

FRANK PALLONE, JR., NEW JERSEY  
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RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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June 12, 2019

The Honorable Howard R. Elliott  
Administrator  
Pipeline and Hazardous Materials Safety Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Administrator Elliott:

Thank you for appearing before the Subcommittee on Energy on Wednesday, May 1, 2019, at the hearing entitled, "The State of Pipeline Safety and Security in America." We appreciate the time and effort you gave as a witness before the Subcommittee.

Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. Attached are questions directed to you from certain members of the Committee. In preparing your answers to these questions, please address your responses to the member who has submitted the questions using the Word document provided with this letter.

To facilitate the publication of the hearing record, please submit your responses to these questions no later than the close of business on Thursday, June 27, 2019. As previously noted, this transmittal letter and your responses, as well as the responses from the other witnesses appearing at the hearing, will all be included in the hearing record. Your written responses should be transmitted by email in the Word document provided with this letter to Omar Guzman-Toro, Policy Analyst with the Committee, at [Omar@mail.house.gov](mailto:Omar@mail.house.gov). You do not need to send a paper copy of your responses to the Committee. Using the Word document provided for submitting your responses will also help maintain the proper format for incorporating your answers into the hearing record.

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U.S. Department of Transportation  
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Thank you for your prompt attention to this request. If you need additional information or have other questions, please have your staff contact Mr. Guzman-Toro at (202) 226-9398.

Sincerely,



Frank Pallone, Jr.  
Chairman

Attachment

cc: The Honorable Greg Walden  
Ranking Member  
Committee on Energy and Commerce

The Honorable Bobby L. Rush  
Chairman  
Subcommittee on Energy

The Honorable Fred Upton  
Ranking Member  
Subcommittee on Energy

**Subcommittee on Energy**  
**Hearing on**  
**“The State of Pipeline Safety and Security in America”**  
**May 1, 2019**

**Administrator Howard R. Elliott**  
**Pipeline and Hazardous Materials Safety Administration**

**The Honorable Fred Upton (R-MI)**

1. You stated in your testimony that PHMSA has seven of 42 mandates remaining from the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011; and four of 19 mandates remaining from the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2016.

You stated further that completing rulemakings takes time simply because it is an iterative process that is designed to encourage maximum participation by all stakeholders, thus ensuring comprehensive rules that protect the public and stand up to cost/benefit scrutiny.

- a. What are the main drivers behind the pace of PHMSA’s rulemakings?
  - b. Does the statutory requirement to conduct a risk assessment, including identifying the costs and benefits associated with a proposed standard, improve the quality of PHMSA’s regulations?
  - c. Would amending the statute by striking the requirement for identify the costs and benefits associated with a proposed standard speed the pace of rulemakings?
  - d. Would amending the statute by inserting a new mandamus clause that encourages citizen-suits speed the pace of rulemakings?
2. Section 60121 of the Pipeline Safety Act already includes a citizen-suit provision, which provides a private right of action for persons to bring civil suits in Federal court, seeking injunctive relief against other persons, including the U.S. government, for “a violation of [the Act] or a regulation prescribed or order issued under [the Act].”<sup>1</sup>

Congress intended this citizen-suit provision to assist PHMSA in its enforcement and compliance activities by authorizing suits alleging substantive statutory or regulatory violations.

- a. Please describe the multiple avenues available for judicial review of PHMSA’s interpretation of the pipeline safety statute.

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<sup>1</sup> 49 U.S.C. 60121(a).

- b. What are the potential implications of amending the statute to expand the citizen-suit provisions to include mandamus relief against PHMSA for failing to perform a non-discretionary act or duty?

**The Honorable Richard Hudson (R-NC)**

1. Thank you for being here today as we examine ways to increase the safety of our constituents and all Americans. While pipelines are the safest means of energy transportation, unfortunately, there are instances of failure. In these moments it is critical our first responders are trained and prepared to handle these dangerous situations. Back home in North Carolina, some local and small fire stations do not have the budget to send their first responders to specific emergency pipeline safety training. Last year we had over 70 emergency responders take free online classes to receive pipeline emergency response training. By using technology, we are creating safer communities. In recent years' technology has been developed to internally scan pipelines to find issues early and detect leaks before they become a problem.
  - a. In order to keep up with the innovations being made, what is PHMSA doing to remove barriers for the adoption of new technologies?

**The Honorable Bill Flores (R-TX)**

1. I am concerned regarding some recent attacks on pipelines that raise important safety concerns. Protest activities that create safety hazards, and/or environmental damage, must not be tolerated. In October 2016, anti-pipeline activists staged simultaneous attacks on 5 crude oil pipelines in 4 states along the U.S.-Canadian border. These assailants targeted valve stations maintained by pipeline operators. These valves have important, specific uses to stop the flow of product through the pipeline, such as isolating a pipeline segment during an emergency, or in order to conduct maintenance. After breaking the chains and locks on perimeter fencing, assailants entered the facility grounds and turned valves shutting off the flow of pipelines that together had a delivery capacity of 2.8 million barrels of crude oil a day, or a round 15 percent of daily U.S. consumption. The Pipeline Safety Trust, testifying on the second panel of this hearing, said at the time of the valve turnings that "closing valves on major pipelines can have unexpected consequences endangering people and the environment. We do not support this type of action, and think it is dangerous." Since 2016, additional attacks have happened in the states of Iowa, Minnesota, South Dakota, and Washington.
  - a. Does PHMSA consider valve-turnings, gun fire, or torch attacks on pipelines under construction dangerous activities that endanger people and the environment?
  - b. Would PHMSA support closing current loopholes in federal pipeline law to deter dangerous attacks on pipelines?

**The Honorable Cathy McMorris Rodgers (R-WA)**

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1. I would like to talk about PHMSA's procedures for determining the potential risks posed by a pipeline. More specifically, PHMSA's class location requirements for pipelines located in areas where we've seen recent population growth.
  - a. How does PHMSA treat pipelines in highly populated areas vs. rural areas with less people and development?
  - b. I understand there has been ongoing discussion about this since at least 2013. What's the current status of PHMSA's efforts to review class location requirements for pipelines?
  - c. Would you commit to working with Congress on this issue, so we can be assured that PHMSA taking this matter seriously?