equivalency determinations are needed to build small-scale LNG facilities that seek to use the latest technologies for design, construction, and operation. As the Administrator of PHMSA, what initiatives will you lead to keep up with safety technology innovation and advances, to reduce the need for special permits and decrease regulatory uncertainty?

PHMSA is working to improve its understanding of trends and innovations in our economy and energy landscape in order to improve regulations for design, construction, and operation of LNG facilities and reduce the need for special permits. If confirmed, I will work to advance PHMSA's research efforts to be more predictive and position PHMSA to drive innovation.

2. The Energy Information Administration (EIA) recently noted crude by rail delivered in the U.S. and from Canada to the U.S. exceeded 1 million barrels per day in 2014. EIA also predicts US crude oil production will grow by another 1 million barrels per day by 2020. Unless we want to double the number of crude by rail cars currently traveling across America to meet this new production forecast, we need to build more pipelines. How will you as PHMSA Administrator support the construction and safe operation of new crude oil pipelines?

We have a renaissance in energy that has resulted in a significant increase in new gas and liquid pipeline construction projects over the last decade. PHMSA's pipeline safety regulations require pipeline operators to evaluate newly constructed pipelines to check for issues that could affect a pipe's overall ability to operate safely prior to placing the pipeline in service. Although PHMSA does not have a role in approving permits for pipelines, it does have safety oversight for the design, construction and operation of approved pipelines. If confirmed, I will make sure that PHMSA inspects and monitors any newly approved pipeline throughout the construction and testing phase, and into its operational life.