

**NOMINATIONS TO THE
EXECUTIVE OFFICE OF THE PRESIDENT,
THE CONSUMER PRODUCT SAFETY COMMISSION,
AND THE FEDERAL MARITIME COMMISSION**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION**

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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MAY 10, 2012
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Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

76-909 PDF

WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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**NOMINATIONS TO THE EXECUTIVE OFFICE
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THURSDAY, MAY 10, 2012

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:20 a.m., in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA**

The CHAIRMAN. I want to, I have to quote Queen Elizabeth, a morning horribilis. I don't know what the Latin word for morning is, so I can't complete it.

I totally apologize to all of you. I'm ready to sue traffic in general in West Virginia. If Levin weren't here, I'd say I was ready to sue cars that make illegal left turns.

I can go over this. I've kept you all waiting long enough. Senator Levin, Senator Mikulski, again, I apologize to you and to my colleagues.

And why don't you go ahead and make the introduction that you want to make.

**STATEMENT OF HON. CARL LEVIN,
U.S. SENATOR FROM MICHIGAN**

Senator LEVIN. Well, thank you very much.

The CHAIRMAN. I was told that you were itchy. Both of you were itchy at my lateness.

Senator LEVIN. You are, as usual, always are most gracious. Chairman Rockefeller and Senator Lautenberg, thank you. Thank you for holding these hearings.

And I'm delighted to be here today to introduce Marietta Robinson, who's an old friend of mine and the family. She's been nominated by the President to the Consumer Product Safety Commission.

She's here today with her son, and I'm going to let her introduce her son and the rest of her family, if that's all right.

The CHAIRMAN. Of course.

Senator LEVIN. Because she would take special pleasure in introducing her family to this committee. But I think we all know how

important family is to those who seek to be in public service, and that's surely true with Marietta or Marti Robinson.

As this committee knows, the important work of the Consumer Product Safety Commission requires people who are not only dedicated and knowledgeable, but they need to be fair minded.

And Marietta Robinson is extraordinarily well-qualified to serve on the Commission for a lot of reasons, including character, which is very well known to all of us who know her which is a large number of people in Michigan who will attest to the wonderful character of Marti or Marietta Robinson.

I won't go through her history in terms of her degrees. This committee can take a look at those, and I'm sure will. But what I want to just focus on for a minute is the fact that her experience as a litigator is on both sides of the cases.

She's been a plaintiff's lawyer. She is a plaintiff's lawyer. She's a defendant's lawyer. She has sued companies on consumer product cases. She has defended companies on consumer product cases.

And I think that's particularly important in this Commission is that you have people who are fair minded, and through their experience, if possible, have proven that they have the type of experience that makes them open minded, that makes them understand the arguments that can be made for or against the complaints and the claims of consumers.

She is also, in addition to having that experience in litigation on both sides, she is a faculty member, an adjunct faculty member at the University of Detroit Mercy, Wayne State University Law Schools.

She teaches trial practice. She's lectured extensively before professional audiences on complex litigation issues.

She's also been, for 8 years, she's served as one of the federally appointed trustees overseeing the fund which compensated victims of the very tragic and complex Dalkon Shield litigation.

She has a distinguished career serving her community. She's worked with women's leadership foundations. She's worked with organizations that help handicapped children.

So I want to give her, and I know Senator Stabenow's strong recommendation to this committee. We are very grateful to the President for this nomination, and we're grateful to this committee and its members for holding this hearing today.

And if it was okay with the Committee, I would ask that I be excused at this time, unless there are questions, in which case I will wait for Senator Mikulski so she can answer the questions.

[Laughter.]

The CHAIRMAN. You have the right to leave as quickly as possible.

[Laughter.]

Senator LEVIN. That sounded like an invitation. Thank you very much, as always, to my colleagues.

The CHAIRMAN. I'm very thankful to you, Senator Levin. Once again, I do apologize, as I do to Senator Mikulski as I do to Kay Bailey Hutchison, as I do to the nominees, genuinely.

**STATEMENT OF HON. BARBARA MIKULSKI,
U.S. SENATOR FROM MARYLAND**

Senator MIKULSKI. Good morning, Chairman Rockefeller and Senator Hutchison.

I come here today on behalf of Mr. Richard Lidinsky, who is before the Committee for his renomination as a Chair to the Federal Maritime Commission.

He has a proven track record. He has served on the Commission, and has been its chair for 2 years now. And during this time, he has received accolades from both business and labor, those in the American maritime community who depend upon this Commission to be the United States of America in representation.

During his tenure, Mr. Lidinsky has supported our Nation's economic recovery, has worked hands on with the private sector to create jobs, and simultaneously, to look out for the consumer.

Colleagues, I have known Mr. Lidinsky for more than 40 years. If you were with my hometown of Baltimore, and you heard the name Lidinsky, it would bring an immediate smile because the family is beloved.

His father, I worked with his father as Deputy Controller of the City of Baltimore. His father had a reputation for absolute integrity, skilled management, and an eye on the bottom line.

Rick brings the same kind of commitment to public service that his father did. Public service is in his DNA, along with considerable management skill and that sense of the bottom line.

I first met Rick when he was working at the Maryland Port Authority, and I was a brand new Member of Congress, a member of the Merchant Marine Committee. Remember when we had those? They were before your time, but not our time.

And Senator Lautenberg, of course, was very active here. And have observed Rick's career where he's worked both in the public sector, for the maritime industry, Maryland Port Authority, and others.

Then he went to the private sector in America's shipping community where he knew hands on how the business actually works, and what the business needed to be able to, maritime, to be competitive in the new world order.

From 1995 to 2005, his CEO allowed Rick to work on a special committee with NATO. NATO had been enlarged. We were going to be shipping to countries like Poland and into the Baltic, and Rick helped lead how America would participate in that.

And then, also, America's role as we went into 911, as we went into serving with our Merchant Marine to support our troops in Iraq and Afghanistan. So while he was on duty in the private sector, he was serving the Nation and representing the private sector in important NATO work.

At that time, then, Rick returned to the private practice of law, and then, President Obama tapped him to come to the Commission.

During that time, he's worked with importers, exporters to have reliable service. He's led the Commission in cutting out-of-date rules and regulations. He will tell you about that.

We have a tariff system that had to be tediously recorded by hand. Well, it was so out of date in a digital world, and Rick has transformed that. He actually led the fight within, well, within his

own bureaucracy, to both deregulate and modernize through a digital economy.

When Rick worked near the Federal Maritime Commission in the 1960s, there were over 300 employees. They're now 120. Rick has focused like a laser on American exports, and has worked his way to help exporters to have access to ships and to containers they need.

He's promoted export growth, particularly in the agricultural area, and he's also protected first time movers as they've moved their household goods and cars overseas.

He has paid particular attention to our military families as they've had to move around the world in order to support our war fighters.

He's reinvigorated, reformed and modernized the Commission. I really hope the Committee moves his renomination in an affirmative way and expeditiously.

Also, Mr. Chairman, you'll hear from Mr. Doyle today, a nominee before the Commission. He's a native of Pennsylvania. His business causes him to rent in Maryland, so, ordinarily, I would have brought him to your attention, but I am here today.

This is a man who comes from our workers organizations, the MEBA organization, that represents the officer corps of our Merchant Marine.

Remember who MEBA is. They're our guys that run those ships. They're the ones that were on the ship when the pirates attacked, and they're the ones that fought back. They're the ones that make sure their captain wasn't captured and held, kidnapped.

MEBA brings a great deal of know-how, and it represents America's Merchant Marines who Roosevelt called our heroes in dungarees. He's here in a suit today. He wants to be on the Commission, and I hope you confirm him too.

The CHAIRMAN. Senator Mikulski, we not only thank you for your introductions of people from a variety of states, but also the way that you did it. It was so heartfelt. You didn't look at a single piece of paper. You were just speaking out of knowledge and memory and your intuition, which is what you always do, which is why you're always so effective.

Senator HUTCHISON. Ditto.

The CHAIRMAN. Thank you very, very much.

Senator MIKULSKI. Thank you very much, Mr. Chairman.

The CHAIRMAN. OK. In the interests of trying to get myself back into a reasonable position where anybody on the Committee, or any nominee will speak to me now or in the future, I'm going to put my opening statement in the record.

[The prepared statement of Senator Rockefeller follows:]

PREPARED STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA

Our first nominee is Dr. Patricia Falcone. She has been nominated to be one of the President's key advisers on science and technology issues. As Associate Director for National Security and International Affairs at the Office of Science and Technology Policy (OSTP), she will coordinate science and technology research within the national security arena, including cybersecurity. Dr. Falcone's career includes more than 30 years at Sandia National Laboratories, developing science-based technologies that support our national security.

I can't talk about Dr. Falcone without mentioning her deep family ties to my state of West Virginia. Dr. Falcone's father grew up in Swiss, West Virginia, in Nicholas County, which her family helped establish in the 1880s. Her mother is a Morgantown native and her father and uncles worked in the coal mines.

Next, is Ms. Marietta Robinson who has been nominated to be a Commissioner at the Consumer Product Safety Commission (CPSC). Each year, consumer products cause 28,000 deaths and 33 million injuries. The CPSC is the front line of defense protecting American consumers from dangerous products. The Consumer Product Safety Improvement Act of 2008 provided the CPSC with more resources and authority to protect the public. As we are going to hear from Senator Levin in a few minutes, Ms. Robinson has more than 30 years experience as a lawyer and consumer advocate. I look forward to hearing her testimony.

Finally, we have two nominations for commissioners to the Federal Maritime Commission (FMC). One of the nominees before us is the current Chairman of the FMC, Richard Lidinsky. Mr. Lidinsky has served admirably as Chairman for the past 3 years and has worked well with this Committee. Here's what *Lloyd's List* (the leading maritime newspaper) had to say recently about his tenure:

Richard Lidinsky has transformed the Federal Maritime Commission since he took over as chairman in 2009, re-establishing the Washington agency's position in the shipping world after several rudderless years.

That's high praise. Chairman Lidinsky, I look forward to hearing today what you plan to do with another term at the helm of the FMC.

The other FMC nominee is Bill Doyle, who served as Chief of Staff for the Marine Engineers' Beneficial Association for the past 4 years. He is a well-qualified nominee with a deep background in maritime issues. Congratulations on your nomination, Mr. Doyle. I look forward to hearing from you about how we can strengthen our maritime commercial system.

Because some of it was covered by Senator Levin and Senator Mikulski. A lot of it was covered by them, and I will be bringing the witnesses forward and questioning them. So I would call upon the Ranking Member, Senator Kay Bailey Hutchison.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. I will abbreviate mine, but there were a couple of points that I wanted to make.

First of all, I am very pleased to hear from all of the witnesses. I certainly think the ones from the Maritime Commission are very well qualified.

I'm very interested in hearing from Dr. Falcone because her job is going to be so important at the National Security and International Affairs Office of OSTP, and that has become a very important arena for certainly the area that I'm interested in.

And, I do want to just say this, and this is why it's a little different, that the Consumer Product Safety Commission has been a commission that has been very divided in the past.

But, I just want to point out that there has been a much more congenial atmosphere lately in the Consumer Product Safety Commission, and I think it is a real step in the right direction. We've had several unanimous votes. It just appears that they're listening to each other and coming to some very good results.

And I just want to say that I certainly want to hear from Ms. Robinson, but I hope that she agrees that this new atmosphere at the Commission is the kind that we should promote.

So, with that, I will put the rest of my statement in the record, and thank you, Mr. Chairman.

[The prepared statement of Senator Hutchison follows:]

PREPARED STATEMENT OF SEN. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Thank you, Mr. Chairman, for holding this morning's hearing.

I would like to compliment you for the success in getting our Committee's Federal Communication Commission members confirmed.

It is wonderful that we will be able to include new Commissioners Ajit Pai and Jessica Rosenworcel at next week's FCC hearing.

Today we have a number of individuals before us, and I look forward to hearing from them. I would first like to welcome Dr. Patricia Falcone who has been nominated to be Associate Director for National Security and International Affairs at the Office of Science and Technology Policy. More than ever, we must ensure that Federal investments in science and technology address today's global threats and strengthen U.S. economic competitiveness. Dr. Falcone has an impressive background and wealth of experience that is well suited to this position, and I look forward to hearing from her.

I would also like to welcome Ms. Marietta Robinson, who has been nominated to the Consumer Product Safety Commission. CPSC is a small agency with a daunting task, and it has faced a number of challenges in implementing its new responsibilities under the Consumer Product Safety Improvement Act. Some observers have noted, however, the recent spirit of cooperation among the Commission's Commissioners who unanimously agreed, for instance, to include in the agency's operating plan an examination of cost-cutting measures related to the third-party testing and certification of children's products. This spirit is also evident in the CPSC's recent unanimous decision to grant exemptions from onerous lead requirements where safety was not impacted. I applaud the current collegiality. Everyone can agree that we want to protect consumers, and especially children, from harmful products. But when the safety risks to consumers are negligible, I believe the Commission should continue to work together to address industry concerns, such as reducing the regulatory costs on businesses where possible.

It is my sincere hope that, if confirmed, Ms. Robinson would foster this spirit of collegiality and work to achieve common sense solutions to the challenges we face.

I will note that in addition to the vacant Democratic seat that Ms. Robinson has been nominated to fill, a Republican seat on the Commission has expired and Commissioner Anne Northup—who is doing an excellent job—is currently serving in her one-year grace period.

In addition, Mr. Richard Lidinsky and Mr. William Doyle, the nominees to be Commissioners at the Federal Maritime Commission, are before us today. Waterborne commerce is an important part of the American economy, encouraging American exports and spurring job creation. We have witnessed this firsthand in Texas, particularly at the Port of Houston, which is the fourth largest port in the United States. The Federal Maritime Commission ensures competitive and efficient ocean transportation, and contributes to the integrity and security of the U.S. supply chain. I look forward to discussing this mission with our two nominees.

Mr. Chairman, three of these four nominees have been tapped to serve on commissions with term appointments. Such term appointments can often outlast the term of the President who puts forth the nomination. Therefore, we have an extra duty for thorough review of the candidates.

I therefore expect that in addition to the questions asked here today, there will be other important questions submitted in writing to the nominees.

Thank you again, Mr. Chairman and I look forward to hearing from the nominees.

The CHAIRMAN. Thank you very much, Senator Hutchison.

And I believe that both Senator Lautenberg and Senator Udall, you being part of the home of Sandia, would like to make opening statements, briefly. We welcome your comments.

**STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. I appreciate the opportunity, Mr. Chairman. These are important positions. And while we have excellent candidates, I think it's fair to say, with all of those to be heard from today.

I congratulate all of the nominees and thank them for committing to serve the American people.

The Federal Maritime Commission makes sure that our Nation's ports remain competitive and can meet growing demands. This is vital in my state of New Jersey which is home to the largest port on the East Coast, supporting more than 270,000 jobs, and \$37 billion in business income.

The Port of New York and New Jersey is the life blood of not just our region's economy but also our national economy. It's essential that we make sure that our ports remain safe and secure, strong.

And Mr. Lidinsky and Mr. Doyle, I know you understand and appreciate this mission. Mr. Lidinsky, I look forward to hearing your views on FMC's accomplishments during your tenure as Chairman, and how you plan to further its mission in the future.

And you, Mr. Doyle, we had a chance to chat, and I so much respect that you took to sea in your life's experience as well as a well-educated lawyer. I look forward to hearing your views on how the United States can expand exports and increase our economic competitiveness.

And I'm also eager to hear from our other nominees, Marietta Robinson and Patricia Falcone.

The Consumer Product Safety Commission oversees 15,000 kinds of consumer products that cause approximately 36,000 deaths and \$38 million in injuries each year.

It's essential for the Commission to have the resources to protect our children and families and the leadership to get the job done.

And, Ms. Robinson, I look forward to hearing how you intend to help lead the Commission in its critically important mission.

And, additionally, the Office of Science and Technology Policy at the White House plays a critical role in coordinating our science and technology programs.

Dr. Falcone, I'm pleased to see a graduate of Princeton University. I understand you're the first to have taken a science and engineering degree, the first female at Princeton.

You're nominated to serve within OSTP, and I look forward to hearing how you're going to further the Office's national security agenda.

We need strong leadership at all these posts, and I look forward to hearing more from each nominee about your plans for meeting the critical challenges that we face.

The CHAIRMAN. Senator Udall.

**STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you, Chairman Rockefeller, and thank you for letting me just say a few words.

And I want to thank all of the nominees today before us. I want to thank each of you for your commitment to public service and your willingness to serve the Nation.

And I would like to particularly thank Dr. Patricia Falcone. She's a long-time public servant who has had a distinguished career at Sandia National Laboratory which is based in New Mexico, but also has a branch in California.

Her parents instilled in her the value of public service. It may actually be an inherited trait. Her father served in the Air Force.

Dr. Falcone is an engineer who describes engineering as a team sport. The goal is solving a problem together.

That is a good model for the collaborative nature of the policy role that OSTP serves. This committee, the Science Committee, can be assured that President Obama has nominated a well-qualified person to be Associate Director for National Security and International Affairs.

In fact, Dr. Falcone already has extensive experience working in this division at OSTP while on loan from Sandia. Dr. Falcone notes in her testimony that she has a long-standing commitment to inspiring students, and especially girls, to pursue STEM fields and science, technology, engineering and math.

This committee knows how important greater public participation in STEM fields is for our Nation's long-term competitiveness. I again want to thank Dr. Falcone for her willingness to serve.

And, in conclusion, I urge my colleagues to support her nomination and I hope that the Senate will confirm her as soon as possible.

And I would also just say a brief word to our nominee for the Consumer Product Safety Commission.

I know, in the past, it has been announced you're looking at product safety issues with regard to football helmets. You know there's a growing awareness in terms of concussions and the damage they can do to our young people, and also to many of our professional athletes.

And I hope that we do everything we can to apply the very best science there, and I'll be submitting questions to the record for that nominee.

So with that, Senator Rockefeller, thank you very much. Appreciate it. And thank you, Senator Hutchison.

The CHAIRMAN. Thank you, Senator Udall, and thank you, as always, for a good statement and for being here.

Senator Maria Cantwell would also like to make a few remarks.

**STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman. I'll make a quick statement.

I want to thank you, obviously, for holding this hearing, and I want to congratulate everyone for being nominated and, in the case of Mr. Lidinsky, renomination. And I know we all appreciate everyone's commitment to public service.

Mr. Lidinsky, I want to thank you for agreeing with Senator Murray and myself's request, and several of our House colleagues, for the Federal Maritime Commission to study factors which may cause and contribute a shift of containerized cargo destined for U.S. and inland ports from U.S. to Canada.

Obviously, with the Port of Seattle and Vancouver being so close together, and yet, very competitive, these are very important issues. So I think this is a long-standing concern that we think needs to be examined, and we're very interested in these findings in the coming months.

So I'd like to just again thank all the nominees for attending. And, Dr. Falcone, I understand, you have a Udub Huskie soon com-

ing with a computer science degree. We have a big shortage in the United States for computer science degrees. So thank you very much for that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cantwell, very, very much.

I would like to call the witnesses forward now, and that would be Dr. Patricia Falcone, who Senator Udall inadvertently forgot to mention has deep roots in West Virginia. Deep, deep roots.

Senator UDALL. I did neglect that.

The CHAIRMAN. You did neglect that. And she is up for Associate Director of National Security and International Affairs, Designate, Office of Science and Technology Policy, which is increasingly a powerful office in the White House.

Ms. Mariette Robinson, Commissioner Designate, Consumer Product Safety Commission; Mr. Richard A. Lidinsky, Jr., Chairman Designate, Federal Maritime Commission; Mr. William Doyle, Commissioner Designate, Federal Maritime Commission.

I have in my opening statement comments about all of you, but I submitted that for the record. So we would start, Dr. Falcone, with you. But first, you have to confess your deep roots.

**STATEMENT OF PATRICIA K. FALCONE, NOMINEE FOR
ASSOCIATE DIRECTOR, NATIONAL SECURITY AND
INTERNATIONAL AFFAIRS, OFFICE OF SCIENCE AND
TECHNOLOGY, EXECUTIVE OFFICE OF THE PRESIDENT**

Dr. FALCONE. Absolutely, true. Both my parents are from West Virginia, and grew up there.

The CHAIRMAN. County in Morgantown.

Dr. FALCONE. Yes, and then Nicholas County, my dad's from Nicholas County.

The CHAIRMAN. Oh, you can forgive Senator Udall for his failing to bring that up.

Dr. FALCONE. I worked for Sandia for 30 years.

Chairman Rockefeller, Ranking Member Hutchison, members of the Committee, I welcome this opportunity to meet with you today.

First, I'd like to introduce my family right here. My husband of 35 years, Roger Falcone is here. He is a Professor of Physics at the University of California at Berkeley. We met in an engineering class our sophomore year in college at Princeton.

Our daughter Elizabeth is also here. She has the privilege of working in the U.S. Senate as a Legislative Assistant for a member of this committee, Senator Warner.

Our son Michael is unable to join us today. He is a senior at the University of Washington at Seattle where he is going to graduate next month with a degree in computer science, and he will be staying in Seattle working at a technology start-up firm.

He has really loved his time at UW and has a girlfriend who grew up in Seattle. So maybe a longer-term commitment.

With those important people introduced, I would like to turn to the business at hand. I am very honored to be here as the President's nominee for Associate Director for National Security and International Affairs in the Office of Science and Technology Policy.

My professional experience is as an engineer at the Sandia National Laboratories where I have come to appreciate the very close

relationship between national security and excellence in science and innovation.

I became an engineer based on the accurate but imprecise guidance that engineering was for folks who liked math and science but wanted to do something with them.

Also, I was told that I would have a better opportunity getting scholarships to support my college education were I to study engineering. And all of that came true.

I received financial support for my undergraduate training in aerospace and mechanical engineering at Princeton University, in the very early days of co-education. And I was the first woman to complete the full engineering curriculum there, to start as an engineer, to finish as an engineer. And then I was honored to be able to complete my graduate work at Stanford University.

My father was in the Air Force. He and my mother instilled the values of education and national service in my siblings and me. And like my dad, I've had the great satisfaction and pleasure to contribute to important national challenges, but in my case by working in a research laboratory, by serving as a technical manager and leader. I have worked in my career on the processes of pollutant formation, the development of solar thermal power plants, as well as on a range of national security topics, including technologies such as bio detectors for Homeland Security and assessments of our Nation's nuclear posture.

Engineering is a team sport, and I have particularly enjoyed the process of developing frameworks for challenging problems, defining requirements for new technologies, understanding operational context for these technologies, and outlining recommendations for decisionmakers.

For the past 3 years, I have had the great pleasure of working on loan from Sandia to OSTP under Dr. John Holdren on a range of topics, but particularly on the technical dimensions of the President's nuclear security agenda.

My experience at OSTP has both deepened and broadened my understanding of the linkage between national security and excellence in science and innovation and engineering. And that excellence must combine a deep understanding of the specific policy or military challenge with the very best technical insights.

I come before this committee offering what I believe to be is a balanced synthesis of both of these capabilities. If confirmed, I will work to ensure that policy development always benefits from the Nation's technical excellence and that we work to build policies and institutions that will continue to provide that excellence into the future.

And, if confirmed, I also would value the opportunity to continue a long standing interest in and commitment to inspiring students, and, in particular, girls and minorities to pursue coursework and careers in engineering and other STEM related fields.

Now, more than ever, our national security depends upon a solid grounding in science and technology. Thank you. And I would be pleased to answer any questions the Committee may have.

[The prepared statement and biographical information of Dr. Falcone follow:]

PREPARED STATEMENT OF PATRICIA K. FALCONE, NOMINEE FOR ASSOCIATE DIRECTOR, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS, OFFICE OF SCIENCE AND TECHNOLOGY, EXECUTIVE OFFICE OF THE PRESIDENT

Chairman Rockefeller, Ranking Member Hutchison, members of the Committee, I welcome this opportunity to meet with you today.

First, I would like to introduce my family. My husband of 35 years is here, Roger Falcone; he is a Professor of Physics at the University of California at Berkeley. We met in an engineering class during our sophomore year in college. Our daughter Elizabeth is also here. She has the privilege of working in the U.S. Senate as a legislative assistant for a member of this Committee, Senator Warner. Our son Michael is unable to join us today. He is a senior at the University of Washington in Seattle, where he will graduate next month with a bachelor's degree in computer science and soon thereafter begin work at a technology startup.

With those important people introduced, I would like to turn to the business at hand. I am very honored to be here as the President's nominee for Associate Director for National Security and International Affairs in the Office of Science and Technology Policy (OSTP). My professional experience is as an engineer working at the Sandia National Laboratories where I have come to appreciate the close relationship between national security and excellence in science and innovation. I became an engineer based on the accurate but imprecise guidance that engineering was for folks who liked math and science and wanted to do something with them. Also, I was told that I would have a better opportunity getting scholarships to support my college education were I to study engineering. All of that came true—I received financial support for my undergraduate training in aerospace and mechanical engineering carried out in the early days of coeducation at Princeton University, where I was the first woman to complete the full engineering curriculum. I completed my graduate work in mechanical engineering at Stanford University.

My father was in the Air Force; he and my mother instilled the values of education and national service in my siblings and me. Like my dad, I have had the great satisfaction and pleasure to contribute to important national challenges, in my case, by working in a research laboratory, working on mathematical models and computer simulations, and serving as a technical manager and leader. I have worked on the processes of pollutant formation, on the development of solar thermal power plants, as well as on a range of national security topics including studies and analyses related to new technologies such as biodetectors for homeland security, spectroscopy of high altitude rocket plumes, and assessments of our Nation's nuclear posture. Engineering is a team sport, and I have particularly enjoyed the process of developing frameworks for challenging problems, defining requirements for new technologies, understanding operational contexts, and outlining action recommendations for decisionmakers.

For the past 3 years, I have had the pleasure of working on loan from Sandia at OSTP under Dr. John Holdren, on a range of topics especially the technical dimensions of the President's nuclear security agenda. My experience at OSTP has both deepened and broadened my understanding of the linkage between national security and excellence in science and innovation. That excellence must combine a deep understanding of the specific policy or military challenge with the very best technical insights. I come before this committee offering what I believe to be is a balanced synthesis of both of these capabilities. If confirmed, I will seek to ensure that policy development always benefits from the Nation's technical excellence, and that we work to build policies and institutions that will continue to provide that excellence into the future. If confirmed, I also would value the opportunity to continue a longstanding interest in and commitment to inspiring students and, in particular, girls and minorities, to pursue coursework and careers in engineering, and other STEM-(Science, Technology, Engineering and Mathematics) related fields. Now more than ever, our national security depends on a solid grounding in science and technology. Thank you, and I would be pleased to answer any questions the Committee may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

Patricia Kuntz Falcone (maiden name (1952–1977) Patricia Ann Kuntz).

2. Position to which nominated: Associate Director, National Security and International Affairs, Office of Science and Technology Policy, Executive Office of the President.

3. Date of Nomination: March 29, 2012.

4. Address (List current place of residence and office addresses):

Residence: information not released to the public.

Office: Sandia National Laboratories, 7011 East Avenue, Livermore, CA 94550.

DC Office: Office of Science and Technology Policy, Executive Office of the President, Eisenhower Executive Office Building, 1650 Pennsylvania Avenue, NW, Washington, DC 20504.

5. Date and Place of Birth: December 28, 1952; Mobile, Alabama.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: Roger W. Falcone, Professor of Physics, University of California, Berkeley; Division Director, Lawrence Berkeley National Laboratory, Berkeley, California. Children: Elizabeth F. Falcone, age 28; Michael E. Falcone, age 22.

7. List all college and graduate degrees. Provide year and school attended.

B.S.E. Aerospace and Mechanical Sciences (1974).

Princeton University; Princeton, New Jersey.

M.S. Mechanical Engineering (1975) Ph.D.

Mechanical Engineering (1981).

Stanford University; Stanford, California.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Sandia National Laboratories (laboratory location in Livermore, CA).

Member of the Technical Staff* (1981–1989).

Distinguished Member of the Technical Staff* (1989–1993).

Technical Manager* (1993–2003).

Senior Manager (Technical)* (2003 to present).

Sandia IPA at the Office of Science and Technology Policy, Executive Office of the President.

Senior Policy Analyst* (2009–2011)

Assistant Director, National Security* (2011 to present).

**Jobs related to the position for which I have been nominated.*

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: Member, Nuclear Deterrent Transformation Panel of the Department of Defense Threat Reduction Advisory Committee (2003–2009).

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Member, Board on Army Science and Technology of the National Research Council (2007–2009).

Member, Advisory Committee, Department of Mechanical and Aerospace Engineering, Princeton University (2006 to present).

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Member, American Society of Mechanical Engineers (1981 to present).

Member, Commonwealth Club, San Francisco, CA (2007 to present).

Sigma Xi (research honor society) (1981 to present).

None of these organizations, to my knowledge, restrict membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period: None.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Member, Sigma Xi (research honor society).

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Publications

P.K. Falcone, ed. *Catastrophic Bioterrorism Scenarios: Response Architectures and Technology Implications*, prepared by Sandia National Laboratories, Lawrence Livermore National Laboratory, and the Washington Institute for the Department of Homeland Security, March 2006.

Defense of Cities against Biological Attack: Public Health Consequence Management Strategies and Urban Defense and Response Architectures, prepared by the Defense of Cities Study Team: The Washington Institute, Inc. and Sandia National Laboratories for the Department of Homeland Security, May 2003.

A.B. Baker, et al., *A Scalable Systems Approach for Critical Infrastructure Security*, Sandia National Laboratories Report SAND2002-087, April 2002.

S.P. Gordon, P.K. Falcone, eds., *The Emerging Roles of Energy Storage in a Competitive Power Market: Summary of a DOE Workshop*, Sandia National Laboratories Report SAND95-8247, June 1995.

W.L. Flower, D.A. Stephenson, P.K. Falcon; D.W. Sweeney, *Final Report on the SDI Codes Reliability and Input Sensitivity Characterization Study*, Sandia National Laboratories Report SAND93-8210, December 1992.

D.A. Stephenson and P.K. Falcon; *Final Report on the Assessment of Contractor Algorithms for the Space Based Interceptor*, Sandia National Laboratories Report SAND91-8226, July 1991.

W.L. Flower, D.A. Stephenson, P.K. Falcone, and D.W. Sweeney, "Feature Variability of Strategic Rocket Plume Signatures," in *Proceedings of the 19th JANNAF Exhaust Plume Technology Subcommittee Meeting*, Redstone Arsenal, Huntsville, AL, May 13-16, 1991.

P.K. Falcone, "Clouds and Obscurants Countermeasures," in *Proceedings of the Countermeasures Verification Program Review*, SandiaReport, December 1990.

P.K. Falcone, et al., "Sensitivity Analysis of High Altitude Rocket Plumes Computed Using CHARM 1.2," in *Proceedings of the 18th JANNAF Exhaust Plume Technology Subcommittee Meeting*, Naval Postgraduate School, Monterey, CA, November 14-16, 1989.

Patricia K. Falcone, "Sensitivity Analysis of Computed Rocket Plume Signatures," in *Sandia Technology*, pp. 2-9, August 1989.

P. K. Falcone, et al., *Effect of Uncertainties in Vibrational Excitation Rates on Plume Signatures*, AIAA Paper No. 89-1768, AIAA 24th Thermophysics Conference, Buffalo, NY, June 12-14, 1989.

P.K. Falcone, et al., "Effect of Uncertainties in Vibrational Excitation Rates on Plume Signatures Computed Using CHARM," in *Proceedings of the IRIS Specialty Group on Targets, Backgrounds, and Discrimination*, Naval Training Center, Orlando, FL, February 7-9, 1989.

P.K. Falcone, R.S. Powers, and D.W. Sweeney, "An Initial Sensitivity Analysis of Plume Signatures Computed Using CHARM," in *Proceedings of the 17th JANNAF Exhaust Plume Technology Subcommittee Meeting*, NASA Langley, VA, April 26-28, 1988.

P.K. Falcone, W.G. Houf, and D.W. Sweeney, "Sensitivity Analysis of Computed Rocket Plume Signatures," in *Proceedings of the IRIS Specialty Group on Targets, Backgrounds, and Discrimination*, Naval Postgraduate School, Monterey, CA, February 9-10, 1988.

- Patricia Kuntz Falcone, *A Handbook for Solar Central Receiver Design*, Sandia National Laboratories Report SAND86-8009, December 1986.
- P.K. Falcone, *et al.*, "An Assessment of Central Receiver Systems," in *Proceedings of the 21st Intersociety Energy Conversion Engineering Conference*, San Diego, CA, August 25-29, 1986.
- P.K. Falcone, J.E. Noring, and J.M. Hruby, *Assessment of a Solid Particle Receiver for a High Temperature Solar Central Receiver System*, Sandia National Laboratories Report SAND85-8208, February 1985.
- J.M. Hruby and P.K. Falcone, "Momentum and Energy Exchange in a Solid Particle Solar Central Receiver," in *Proceedings of the AIChE Symposium Series: Heat Transfer*, Denver 1985, Vol. 81, No. 245, pp 197-203, 1985.
- P.K. Falcone, *Technical Review of the Solid Particle Receiver Program*, Sandia National Laboratories Report. SAND84-8229, July 1984.
- Patricia K. Falcone, "Recent Work on a Solid Particle Receiver for High Temperature Central Receiver Applications," in *Proceedings of DFVLR Seminar on Solar Thermal Heat Production and Solar Fuels and Chemicals*, DFVLR Stuttgart, Germany, October 13-14, 1983.
- P.K. Falcone, R.K. Hanson, and C.H. Kruger, "Tunable Diode Laser Absorption Measurements of Nitric Oxide in Combustion Gases," *Combustion, Science and Technology*, Vol. 35, pp 81-99, 1983.
- P.K. Falcone, R.K. Hanson, and C.H. Kruger, "Tunable Diode Laser Measurements of the Band Strength and Collision Halfwidths of Nitric Oxide," *J. Quant. Spectrosc. Radiat. Transfer*, Vol. 29, No.3, pp 205-221, 1983.
- P.K. Falcone, J.E. Noring, and C.E. Hackett, "Evaluation and Application of Solid Thermal Energy Carriers in a High Temperature Solar Central Receiver System," *Proceedings of the 17th Intersociety Energy Conversion Engineering Conference*, Los Angeles, CA, August 8-12, 1982.
- P.K. Falcone, *Convective Losses from Solar Central Receivers: Proceedings of a DOE/SERI/SNLL Workshop*, Sandia National Laboratories Report SAND81-8014, October 1981.
- Patricia Kuntz Falcone, *Absorption Spectroscopy of Combustion Gases using a Tunable Diode Laser*, HTGL Report No. 121, Stanford University, March 1981.
- P.K. Falcone, R.K. Hanson, and C.H. Kruger, "Measurement of Nitric Oxide in Combustion Gases using a Tunable Diode Laser," Paper 79-53, Western States Section/Combustion Institute, Autumn 1979.
- R.K. Hanson, S.M. Schoenung, P.L. Varghese, and P.K. Falcone, "Absorption Spectroscopy of Combustion Gases Using a Tunable Infrared Diode Laser," in *ACS Symposium Series Laser Probes in Combustion Chemistry*, 1978.
- S.M. Schoenung, R.K. Hanson, and P.K. Falcone, "CO Measurements in Combustion Gases by Laser Absorption Spectroscopy and Probe Sampling," Paper 78-46, Western States Section/Combustion Institute, Laguna Beach, CA, October 1978.
- Ronald K. Hanson and Patricia Kuntz Falcone, "Temperature Measurement Technique for High-Temperature Gases Using a Tunable Diode Laser," *Applied Optics*, Vol. 17, No. 16, pp. 2477-2480, August 15, 1978.
- R.K. Hanson, P.A. Kuntz, and C.H. Kruger, "High-resolution Spectroscopy of Combustion Gases Using a Tunable IR Diode Laser," *Applied Optics*, Vol. 16, No. 8, pp. 2045-2048, August 1977.
- R.K. Hanson, P.A. Kuntz, and C.H. Kruger, *Resonance Absorption Spectroscopy of Combustion Gases Using Tunable Infrared Diode Lasers*, Paper 76-6, Eastern States Section/Combustion Institute, Philadelphia, PA, November 1976.
- P.A. Kuntz, *et al.*, *Comprehensive Bibliography of Literature on Non-Cryogenic Storage and Recovery of Hydrogen*, Interim Report AFLRL, No. 30, Southwest Research Institute, San Antonio, Texas, September 1973.
- C.M. Hogan, P.A. Kuntz, *et al.*, *Environmental Impact of the Proposed Widening of Edgewood Road*, ET 41, ESL, Inc., Sunnyvale, CA. September 1972.
- P.A. Kuntz, *et al.*, *Air, Traffic, and Noise Environmental Impact Associated with the Replacement of the Dumbarton Bridge*, ET 39, ESL, Inc. Sunnyvale, CA. August 1972.

Relevant Public Speeches

In my career at Sandia National Laboratories from 1981 through 2009, my speeches and presentations were at technical conferences, program and project

meetings, laboratory colloquia, and, occasionally, in university settings. They were not really in the public domain or, at least, not of significant public interest; further, I do not have a record of them. I have made the following remarks since being at OSTP:

Remarks at *Women: Innovation: NASA* Event on March 8, 2012 at the George Washington University.

Science for Our Nation's Policies and Policies for Our Nation's Science to the 2012 Northwest Conference for Undergraduate Women in Physics held at the University of Washington on January 14, 2012.

Remarks to women science and engineering faculty members at the University of Washington as a part of the University's NSF ADVANCE Center for institutional Change on January 13, 2012.

Shaping Science and Technology Policy: The Role of the White House in Science/Technology Policy to undergraduate women students participating in the Public Leadership Education Network in Washington, D.C. on January 4, 2012.

Remarks to the Principal Investigators of the National Science Foundation's ADVANCE Program that works to increase the numbers of women faculty in science and engineering in Alexandria, VA on November 14, 2011.

Tying the Ribbon: Science, Technology, Engineering, Mathematics (STEM) and the Future of the Defense Industrial Base at the Women in Defense National Annual Fall Conference in Washington, D.C. on October 19, 2011.

Remarks to Chattanooga, TN STEM Workforce Roundtable via SKYPE on July 20, 2011.

Panelist on *Case Studies in Science Policy: A Panel Discussion for the 2011 National Youth Science Camp*, an AAAS event on July 19, 2011.

Panel Chair for *High Performance Computing for Decision-making: Utility, Credibility, Cost Effectiveness* at the workshop on *High Performance Computing for Policy Formulation—The Benefits and Risks* in Washington, D.C. on June 1, 2011.

Remarks to the Knoxville, TN STEM Workforce Roundtable via SKYPE on April 21, 2011.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

The mission of the National Security and International Affairs division within the Office of Science and Technology Policy is to provide the Director of the Office of Science and Technology Policy, and others, with the best technical advice related to national security and international affairs policies and programs. This requires an awareness of ongoing research and development activities in science and technology, an understanding of the processes by which science, technology, and innovation are integrated into national security mission operations for maximum effect, and knowledge of programs and cultures in various government and private sector entities. I believe that my training and experience is well-matched to this mission.

I have worked in increasingly responsible positions at one of our Nation's national security science and technology laboratories (the Sandia National Laboratories at its laboratory location in Livermore, California) since I completed my doctoral degree in mechanical engineering at Stanford University in 1981. With training focused on combustion and propulsion, I worked initially on programs related to advanced energy technologies including solar thermal electric power plants, advanced energy storage, and the application of aeroderivative gas turbines for distributed energy generation. Later, I have worked on spectroscopic signatures of high altitude rocket plumes and advanced detection technologies. More recently, I have been engaged in systems perspectives of new technologies both executing and leading programs aimed at defining technology requirements, technology forecasts, and operational concepts related to nuclear deterrence, homeland security, and other national security missions.

As a result, I have had much experience in a diverse set of technical programs and have continued to develop a deep commitment to science and technology research and development carried out in support of national security missions. If confirmed, I would be honored to serve as the Associate Director for National Security

and International Affairs in the Office of Science and Technology Policy. In the past two and a half years that I have worked at OSTP on loan from Sandia under the authority of the Intergovernmental Personnel Act (IPA), I have learned about working effectively within the OSTP context and would welcome the opportunity to step up to greater responsibilities.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

My responsibilities, if confirmed to serve as the Associate Director for National Security and International Affairs at the Office of Science and Technology Policy, will be to serve as a part of the management team at the Office of Science and Technology Policy in support of the President's Science Advisor and the President. OSTP responsibilities are often denoted as providing "science and technology for policy, and policy for science and technology." OSTP has modest resources and does not execute programs on its own; rather, it works with departments and agencies to successfully accomplish national objectives in science and technology. Prior to coming to OSTP as an IPA, as a Senior Manager at Sandia I managed an organization several times larger than the National Security and International Affairs Division at OSTP. I served as the Senior Manager at Sandia for Systems Analysis and Engineering and managed an organization with a budget of tens of millions of dollars and had oversight of four technical groups with close to fifty technical staff.

20. What do you believe to be the top three challenges facing the department/agency, and why?

I believe that as an overarching matter, the most critical issue facing OSTP is assuring a high quality science and technology capability that is well-matched with the Nation's resources, integrated with the global community, and operated in a manner that ensures effective support of national security priorities and precludes technological surprise.

The top three specific challenges facing the National Security and International Affairs Division of the Office of Science and Technology Policy are:

- Understanding the critical science and technology dimensions of national security threats and effective defenses in domains such as cybersecurity, biosecurity and biodefense, nuclear security, nuclear deterrence, and explosives, via work with agency partners and Administration and Congressional leaders, as well as via purposeful international engagements.
- Addressing the health of the U.S. national security science and technology research enterprise by focusing on the work carried out by the national security agencies (including the Departments of Defense, Energy, and Homeland Security, as well as portions of the intelligence community) on cross-agency topics such as personnel hiring and retention practices, the quality of scientific and test infrastructure, enhanced and effective approaches for government, private sector, and global engagement, and the governance of research institutions.
- Ensuring effective engagement of national security programs, agencies, and private sector partners with broad national priorities and initiatives including science, technology, engineering, and mathematics (STEM) education, international scientific collaboration, advanced manufacturing, the health of the defense industrial base, and energy efficiency.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I have been employed by Sandia National Laboratories (a Department of Energy national security laboratory and a federally Funded Research and Development Center) since December 1980; my employment benefits include pension benefit accrual and an employer-matched 401K account. If confirmed by the Senate for this position, I plan to retire from Sandia and will receive a defined-benefit pension. Upon retirement, there will be no further contributions to the Sandia 401K.

My husband and I, together, own stock (0.8 percent) in SRS, Inc., a maker of scientific and electronic instruments organized as an S-Corporation and located in Sunnyvale, CA, from which we receive a portion of the profits each year.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Science and Technology Policy's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with OSTP's designated agency ethics official.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Science and Technology Policy's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with OSTP's designated agency ethics official.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy: None.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Science and Technology Policy's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with OSTP's designated agency ethics official.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: No additional information.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

RESUME OF PATRICIA K. FALCONE

Professional Experience

Sandia National Laboratories, Livermore, CA, 1981-present

Assistant Director, National Security and Senior Policy Analyst, Office of Science and Technology Policy, Executive Office of the President

On loan from Sandia to OSTP via the Intergovernmental Personnel Act (IPA), 2009–present

Responsibilities include science and technology issues associated with nuclear security, nuclear weapons, monitoring and arms control, and the health and sufficiency of national security science and technology capabilities in federal and national laboratories, universities, and industry

Senior Manager

Systems Analysis and Engineering, 2003–2009

Leadership and group management of systems analysis, enterprise modeling, exploratory engineering, and technology strategy development in support of the Department of Homeland Security, the Department of Energy I National Nuclear Security Administration, and the Department of Defense

- Nuclear Deterrent Transformation Panel of the DOD Threat Reduction Advisory Committee (2003–2009)
- Advisory Committee, Mechanical and Aerospace Engineering Department, Princeton University (2006–present)
- Board on Army Science and Technology of the National Academies (2007–2009)

Manager

Systems Studies Department, 1995–2003

Staff and program management of national security studies

- Nuclear Weapons Leadership Development Program (2002); National Security Leadership Program (2001–2002); Fellow, MIT Seminar XXI (1997–1998)

Program Development Office, 1995

Co-lead of laboratory initiative in advanced detection technologies

Energy Systems Program Office, 1994

Technical management of the DOE Integrated Energy Storage Program

Government Relations Office, 1993

Distinguished Member of the Technical Staff, 1989–1993

Member of the Technical Staff, 1981–1989

Energy Program Initiatives: loaned to Pacific Gas and Electric R&D; worked with California utilities and others on distributed power generation initiatives especially use of aeroderivative gas turbines

High Altitude Rocket Plumes: spectroscopic signatures of plumes, their uncertainties, targeting algorithms
Solar Energy: authored A Handbook for Solar Central Receiver Design (1986)
High Temperature Reacting Flows: experimental and analytical studies

Education

Ph.D., Mechanical Engineering, Stanford University (1981)

Absorption Spectroscopy of Combustion Gases using a Tunable Diode Laser

M.S., Mechanical Engineering, Stanford University (1975)

B.S.E., Aerospace and Mechanical Sciences, Princeton University (1974)

The CHAIRMAN. Thank you very much, Dr. Falcone. It's actually inspiring to hear about, you know, not only the way you came up and did so well and you were a first, but that everybody in your family is brilliant.

[Laughter.]

The CHAIRMAN. Maybe we should be looking for other jobs in the Federal Government for them. Quite remarkable.

Dr. FALCONE. I've sent one.

The CHAIRMAN. Ms. Robinson, please.

STATEMENT OF MARIETTA S. ROBINSON, NOMINEE TO BE A MEMBER, U.S. CONSUMER PRODUCT SAFETY COMMISSION

Ms. ROBINSON. Chairman Rockefeller, not to be completely outdone by Dr. Falcone, let me say that I have some roots in West Virginia myself.

My grandmother. My father grew up there. My grandmother lived there in Morgantown for years. My uncle owned a music store there for many years.

It's a pleasure to be here today. Ranking Member Hutchison and distinguished members of the Committee, thank you for the opportunity to appear before you today as a nominee for Commissioner of the Consumer Product Safety Commission and I certainly would like to thank Senator Levin, in his absence, for his gracious remarks.

I'm extremely honored that President Obama has nominated me for this position. If confirmed, I look forward to working with Chairman Inez Tenenbaum and the other commissioners to continue the excellent bipartisan work that they have done to implement the Consumer Product Safety Improvement Act and keep consumers, particularly our children, safe.

Before I begin my testimony, I would also like to take a brief moment to introduce my family who is here. Seated a couple rows back is my son, Steven Robinson, who is Executive Dean of Mott Community College in Flint, Michigan; my daughter-in-law, Katherine; my two grandchildren, Owen and Julia; and my nephew, Kyle Clark.

My daughter Renee is a vice president of a Swedish software company and is unable to be here today. She lives in Stockholm with her Swedish husband, Viktor, and my other three grandchildren, Hugo, Vera and Erik.

While the Swedish part of my family and my father, Dr. Herbert Sebree, who lives in Seattle, are unable to attend today, I would just like to thank them and my family who is here for their wonderful support throughout this nomination process.

I'm very sad that my incredible late husband, James Robinson, is unable to be here today. Jim and I both grew up in Michigan and were married for 28 years before his death in August of 2010.

Jim was an inspiration to many and had a career that included many stints of public service, including AAG of the Criminal Division of the Justice Department. Jim was a tower of strength and support for me throughout my career, and he would have been so happy to be here today.

I approach this position with more than 30 years of legal experience. I received my undergraduate degree from the University of Michigan, Flint, and my law degree from UCLA Law School. I've been a litigator since 1978. Before starting my law firm in 1989, I was voted into the partnerships of two of Michigan's most highly respected firms, one that, in litigation, primarily represented defendants, large corporations and small businesses, and one that primarily represented plaintiffs.

During my career, I have represented corporations of every size, small businesses and injured individuals in just about every type of civil litigation. In addition to my law practice, as Senator Levin mentioned, I was a Dalkon Shield trustee from 1989 to 1997. Judge

Merhige of Virginia appointed me to this position and we were in charge of putting together a system for compensating victims of the defective intrauterine device, the Dalkon Shield.

With my fellow trustees, we were able to come up with a system for compensating over 300,000 victims in 120 countries with \$2.3 billion in the trust, and I'm very, very proud of having provided a leadership role in that very successful mass tort settlement facility.

In 2010, I became the first woman president of the International Society of Barristers, which is an invitation-only group of lawyers who pride themselves in trying jury cases, and it's pretty equally comprised of defense lawyers and plaintiffs' lawyers.

If I'm confirmed, I believe I'll be able to bring a very diverse professional experience to make a number of substantive contributions to the Consumer Product Safety Commission.

Specifically, I hope to focus on three areas. First, I look forward to working with Chairman Tenenbaum and the other commissioners to complete the final rules and requirements in Section 104 of the Consumer Product Safety Improvement Act.

In doing so, I want to assure this committee that I will approach this task with an open door and listen to every stakeholder fairly and equally.

If confirmed, I look forward to working with the Commission on rules that are both fair and highly protective of consumers of all ages.

Second, I believe that one of the most important things that the Commission can and must focus on is enforcing the existing product safety requirements and making sure that violative products never enter this country in the first place.

The Commission has recently enhanced its office of import surveillance, as I'm sure the members of this committee know, which puts CPSC boots on the ground in select U.S. ports of entry. This office also shares data with Customs and Border Protection to further target potentially dangerous products.

If confirmed, I look forward to working with my fellow commissioners and the professional staff at the Commission to further strengthen this critical program.

Third, I believe outreach and education are critical elements of the Commission's work. Rules and regulations are important, of course, but changing attitudes and behaviors is also a key element of preventing tragedies.

If confirmed, I look forward to leveraging the Commission's existing resources as well as its social media tools to get the word out that prevention is better than reaction.

And, finally, if confirmed, I very much look forward to working with the excellent professional staff at the Commission. They're a talented group of people and they are really the unsung heroes in the product safety world.

Thank you again for the opportunity to appear here today, and I look forward to your questions.

[The prepared statement and biographical information of Ms. Robinson follow.]

PREPARED STATEMENT OF MARIETTA S. ROBINSON, NOMINEE TO BE A MEMBER,
U.S. CONSUMER PRODUCT SAFETY COMMISSION

Good morning Chairman Rockefeller, Ranking Member Hutchison, and distinguished Members of the Committee.

Thank you for the opportunity to appear before you today as a nominee for Commissioner of the U.S. Consumer Product Safety Commission (CPSC). I am extremely honored that President Obama has nominated me for this position. If confirmed, I look forward to working with Chairman Inez Tenenbaum and Commissioners Nancy Nord, Robert Adler, and Ann Northup to continue the excellent bipartisan work they have carried out in the past few years to implement the Consumer Product Safety Improvement Act of 2008 (CPSIA) and keep consumers, and particularly children, safe from potentially hazardous consumer products.

Before I begin my testimony I would like to take a brief moment to introduce my family. Sitting behind me is my son, Steven Robinson, who is Executive Dean of Planning, Research, and Quality at Mott Community College in Flint, Michigan; my daughter-in-law, Katherine; my grandchildren, Owen and Julia; and my nephew, Kyle Clark. My daughter, Renee, is Vice President of Marketing for a Swedish software company and lives in Stockholm, Sweden with my Swedish son-in-law, Viktor, and my other three grandchildren, Hugo, Vera and Erik. While the Swedish part of my family and my father, Dr. Herbert Sebree, who lives in Seattle, are unable to attend today, I want to thank them and my family who is here for their wonderful support throughout the nomination process.

I am very sad that my incredible late husband, James K. Robinson, is not here with us today. Jim and I both grew up in Michigan and were married for 28 wonderful years until his death in August 2010. He was an inspiration to so many and had a career that included several stints of public service, including serving as Assistant Attorney General (AAG) of the Criminal Division of the Department of Justice in the Clinton Administration. Jim was a tower of strength and support for me throughout my career and would have been so proud to be here today.

I approach this position with more than 30 years of legal experience. I received my undergraduate degree with High Distinction from The University of Michigan-Flint, my law degree from University of California Los Angeles School of Law, and have been a litigator since 1978. Before starting my own firm in 1989, I was voted into the partnerships of two of Michigan's most highly respected law firms, one that, in litigation, primarily represents corporate defendants and one that primarily represents plaintiffs. During my career, I have represented businesses of every size and injured individuals in just about every type of civil litigation.

In addition to my law practice, from 1989 to 1997, I served as a federally appointed Trustee of the Dalkon Shield Trust, which provided compensation to consumers injured through the use of a defective intrauterine device (IUD). Working with my fellow Trustees, we devised a system that distributed \$2.3 billion in compensation to more than 300,000 claimants in more than 120 countries. These claimants had injuries ranging from simple use of the IUD to infertility, death, and brain-injured children. At the conclusion, we were able to give a ninety percent *pro rata* distribution to the claimants, in addition to the settlement amounts already paid due to the responsible way in which we ran the Trust. I am very proud to have played a leadership role in what is generally regarded as one of the most successful mass-tort claim facilities to date.

In 2010, I became the first woman President of the International Society of Barristers, an invitation-only group of approximately 650 plaintiffs and defense trial attorneys, who share that they try jury cases, do so with honesty and integrity, and have achieved a very high level of respect from fellow lawyers and judges.

If confirmed, I believe that I will be able to use my diverse professional experience to make a number of substantive contributions at the CPSC.

Specifically, I hope to focus on three main areas.

First, I look forward to working with Chairman Tenenbaum and my fellow Commissioners to complete the final rules and requirements of the CPSIA and a recently enacted package of amendments to that law, Public Law 112-28. In doing so, I want to assure the Committee that I will approach this task with an open door and listen carefully to all stakeholders. If confirmed, I look forward to working with the Commission on rules that are both fair and highly protective of consumers of all ages.

Second, I believe one of the most important things the Commission can and must focus on doing is enforcing existing product safety requirements and making sure that violative products never enter this country in the first place. The Commission has recently enhanced its Office of Import Surveillance, which puts CPSC "boots on the ground" in select U.S. ports of entry. This office also shares data with U.S. Customs and Border Protection in order to further target potentially dangerous prod-

ucts. If confirmed, I look forward to working with my fellow Commissioners to further strengthen this critical program.

Third, I believe outreach and education are critical elements of the Commission's work. Rules and regulations are important, but changing attitudes and behaviors are also key elements of preventing tragedies such as tip-over incidents, where a small child climbs on furniture and causes a television or other heavy object to fall off, often resulting in serious injury or death. If confirmed, I look forward to leveraging the Commission's existing resources, as well as its social media tools, to get the word out that prevention is better than reaction.

Finally, if confirmed, I look forward to working with CPSC's talented professional staff. For a small agency, CPSC is privileged to have some of the Nation's best scientific and technical staff. They are unsung heroes in the product safety world, and it would be an honor to work with them.

Thank you again for the opportunity to appear before you today. I look forward to answering any questions you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

Marietta Sebree Robinson
 Marti Robinson (nickname)
 Marietta Lunette Sebree (maiden name)
 Marietta Cooper (1971–1974)
 Marietta Jones (1977–1981)

2. Position to which nominated: Commissioner, U.S. Consumer Products Safety Commission.

3. Date of Nomination: January 24, 2012.

4. Address (List current place of residence and office addresses):

Residence: information not released to the public.
 Office: 436 S. Broadway, Suite C, Lake Orion, MI 48362.

5 Date and Place of Birth: December 26, 1951; Platteville, Wisconsin.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

My spouse, James K. Robinson, died on August 6, 2010, and, at the time of his death, was a partner at the law firm of Cadwalader, Wickersham and Taft.

I have no children. My stepson is Steven James Robinson, age 43. My stepdaughter is Renee Robinson Stromberg, age 41.

7. List all college and graduate degrees. Provide year and school attended.

Juris Doctorate, 1978, UCLA School of Law.
 B.A. with High Distinction, 1973, The University of Michigan—Flint.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Job Title(s)	Employer	Dates	Location
Owner	Law Offices of Marietta S. Robinson	1989–Present	Lake Orion, MI
Trustee	Dalkon Shield Claimants' Trust	1989–1997	Richmond, VA
Associate, then Partner	Sommers Schwartz	1985–1989	Southfield, MI
Associate, then elected Partner	Dickinson Wright PLLC	1979–1984	Detroit, MI
Adjunct Professor of Law, Trial Practice	Wayne State University Law School	1983–1984	Detroit, MI
Adjunct Professor of Law, Trial Practice	University of Detroit Mercy School of Law	1982–1983	Detroit, MI
In-house legal counsel	The Bank of Bermuda Limited	1978–1979	Hamilton, Bermuda
Research assistant to Michael Murphy, in-house counsel	AIG	Summer 1977	Hamilton, Bermuda
Law Clerk	Anderson, Patch Rosenfeld, Potter and Grover	Summer 1976	Jackson, MI
Part-time Waitress	Beachbum Bert's	1976–1978	Redondo Beach, CA
Data Processing Marketing Representative	IBM Corporation	1973–1975	Flint, MI; Glendale, CA

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Position/Affiliation	Organization/Company	Dates
Owner	Law Offices of Marietta S. Robinson	1989–Present
Board of Directors	Life Raft Group	2008–Present
Board of Directors	Michigan Women's Foundation	2003–2006

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Organization	Affiliation	Dates
International Society of Barristers	President First Vice President Second Vice President Secretary Treasurer Board of Governors Fellow	2010–2011 2009–2010 2008–2009 2007–2008 2001–Present 1994–Present
American Bar Foundation	Life Fellow Fellow	2008–Present 1999–Present
Michigan State Bar Foundation	Fellow	1993–Present
International Women's Forum	Member	2007–Present
California Bar Association	Member	1978–Present
Michigan Bar Association	Member	1979–Present
Utah Bar Association	Member	2010–Present
U.S. Court of Appeals, Sixth Circuit Judicial Conference	Life Member	1990–Present
U.S. District Court for the Eastern District of Michigan	Member	1979–Present
U.S. Supreme Court Historical Society	Member	2005–Present
Advisory Committee, appointed by Senators Carl Levin and Debbie Stabenow to assist in the selection of the U.S. Attorney, U.S. Marshal and two U.S. District Court judges for the Eastern District of Michigan	Member	2009
American Constitution Society	Member	Approx. 2003–Present
Life Raft Group	Member, Board of Directors	2007–Present
Michigan Women's Foundation	Member, Board of Directors	2003–2006

None of the above listed organizations discriminates based on sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

2002: I was a candidate for the Democratic nomination for Michigan Attorney General, but withdrew my name before the convention.

2000: Nominee of the Michigan Democratic Party for the Michigan Supreme Court to run against incumbent Chief Justice Clifford Taylor. I was unsuccessful.

1985–1989: Appointed by Governor James Blanchard to the State of Michigan Building Authority. This is a committee of five which issues bonds for funding of all building projects financed by the State of Michigan.

None of the above mentioned campaigns have any outstanding debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

To the best of my knowledge, the following are all of the political contributions I have made of \$500 or more in the past 10 years:

Political Candidate/Party/PAC	Contribution Amount	Date
Stabenow for Senate	\$2,400	2011
Obama Victory Fund —DNC —Obama for America	\$28,500 total —\$26,200 —\$2,300	2008
Friends of Senator Carl Levin	\$1,000	2007
Obama for America	\$2,300	2007
Marcinkowski for Congress	\$500	2006
John Kerry for President Inc	\$2,000	2004
Edwards for President	\$1,000	2004
Stabenow for Senate (General)	\$2,000	2003
Stabenow for Senate (Primary)	\$2,000	2003
Dean for America (Howard Dean)	\$500	2003
EMILY's List	\$2,000	2002
Kevin Kelly for Congress	\$500	2002
Friends of David Fink	\$500	2001
EMILY's List	\$1,000	2001
Michigan Democratic Central Committee	\$1,000	2001

In 2002, I was briefly a candidate for Michigan Attorney General and contributed to my own campaign, however, I do not have records that would allow me to reconstruct the amount.

In 2008, I was co-chair of Michigan Women for Obama, helped raise money for the Obama campaign, participated in both the Midwest and Mid-Atlantic campaign committees and I went to New Hampshire to knock on doors for the campaign before the primary.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Organization/Society	Affiliation	Dates
International Society of Barristers	President First Vice President Second Vice President Secretary Treasurer Board of Governors Fellow	2010–2011 2009–2010 2008–2009 2007–2008 2001–Present 1994–Present
American Bar Foundation	Life Fellow Fellow	2008–Present 1999–Present
Michigan State Bar Foundation	Fellow	1993–Present
International Women's Forum <i>Michigan Lawyer's Weekly</i>	Member Lawyer of The Year (One of Ten)	2007–Present 2000

Organization/Society	Affiliation	Dates
<i>Who's Who In The World</i>		2002–Present
<i>Who's Who In America</i>		2001–Present
<i>The Best Lawyers In America</i>		1999–Present
<i>Who's Who In American Law</i>		1993–Present
<i>Who's Who Of American Women</i>		1990–Present

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Publication	Title	Date
Wayne Law Review	Co-Author— <i>Evidence, 1984 Annual Survey of Michigan Law</i>	1985
	Contributing Author— <i>Evidence in America, The Federal Rules In The States</i>	1987
	Contributing Author— <i>Introducing Evidence, A Practical Guide For Michigan Lawyers</i>	1988
Michigan Institute of Continuing Education	Contributing Author— <i>Torts: Michigan Law and Practice: "Legal and Other Professional Malpractice."</i>	1992–1999
Holland Sentinel	Letter to the Editor	June 22, 2000
The Detroit News	Letter to the Editor	July 26, 2000
The Detroit News	Letter to the Editor	August 31, 2000
The Macomb Daily	Letter to the Editor	October 30, 2000

The letters to the editor mentioned above were written during my candidacy for the Michigan Supreme Court.

I do not believe that any of the speeches I have given have been on topics relevant to the position for which I have been nominated.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I would like to serve as a Commissioner because of my long-standing commitment to consumer protection and, specifically, my desire to ensure that all Americans—especially infants and children—are protected from dangerous consumer products.

For 33 years, I have practiced as a trial attorney. During this time, I have handled a wide variety of complex litigation, including product liability and medical malpractice cases, and have represented both plaintiffs and defendants. I strongly believe that this range of experience, working with stakeholders on both sides, will allow me to effectively work toward consensus-based policies to protect consumers.

I also believe my extensive managerial experience will be beneficial to the agency. From 1989 to 1997, I served as one of five federally appointed trustees of the Dalkon Shield Claimants' Trust. In that capacity, I worked with a large staff to fairly distribute over \$2.4 billion to more than 300,000 claimants in over 120 countries with injuries ranging from minimal damages to brain-injured babies.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

Under the Commission's organic statute, the Consumer Product Safety Act, the Chairman has the primary responsibility of managing the agency and ensuring proper management and accounting controls. If confirmed, I look forward to working with the Chairman on policies and management practices that ensure that agency funds are used prudently and that the Commission has strong and effective controls

to prevent waste, fraud and abuse. As noted above, I believe my tenure as trustee of the Dalkon Shield Claimants' Trust provides experience that will be very helpful in this area. The trustees of this Trust so effectively managed the finances that, at the conclusion of the Trust, there was a *pro rata* distribution to the claimants of an additional 90 percent of their original settlement.

20. What do you believe to be the top three challenges facing the department/agency, and why?

I believe the primary challenge facing the Commission is effectively monitoring the ever-increasing flow of consumer products entering the United States every year. The Commission now has jurisdiction over \$637 billion in consumer product imports. From 1999 to 2010, the value of all imports from China and Hong Kong alone quadrupled. There are 327 ports of entry into the United States and, with a small staff, the Commission must make critical decisions as to how to staff its import surveillance activities and manage the data flow from importers to target potentially dangerous shipments.

A second challenge is the gathering and dissemination of lifesaving data. Continuing to find new, innovative ways of gathering information from around the world about unsafe products is the first part of this challenge. The second part is expanding the dissemination of CPSC's critical information to all consumers, regardless of their circumstances. Recall and education efforts are only effective if they reach all consumers, who then take advantage of the free remedies offered by recalling companies or heed CPSC's advice on how to make safety upgrades in the home. In recent years, the Commission has made great strides in using the Internet and social media to push out safety messages to consumers who may not have known about the agency previously. I look forward, if confirmed, to leveraging new technologies and applications to solidify gains in this area, while also ensuring that underserved consumers continue to be well-served by CPSC safety messages.

Third, I believe emerging technologies in manufacturing present both challenges and opportunities for the Commission. Foreign manufacturers must demonstrate greater accountability for the chemicals and materials used in products intended for the U.S. marketplace. For example, nanomaterials are increasingly used in consumer products. The use of these nanomaterials has created an array of new and innovative consumer products. At the same time, however, I believe it is important for the Commission, in conjunction with other agencies and public health and industry stakeholders, to consider any areas of risk or impact resulting from these products.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

My late husband's law firm, Cadwalader, Wickersham and Taft, has a wealth-accumulation plan which pays an annuity to me until August 6, 2020 of \$8,144.75 monthly.

In addition, I referred a case to Robinson, Calagnie and Robinson in Newport Beach, California, in which I expect a referral fee.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Consumer Product Safety Commission's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Consumer Product Safety Commission's Designated Agency Ethics Official to identify potential conflicts of interest.

Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy: None.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Consumer Product Safety Commission's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain.

I have never been disciplined or cited for a breach of ethics.

In 2004, a Request for Investigation was filed with the Michigan Attorney Grievance Commission by opposing counsel in then-pending litigation concerning conduct in a deposition which she viewed as discourteous. After several depositions in which opposing counsel had engaged in what I considered inappropriate, obstructive behavior, I filed a motion with the trial court, which was ultimately granted, asking for an order that opposing counsel follow the court rules during depositions or risk sanctions.

One week after my motion was filed, opposing counsel filed a Request for Investigation based on events that she alleged had occurred in a deposition. After briefing by both sides, the Attorney Grievance commission closed the file without filing a complaint, although it issued a private admonishment for "failing to treat with courtesy and respect all persons involved in the legal process." Under Michigan's ethics rules, this is not considered discipline; nevertheless, I have included this admonishment in the interest of full disclosure.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

Yes, I have been a party in six lawsuits:

1. I was a Plaintiff in a no-fault divorce action in 1974 and a judgment of no-fault divorce was entered.

2. I was a Defendant in a no-fault divorce action in 1981 and a judgment of no-fault divorce was entered.

3. I was a Defendant in a fee dispute filed by an individual shareholder in Sommers Schwartz, after I left the firm. A Summary Judgment was entered in my favor in 1991.

4. I was a Defendant and Counter-Plaintiff in a fee dispute with Sommers Schwartz after my departure. A settlement was reached in approximately 1991

5. I was a Defendant several years ago in a case filed by a lawn service. I hired the lawn service to clean up trees on my property after a big storm. We agreed on a flat fee for the work, and I paid that fee at the time the job was completed. The lawn service then billed me for several thousand in addition to the flat fee based on what I believed to be fabricated hours worked. The case was filed in a small claims court and I removed it to a circuit court. After removal to circuit court, the plaintiffs dismissed the case.

6. I was a Defendant in a malpractice action filed by former clients. I had been the attorney for a minor plaintiff and his parent's family in a medical malpractice action and obtained a verdict in approximately 1988, which, with interest, was worth \$4.8 million. The case settled while on appeal for an amount that included the judgment plus interest. As part of the settlement, a portion

of the proceeds was used to purchase an annuity from New York Life to take care of minor child.

After the minor child died, the family discovered that the insurance agent who purchased the annuity that was part of the settlement had manufactured the receipt from New York Life and had grossly inflated the cost of the annuity. Following that discovery, his family sued me for malpractice in approximately 1989. I filed a third-party suit against the insurance agent for fraud and immediately volunteered to pay back to the family that portion of the fee which I had received on the higher amount.

Ultimately, a settlement was reached with insurance agent paying my former clients and me. Accordingly, my third-party suit against the insurance agent was dismissed with prejudice. All malpractice claims against me were also dismissed.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

RESUME OF MARIETTA SEBREE ROBINSON

Education

June, 1978	UCLA School of Law Juris Doctorate
June, 1973	The University of Michigan Bachelor of Arts, with High Distinction

Employment

April, 1989 to present	Owner Law Offices of Marietta S. Robinson Lake Orion, MI Trial attorney primarily involved in medical malpractice, products liability, and personal injury litigation.
January, 1985 to April, 1989	Partner, Associate Sommers, Schwartz, Silver & Schwartz, P.C. Southfield, MI Trial attorney primarily involved in medical malpractice, products liability, and personal injury litigation.
May, 1979 to December, 1984	Partner, Associate Dickinson, Wright, Moon, Van Dusen & Freeman, P.L.L.C. Detroit, MI Trial attorney primarily involved in general commercial and products liability litigation.
September, 1983 to June, 1984	Adjunct Professor Wayne State University Law School Detroit, MI Course: Trial Practice
January, 1982 to June, 1983	Adjunct Professor University of Detroit Mercy School of Law Detroit, MI Course: Trial Practice
August, 1978 to May, 1979	Attorney The Bank of Bermuda Legal Department Hamilton, Bermuda

In-house counsel primarily responsible for several multi-national litigation matters and responsible for advice concerning many trust and tax issues for international clients.

Summer, 1977 Research Assistant to Michael Murphy, In-house Counsel AIG
Hamilton, Bermuda

Summer, 1976 Law Clerk
Anderson, Patch, Rosenfeld, Potter and Grover
Jackson, MI

June, 1973 to September, 1975 Data Processing Marketing Representative
IBM Corporation
Flint, MI and Glendale, CA

Other Teaching Activities

January, 1982 to 1997 Faculty Member
Annual University of Virginia and University of Michigan Trial
Advocacy Institutes

1985 Chairman
Federal Bar Trial Advocacy Program for the U.S. District Court for the Eastern District of Michigan

1984 to present Lecturer
National Institute of Trial Advocacy,
Michigan Institute of Continuing Legal Education and American Law Institute
Includes the following seminars: Building a Successful Trial Practice; Handling the Personal Injury Case; Handling the Liquor Liability Case in Michigan; Trial Advocacy Skills Workshop; Introducing Evidence: A Practical Guide for Michigan Lawyers; Art of Cross Examination; Effective Use of Experts; Introducing Evidence in Court: Evidentiary Foundations and Objections; Mock Jury Trials; Deposition Skills Workshops.

Publications

Co-author, Evidence, 1984 Annual Survey of Michigan Law, Wayne Law Review (1985).
Contributing author, Evidence in America, The Federal Rules in the States (1987).
Contributing author, Introducing Evidence. A Practical Guide for Michigan Lawyers (1988).
Contributing author, Torts: Michigan Law and Practice (1992–1999).

Appointed and Nominated Positions

2009 Appointed by U.S. Senators Carl Levin and Deborah Stabenow to Advisory Committee to assist in the selection of the U.S. Attorney, U.S. Marshall, and two U.S. District Court judges for the Eastern District of Michigan.

2000 Michigan Democratic Party nominee for the Michigan Supreme Court (Michigan's highest appellate court).

July, 1989 to 1997 Appointed one of five trustees of the Dalkon Shield Claimants' Trust consisting of approximately \$2.4 billion dollars which was disbursed amongst approximately 300,000 claimants from 120 countries.

1985 to 1989 Appointed by Governor James Blanchard to the State of Michigan Building Authority, a committee of five which issues bonds for funding of all building projects financed by the State of Michigan.

Bar Admissions

1978 State Bar of California
1979 State Bar of Michigan
1979 U.S. District Court for the Eastern District of Michigan
1983 U.S. Sixth Circuit Court of Appeals
1989 U.S. Supreme Court

Professional Activities and Affiliations

2011 Special Legal Counsel to Chair
United Nations Peacebuilding Commission, Liberia

Honorary Organizations

2010 to 2011	President
2009 to 2010	First Vice President
2008 to 2009	Second Vice President
2007 to 2008	Secretary Treasurer
2001 to present	Board of Governors
1994 to present	Fellow International Society of Barristers One of 26 Michigan Fellows; membership limited to trial lawyers who “shall, by virtue of [their] resourcefulness, courage, and other professional and personal qualities, have distinguished [themselves] as outstanding in the field of advocacy”
2008 to present	Life Fellow
1999 to present	Fellow American Bar Foundation Membership limited to one-third of one percent of lawyers.
1993 to present	Fellow Michigan State Bar Foundation One of 585 members; membership limited to lawyers of “outstanding legal ability”—no more than five percent of the active members of the Michigan Bar may be elected.
1991	Member, Conference Planning Committee U.S. Court of Appeals—Sixth Circuit Judicial Conference

Community Activities

2008 to present	Board of Directors Life Raft Group A cancer patient advocacy and research group focusing on patients with gastrointestinal stromal tumors.
2007 to present	Member International Women’s Forum Membership by invitation only; “[t]he International Women’s Forum is advancing women’s leadership across careers, cultures and continents by connecting the world’s most pre-eminent women of significant and diverse achievement.”
2003 to 2006	Board of Directors Michigan Women’s Foundation A philanthropy organized to raise money and fund programs that promote girls and women.
1997 to 2001	Board of Directors Banbury Cross, Metamora, Michigan A therapeutic equestrian center providing activities for children with disabilities.

Listings

2002 to present	Who’s Who in The World
2001 to present	Who’s Who in America
2000	Lawyer of The Year (one of 10), Michigan Lawyer’s Weekly
1999 to present	The Best Lawyers in America
1993 to present	Who’s Who in American Law
1990 to present	Who’s Who of American Women

The CHAIRMAN. Thank you very much, Ms. Robinson. And, now, we go to Richard Lidinsky who is chairman and going for another one.

Senator LAUTENBERG. Mr. Chairman, can I just ask one question. We’ll keep the record open for questions that are submitted in writing? I’m called to another committee. Thank you.

The CHAIRMAN. We always do.

**STATEMENT OF HON. RICHARD A. LIDINSKY, JR., CHAIRMAN,
FEDERAL MARITIME COMMISSION**

Mr. LIDINSKY. Good morning, and thank you, Mr. Chairman, Ranking Member Hutchison and other members of the Committee.

My name is Richard A. Lidinsky, Jr., and it's a great honor to appear before you once again today, and I've been renominated by the President to continue to lead the Federal Maritime Commission.

I want to thank Senator Mikulski for her kind introduction. In keeping with my other two nominees' statements, my West Virginia roots are these.

The Senator told me many times that the Port of Baltimore is West Virginia's port, so that's my connection with West Virginia.

[Laughter.]

Mr. LIDINSKY. So, Mr. Chairman, I said keeping with my nominees' comments about West Virginia roots, my connection is the Port of Baltimore is West Virginia's port. So Baltimore and West Virginia are united for maritime purposes.

The CHAIRMAN. You are putting a lot of pressure on Ms. Robinson.

Mr. LIDINSKY. Well, I'll have a few minutes to think of a good connection.

With me today is my wife Mary Duston Lidinsky of 40 years, and I want to thank her for her partnership and support that allows me to be here today.

I will now summarize my statement for the record, and request that the total be made part of the record.

My entire legal public service and business careers have revolved around the various areas regulated by the FMC. When I came before you for my first confirmation hearing in July of 2009, the global maritime industry was still in the depths of the worst year since the age of containerization began.

At that time, more than 575 massive container ships or 12 percent of the world's capacity was laid up at anchor awaiting work. As a result, I told you that my top priority as a nominee for Commissioner was to support economic recovery and jobs for all sectors of the maritime community through regulatory relief.

My additional priorities were monitoring foreign countries and ocean carriers to protect the U.S. businesses and consumers they serve and assisting ports and carriers with efficiency and sustainability so that concerns over environmental impacts would not constrain growth.

After my Senate confirmation, I joined the Commission in August 2009 and 5 weeks later, the President designated me as Chairman. In the two and a half years since I became Chairman, I'm pleased to report to the Committee that we have worked in each area in a bipartisan manner to make progress on these priorities.

First, we have given regulatory relief to support the economic recovery. One example is that in April of last year, a majority of the Commission broke a twenty-year deadlock and issued a final rule granting exemption to relieve 3,500 small business logistic companies from the costs and burdens of publishing their rates in antiquated tariffs.

That's what Senator Mikulski referred to about using the ink well.

Second, we have been vigilant in supporting American businesses and consumers to rely on international maritime industry. Back in the mid-2009, no one could have predicted that by the spring of

2010, we would be reporting to Congress that the demand for liner shipping had recovered so quickly that exporters were facing shortages in vessels and shortages of containers.

The Commission responded by launching and quickly completing an investigation led by my colleague, Commissioner Rebecca Dye. We provided prompt solutions to the disputes between shipping lines and customers so that we kept cargo moving.

In addition, we undertook several initiatives led by my other colleague, Commissioner Michael Khouri, to deter unlicensed, fly-by-night household good movers from defrauding consumers, and we established a direct dialogue with our Chinese counterpart who had been the subject of raised concerns of shipper logistic companies.

Third, the Commission has served as a helpful partner to ocean carriers and ports working to grow in a sustainable manner. The Commission has expedited review and allowed ports and terminals to proceed with agreements to cooperate with efficiency on environmental issues.

The most recent example concerns the Port of New York and New Jersey, with sustainable services agreement. We have allowed major ocean carriers to engage in a practice of slow steaming, which means slowing their engines down, saving fuel as they serve the world trade routes.

And, last month, at the suggestion of Commissioner Mario Cardero, we hosted a forum of ports to highlight and discuss their environmental initiatives. And we received detailed presentations from the ports of Houston, Long Beach, Los Angeles, New York, New Jersey, Oakland and Virginia.

So, if confirmed for another term at the Commission, my top priority will continue to be assisting our economic recovery for job growth both in the ocean transportation industry and among those exporting and the businesses they serve.

If confirmed, I look forward to working with my Commission nominee Bill Doyle and each of my colleagues on these priorities which are not just my own, but they have been outlined by Congress and the President.

If confirmed, I will work hard to translate this guidance into action, and I'm proud of the progress the Commission has made on these fronts during the last two and a half years.

But I'm eager to help more U.S. exporters in the maritime industry continue to grow and create American jobs. Thank you very much, and I'm pleased to answer your questions.

[The prepared statement and biographical information of Mr. Lidinsky follow:]

PREPARED STATEMENT OF HON. RICHARD A. LIDINSKY, JR., CHAIRMAN,
FEDERAL MARITIME COMMISSION

Mr. Chairman, Ranking Member Hutchison, and members of the Committee, my name is Richard A. Lidinsky, Jr. It is a great honor to appear before you today, and to have been renominated by the President to continue to lead the Federal Maritime Commission. I would like to introduce my wife of 40 years, Mary Duston, and thank her for the partnership and support that allow me to be here today.

My entire legal, public service, and business careers have revolved around the various areas regulated by the FMC. After serving on the staff of the House Merchant Marine and Fisheries Committee, I worked as the FMC's Legislative Counsel during one of the Commission's most active and important regulatory periods. I served next as port counsel and director in my home port of Baltimore, and after

a decade I moved to become Vice President of Sea Containers, a global marine equipment manufacturing, leasing, and trading company. During my twenty years in the private sector, I worked closely with the Pentagon to containerize supplies for our troops. I also had the privilege of serving as advisor to our NATO delegation on port and intermodal matters.

When I stood before you for my first confirmation hearing in July 2009, the global maritime industry was still in the depths of its worst year since the age of containerization began. At that time, more than 575 massive containerships, or 12 percent of the world's capacity, were laid up or at anchor awaiting work. As a result, I told you that my top priority as a nominee for FMC Commissioner was to support economic recovery and jobs for all sectors of maritime commerce through regulatory relief. My additional priorities were monitoring foreign countries and ocean carriers to protect the U.S. businesses and consumers they serve, and assisting ports and carriers with efficiency and sustainability so that concerns over environmental impacts do not constrain growth.

After Senate confirmation, I joined the Commission in August 2009, and 5 weeks later the President designated me as Chairman. In the two and a half years since I became Chairman of the Commission, I am pleased to report that we have worked in a bipartisan manner to make progress on each of these priorities.

First, we have given regulatory relief to support the economic recovery. In April 2011, a majority of the Commission broke a twenty-year deadlock and issued a final rule granting an exemption to relieve 3,500 logistics businesses from the costs and burdens of publishing their rates in antiquated tariffs. Now, with a year of experience, we are looking at ways to improve the exemption and provide additional regulatory relief. Going forward, the Commission has announced plans to systematically review all areas of its rules and procedures to streamline, modernize, and continue to reduce regulatory burdens.

Second, we have been vigilant in supporting American businesses and consumers that rely on the international maritime industry. Back in mid-2009, I could not have predicted that by the Spring of 2010, I would be reporting to Congress that demand for liner shipping had recovered so quickly that U.S. exporters were facing serious shortages in vessel capacity and intermodal containers. The Commission responded by launching and quickly completing an investigation, led by my colleague, Commissioner Rebecca Dye. We implemented her team's recommendations to more closely monitor carrier rate discussion agreements and receive advanced notice of ocean carrier alliances' capacity decisions. We also formed Rapid Response Teams to cut through red tape and provide prompt solutions to disputes between shipping lines and customers so that we can keep cargo moving. In addition, we have taken several initiatives, led by my colleague, Commissioner Michael Khouri, to deter unlicensed, fly by-night household goods movers from defrauding consumers when they try to ship their life's possessions overseas. And we established a direct dialogue with our counterparts in China to raise concerns of U.S. shippers and logistics companies.

Third, the Commission has served as a helpful partner to ocean carriers and ports working to grow in a sustainable manner. The Commission has given expedited review and allowed ports and terminals to proceed with agreements to cooperate on efficiency and environmental issues, the most recent example being the Port of New York and New Jersey Sustainable Services Agreement. We have also allowed the major ocean carrier agreement in the Transpacific to discuss "slow steaming" and other ways to save fuel and reduce pollution. Last month, at the suggestion of Commissioner Mario Cordero, we hosted a forum for ports to highlight and discuss their environmental initiatives, and received presentations from the ports of Houston, Long Beach, Los Angeles, New York/New Jersey, Oakland, and Virginia.

If confirmed for another term at the Commission, my top priority will continue to be assisting our economic recovery for job growth, both within our ocean transportation industry and among the exporting and importing businesses they serve. I believe that the two most important ways we can aid the economic recovery are: (1) working to ensure our maritime transportation system efficiently supports export growth; and (2) continuing to provide regulatory relief so that companies can hire American workers.

If confirmed, I look forward to working with Commission nominee Bill Doyle and each of my colleagues on these priorities, which are not just my own: Congress and the President have also endorsed them. Congress said that a key purpose of the Shipping Act is to "promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace." President Obama has also issued Executive Orders urging agencies to use "every effort" to double exports and to review regulations to provide relief and flexibility. If confirmed, I will work hard to translate this guidance into action. I am proud of the progress the Commission has made on these fronts

during the past two and half years, but I'm eager to do more to help U.S. exporters and the maritime industry continue to grow and create American jobs.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Richard Anthony Lidinsky, Jr. (Rick).

2. Position to which nominated: Commissioner, Federal Maritime Commission.

3. Date of Nomination: February 13, 2012.

4. Address (List current place of residence and office addresses):

Residence: information not released to the public.

Office: 800 North Capitol Street, NW, Suite 1000, Washington, DC 20573.

5. Date and Place of Birth: September 21, 1946; Baltimore, MD.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Mary Duston Lidinsky, part-time teacher; Richard Anthony Lidinsky III, 35; John Eric Lidinsky, 25.

7. List all college and graduate degrees. Provide year and school attended.

BA, American University, School of Government and Public Administration, 1968.

JD, University of Maryland School of Law, 1972.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

1969, Active duty U.S. Coast Guard (transferred to active reserve in July 1969 and served until 1975 when I was honorably discharged).

1970–1973, *U.S. House of Representatives Merchant Marine and Fisheries Committee and Office of Edward A. Garmatz, MC (3rd, MD)*.

1973, Bill drafter, MD General Assembly.

1973–1975, *Office of General Counsel, Legislative Counsel, Federal Maritime Commission*.

1975–1986, *Maryland Port Administration, Port of Baltimore, Counsel and Director of Tariffs and National Port Affairs*.

1986–2006, *Vice President, Government Affairs, Sea Containers America and Sea Containers Ltd., Washington, D.C., and London*.

2006–2009, Solo attorney practitioner (I used office space within the Law Office of Frank G. Lidinsky).

2009 to Present, *Federal Maritime Commission, Commissioner and Chairman*.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

1995–2006, appointment by U.S. Department of the Army to serve as a NATO High Level Expert (Top Secret clearance) for Ports and Containers Transport Committee.

City of Baltimore:

2007, Vice Chairman of Compensation Commission for Elected Officials.

2004–2009, Member of Excellence in Public Service Award Committee.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

1986–2006, Vice President, Government Affairs, Sea Containers America.

2000–2006, Board Member of the British American Business Association.

2007–2009, Director/Secretary of Theresa F. Truschel Charitable Foundation, Inc.

2009, Legal advisor to Maryland Bar High School Court Competition Committee.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

National Defense Transportation Association (1986–2006) (Sealift Transportation Committee Member from 1996–2006).

British American Business Association (1986–2006).

North Atlantic Ports Association (1975–2007).

Gamma Eta Gamma Legal Fraternity (1971–2009).

Bar Associations of Maryland and District of Columbia (1973 to present).

Maritime Administrative Bar Association (1976–2009).

St. Thomas More Society (1986 to present).

European Maritime Law Organization (1990 to present).

The Maritime Law Association of the United States (2010 to present).

Gamma Eta Gamma Legal Fraternity restricts membership based on sex; otherwise, none of these organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

Unsuccessful Democratic candidate for Maryland House of Delegates, 47th District, 1978, no outstanding debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

National Republican Congressional Committee—\$500 (2001).

Don Young for Congress—\$1,000 (2001).

Helen Bentley for Congress—\$1,000 (2002).

Don Young for Congress—\$500 (2002).

Howard Coble for Congress—\$500 (2002).

Ernest Hollings for Senate—\$500 (2002).

Barbara Mikulski for Senate—\$500 (2004).

Don Young for Congress—\$500 (2004).

Howard Coble for Congress—\$500 (2004).

O'Malley for Governor—\$3,680 (2004–2006) (I also volunteered as a maritime advisor).

Don Young for Congress—\$500 (2005).

Ben Cardin for Senate—\$500 (2006).

Howard Coble for Congress—\$500 (2006).

Jack Reed for Senate—\$500 (2006).

Shelia Dixon for Mayor of Baltimore—\$500 (2007).

John Sarbanes for Congress—\$500 (2008).

Barack Obama for President—\$500 (2008).

James Rosapepe for Maryland Senate—\$1,000 (2008).

Elijah Cummings for Congress—\$1,000 (2010).

Barbara Mikulski for Senate—\$1,000 (2010).

Democratic Congressional Campaign Committee—\$1,000 (2010).

Barack Obama for America—\$1,000 (2011).

Stephanie Rawlings-Blake for Mayor of Baltimore—\$500 (2011).

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Outstanding Service Award from U.S. Army for NATO service (2000).

North Atlantic Port Traffic Board award for legal service (1986).

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

“The Federal Regulation of American Port Activities,” *The International Trade Law Journal*, Fall-Winter 1981–1982.

“America-Canadian Cross Border Container Traffic: Innovation or Cargo Diversion?” *Journal of Maritime Law and Commerce*, Spring 1984.

Statement of Sea Containers America, Inc. to the Commission of Merchant Marine and Defense, May 1988; NATO Alliance Intermodal Handbook, January 2004.

While I worked at the Port of Baltimore from 1975–1986, I occasionally spoke on conference panels about maritime matters, but I have not retained any notes or records of these remarks.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

While serving as Legislative Counsel to the Federal Maritime Commission from 1973 to 1975, I made several appearances before the House Merchant Marine and Fisheries Committee and the Senate Commerce Committee on legislation that would impact FMC authority in the areas of rate regulation, intermodalism, monitoring foreign ocean carrier commercial activity, general trade issues, energy matters, resolution of jurisdictional conflicts with other Federal agencies, and regular budgetary procedures.

I also testified on a number of occasions before these same two committees and the Senate Foreign Relations and Armed Services Committees while working at the Port of Baltimore from 1975 to 1986. I testified on Federal agency/developmental legislation, as well as issues relating to dredging, trade and general port industry matters. During this same period, on behalf of the Port of Baltimore, and in conjunction with the North Atlantic Ports Association, and the American Association of Port Authorities, I testified on topics such as Canadian cargo diversion from U.S. ports, inland rate equalization, deregulation, the Panama Canal Implementing Legislation, and the Shipping Act of 1984.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have spent my entire 40-year career working on issues that are central to the Federal Maritime Commission’s mission, beginning with my 6 years of service in the U.S. Coast Guard on active and reserve duty, and my work as an aide to the House Merchant Marine and Fisheries Committee. My maritime service in the public and private sectors continued through my tenure as Legislative Counsel to the FMC itself, my time at the Maryland Port Administration, where I assisted in crafting the port-related sections of the Shipping Act of 1984, my service as Vice President for the ocean transportation equipment provider Sea Containers Ltd., and as a High-Level Expert for the United States’ NATO Delegation on the Ports and Intermodal Transportation Committee.

Since my appointment as Chairman of the FMC in 2009, I have worked to re-energize a Commission that had spent 3 years without a Chairman. My efforts have been focused on reorienting the Commission to facilitate exports, provide regulatory relief to support economic recovery, help the shipping industry become more efficient and sustainable, and protect American exporters, importers, and consumers.

Recently, the influential shipping newspaper *Lloyd’s List* described these efforts: “Richard Lidinsky has transformed the Federal Maritime Commission since he took over as Chairman in 2009, re-establishing the Washington agency’s position in the shipping world after several rudderless years. He has raised its profile both at home and abroad, and broadened the scope of activities in a determined effort to ensure the Commission is a force to be reckoned with once more. . . . Mr. Lidinsky has breathed fresh life into the FMC and ensured it has a voice on both the domestic and world stage.” (*Lloyds List*, Dec. 15, 2011) According to the *Journal of Commerce*, the FMC is now “on an aggressive footing in seeking solutions to challenges as diverse as exporting and commercial disputes arising between shippers and carriers. An agency once seemingly left behind in the area of transport deregulation has moved to the center of debates over ocean carrier oversight.” (*Journal of Commerce*, Mar. 7, 2011).

If the Senate confirms my reappointment, I hope to continue these efforts to provide regulatory relief, support export growth and the economic recovery, and protect the American exporter, importer, and consumer.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

During my tenure since September 2009 as Chairman of the agency, I have worked hard to ensure that the FMC has strong management and accounting controls. These efforts included a significant reorganization of the Commission's management structure in February 2010, strong support for the agency's Inspector General and budget and accounting offices, and active leadership of the agency's major program offices. Before leading the Commission, I spent decades serving in senior management positions at the Port of Baltimore and in the private sector at Sea Containers Ltd. If confirmed, I intend to continue working hard to ensure strong management and accounting controls at the FMC.

20. What do you believe to be the top three challenges facing the department/agency, and why?

(1) I believe that the Commission's top priority must be to work with the ocean transportation industry to ensure that it can support the Nation's ambitious goals for significantly increasing exports. This goal is both a statutory priority of the Shipping Act and a top priority for the Administration. Supporting a doubling in export cargo flow during the next several years will require the Government and private sector to work together to improve port and intermodal infrastructure, increase availability of containers for inland agricultural and manufacturing exporters, increase ports' and ocean carriers' efficiency and sustainability so that concerns over environmental impacts do not constrain growth, and engage with our trading partners to remove foreign impediments to maritime export cargo and services.

(2) The Commission should also continue its work to provide regulatory relief to support job growth and the economic recovery. During my tenure as Chairman so far, the Commission issued a new rule that relieved more than 3,400 logistics businesses from the costs and burdens of publishing in tariffs the rates they charge for cargo shipments. According to comments filed with the Commission, this move can save many of these important American supply chain businesses up to \$200,000 per year. Going forward, the Commission has announced plans to systematically review all areas of its rules and procedures to streamline, modernize, and continue to reduce regulatory burdens on the maritime industry. A key challenge will be accomplishing this modernization in a budget-constrained environment.

(3) Finally, the Commission must continue its work to protect the American exporter, importer, and consumer. Last year, the Commission established Rapid Response Team to cut through red tape, provide prompt solutions to disputes between shipping lines and customers, and make sure cargo keeps moving. The Commission also increased its scrutiny of shipping line alliances and "rate discussion agreements" to make sure they were not improperly restricting shipping capacity or competition. In May 2011, the Commission concluded an investigation into the longstanding problem of consumers experiencing problems shipping their personal and household goods overseas. The Commission is now working to implement the investigation's recommended measures to prevent and better respond to these consumer complaints. The Commission is also working to finalize a proposed rule to strengthen cruise passenger financial protections, which have been eroded by inflation and rapid cruise industry growth since they were last updated in 1990.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

From previous employer (Sea Containers) I have an IRA retirement account at NorthStar Wealth Management, Columbia, MD and a State of Maryland and U.S. House of Representatives employee pensions.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the FMC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the FMC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

As Vice President of Sea Containers I worked with colleagues to express the company's support, including through letters of Congress and the Administration, for various free trade agreements that would impact maritime commerce growth. As a member of the Sealift Committee of the National Defense Transportation Association, I worked with others to draft and support eventual legislation for the Maritime Security Program that provides vessels to the Pentagon in time of need.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the current and previous nomination process, I have consulted with the Office of Government Ethics and the FMC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

While I was employed by Sea Containers, the company was involved in a handful of corporate civil litigation cases. I was never named as a party and none of my actions were ever at issue. Also, in my capacity as Vice President/Attorney as Sea Containers, I filed numerous Federal contract bids. On occasion, the company would protest a contract loss or allege a bid irregularity or, conversely, the company would win a contract and be the target of protest. All of these proceedings were reviewed and resolved at the agency administrative level.

In December 1985, my wife and I adopted our second son. In 1986, the biological mother sought a court order to rescind the adoption. The court denied her claim and ruled in our favor.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

RESUME OF RICHARD A. LIDINSKY, JR., ESQ.

2009–Present Commissioner and Chairman, Federal Maritime Commission, Washington, D.C.
 2006–2009 Private Practice, Office of Frank G. Lidinsky, Towson, MD
 1986–2006 Vice President, Governmental Affairs, Sea Containers America Inc./GE SEACO/
 Orient Express Hotels, Washington, D.C. & Baltimore, MD
 Responsible for representing entire corporate group in London, New York and various international offices by monitoring and lobbying for company interests in regulatory, trade and customs matters before the U.S. Congress and with federal departments and agencies; negotiated contracts with Department of Defense for container supply
 1995–2005 U.S. Delegation, NATO, Brussels, Belgium
 Served as High Level Expert for Ports and Containers Transportation Committee along with member countries ocean shipping and intermodal activities; new member transportation transition sub-committee service
 1975–1986 Director of Tariffs and National Port Affairs, Maryland Port Administration, Baltimore, MD
 Responsible for preparing and publishing port tariffs and negotiating agreements with ocean carriers; representing the port before the Maryland General Assembly, U.S. Congress and federal departments and agencies; and monitoring laws, regulations and actions proposed and enacted in the U.S. and internationally affecting the Port of Baltimore; drafted port use agreements during foreign trade missions
 1973–1975 Legislative Counsel, Office of General Counsel, Federal Maritime Commission, Washington, D.C.
 Drafted agency legislation, prepared agency testimony for presentation to Congress and served as liaison with the Office of Management and Budget and other federal departments and agencies; general staff attorney duties
 1973 Bill Drafter, Maryland General Assembly
 1970–1973 Staff, U.S. House of Representatives and House Merchant Marine and Fisheries Committee
 1969–1975 U.S. Coast Guard Active Duty and Reserve Service

Organizations/Professional & Civic Activities Past & Current

Member, Maryland, Washington, D.C. and Federal Bars
 British American Business Association, Washington, D.C.
 Board Director
 Member, Defense, Transportation and Port Security Committee
 National Defense Transportation Association
 Member, Sealift Transportation Committee
 North Atlantic Ports Association
 Chairman, Panama Canal Committee
 Special Counsel to Traffic Board
 Vice-Chairman, City of Baltimore Compensation Commission for Elected Officials (2007) and City Committee for Excellence in Public Service Award (2004–2009)
 Member, Maryland State, Maritime Administrative Bar Associations and European Maritime Law Organization

Publications

Co-Author, "American-Canadian Cross Border Container Traffic: Innovation Or Cargo Diversion?" *Journal of Maritime Law and Commerce* Spring 1984
 Co-Author, "The Federal Regulation of American Port Activities," *The International Trade Law Journal* Fall-Winter 1981-1982
 Co-Author, *NATO Alliance Intermodal Handbook* January 2004

Education

JD—University of Maryland School of Law, Baltimore, MD, 1972
 BA—American University School of Government and Public Administration, Washington, D.C., 1968

The CHAIRMAN. Thank you very much, Chairman Lidinsky. Mr. Doyle, you may have no relatives even within a thousand miles of West Virginia.

[Laughter.]

The CHAIRMAN. But it makes no difference. We absolutely welcome you here.

**STATEMENT OF WILLIAM P. DOYLE, NOMINEE TO BE
 COMMISSIONER, FEDERAL MARITIME COMMISSION**

Mr. DOYLE. Thank you very much, Senator.

Good morning, Chairman Rockefeller, Ranking Member Hutchison, and the members of the Committee.

I am honored to have the opportunity to appear before you this morning as President Barack Obama's nominee to serve as Commissioner on the Federal Maritime Commission. And I thank Chairman Lidinsky for his support.

If confirmed by the Senate, I look forward to supporting the mission of the Federal Maritime Commission to promote a fair, efficient and reliable international ocean transportation system, and to protect the public from unfair and deceptive practices.

Before I proceed, I would like to introduce my wife, Amy Doyle, our kids Lillian, Billy and Katherine. I would also like to introduce my mother, Virginia, father, Dennis, my sister, Betsy, as well as other family members and friends from Massachusetts, Pennsylvania and Washington, D.C.

Additionally, I would like to extend my gratitude to all the members of the maritime community, labor, management, government, for their support.

I am a graduate of Massachusetts Maritime Academy where I received a Bachelor of Science in marine engineering, and I am a licensed U.S. Coast Guard officer, marine engineer.

I have served aboard various ships as an officer in the United States Merchant Marine from 1992 to 2002. While in the Merchant Marine, I began law school at Widener University in Harrisburg, Pennsylvania. I spent my winter and summer breaks of law school as an engineer on tankships, delivering jet fuel to Israel, running liquid sulphur between U.S. Gulf ports and serving on U.S. Ready Reserve Force vessels in South Carolina.

For the past year, I have served as Chief of Staff for the Marine Engineers' Beneficial Association. My experience as a merchant marine and at MEBA has allowed me to see personally how the United States relies on its maritime industry for both military and economic security.

For more than 200 years, the U.S.-flagged merchant marine has contributed substantially to the U.S. economic vitality and independence, and helped to underpin America's position as a global power supporting trade and security.

The maintenance of militarily useful vessels and skilled merchant mariners in peacetime provides an essential sealift capability that has been called upon frequently by U.S. armed forces in times of war and in times of national emergency.

A strong merchant marine also generates tens of thousands of American jobs, and hundreds of millions of dollars in economic output for the Nation.

This background has impressed upon me how important it is that the Commission remains vigilant in carrying out its statutory mandates to protect the U.S. maritime industry against any harmful foreign shipping practices.

Prior to becoming Chief of Staff of MEBA, I served as Director of Permits, Scheduling & Compliance with the Office of Federal Coordinator for Alaska Natural Gas Transportation Projects, where I was a lead negotiator on behalf of the Federal Government in securing cost recovery agreements with private sector, national and multinational companies.

I managed and directed coordination among approximately 24 U.S. Federal agencies, numerous state agencies, and Federal and provisional Canadian entities for the permitting and construction process to build a large-diameter natural gas pipeline that would transport natural gas from Alaska's North Slope.

In this role, I drafted the initial regulatory implementation plans for two separate multi-billion dollar natural gas pipeline projects.

I am eager to put my experience to work on behalf of the Federal Maritime Commission if confirmed by the Senate. One of the Commission's top priorities is working with stakeholders to significantly increase the export of goods, the vast majority of which will move on ships. Significantly increasing exports will require continued coordination and cooperation between the government and private sector. That coordination may be focused on increasing the availability of shipping containers for mid-continent agriculture and manufactured goods, and working with our overseas trading partners to rectify any limitations to waterborne export of goods and services.

I believe another top priority for the Commission is providing regulatory relief to support job growth and the economic recovery.

I would also emphasize the Commission's effort to reduce court litigation between parties through its newly established Rapid Response Teams in its Office of Consumer Affairs and Dispute Resolution Services.

If confirmed, I will work with the Commission to find fast solutions to disputes between shipping lines and customers and ensure that cargo keeps moving. Each of these efforts support the Commission's role of protecting American exporters, importers, and consumers.

In closing, I again thank President Obama for his nomination to serve on the Federal Maritime Commission and the Committee for allowing me to appear before you this morning. I welcome any questions you may have.

Thank you.
 [The prepared statement and biographical information of Mr. Doyle follow:]

PREPARED STATEMENT OF WILLIAM P. DOYLE, NOMINEE TO BE COMMISSIONER,
 FEDERAL MARITIME COMMISSION

Good morning Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee.

I am honored to have the opportunity to appear before you this morning as President Barack Obama's nominee to serve as Commissioner on the Federal Maritime Commission, and I thank Chairman Lidinsky for his support. If confirmed by the Senate, I look forward to supporting the mission of the Federal Maritime Commission to promote a fair, efficient, and reliable international ocean transportation system, and to protect the public from unfair and deceptive practices.

Before I proceed, I would like to introduce my wife Amy Doyle, and our kids Lillian, Billy, and Katherine. I would also like to introduce my mother Virginia and father Dennis, as well as other family members and friends from Massachusetts, Pennsylvania, and Washington, D.C. Additionally, I would like to extend my gratitude to all of the members of maritime industry for their support.

I am a graduate of Massachusetts Maritime Academy, where I received a Bachelor of Science in Marine Engineering, and I am licensed by the U.S. Coast Guard as a Marine Engineer. I served aboard various ships as an officer in the U.S. Merchant Marine from 1992 until 2002. While in the Merchant Marine, I began law school at Widener University in Pennsylvania. I spent my winter and summer breaks of law school as an engineer on tankships, delivering jet fuel to Israel, running liquid sulphur between U.S. Gulf Coast ports, and serving on U.S. Ready Reserve Force fleet vessels in South Carolina.

For the past year I have served as the Chief of Staff for the Marine Engineers' Beneficial Association (MEBA). My experience as a Merchant Marine and at MEBA have allowed me to see personally how the United States relies on its maritime industry for both military and economic security. For more than 200 years, the US-flagged merchant marine has contributed substantially to U.S. economic vitality and independence, and helped to underpin America's position as a global power supporting trade and security. The maintenance of militarily useful vessels and skilled merchant mariners in peacetime provides an essential sealift capability that has been called on frequently by U.S. armed forces in times of war and in times of national emergency. A strong merchant marine also generates tens of thousands of American jobs and hundreds of millions of dollars in economic output for the Nation. This background has impressed upon me how important it is that the Commission remain vigilant in carrying out its statutory mandates to protect the U.S. maritime industry against any harmful foreign shipping practices.

Prior to becoming Chief of Staff for MEBA, I served as Director of Permits, Scheduling & Compliance with the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects, where I was a lead negotiator on behalf of the Federal Government in securing cost recovery agreements with private sector national and multinational companies. I managed and directed coordination among approximately 24 U.S. Federal agencies, numerous state agencies, and Federal and provincial Canadian entities for the permitting and construction processes to build a large-diameter natural gas pipeline that would transport natural gas from Alaska's North Slope. In this role, I drafted the initial regulatory implementation plans for two separate multibillion dollar natural gas pipeline projects.

I am eager to put my experience to work on behalf of the Federal Maritime Commission if confirmed by the Senate. One of the Commission's top priorities is working with stakeholders to significantly increase the export of goods, the vast majority of which move on ships. Significantly increasing exports will require continued coordination and cooperation between the government and the private sector. That coordination may be focused on increasing the availability of shipping containers for mid-continent agriculture and manufactured goods, and working with our overseas trading partners to rectify any limitations to waterborne export of goods and services.

I believe another top priority for the Commission is providing regulatory relief to support job growth and the economic recovery. I would also emphasize the Commission's effort to reduce court litigation between parties through its newly established Rapid Response Teams in its Office of Consumer Affairs and Dispute Resolution Services (CADRS). If confirmed, I will work with the Commission to find fast solutions to disputes between shipping lines and customers and ensure that cargo keeps

moving. Each of these efforts support the Commission's role of protecting American exporters, importers, and consumers.

In closing, I again thank President Obama for his nomination to serve on the Federal Maritime Commission and the Committee for allowing me to appear before you this morning. I welcome any questions you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): William Paul Doyle.
2. Position to which nominated: Commissioner, Federal Maritime Commission.
3. Date of Nomination: February 13, 2012.
4. Address (List current place of residence and office addresses):
 Residence: information not released to the public.
 Office: 444 North Capitol St., NW, Suite 800, Washington, DC 20001.
5. Date and Place of Birth: July 8, 1969; Boston, Massachusetts.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
 Amy F. Doyle, Doyle Legal Services, 11 East Market Street, York, PA 17403; Lillian: 5; William, Jr.: 4; Katherine: 9 months.
7. List all college and graduate degrees. Provide year and school attended.
 Massachusetts Maritime Academy, BS Marine Engineering, 1992.
 Widener University School of Law, JD Law, 2000.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.
 Chief of Staff: Marine Engineers' Beneficial Association (managerial) (April 25, 2011 to present).
 Director of Permits, Scheduling & Compliance: Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects (managerial) (April 7, 2008–April 22, 2011).
 Deputy General Counsel and Director of Government & Legislative Affairs: Marine Engineers' Beneficial Association (managerial) (January 1, 2002–February 18, 2008).
 Officer in U.S. Merchant Marine serving aboard U.S.-flag ocean going vessels 1992–2001 (managerial).
9. Attach a copy of your resume. A copy is attached.
10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.
 June 2008 and December 2009: Represent the United States on the bilateral trade delegation for the U.S.-Canada Energy Consultative Mechanism meetings where both countries review bilateral energy trade issues and explore mechanisms for strengthening and deepening the largest bilateral energy relationship in the world—under the Obama and Bush Administrations.
 2008–2010: Represent the U.S. in the annual coordination meetings between the U.S. Pipeline and Hazardous Materials Safety Administration and Canada's National Energy Board—under Obama and Bush Administrations.
 October 2006–January 2008: United States Trade Representative Served as Liaison on the Labor Advisory Committee (LAC). The advisory committee assists the President of the United States in soliciting and obtaining advice from industry, agriculture, environmental, labor and other non-governmental organizations throughout the trade policy process.
 May 2004–January 2008: United States Department of Labor Served as Representative on the Advisory Committee on Apprenticeship (ACA). ACA is composed of individuals appointed by the U.S. Secretary of Labor.
11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years: None.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Jewish Community Center of York, Pennsylvania (January 2008 to present).

MEBA, District No. 1-PCD (September 1992 to present).

National Marine Engineers' Beneficial Association (Delegate 2004-2007) (Member, September 1992 to present)

Country Club of York, Pennsylvania (June 2011 to present).

St. Joseph Parish, York, Pennsylvania (January 2006 to present).

Propeller Club of the United States (2002-7; 2011 to present).

National Defense Transportation Association (2002-2008).

None of the aforementioned organizations restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

MEBA Political Action Fund (PAC Fund)

2002: \$454.30

2003: \$746.35

2004: \$746.35

2005: \$778.80

2006: \$713.90

2007: \$843.70

2011: \$1,000

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Outstanding Achievement in Advanced Contracts, May 2000, Widener University School of Law.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Delivered Statement at Public Meeting on Existing Cargo Preference Regulations, Docket Number MARAD 2001-012, before the U.S. Maritime Administration (October 3, 2011).

Provided Written Testimony to the Marcellus Shale Advisory Commission, Efficient Use of Government Resources: Natural Gas Exploration, Production & Transportation (April 19, 2011).

First Phase Consolidated Implementation Plan specific to Denali, a joint venture between ConocoPhillips and BP (author) (June 2009).

Summary of FERC's Order in Response to the State of Alaska's Request on the Open Seasons (author) (August 2010).

FERC Approves Denali Open Season Plan (author) (June 2010).

APP filed field work update to FERC (author) (October 2010).

Denali Files Open Season Plan With FERC (author) (April 2010).

CERA Week 2010—An Overview (author) (March 2010).

Alaska's Natural Gas Is Good (author) (February 2010).

Natural Gas, the Place for Job Creation (author) (January 2010).

LiDAR for Terrain Mapping on the Alaska Pipeline Corridor, A White Paper (co-author) (August 2009).

First Phase Consolidated Implementation Plan—Alaska Pipeline Project, ExxonMobil/TransCanada (author) (May 2010).

Summary of Shell Oil's Interest in Alaska: Beaufort Sea Frontier Drilling, Armada Companies (June 2007).

Rats and Wounds in Bruce Springsteen's *Jungleland*: A Prelude to the Lawyer as Poet Advocate, 14 *Widener L.J.* 731 (2004–2005).

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

Delivered Testimony before the U.S. House of Representatives, Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime, Hearing on the Challenges Facing the Coast Guard's Marine Safety Program, August 2, 2007.

Delivered Testimony before the U.S. House of Representatives, Committee on Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation, Hearing on the Safety of LNG and the Impact on Port Operations, May 7, 2007.

Delivered Testimony before the U.S. House of Representatives, Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, Hearing on the Safety of LNG and the Impact on Port Operations, April 23, 2007.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have spent my entire professional career in the transportation area, most of which has been in the maritime sector. I am a licensed attorney and directly managed cases, disputes, arbitrations, and complex transactions in the maritime field of practice. I am a U.S. Coast Guard licensed engineer and officer in the U.S. Merchant Marine and sailed commercially on vessels in the domestic and international trades. In addition, I have served as a Director in the Office of Federal Coordinator for Alaska Natural Gas Transportation Projects (a Federal agency) with responsibilities that include troubleshooting regulatory matters, issues, and concerns among 20-plus state and Federal agencies as well as fostering good relations with government agencies in Canada.

If confirmed, I hope to use my professional experience to support regulatory relief for the maritime industry, support the growth of U.S. exports, and protect the American exporter, importer, and consumer.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed, I will work to assist the Chairman, Inspector General, and senior staff in ensuring that the Federal Maritime has proper management and accounting controls in place. In this endeavor, I will draw on my years of experience as a manager and attorney who handled extensive contracting and management issues for governmental and private sector organizations. As Chief of Staff recently, I spearheaded or managed some 30 contract negotiations with entities spread throughout the United States. I made sure the appropriate internal personnel were assigned to contract negotiation groups there by limiting and reducing dependence on expensive outside professional services.

I also served as a Director for a Federal agency where I managed coordinating the Federal permitting activities of over 20 Federal regulatory agencies and permitting agencies in the State of Alaska and agencies in Canada. In a 2-year period, the office published two comprehensive implementation plans that set the regulatory framework

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I plan to maintain a 401K retirement account, Money Purchase Benefit Plan (MPB) defined contribution plan, and a Pension Trust Plan defined benefit plan with MEBA, my current employer. If confirmed, I will resign from my current posi-

tion of employment and no further contributions will be made to those plans by MEBA or me.

In connection with the nomination process, I have consulted with the FMC's designated ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the FMC's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the FMC's designated ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the FMC's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the FMC's designated ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the FMC's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

From 2002–2007, my organization followed and participated in discussion groups, task force, and coalitions that pertained to Coast Guard Authorization Bills.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the FMC's designated ethics official and that has been provided to this Committee.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain.

I was a signatory to a summer rental house in 1995 in Newport, Rhode Island. We received a summons for a noise violation. I was served with the noise violation and paid the fine.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain.

I was a signatory to a summer rental house in 1995 in Newport, Rhode Island. We received a summons for a noise violation. I was served with the noise violation and paid the fine.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.
2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.
3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.
4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

RESUME OF WILLIAM P. DOYLE, ESQUIRE

Highlights*Chief of Staff—Marine Engineers' Beneficial Association*

- Troubleshooting
- Manage maritime policy and strategy for creating jobs

Energy/Infrastructure—Alaska Natural Gas Transportation Projects

- Manage and direct 24 federal agencies in the permitting and construction processes for a large diameter natural gas pipeline that will transport gas from Alaska's North Slope to lower-48 markets
- Drafted the initial Implementation Plans and then consolidated and edited four rounds of comments from all participating federal agencies. The Plans were reviewed by the Executive Office of the President and published in June of 2009, and May 2010 respectively
- At an estimated construction cost of \$40 billion the mainline is considered the largest private sector construction project ever undertaken in North America and is expected to create tens of thousands of jobs

LNG Deepwater Port Projects

- Managed testimony and personnel advocating for the safe and secure importation of Liquefied Natural Gas to deepwater port terminals off the coast of Massachusetts (Maritime Administration executed deepwater port importation license in 2007 on Northeast Gateway, Excelerate Energy). Construction of the offshore \$200 Million project and connection to Algonquin pipe line was completed in 2008 and began receiving gas in 2009

Representative for U.S.-Canada Bilateral Energy Discussions

- Selected to represent the United States on the bilateral trade delegation for the U.S.-Canada Energy Consultative Mechanism meetings where both countries review bilateral energy trade issues and explore mechanisms for strengthening and deepening the largest bilateral energy relationship in the world—under the Obama and Bush Administrations

Representative, Annual Coordination Meeting U.S.-Canada

- Represent the U.S. in the annual coordination meeting between the U.S. Pipeline and Hazardous Materials Safety Administration and Canada's National Energy Board—under the Obama and Bush Administrations

International Shale Working Group—U.S. Department of State

- Selected by U.S. Department of State to participate in the Shale Gas Workshop to assess resources, supply options and market conditions—under Obama Administration

Tax-International Trade

- Worked directly with IRS and Treasury to comply with world trade issues and international tax regulations between the United States and European Union states such as Belgium so that U.S. citizens do not have to pay double taxes. This effort allowed taxes to be paid in the U.S. only and not in Belgium

Congressional Testimony

- Testify before Congressional Committees on energy and transportation matters
- Prepare and deliver oral and/or written testimony before the Senate Committee on Commerce & Transportation; Senate Committee on Homeland Security &

Government Affairs, House Transportation & Infrastructure Committee, the House Homeland Security Committee, and the House T&I Subcommittee on Coast Guard

Professional Experience

Marine Engineers' Beneficial Association

Washington, D.C.

April 2011–Present

Chief of Staff

- Direct and Manage Internal and External Communications
- Direct and manage all legislative and administrative strategies
- Direct and Manage Business Development
- Manage Staff in 16 Branch Offices in United States

Office of the Federal Coordinator (OFC) for Alaska Natural Gas Transportation Projects

Washington, D.C. and Anchorage, Alaska

April, 2008–Present

Director of Permitting, Scheduling & Compliance

Responsibilities Include:

- Lead negotiator for federal government on securing cost recovery agreements and reimbursable service agreements with private sector national and multi-national energy companies such as with ExxonMobil, BP and ConocoPhillips
- Manage and resolve conflicts between the private sector and all federal permitting agencies and conflicts that arise between the federal agencies
- Natural Gas Pipeline Federal Permits Matrix: Principal developer and manager of a the first of its kind “Permits Matrix” to help track and coordinate all federal agency activities including the environmental impact statement process and subsequent agency approvals of an Alaska natural gas pipeline. Managed contracted staff from the U.S. Department of Energy, Argonne National Laboratory and Los Alamos National Laboratory
- Developed and lead the Interagency Government Team that meets monthly to discuss regulatory progress and developments on the pipeline projects. The Interagency Government Team is comprised of representatives from 24 federal agencies including FERC, DOT–PHMSA, Department of Energy, EPA, U.S. Army Corps and Department of Interior agencies. The applicants, state agencies and Canada agencies attend the meetings upon invitation
- Establish and manage relationships with Government of Canada including within the Provinces

MEBA

Washington, D.C.

January, 2002–February, 2008

Director of Government and Legislative Affairs

Deputy General Counsel

Responsibilities Included:

- Directing the day to day legal affairs of 16 branch offices situated on the East Coast, Gulf Coast, West Coast and Great Lakes. This included conducting collective bargaining negotiations; grievances, arbitrations and drafting contracts
- Manage and direct all public relations, internal and external communications
- Secure and manage teams of contractors and consultants
- Drafting contracts between labor and the private sector in response to requests for proposals to manage hundreds of millions of dollars in assets owned by the federal government
- Drafting and/or authorizing all official comments in response to Federal Register notices Interacting with all levels of the federal and state government
- Providing testimony before the U.S. Congress

U.S. Coast Guard Licensed Marine Engineer

1992–2001

- U.S. Coast Guard License for Gas Turbine, Steam and Internal Combustion Engines

- Officer in the United States Merchant Marine: Marine Engineer
- Serve as Marine Engineer on privately operated ocean-going vessels transporting commercial, petroleum, chemical and military cargo worldwide
- Stationed in Diego Garcia, British Indian Ocean Territory (BIOT) on ammunition ships that were prepositioned in the region for support in the Somalia and Kosovo conflicts
- Responsible for the safe and secure transportation of liquid fuels, chemicals, U.S. military equipment, ammunition, dry cargo and environmental compliance
- During law school winter and summer breaks delivered jet fuel on tankers to Haifa, Israel and served on U.S. government owned Ready Reserve Fleet vessels in Charleston, South Carolina

Security Clearances

Top Secret Security Clearance, U.S. Office Personnel Management

Education

October, 2006: *Graduate of Academy of WTO Law & Policy Institute of International Economic Law*, Georgetown University Law Center

May, 2000: *Juris Doctor*, Widener University School of Law, Harrisburg, Pennsylvania

May, 1992: *Bachelor of Science, Marine Engineering*, Massachusetts Maritime Academy; U.S. Coast Guard Licensed Marine Engineer

Licensed Attorney/Bar Associations

Massachusetts and Pennsylvania

The CHAIRMAN. Thank you very much.

I want to point out that we're very fortunate on this committee to have two senators from Arkansas. And everybody wants to be in this Committee, so if you get selected for this Committee, you have got to be absolutely brilliant.

And, so Senator Pryor and Senator Boozman fit that category, and they will be asking questions too. And I welcome them.

Dr. Falcone, you're going to have a huge amount of time spent on cybersecurity, I do believe. And OSTP coordinates a lot of that, with research and development, with the other factors.

Now, we have a situation in the Congress where we're really not making a whole lot of progress on cybersecurity, and it's a very distressing situation.

And it comes down I think to whether or not some people who feel very strongly that we should cover critical infrastructure because that's sort of the heart and soul of what's at stake in this country through hacking.

And others feel that we absolutely should not, and that it would be government reach of rules and regulations, things of this sort. But they're heartfelt positions.

Putting you just a bit on the spot, but it's a very, very important question, because we're just not moving this bill. And there's no excuse for that. Do you have any thoughts on what I just said?

Dr. FALCONE. Thank you, Senator.

Yes, of course, cybersecurity is a very important topic that has very critical, technical dimensions as well as a lot of uncharted policy space.

And I think we can all acknowledge that what our objective is is a secure, open and innovative Internet, cyberspace, that preserves the freedoms of our citizens and protects their safety.

OSTP's role and engagement has been in the research and development area. As you know, there was a strategic plan that OSTP was involved in, not me, personally. Let me say that this is not an

area that I have been working on personally at OSTP in my assignment on loan from Sandia.

But the trustworthy cyberspace strategic plan was released. It lays out a set of thrust for research and development. That work, and OSTP's role, has been in a couple of ways.

One, participating in the discussions within the Executive Office of the President. Also participating through the National Science and Technology Council that prepared this plan and oversees some of the research activities that go on.

And, third, as a part and engagement with the larger research community. So through research and development, I think we are going to be able to bring some tools to help meet those objectives that we all have.

The CHAIRMAN. That was a skilled answer.

I just want to ask one question of each, and go through them, and then I'll come back for further questions.

Ms. Robinson, you've been focused on implementing the Consumer Product Safety Improvement Act. The Commission's been hard at work and has implemented almost all major provisions of the law.

Now, you've hired, or there have been hired, over 100 additional staff, probably because of the Act. This has significantly increased surveillance of unsafe products at the border.

So a lot of progress has been made. My question to you is, what other priorities do you have for the Commission? And, in looking to the future, in what ways can the Commission improve consumer product safety?

Ms. ROBINSON. Thank you, Senator.

I agree with you that the progress that's been made under the Consumer Product Safety Improvement Act is so incredibly impressive.

I do think that the focus, once the 104 rules are in place, is going to have to move to enforcement, and particularly with keeping products out of this country that shouldn't be here in the first place.

So I think that's going to be the next challenge, and I know that the other commissioners and the staff share that concern and are working on it.

We now, as you well know, are monitoring 15 of our ports. We have 300 plus. But I know that that enforcement and making sure that American manufacturers are on the same even playing field with foreign manufacturers is going to be a very big part of the effort going forward.

And then, I guess, the second area I would say is in outreach and education. Because, obviously, social media tools and the website are a huge move forward in that regard. But there are other parts of our society, obviously, the poor, the rural, the elderly, whom we are not reaching through those efforts. And so, I think that is going to be very much a part of the thrust going forward.

The CHAIRMAN. I thank you.

Chairman Lidinsky, you provided professional and forward-thinking leadership at the Commission, and we're all very aware of that, and proud of it.

What do you see, frankly, is your, as the major things that you've been able to do, and what do you see are the major things that yet remain to be done that you have a chance of doing?

Mr. LIDINSKY. Thank you for the question, Mr. Chairman.

I think the major thing that I am most proud of is the fact that after two and a half years of no leadership at the Commission, that we've got the ship sailing again.

And we got some, and some might disagree what direction we're sailing on certain issues, but we're moving forward.

Shortly after I was confirmed, the *Journal of Commerce* shipping paper in New York had an article where it said, the Commission was dead in the water, it was irrelevant, it didn't take up any issues.

About 3 months later, they said we were on steroids, we were moving so fast. So I would think we've set a good agenda. I mentioned about getting rid of the antiquated tariffs.

Another issue we have before us was for 20 years, the Commission had not revised the bonding requirement for cruise vessels. And cruise vessels were living with 1990 bond limits. We've doubled those limits. We have a proceeding underway, and we're looking at additional means of regulating the cruise lines.

We have in the consumer affairs and safety office a lady who's a specialist in dealing with cruise complaints. So we tried to help the public in that regard as well.

But I think the final big picture is in the years ahead, should I be confirmed, is reconciling our needs for water-borne commerce with the rest of the world.

You know, 96 percent of our water-borne commerce is carried on foreign flag vessels. So we've got to make sure that our people are protected. We got to make sure that there is a very strong international maritime regime that we can be part of.

The CHAIRMAN. Good. Thank you.

Mr. Doyle, just to round it out. I've gone over my time a bit.

You have repealed the antitrust exemption for ocean carriers in 2008. The major ocean carriers are no longer allowed to collude to set rates.

Now antitrust and competition issues are important to me and to West Virginia, and I've made a 26-year career of not making any progress on that subject. But I try and will continue to.

The FMC, this year, released a study on the effect of Europe's repeal of antitrust exemption on shipping rates with China. And interestingly, it found out that there was very little effect at all.

There was some sort of variation. Rates could be volatile from time to time, but, basically, they sort of stayed the same. So, Mr. Doyle, why should the U.S. permit ocean carriers to collude on rates if collusion has a minimal effect on the price either way?

And, second, if you're confirmed, do you recommend any further studies of actions on ocean carrier immunity from the Federal Maritime Commission?

Mr. DOYLE. Thank you, Senator.

If confirmed, I would do everything that I could do to help with, you know, analyzing the facts that came back on the EU study. Now, I do know that the EU study came back and said that there were minimum impacts.

But with respect to the United States, on the antitrust immunity, I think we're still going through the facts, or the office is still going through the facts that came back, and recommendations.

Antitrust immunity is something that is left for Congress. And if Congress were to come up with some legislation that was enacted with respect to the antitrust immunity, the FMC would abide by what Congress states and enacts into law.

As a regulator, when it comes to antitrust immunity, it's up to Congress to do it, and we will follow the direction of what Congress mandates.

The CHAIRMAN. I respect your answer.

Senator Hutchison?

Senator HUTCHISON. Thank you. I'm not sure I'm going to be able to ask all the questions that I need in our short time. But I want to start with Ms. Robinson.

Some of the earlier decisions on the Consumer Product Safety Improvement Act have been three to two decisions, and have avoided the cost-benefit analysis, on the grounds that the statutory language does not require the inquiry, and that conducting the analysis would be time consuming.

Now, that is an important part of the gist of the Act because we all want safety regulations to be put in place that will be effective. But cost-benefit analysis is certainly an important part of that from my standpoint.

How do you feel about the cost-benefit analysis requirement, and would you adhere to the spirit of the law that makes that a component of a regulation?

Ms. ROBINSON. Thank you, Senator.

I think that cost-benefit analysis is obviously very important where it's appropriate. And I do know that a lot of that has been dictated by Congress. And I very much will follow those dictates.

But I do understand the spirit of your question, I think, as well. And while I think everyone in this room wants to make sure our products are safe, particularly for our children, it is critical that we make sure that America continues to be a country in which it's a good place to manufacture products.

So I think that balance is an important one, and I certainly, if I'm confirmed, will very much follow the spirit of the law in that regard.

Senator HUTCHISON. Thank you. I appreciate that.

And, as I said in my opening statement, I think the Commission has taken a turn for the better in its coordination and trying to come to terms where it's not just 3-2 decisions. And I hope that you would pledge to be a part of that kind of working toward consensus where possible.

Ms. ROBINSON. Absolutely, Senator. And I completely agree with you. I mean the unanimous decisions aren't the ones that end up in the newspaper.

But I really view the Commission as a quasi-judicial forum. I think that politics should be left on the doorstep, and that we should all work toward safety in our products which is the mission of the Commission.

Obviously, with five people who are smart and capable, you're going to have disagreements. I certainly think my experience on

the Dalkon Shield Trust with working with four other very smart, capable people—there were strong disagreements. But we were able to reach consensus because we knew what our mission was. And I expect that to be the same at the Commission. And I have met three of the four commissioners. I'm extremely impressed with them.

Anne Northrup and I have not met only because we haven't been in D.C. at the same time, but we will soon, and I very much look forward, if confirmed, to working with all four of them.

Senator HUTCHISON. OK. Let me ask you one more question, and then I hope I can go to Dr. Falcone.

The Consumer Product Safety Improvement Act established that the Commission would put together a publicly available database on safety of products, which I thought was very good.

In fact, I will have to say that Mr. Pryor sitting here was the architect of this law, and we had a lot of back and forth, and I will say came up with a lot of compromises in this bill.

One of those is this database that I think is very good if it is used correctly. My question to you is, sometimes there have been things put on it, or comments put on it, without any filtering for accuracy.

How would you propose, as a commissioner, to assure that what is put on it does not have information that isn't accurate so that it can be a true picture for the consumer?

Ms. ROBINSON. Well, my understanding, Senator, is that there are pretty strict constraints on what's going to be put on the website. And, certainly, with the amendments that were made, the companies are given even a larger time parameter within which to respond.

I think it's very important. I agree with you, Senator, that the information on the website be accurate. I'm not certain exactly of what you're speaking, but certainly, if I'm confirmed, I will work very hard to make sure of the accuracy of the comments that are put on the website.

Senator HUTCHISON. Well, what's happened is that there needs to be some way to show when it is a consumer that has a comment versus a competitor of the product, someone, another company that makes the product.

And so, sometimes, things are going in that are suspected to be from a competitor as opposed to a real consumer, and it's hard I know to get the information out but also to assure that there's accuracy.

And I would just ask that you look at that. Let me quickly see if I can talk to Dr. Falcone because I'm intrigued, intrigued of course, that you got the first mechanical engineering degree as a woman from Princeton.

And I'm so pleased that you're going to take on encouraging other girls to come up and want to be engineers and mathematicians and scientists because that's something I have tried to do as well.

But let me ask you from the Sandia experience and then where you're going into security. I'd like to know your priorities and also if nuclear testing safety is one of the things that you would be look-

ing at from your Sandia experience, and what are the other priorities in defense, in national security for the science function.

Dr. FALCONE. Thank you, Senator.

Let's see, with respect to priorities, I think overall the key priority I think is making sure that we've got science and technology, a set of capabilities in this country that are first class and well matched to the country's resources.

And, specifically, the work at OSTP, our director often, John Holdren, often says that our business is the science and technology for policy and policy for science and technology.

And with respect to national security and international affairs, in the policy domain, what I would seek to do, were I confirmed for this position, is to ensure that we have the very best technical information as a part of policy discussions in important areas like cybersecurity which we just talked about, defense against biological threats, nuclear security, aspects of our military and intelligence capabilities that we have.

And also to work in this policy for science and technology to make sure that our policies related to the science and technology enterprises that supports national security. So our industries, so our small businesses, the universities that are engaged in supporting, and the dedicated Federal institutions which I have experience from in just one.

That those are sorted out so that they, that many of the processes that we use were created post-World II, post-Sputnik, and so what we have to be sure of is that the processes and policies make that whole enterprise well-matched for the future challenges.

So those are the two areas I would seek to work in.

Senator HUTCHISON. Thank you. I hope that if I have time in the second round that I'll be able to ask you, Mr. Lidinsky, but thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Hutchison. Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman.

I'd like to ask Mr. Doyle and Mr. Lidinsky to follow up kind of on my statement. First of all, thank you for your willingness to serve in this capacity.

Obviously, one of the big things that we face is competition. We have the Panama Canal expansion. We have lots of infrastructure improvement being made in the northern, in Canada.

And so since the Harbor Maintenance Tax has been in place, we have used that money for dredging and various things, but the majority if the money goes unspent. In fact, in 2011, there was a surplus of \$6.3 billion.

So my question is, as we see the Canadian rail system make improvements, as we see these Panama Canal improvements, all of the competition for improving freight lines means that we have to continue to be competitive on the U.S. side.

So, how do you think the ports can be more competitive in improving their infrastructure, using the Harbor Maintenance Tax or making some changes to it that would help us continue to be competitive in the future?

Mr. LIDINSKY. Well, as the Senator mentioned, ports are one of the most competitive systems in our country and the competition between U.S. ports is vicious.

When you cross international borders, however, it adds another dimension to this issue. And that's why the Commission has voted 5 to nothing to take up the issue of Prince Rupert and the Canadian diversion that's taking place there.

The Commission has been criticized for doing that, but we're moving full speed ahead. We've received nearly 100 comments of detailed responses. We hope to finish the study by the end of spring, publish it early in the summer.

But the Senator also has put her finger on one of the key issues, and that is the use of the harbor maintenance tax, particularly, as it could support infrastructure and intermodal facilities.

A lot of people we are finding are using the Canadian alternative because they complain of port delays and complain of ancient infrastructure in our ports. That's why a bill like I think the Committee has S. 371 before it to fund these ports, use some of that harbor maintenance fund to help our ports streamline their handling of the cargo.

And that will go a long way in the competitive realm.

Senator CANTWELL. Thank you. Mr. Doyle, did you want to comment on that?

Mr. DOYLE. If confirmed, to the extent that the FMC can provide objective facts and data with respect to the ports.

One thing I would point out is that I believe that there's a bill, H.R. 104 which has strong bipartisan support in the House, and that's for the proper use of the harbor maintenance fund, using the harbor maintenance fund for its intended purpose.

And, you know, if that were to get enacted into law to the extent that the Federal Maritime Commission could help out and provide objective facts and have some role in it, I would be bound by that law.

Senator CANTWELL. Well, I think the issue is that we have an existing fund that's being underutilized, and we have incredible competition coming at us.

And so the question is will you two lead the charge in looking at ways to maintain the competitiveness of our ports and ways to innovate. Because, if we don't, I guarantee you, the infrastructure investment, I'll give you a different example.

So the Port of Vancouver has the second largest grain elevator in the world there. When I asked him why do we have the second largest grain elevator in the world, and they said because the rising middle class in Asia wants to eat beef. And if they want to eat beef, they need our grain.

Well, that's a positive story for us. Now, the dredging that was done there obviously allowed us to get larger ships in. But there are other examples of where if we're just approaching it from a dredging perspective, then we're only looking at one piece of the equation.

That is not the number one or two ports in our state. It was a very important port. But all of these things, we have to realize with the global economy around the world, lots of other nations are going to cut down their transportation time.

And then somebody's going to make a decision as it relates to the Asian market based on that. So the question is, are we going to innovate and continue to move forward.

Mr. LIDINSKY. Well, the Senator again is correct, and that's why the Commission's taken a leadership position in this matter.

Two containers leave Shanghai, China headed for the United States for Akron, Ohio. One comes through Prince Rupert, Canada and pays no harbor maintenance tax because it crosses the border in Chicago or Great Falls, Minnesota.

The other container comes through Seattle, or Oakland, and pays harbor maintenance tax. So in the competitive world again of shipping, shippers know costs, and this puts our country at a disadvantage.

That's why we're taking a very strong look at this and will come to you with recommendations in that area.

Senator CANTWELL. Well, thank you, Mr. Lidinsky. So, Mr. Doyle, I detect a hesitancy on your part on this issue.

Mr. DOYLE. I don't have the benefit of seeing all the data that the Federal Maritime Commission has gathered at this point. But I would like to, you know, stay with the statement on Mr. Lidinsky.

When the report comes out at the end of the summer, we could take a strong look at what is going on between the competitiveness, and whether or not that Harbor Maintenance Tax in the United States side as opposed to Prince Rupert is a significant problem.

Senator CANTWELL. Well, I think just as in the private sector, whether you're Boeing or Microsoft or Starbucks, you have to continue to innovate to stay competitive.

On our government's side, we have to do the same thing. We have to have modernization if we're going to stay competitive in these markets. So I thank the Chairman, and I thank the witnesses.

The CHAIRMAN. Thank you, Senator Cantwell. Senator Pryor.

**STATEMENT OF HON. MARK PRYOR,
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. Thank you, Mr. Chairman.

And if I may, I'd like to start with you, Ms. Robinson. I'm delighted that you are interested in serving on the CPSC. I'd like to follow up with a couple of points that Senator Hutchison made a few moments ago.

First, on the database. My understanding sounds like it's consistent with yours that we tried very hard with the parameters of the database to make sure that there weren't competitors going on there and, you know, a lot of false information on there.

But I think maybe what we ought to do, if it's okay with Senator Hutchison, is maybe your staff, my staff and maybe CPSC database people can sit down and let's look at what they really have there. And I think we put the parameters on there, and I just hope that it's working as designed.

Senator HUTCHISON. I agree.

And I think what we should do is just ask her if she will also take this on as an area of interest because I think it's in everyone's interest for us to have that data base.

Senator PRYOR. Right.

Senator HUTCHISON. It was your concept. I thought it was great.

Senator PRYOR. Thank you.

Senator HUTCHISON. But you do need to make sure that you're not infiltrated with competitors that are not sincere.

Senator PRYOR. That has always been the concern.

I think that, my understanding is, at least initially, the bigger problem was more consumers misidentifying products or getting the models wrong, or the manufacturers wrong, or something like that.

But I would like to, I think it would be helpful if we sat down with CPSC folks and talked about that. So that would be great. Thank you.

Senator HUTCHISON. Great.

Senator PRYOR. And we would love for you, once you get on the Commission, to monitor that and make sure that stays the way it should.

Another thing that Senator Hutchison mentioned a few moments ago is the 3-2 decisions. And I do agree. I think that we should, that the CPSC should work very, very hard to avoid 3-2 decisions if possible. Try to find consensus and get to 4-1, or 5-0 decisions.

I think that's just better all the way around. I will say this though that I was very disturbed and concerned with the headline I saw in the *Washington Post* back in November where it says that, the headline said, partisan gridlock threatens the CPSC.

And it was basically a story about how there's a divide there. And I would hope that the CPSC and you would always remember that when that bill passed, CPSIA passed here in the Senate, it was a huge bipartisan vote. Same within the House.

And I would hope that the CPSC would work in a bipartisan way. I would hope that the CPSC would reflect that bipartisanship that we had in the House and the Senate.

And I will say that at least one member, one commissioner, maybe two, have blogs. I don't think that's appropriate.

I don't think our CPSC Commissioner should have blogs. I know that one blog in particular had a political cartoon of a Congressman, featuring a Congressman. I don't think that's appropriate.

I think that's a poor use of very limited government resources. I hope you will never have a blog. I just don't see how that's helping consumers.

The mission of that agency is to make sure that we have safe consumer products and that we do it in a very fair and sensible way.

And I think, I'm hoping with the CPSIA and even with this amendment that we recently passed, that we are accomplishing that.

And one of the things that I think we all learned as we worked on this legislation a few years ago, is we heard from consumer groups. We heard from manufacturers. We heard from businesses.

We just heard from everybody under the sun it seemed like, but one thing we learned is that no one is right 100 percent of the time. You know everybody sees things a little differently, and there are mistakes that are made. And there are ways to fix those.

But that kind of leads back to you with your work on the Dalkon Shield cases. And I'm curious about you working together with, you mentioned a group, of what, four others I believe you said.

How do you think that experience prepared you to serve on the Consumer Product Safety Commission?

Ms. ROBINSON. Thank you for the question, Senator.

I completely agree with you that the mission of this Commission is so critically important.

And the idea of politics entering into it, I don't think is anything anybody in this room or in Congress has in mind.

I think that my experience with working with the Dalkon Shield Trust and the completely transparent way in which that was run, with the Federal Judge overseeing it, we were able to run it in a way that was responsible enough that we not only compensated people who had injuries ranging from, "I used it and I think I may have been hurt," to literally, deaths, infertility and brain-injured children.

We were able to dispense that money very fairly, and at the end do a 90 percent pro rata distribution because of the responsible way in which we ran the trust.

And I think that experience with working with four, I was the only practicing lawyer on the Trust, and we had four very distinct personalities and people with agendas, and we just worked it through.

And we remained friendly as we did it, but I think there's something to be said for collective wisdom. I assume that Congress knew what it was doing when they put five commissioners in instead of one.

And respecting the opinions of others and sharing those views and trying to come to consensus is what I would hope that the Commission would do. And if I'm confirmed, I very much will work toward that goal.

Mr. PRYOR. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Pryor. Senator Boozman.

**STATEMENT OF HON. JOHN BOOZMAN,
U.S. SENATOR FROM ARKANSAS**

Senator BOOZMAN. Thank you.

Ms. Robinson, you mentioned that Section 104 rulemaking would be one of your priorities if confirmed.

As you may be aware, one of the recent rulemaking rules under this section had to do with children's cribs. And, you know, the rulemaking wasn't perfect.

Some members of the industry had concerns that the Commission's action did not adequately address their concerns about unsold inventory.

I got involved a little bit in the sense that I know some of the daycare centers had bought mattresses and then, you know, had immediately to get rid of them. And I think subsequently then had to get rid of those.

I guess, how do you deal with that? How do we make this process better so that in this particular case and I think I can mention others, we all could, where you had similar things.

In this particular case, the safety of the children is the paramount issue. But how do you do that and yet make it such so that you don't have all of this adverse economic, adverse economic activity happen.

And many times people are out there working so hard just to make a living and this and that, and then it so negatively impact them in this very difficult economy that we're in right now.

Ms. ROBINSON. Thank you for that question, Senator.

My understanding of the crib safety standards is that, first of all, everything with respect to that, both the standards and the deadlines and the extension of the deadline with respect to the public facilities were unanimous decisions which tells me something about the consideration that went into it.

Obviously, nobody's going to disagree with the statement that if there's one place we should be able to make sure our youngest, most vulnerable citizens are safe is in their cribs.

And those standards I think were very important and as I understand the standard, I think we can all be proud that we have the highest safety standards for cribs anywhere in the world.

That having been said, your concern that you bring up is a very real one. And my understanding is that the people at the Commission very much took that into consideration in extending the deadline for the public facilities to comply with it, and are trying the best they can to get the word out through the various trade organizations and through various other sources to try to make sure that the word gets out there so that you don't end up with the situation that you described that I would have equal concern with the investments being made by these small businesses and then having to do away with the products. So I think my understanding is that the staff at the Commission and the commissioners have been working very hard to make sure that that problem is addressed, but at the same time have these safety standards that we're all so proud of.

Mr. BOOZMAN. Good.

And, again, I think that we need to be mindful. I think sometimes we put commissions in a situation where, and they're following their procedures, that they have to do things sometimes that they don't necessarily want to do.

You know, that there's not some common sense. So again, you know, hopefully we can help you, you know, find the flexibility that the Commission needs to be able—

Ms. ROBINSON. And I appreciate that, Senator.

My understanding is that if I'm confirmed, I can look forward to working very closely with the members of this committee to provide just that kind of flexibility. And, if we need it, that you are the people to come to.

And I understand that's what happened with the amendments that were put through last year, is that those concerns were raised.

Senator BOOZMAN. Thank you, Mr. Chairman.

The CHAIRMAN. I have other questions, but I'm going to submit them for the record, and that's just simply because of my schedule which seems to have been poorly attended to this morning.

I think Senator Hutchison, however, has a question.

Senator HUTCHISON. Well, I just want to say that it was Senator Cantwell who really brought up the question I was going to ask of our two Maritime Commission nominees.

And it is on the Harbor Maintenance Tax, and I am the co-sponsor with Senator Levin of the bill that would assure that the Harbor Maintenance Tax is used for harbor improvements and keeping us competitive.

And it is my understanding that you have been investigating the diversions to Canada and Mexico because of problems in that area.

And what I would just ask is if you would submit to us the results of your investigations, or anything that would help us in assuring that we can pass the legislation that directs that harbor maintenance fund to be used for the improvement of our ports and harbors.

Mr. LIDINSKY. We certainly will, Senator. And as I said, we're looking to finish the study late this spring and publish it early this summer.

Senator HUTCHISON. Well, it's very important. All of us who have coastlines, including the Gulf of Mexico where I have one, and we feel that we are in a strong position to get business from the Panama Canal.

So I want to make sure that we have the use of our funds that are collected from the users for those purposes. So we'll certainly look to that, and Senator Levin and I are working on trying to finalize that legislation for passage.

Mr. LIDINSKY. Thank you, Senator.

Senator HUTCHISON. Thank you.

The CHAIRMAN. Thank you, Senator Hutchison. Senator Boozman, do you have any further questions?

Senator BOOZMAN. No.

The CHAIRMAN. All right. I did not say what others have said, which should always be said, and that is that working for the Federal Government is hard. You can do much better financially elsewhere.

And the whole concept of public service I think is what drives us all here. But, nevertheless, that's easy to say. People have conflicts in their lives and children and financial problems and all kinds of things.

So I really want to thank you for putting yourself up for nomination just as an act of loving your country, and the fact that Dr. Falcone you had two of your relatives who worked in the coal mines.

With that I thank you all, and this hearing is adjourned.

[Whereupon, at 11:40 a.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TOM UDALL TO
PATRICIA K. FALCONE

OSTP role in bringing scientific perspective to policy

Question. Dr. Falcone, could you share your thoughts on the proper role for the science advisors at OSTP in advising the President on national security matters? What perspectives can OSTP advisors add to help inform national security related decisions?

Answer. At the Office of Science and Technology Policy (OSTP), we often speak of the role of OSTP and its staff relative to two fundamental responsibilities: first, providing science and technology for policy and, second, providing policy for science and technology

The first role refers to the responsibility of OSTP to ensure that every issue presented to the President contains the best possible technical information. Many of the President's policy decisions, of course, will not turn exclusively on the technical data. The reality is that in the types of difficult national security issues that end up in front of the President, the facts are often very complicated as are the relevant technical systems. For these national-security-related decisions, we must distill the technical issue to its essentials, including its national security operational implications, and fully convey the degree of uncertainty or ambiguity associated with even the wisest technical judgment on the matter. In addition, OSTP must play a leadership role in making connections with experts inside and outside of the Federal Government to assure the best technical insights are available to support policymaking for both well-established issues and for those that suddenly emerge and demand access to new technical expertise and perspectives.

The second role outlined above for OSTP and its staff is to provide "policy for science and technology." OSTP, working with the broader S&T community, catalyzes policy to assure that we nourish the highest quality of science and technology in the United States, for national security and other purposes.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. KAY BAILEY HUTCHISON TO
PATRICIA K. FALCONE

Question. This year, the President requested \$400 billion in funding for Federal research and development (R&D), but deficit reduction may limit defense budgets in the near term. You mentioned in your testimony that priority areas in national security and international affairs include cybersecurity, defense against biological threats, nuclear security, and aspects of our military and intelligence capabilities. Can you elaborate more specifically on which programs within these areas are most important to for defense and security R&D?

Answer. Science and technology activities in support of critical national security domains such as cybersecurity, defense against biological threats, nuclear security, and aspects of our military and intelligence capabilities are composed of many programs funded by multiple departments and agencies, and performed by technical experts inside the government, at universities, and in the private sector. Selection of specific programs within the large portfolio is via a prudent and iterative process involving deep understanding of the mission challenges, the behavior and capabilities of our adversaries, technical judgments, and quality of technical ideas and program execution. Within the Federal R&D portfolio of \$140.8 billion proposed in the 2013 Budget, we must set priorities in order to identify the most important programs with the maximum potential to improve our national and homeland security. Interagency coordination, external review, collection of operator and other stakeholder input, and prioritization are the key tools for ensuring the Nation's resources effectively and efficiently yield the desired mission benefits from the specific programs carried out in the science and technology enterprise. OSTP works with Fed-

eral agencies to assess changing threats and to recalibrate national and homeland security R&D investments to respond to them and to available resources.

Overall, the most important factor for defense and security R&D in this difficult budget climate is investment focused on keeping the national security research and development enterprise healthy, efficient, and responsive. Quality in the enterprise requires necessary resources; an experienced, highly capable, and high-performing workforce; and laboratory facilities that provide modern, state-of-the-art experimental and computational capabilities focused on critical technology needs for the long term and with the ability to respond to urgent current needs. Our laboratory infrastructure is critical to staying at the technical forefront as well as attracting the best and brightest emerging from our next generation of scientists and engineers. National security threats are dynamic and capricious; to continue to meet the threats, we must be vigilant in maintaining the quality of the people, capabilities, and facilities in our national security research and development enterprise.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO
PATRICIA K. FALCONE

Question 1. Cybersecurity

Ms. Falcone, as you may know, the issue of cybersecurity has been bouncing around the halls of the Senate for a while now. We keep hearing that legislation to enhance cybersecurity will soon be on the Senate floor for debate. I understand OSTP's National Security office is responsible for promoting cybersecurity through a research program.

Question. Could you provide a more in-depth description of OSTP's role with respect to cybersecurity? What does this research program entail? How should the program fit into comprehensive cybersecurity legislation?

Answer. Continued investment in cybersecurity research and development is the key to ensuring that we are on track as a nation to develop innovative technical tools and capabilities to address cyber threats. Last December, based on the work of researchers across the nation, OSTP issued a comprehensive Federal cybersecurity research and development strategy entitled *Trustworthy Cyberspace: Strategic Plan for the Federal Cybersecurity Research and Development Program* which is available at the whitehouse.gov website. The strategy outlines four key cybersecurity R&D themes for our coordinated Federal R&D agenda including:

- designed-in security—designing software systems that have inherent resistance to cyber-attacks, and the self-awareness to understand their own vulnerabilities
- tailored trustworthy spaces—providing specific assurance levels in cyber sub-spaces regarding identity or authentication
- moving target—making attacks more difficult by making our own systems more dynamic and less predictable
- cyber economics and incentives—exploring ways to incent secure cyber behaviors and developing performance metrics

On the basis of this strategy, we are focusing the scientific community on a common set of problems, leveraging and targeting Federal R&D investments and, importantly, accelerating the pace of transitioning the results of our Federal R&D into operational use both for national security and commercial systems. Progress in this work will be tracked and reviewed, and the strategy updated as needed. Endorsement of a national research and development effort in the domain of the science and technology of cybersecurity should be a part of comprehensive cybersecurity legislation.

Question 2. Terrorism

Ms. Falcone, I understand that OSTP's National Security office develops new advancements in science and technology that can be used to prevent, detect, and minimize the impacts of terrorist security risks involving biological weapons. Many experts on terrorism believe that the risk of an effective terrorist attack using biological weapons is relatively low, due to the extreme difficulty both in making such a weapon and deploying it.

Question. Could you discuss the risk of a terrorist attack using biological weapons? Do you believe it is a relatively low risk?

Answer. Economic, political, and religious forces have given rise to a form of fanaticism that seeks to harm free societies. We know that some of these fanatics have expressed interest in developing and using biological weapons against our Nation and our allies. Risk is generally viewed as a combination of the likelihood of

an event and its consequence. While the likelihood of a biological attack is lower than more-commonly observed, terrorist-attack modes such as explosives, consequences of a biological attack may be much more serious and widespread than an attack with explosives. The Department of Homeland Security has prepared a Bio-terrorism Risk Assessment. Its results are based on peer-reviewed input from across the interagency community of experts and includes intelligence about the terrorist as an adversary; the ease of acquiring, growing and refining various organisms; the variety of delivery mechanisms; the availability of medical countermeasures; our ability to leverage public health capabilities to mitigate the effects of a release; and other factors deemed key to answer the questions of the risk of a terrorist attack using biological weapons. There are a range of risks; not all organisms are the same; some pathogens are not effective as weapons, and other organisms have attributes that make them more dangerous and pose a much larger risk of effective misuse by terrorists. It is critical that we continue to promote new advances in science and technology to protect the American public from a biological attack and to work to prepare effective responses that save lives in the aftermath of such an attack.

Question 3. Nuclear Weapons

Ms. Falcone, I understand that OSTP's National Security office is also involved with reducing the risk of nuclear proliferation. Among the goals listed on OSTP's website is the goal of "making this a world without nuclear weapons."

Question. Many experts on deterrence point out that if the United States were to dramatically decrease or even eliminate its nuclear weapons, it would prompt even more large-scale and more dangerous proliferation, because nations would seek to take advantage of the opportunity to achieve nuclear superiority. It would simply be human nature to try to take advantage of the situation. Would you agree that the proliferation of nuclear weapons would increase if the U.S. were to get rid of its nuclear weapons?

Answer. Preventing the proliferation of nuclear weapons is a critical national security priority. The Administration has emphasized the importance of U.S. leadership in taking concrete steps toward a world without nuclear weapons, but it has also noted that it does not support unilateral steps by the United States to achieve this vision without corresponding reductions from other states that possess nuclear weapons. Any process that leads to a world without nuclear weapons will be evolutionary in nature and will require some time to achieve. As outlined in the *Nuclear Posture Review*, so long as nuclear weapons exist, the United States will retain a safe, secure, and effective nuclear weapons arsenal that guarantees the defense of the United States and its allies. Science and technology are key tools in ensuring safe, secure, and effective weapons in our stockpile. Research and development are underway to ensure that we have monitoring technologies suitable for maintaining awareness of the nuclear activities of other nations both cooperatively and non-cooperatively.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER F. WICKER TO
PATRICIA K. FALCONE

Question 1. How would you leverage existing resources and external expertise to advance science and technology as they relate to national security policies?

Answer. A key way to leverage existing resources in ongoing science and technology programs is via effective interagency coordination, the preparation of governmentwide research and development plans and priorities, and quality technical reviews. OSTP convenes the interagency via the National Science and Technology Council (NSTC) and by other means. Security and defense science and technology issues are handled within the NSTC Committee on Homeland and National Security and its topical sub-committees and working groups.

We have found external expertise to be quite important in advancing national security science and technology policies, reviewing ongoing programs and program portfolios, highlighting broad mission frameworks, and considering implications of proposed national security policies. At OSTP, we have benefited from the insights of external expertise provided by the work of the National Academies of Science, Engineering, and Medicine, by the work of the Defense Science Board and by other Service science boards and advisory groups in the Department of Defense as well as, more broadly, in other national security departments and agencies, and from the work of the long-standing national security advisory group, the JASON. Engagement with external technical expertise in allied nations also has been valuable for our own programs.

Question 2. What are your views regarding the importance of university research in areas of science and technology that have contributed significantly to national security policies?

Answer. University research is critically important to our national security missions. The predominant portion of the basic research (named “6.1”) in the Department of Defense is carried out by universities and has a long track record of success. University research that is inspired by national security mission challenges is critical both for creating new knowledge and for its role in educating the next generation of scientists and engineers.

Question 3. What are your views on the current state of cybersecurity with respect to the protection of our Nation’s critical infrastructure? How could you address vulnerabilities by utilizing existing resources?

Answer. Our nation faces a growing threat to our critical information systems from nation-states, criminal organizations, and malicious hackers. We rely on these critical information systems, among other things, to manage our financial transactions, run our air traffic control networks, supply our communities with power and water, and support our military and law enforcement missions. OSTP’s largest role in the area of addressing cyber threats to critical infrastructure is to facilitate Federal research and development efforts in order to develop innovative technological tools that can thwart these cyber threats. Our country’s historic commitment to basic research and development has contributed to the current technological tool set and other existing resources employed by both the Federal Government and industry to address current cybersecurity vulnerabilities. Our continued commitment to research and development is important to keep pace with evolving threats. Ongoing research ranges from investigation of the scientific bases for hardware, software, and system security to applied research in security technologies and methods, approaches to cyber defense and attack mitigation, and infrastructure for realistic experiments and testing.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO
MARIETTA S. ROBINSON

Question 1a. As you know, the CPSIA “fix” legislation, which was signed into law by the President in August 2011, empowers the Commission to make regulatory changes to cut those costs for businesses. If confirmed to the Commission, what steps will you take to reduce the costs to businesses with respect to third-party testing and certification, particularly in those cases when it can be demonstrated that these costly requirements do not improve safety?

Answer. It is my understanding that P.L. 112–28 clarified some of the provisions of CPSIA that caused concern, including certain provisions relating to third-party testing and certification. I am pleased that the law provides a means for the Commission to provide relief to “small batch” manufacturers on this front, and allows the Commission to look for possible ways to reduce the cost of third-party testing for all manufacturers.

In addition, it is my understanding that P.L. 112–28 requests that the CPSC undertake a review of third-party testing requirements to determine where the cost of such testing may be reduced while still ensuring compliance with safety standards, and to consider revising existing regulations or make recommendations to Congress regarding possible legislative changes if such changes reduce cost while still ensuring compliance with Commission safety standards. If confirmed, I look forward to working with CPSC staff and the other Commissioners to expeditiously complete this review process.

Question 1b. Do you believe exemptions to the lead and other requirements are appropriate when the safety risks to children are not an issue and alternative materials and alloys exist, but are harder to obtain and are more expensive?

Answer. It is my understanding that P.L. 112–28 modified the CPSIA section 101 lead limits for certain products, including off-highway vehicles, bicycles and related products, ordinary books, and certain used children’s products.

In addition, P.L. 112–28 also contains a new “functional purpose” test that allows the Commission to exempt a “specific product, class of product, material or component part” from certain lead limit requirements where it is “not practicable or not technologically feasible” to remove lead beyond the section 101 limits and the product or component part presents “no measurable adverse effect on public health.” If confirmed, I would work with CPSC staff and other Commissioners to carry out this provision and provide functional purpose exemptions where necessary and appropriate.

Question 2. As you are probably aware, Congress enacted the Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) in 2007, to prevent suction entrapments by swimming pool and spa drains and child drowning deaths in swimming pools and spas. In April 2010, the Commission approved an interpretive rule defining what an “unblockable drain” should be. In September 2011, the Commission voted to revoke this rule. As a result, hundreds of pool operators, users, and pool and spa safety professionals submitted comments to the Commission that the revocation would require the installation of expensive backup systems that do not prevent entrapment and are unnecessary. The VGB Act says the Commission can designate new and improved entrapment technologies to satisfy the requirements of the law. Will you be open to new safety technologies that are cost efficient and will you commit to considering them in future rulemakings on this issue?

Answer. Yes. If confirmed, I will consider new technologies as long as they comply with the requirements of the VGB Act.

Question 3. You stated in your testimony your belief that the CPSC should incorporate cost-benefit analysis into its regulatory decisionmaking “where it’s appropriate.” Under what circumstances would you consider it appropriate for the Commission to perform a cost-benefit analysis to guide its rulemaking? Likewise, under what circumstances would cost-benefit analysis be inappropriate?

Answer. I believe in following the statutorily established guidelines in implementing regulations. Congress has mandated varying degrees of cost-benefit analysis in the statutes governing the Commission. If confirmed, I would look to the applicable statute for guidance in deciding which approach should be taken for a specific rulemaking proceeding.

Question 4. What type of initiatives would you put in place to collaborate with American businesses to ensure that all product safety regulations are clear, concise, easy to implement, and protect American consumers from a substantial risk?

Answer. I believe that education and outreach are critical elements of the Commission’s work—and not simply outreach to consumers, but also to businesses. I commend the Commission for its work on this front with its establishment of the Office of Education, Global Outreach, and Small Business Ombudsman. It is my understanding that this office has been reaching out to businesses, particularly small businesses, with plain language guidance on statutory and regulatory requirements. If confirmed, I assure you that I will work with the staff of this office to continue these efforts.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO
MARIETTA S. ROBINSON

Influence of Practice as a Personal Injury Lawyer

Question 1a. Ms. Robinson, you began your distinguished legal career practicing tax law at Dickinson, Wright, Moon, Van Dusen and Freeman, with a stint at a Federal prosecutor’s office (1979–1984). You then became a partner at Sommers, Schwartz, Silver & Schwartz PC, a personal injury law firm, from 1985–1989, and have had your own practice since 1989. Is it accurate to say that for nearly thirty years (since leaving Dickinson in 1984) you have primarily done plaintiffs’-side personal injury work?

Answer. As an initial matter, please let me correct some misunderstandings about my legal work between 1979 and 1984. I have never worked in a Federal prosecutor’s office or done any legal work in the criminal law area. Also, while I worked my first few months at Dickinson, Wright in the tax area, I changed my focus within my first year to litigation. The types of litigation in which I worked while at that firm included anti-trust, insurance defense, contract disputes, copyright, corporate bankruptcy, product liability, employment law (representing employers), and other general commercial litigation. My clients were insurance companies and businesses of every size.

Since 1984, it is accurate to say that, although I have continued to do some defense litigation (including asbestos defense work), my practice has primarily been focused on representing individuals who have serious injuries due to the negligence, sometimes gross negligence, of another party. For 8 years, from 1989 to 1997, I served as a federally appointed Trustee of the Dalkon Shield Trust. I have also taught extensively over the years in several areas of trial practice and in several venues, including as an adjunct professor at two law schools.

Question 1b. Have you also handled product liability cases?

Answer. I have handled product liability cases primarily for defendants.

Question 1c. Have you provided counsel to defendants in product liability cases or only plaintiffs?

Answer. I have handled product liability cases primarily for defendants.

Question 1d. Can you supply the Committee with information on the product liability cases on which you have worked?

Answer. The information I am able to supply is very limited. Product liability has not been the focus of my practice; much of my work in that area was as an associate and did not involve courtroom appearances. I have not litigated a product liability case for many years and, to the best of my knowledge, almost all of the records concerning those cases have been destroyed.

To the best of my recollection, I represented Whirlpool Corporation in a lawsuit in which the plaintiffs alleged that a defective furnace had caused death and serious injuries due to carbon monoxide emission; I worked on cases on behalf of Ford Motor Company in which the plaintiffs alleged various defects in automobiles; I represented an asbestos manufacturer in a class action brought by employees of Uniroyal Tire; and I was an associate on a case in which I represented an Air Force cadet who became a quadriplegic after his Jeep rolled over.

I was able to find information about one case in which I represented Mr. Joseph Bailey against General Motors Corporation (GM) between 1989 and 1993. The case was filed in Genesee County Circuit Court in Flint, Michigan (Case #89 107489). Mr. Bailey was a truck driver and was driving a GM semi-truck when he hit a guard rail and the latch holding the cab of his truck in place snapped throwing the cab forward and the windshield popped out. Mr. Bailey was ejected from the cab and lost his leg.

This was a product liability lawsuit based on a defective latch and a windshield that was not properly sealed to the vehicle. The case was settled after several weeks of trial.

Question 1e. What other experiences have you had with respect to defective products?

Answer. My other experience with defective products was primarily my 8 years as one of five federally appointed Dalkon Shield Trustees. The Trust was set up by the U.S. District Court for the Eastern District of Virginia as a result of class action litigation by individuals who used an admittedly defective intrauterine device (IUD) called the Dalkon Shield.

The Trust involved a compensation fund of approximately \$2.3 billion and over 300,000 claimants in 120 countries with injuries ranging from use of the product to infertility, death, and brain-injured babies. My duties as a Trustee included compensating individual victims fairly, but also maintaining the corpus of the Trust so that all claimants could be fairly compensated.

The Trust settled most of the claims, but was the Defendant in many lawsuits filed after a settlement offer had been rejected. My role as a Trustee in those lawsuits was much more accurately described as representing a defendant rather than the plaintiffs. In the end, the Trust was managed so successfully that we were able to give a 90 percent *pro rata* distribution to all claimants, in addition to the initial settlement amounts.

Question 1f. How does your experience in product liability law impact your perspective of the CPSC and the role of a Commissioner?

Answer. My experience in representing both sides in litigation, including product liability litigation, gives me a unique perspective in appreciating the concerns of consumers as well as regulated businesses. If confirmed, I believe this experience with both sides will allow me to make fair, objective, and unbiased contributions as a Member of the Commission.

Question 1g. Can you assure this Committee that your experience as a plaintiffs' lawyer will not compromise your ability to be fair and objective on the CPSC?

Answer. Yes. Neither my representation of plaintiffs nor defendants will in any way compromise my ability to be fair and objective on the CPSC. If confirmed, I assure you that I will serve as fair and objective Member of the Commission.

Role of the Commission/Consumer Product Safety Improvement Act (CPSIA)

Question 2a. In 2008, Congress gave significant new powers to the CPSC through the CPSIA. Are you satisfied with the current powers of CPSC? Do you think there are areas where the CPSC's powers should be further expanded or more limited?

Answer. I believe I would be better equipped to answer this question if I am confirmed and able to obtain a first-hand sense of the interworking of the agency and its statutory authority.

Question 2b. How would you improve the public database system so that a company would not have an adverse view about its products posted when there was no reasonable basis for doing so?

Answer. Overall, I think the public database of product safety incidents has been successful. However, I also realize that some concern remains over the publication of adverse views toward manufacturers.

It is my understanding, that P.L. 112–28 added additional protections for manufacturers, including an additional 5 days for manufacturers to file comments or identify claims of material inaccuracy (for a total of 15 days), and requires the Commission to seek out model or serial numbers or even a photograph of the product, when possible. I believe this was a well-balanced modification to the database statute that balances the public’s right to have access to product safety information with reasonable protections against inaccurate or misleading data.

If confirmed and additional concerns arise, I would look forward to working with the Commission and Members of the Committee to find balanced solutions.

Delegation of Federal Authority to State Attorneys General

Question 3a. The CPSIA gave state attorneys general authority to enforce certain aspects of the Consumer Product Safety Act. Do you think enforcement of CPSC rules, and determining whether there is a “substantial product hazard,” should be delegated to state attorneys general?

Answer. Section 24(b) of the Consumer Product Safety Act, as amended, provides a right of action for State Attorneys General (after they provide notice to the Commission) to enforce many of the Commission’s statutes and rules. As this enforcement authority is set by statute, I respectfully defer to Congress as to whether the scope of that provision is appropriate.

Question 3b. If so, do you think those state AGs should be subject to the same restrictions that the CPSC, DOJ, and other Federal officers are subject, such as a prohibition on the hiring of contingency fee lawyers? If not, do you believe that if contingency fees lawyers are employed, the process to hire them should take place in a transparent manner with competitive bidding?

Answer. It is my understanding that section 24(b)(6) of the Consumer Product Safety Act, as amended, already contains certain statutory restrictions on the use of private counsel by State Attorneys General.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARCO RUBIO TO MARIETTA S. ROBINSON

Commission Processes

Question 1. Once the Commission votes to establish an interpretive rule under an existing statute, and manufacturers and users invest based on that rule, and the public knows the rule is in effect, do you agree that the rule should not be reversed absent compelling evidence of a safety hazard?

Answer. I agree that the Commission should make every effort possible to establish interpretative rules upon which all stakeholders may rely. If confirmed, I assure you that I will carefully consider each and every matter before the Commission before I come to a decision.

Question 2. Would you agree that before the Commission reverses a vote or repeals a rule or interpretation that is relied upon by members of the affected industry or community of users that it should solicit and consider public comment?

Answer. If confirmed, I assure you that I will carefully consider all comments, legal guidance, and technical factors before reconsidering or revoking any Commission rules or policy statements.

Question 3. Do you believe the Commission should overturn or reverse a decision or rule or interpretation absent evidence that the benefits of such a reversal outweigh the costs?

Answer. I agree that the Commission should make every effort possible to establish interpretative rules upon which all stakeholders may rely. If confirmed, I assure you that I will carefully consider all comments, legal guidance, and technical factors before reconsidering or revoking any Commission rules or policy statements.

Question 4. Do you believe that it is in the best interest of the Commission and the public to follow the recommendations of the Commission’s technical and legal staff?

Answer. The CPSC is a science-based agency. If confirmed, I assure you that I will look to our scientific and technical staff as well as the Office of General Counsel and give great deference to their in-depth knowledge and research to inform my de-

cisions. As I stated in my opening remarks, I believe they are unsung heroes in the product safety world and it would be an honor to work with them.

Question 5. Do you believe that the Commission should revoke a previously approved rule when doing so is contrary to the recommendation of the Commission's technical and legal staff?

Answer. I certainly agree that the Commission should make every effort possible to establish interpretative rules upon which all stakeholders may rely. If confirmed, I would review every matter before the Commission with great attention, regardless of whether the matter is new or one previously decided, using all of the facts and stakeholder views to guide my decision.

Pool Drains

Question 6. Following passage of the Virginia Graeme Baker Pool and Spa Safety Act, the Commission approved an interpretive rule defining what an unblockable drain should be in April 2010. In September, 2011, the Commission voted to revoke this rule, which caused a significant delay in the production of pool and spa covers that are fully compliant with the law. It is therefore possible had the Commission not reversed its decision that a sufficient number of compliant pool covers could have been produced to protect consumers against entrapment hazards in a large percentage of the public pools in this country had the Commission not reversed its decision. Would leaving the original interpretation in place have been a safer course of action?

Answer. I am not privy to all of the information necessary to properly answer this question. However, based on my review of the decision and the statements of all the Commissioners, it is my understanding that the intent of the reinterpretation was to conform to the legal requirements of the VGB Act.

Question 7. Do you agree with the Commission's vote to reverse its original 2010 rule on unblockable drains? Why or why not?

Answer. While I am aware that the Commission revoked its interpretation of what constitutes an unblockable drain under the VGB Act, I am not privy to all of the facts that were presented to the Commissioners in informing their decisions. Therefore, I am unable to answer this question.

Toxic Drywall

Question 8. As you are probably aware, toxic drywall is one issue that has plagued thousands of Floridians. My state ranks first in the number of toxic drywall cases. What can you do at the Commission to help the affected homeowners in my state?

Answer. My sympathy goes out to the homeowners that have been impacted by problem drywall. I recognize the incredible hardship these families have faced through no fault of their own.

I know CPSC staff has worked hard on this issue, and has put out a lot of materials—such as problem drywall identification guidance and remediation guidance—in an effort to help impacted homeowners. I also understand that the Multidistrict Drywall Litigation (MDL) in New Orleans has been able to provide financial assistance to some homeowners.

If confirmed, I can assure you that I will work with Members of this Committee and impacted homeowners in an effort to find any additional ways to help families impacted by this problem.

Question 9. What role do you believe the Commission should play in working with the Chinese government to hold manufacturers of toxic drywall accountable? Have you been satisfied with the Commission's efforts to date to hold these manufacturers accountable?

Answer. Under current law (both CPSC and Customs statutes), foreign-based manufacturers do not have to register an agent for service of process. As a result, when the CPSC or impacted consumers seek redress against foreign manufacturers of dangerous or defective products, they generally have to either try to effect service of process via the Hague Convention (an onerous process) or pursue an U.S. retailer or importer in the domestic chain of commerce for redress. In the case of Chinese-manufactured problem drywall, it is my understanding that neither approach has yielded redress to date for the impacted homeowners.

It is my further understanding that the Commission has leveraged all of its authority with respect to the Chinese government, and has continually engaged its counterpart agency in China to encourage bringing the responsible Chinese parties to the table. Unfortunately, thus far, these efforts have been unsuccessful.

If confirmed, I will work with the Chairman and agency staff to continue to raise this issue with the Chinese government whenever possible.

Question 10. Do you believe that the Commission should utilize peer-reviewed studies or have other agencies review the Commission's studies in the case of toxic drywall?

Answer. It is my understanding that most of the Commission's drywall studies were peer reviewed. If confirmed, I would support efforts by CPSC staff to conduct peer review or inter-agency review for any future studies to the maximum extent possible.

Question 11. One issue affecting victims of toxic drywall is the burden the drywall has caused on their personal finances. Many have had their personal credit ratings negatively impacted as a result of the financial strain they have encountered. What can the Commission do in terms of working with credit rating agencies to help affected homeowners?

Answer. While the CPSC has no statutory authority to force lenders to provide forbearance or loan modifications, or mitigate the credit ratings of impacted homeowners, I believe the CPSC can and should continue to urge lenders and the government agencies with the appropriate jurisdiction to provide any and all assistance possible.

It is my understanding CPSC has already engaged other Federal entities to do just this, specifically by working with the U.S. Department of Housing and Urban Development (HUD) and the Internal Revenue Service (IRS). If confirmed, I assure you that I will work with CPSC staff and my fellow Commissioners on these efforts.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO
HON. RICHARD A. LIDINSKY, JR.

Question. In his National Export Initiative, President Obama called for doubling U.S. exports by 2015. The Federal Maritime Commission—under Chairman Lidinsky's leadership—has taken initial steps to increase exports. What additional actions must the Commission take to help meet the President's goal?

Answer. The Commission's key role in the President's National Export Initiative is to use its full authority to encourage adequate vessel capacity and supplies of intermodal shipping containers. I have emphasized to ocean carriers that they should not just treat our country as an import drop zone and return to sailing origin with empty containers for another one-way run. What the ocean carriers call "backhaul," we call vital U.S. exports. The Commission must also work closely with other departments and agencies, like we did with the U.S. Department of Agriculture, in devising a system of letting farmers know where export containers are for their products. The Commission and other agencies can meet the President's goal of doubling exports, if we work together to stay our current committed course.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
HON. RICHARD A. LIDINSKY, JR.

Question 1. Freight Strategic Plan

Chairman Lidinsky, I'm sure you'll agree that our ocean transportation system is a critical component of our nationwide freight network for imports and exports. Washington state exported sixty-four billion dollars worth of goods last year, and billions more imports passed through our ports on their way to the Midwest and further east.

We're trying to help those goods move more smoothly on our nationwide freight network by mandating that the U.S. Department of Transportation come up with a nationwide freight strategic plan to help guide our investments and prioritize freight dollars. I worked with my colleagues Frank Lautenberg and Chairman Rockefeller to get those provisions included in the Senate's surface transportation bill and I will be fighting to preserve them through the Conference with the House.

Question 1a. Do you believe that any nationwide freight strategic plan should include our ocean transportation system?

Answer. I believe it absolutely essential that any nationwide freight strategic plan include our ocean transportation system, given the vital role ports play in the flow of our overseas commerce, 95 percent of which arrives by ship. Too many ports—as well as the railways, highways, and bridges that connect them to the rest of the supply chain—are slowly decaying due to lack of investment and strategic long-term planning. A port's infrastructure is critical to its efficiency and competitiveness, which in turn support jobs and the economy of its city, state, and region. With today's system of international, intermodal supply chains, ports also have an impor-

tant impact on the economies of inland areas that may be hundreds or thousands of miles away.

Question 1b. What role does seaport connectivity to roads, rails, and other maritime shipping play in the success of our nationwide freight network and international competitiveness?

Answer. I believe that efficient connectivity of ports to a national freight network is a key ingredient to our country's ability to increase exports and continue our economic recovery. All parts of our freight transportation system need to work together to reduce bottlenecks in our Nation's international supply chain system, and intermodal port connections should be a top priority for improvement.

Question 1c. In your view, do you believe that existing Federal programs are adequate to help ports improve their connections to local, regional, and nationwide freight road, rail, and maritime networks? If not, what more could be done?

Answer. As someone involved in ports and maritime cargo movement for more than 35 years, I know first-hand that our ports are in need of infrastructure investments to improve their intermodal connections. If confirmed, I would continue to lead the Commission in doing what we can under our statutory authority to help ports improve those connections and increase the efficient flow of commerce.

Question 2. Cost of Freight Bottlenecks

Chairman Lidinsky, freight bottlenecks and other congestion costs this country more than two-hundred billion dollars a year. I'm not sure if you read the *New York Times* article¹ on May 7, 2012 that mentioned that a load of freight can take only 48 hours to go from Los Angeles to Chicago by rail, but then can take 30 hours to travel across the city. These sorts of delays exist across our country—and are hindering economic growth.

In my own state, the Washington State Department of Transportation has found that more than 27,000 jobs and \$3.3 billion in economic output at freight-dependent industries could be lost in if *truck* congestion within my state increases by just 20 percent. And we could be on our way, with freight movement in Washington expected to grow by up to 86 percent by 2040.

While the Federal Maritime Commission doesn't regulate roads or rails, I'm sure you'll agree that congestion at our ports and in our freight network nationwide directly impacts shipping.

Question 2a. Many products travel thousands of miles between their origin and final destination—whether agricultural products, manufactured goods, or bulk resources. How do freight rail and road delays in the American interior impact shippers on our coasts?

Answer. With today's "just-in-time" supply chains, world shipping runs on tight schedules and any interior delay can harm shippers, particularly exporters who are competing in world markets, often with time-sensitive cargo such as agricultural products.

Question 2b. In your view, how does congestion at seaports impact shipping imports and exports? Does congestion that prevents the rapid transfer of goods from ship to rail and truck hamper America's economic potential?

Answer. I think that port congestion not only prevents rapid goods transfer, but also constrains our capacity to handle larger vessels in ports and constricts our growth potential.

Question 3. Panama Canal Expansion and Shipping

Chairman Lidinsky, as you know, the Panama Canal expansion project is expected to be completed in 2014. As a result larger ships are able to sail directly from East Asia to East Coast and Gulf ports.

Question 3a. In your view, how are ocean common carriers and marine terminal operators preparing for this new shipping option?

Answer. I think most ports are doing a very good job of examining their current capabilities and future potential. The Federal Government should work as a helpful partner in this endeavor.

Question 3b. Do you believe that the Panama Canal expansion will dramatically change international shipping traffic patterns to the U.S.?

Answer. I think it will cause change, but not as dramatic as some are predicting.

Question 3c. Do you believe that the Panama Canal expansion will lead to a significant change in ocean transportation costs for shippers?

¹http://www.nytimes.com/2012/05/08/us/chicago-train-congestion-slows-whole-country.html?_r=1&pagewanted=all.

Answer. I think that rates will remain relatively stable and shippers will have a chance to negotiate fair contracts with carriers. Global supply and demand and fuel costs will continue to be the primary drivers of ocean transportation costs.

Question 3d. Do you believe that the United States is adequately preparing for this expansion—on both a planning and infrastructure level?

Answer. I think that some ports are preparing more than others on both levels, but all in all good progress is being made. Planning could be improved if Federal agencies dealing with various modes of transportation work to improve coordination on freight planning.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO
HON. RICHARD A. LIDINSKY, JR.

Question 1. Concerns regarding your leadership at the Commission have been raised in the May 9, 2012, letter to you from Congressman Issa, Chairman of the House Oversight and Government Reform Committee. As staff of our Committee continues to review these allegations, will you pledge to answer any additional questions and requests for information that are asked of you?

Answer. I am willing to answer any questions you may have about the issues raised in the House Oversight and Government Reform Committee Chairman's request, or on any other subject concerning my tenure at the FMC.

Question 2. The Partnership for Public Service along with American University's Institute for the Study of Public Policy Implementation compile rankings of the best places to work among Federal agencies, based on surveys conducted by the United States Office of Personnel Management. These surveys represent the views of Federal employees regarding satisfaction and commitment to government service. It concerns me that since 2009 when you took over as Chairman, the ranking of the Federal Maritime Commission has dropped dramatically from sixth to twenty-ninth in their survey of small agencies. Can you explain the reason for this change? Are you taking any steps to address this decline?

Answer. The Office of Personnel Management Employee Viewpoint Survey provides valuable feedback, and we take that feedback seriously, while acknowledging that the small sample size of 68–88 employee responses each year can lead to fairly significant variability from year to year. Each year we review and adjust as necessary our Human Capital Plan, which includes a detailed workforce analysis and a solutions implementation plan that take the latest survey results into account.

I believe that a few trends may explain some of the survey results we have seen recently. First, since I was named Chairman, the Commission has embarked on a very busy period that saw a significant increase in staff workloads. During that period, the Commission was working hard to respond to problems such as shortages in vessel capacity and containers that appeared in 2010, to complete its landmark study of the European Union's repeal of its competition law exemption for liner shipping, to more quickly resolve disputes between shippers and carriers, to modernize regulations, and to reduce regulatory burdens. This increased workload may explain some changes in responses regarding workload reasonableness, resources to complete jobs, and work/life balance.

Second, we face challenges arising from the fact that we are a very small agency with a relatively large number of retirement-age senior managers with significant longevity. About 45 percent of the FMC's workforce will be eligible for voluntary retirement by September 2016. We value these long-tenured employees' accumulated skills and institutional knowledge. But at the same time, senior management and I are aware of frustration by more junior employees over the resulting slow progress in gaining promotions to higher grades and positions with increased responsibility. I believe that this trend may explain some changes in responses regarding use of employee talents, recognition for good work, opportunities to demonstrate leadership skills, and especially opportunities to get better jobs in the organization.

The agency has been seeking ways to compensate for this challenge in other ways, subject to constraints such as recent budget uncertainty and limitations as well as governmentwide restrictions on pay increases and performance awards. Such constraints may also explain some changes in responses regarding pay raises or rewards reflecting job performance.

Finally, I have tried to instill a culture that prioritizes the needs of the shipping public we serve. From my perspective, this renewed emphasis on serving the public and working for taxpayers has inspired most of our workforce. However, as with any institutional change, some employees may have been dissatisfied, and this was likely reflected in some survey responses.

To address these issues within current constraints, a major fiscal-year 2012 priority for the FMC's Managing Director and Human Resources Director—with my full support—has been working to implement a new and improved performance management and appraisal system. This system was designed by a team that reflected a cross-section of agency staff at all grade levels. It incorporates employee feedback from training sessions that were held agency-wide. Although the new system will be much improved over the current system, there remains some trepidation among staff as to how ratings will be made and whether it will be more difficult to obtain the highest ratings. This concern will likely linger until the first ratings under the new system are done later this summer. Since last fall, the Managing Director has also been sitting down regularly with each of the agency's offices and bureaus to receive feedback on these staff issues and concerns. One staff suggestion in those sessions was to implement an enhanced suggestion system and recognize employee performance by designating an employee of the month or employee of the quarter. These could be done without monetary expenditures and a team is working on accomplishing both of those suggestions. In addition, we have been looking for opportunities to recognize and reward employee achievements in non-monetary ways. We also look for opportunities to give more junior professionals opportunity for new responsibility and exposure, for example in inter-office working groups I have established.

While we are working to address these challenges, I was encouraged to see improvements in the 2011 survey on responses to issues such as whether employees like their work, are willing to put in extra effort, and receive supervisor feedback on performance. FMC employees continued to indicate a high level of commitment to achieving the FMC's mission; they indicated they are held accountable for achieving results; and they expressed positive views of their supervisors relative to other government respondents. In addition to the ten Best Place to Work "Best in Class" rankings, the Partnership and the Hay Group conducted an analysis of the survey data to identify the most innovative Federal agencies and conditions that drive innovation in government. Their analysis showed that in 2011 the FMC ranked 5th among all small agencies; our results exceeded governmentwide results and closely matched results from NASA, which was ranked as the most innovative large Federal agency. This ranking demonstrates that FMC employees are constantly looking for ways to do their jobs better, they feel encouraged to come up with new and better ways of doing things, and creativity and innovation are rewarded.

Question 3. You have been Chairman of the Federal Maritime Commission for almost 3 years. What have been the major issues the Commission has faced in your tenure?

Answer. One of the major issues the Commission has faced in my tenure as Chairman was invigorating and modernizing the Commission following a period of several years without a Chairman. During the time period when I was nominated and confirmed, the Journal of Commerce and other observers were questioning the Commission's relevance, and whether the Commission was adrift. Beginning approximately 3 months after I assumed the chairmanship, those questions stopped, and observers began describing the Commission as active, reinvigorated, at the center of global maritime regulation. I believe we have been successful in getting the ship moving again.

The second major issue the Commission faced was that in 2010, as demand for shipping rebounded quickly from the depths of 2009, vessel capacity and container shortages began causing supply chain disruptions such as canceled bookings, cargo rolled to the next sailing, and rapid increases in rates and surcharges. I asked my Republican colleague, Rebecca Dye, to lead a Fact Finding Investigation into these issues, and a few months later the Commission supported her findings and recommendations, which led to temporarily increased monitoring of carrier discussion agreements and permanent "rapid response teams" who resolve disputes quickly and efficiently to keep cargo moving.

Finally, I believe that the Commission's most significant action during my tenure may have been developing and issuing proposed and final rules to exempt 3,500 Non-Vessel Operating Common Carrier (NVOCC) businesses across the country from the regulatory burden of having to publish their rates in antiquated tariffs. By joining with my Republican colleagues in this effort, we broke a logjam on an issue that had been a subject of Commission debate for the past twenty years, and were able to reduce costs for these important logistics businesses.

Question 4. In your tenure as Chairman, has the Commission taken any actions to ease the regulatory burdens on the maritime shipping community?

Answer. The Commission has made regulatory relief and modernization a top priority. During the past 2 years we have taken several steps to reduce regulatory burdens on the shipping industry and the customers they serve.

The Commission issued a proposed rule in 2010 and a final rule in 2011 granting an exemption to relieve 3,500 logistics businesses (NVOCCs) from the costs and burdens of publishing their rates in antiquated tariffs. In issuing this proposed and final rule, the Commission broke a twenty-year deadlock. The result has been, and will be, significant savings for these businesses and the importing and exporting businesses that are their customers.

In December 2011, we issued a Notice of Inquiry seeking comments on ways to make the NVOCC tariff filing exemption more useful, including a possible extension of the exemption to include foreign unlicensed NVOCCs. In May, the Commission voted to issue an interim final rule to ease the conditions for claiming the exemption. That rule should be published in the coming weeks.

In 2011, we also amended the Commission's rules to give flexibility and certainty to shippers and carriers that want to enter into contracts with rates that are adjusted based on an index. The Commission issued a final rule clarifying that the Commission allows service contracts with these adjustable rates based on container freight indices.

We have also been working to reduce burdens on parties that bring administrative cases to the Commission. We have taken steps to modernize the Commission's procedural rules to improve clarity and efficiency. In February 2011, the Commission issued a rule that reduced filing burdens on parties and clarified its procedures for informal small claims proceedings. And in February 2012, the Commission issued a proposed rule to streamline and update its procedures for pleadings, motions, and discovery in administrative cases. The comment period ended on April 30th, and we are working to finalize the rule in the near future.

Question 5. How would you assess the Commission's oversight over waterborne transportation of household goods? Please explain your partnership with the Federal Motor Carrier Safety Administration (FMCSA) in this area?

Answer. The Commission's mission includes service and protection for members of the public. After receiving more than 2,500 complaints between 2005 and 2009 from individuals experiencing problems shipping their personal household goods, the Commission initiated a fact-finding investigation led by Commissioner Khouri. In May 2011, the Commission adopted the fact-finding investigations report. We are currently working to strengthen consumer education, working with the industry to develop best practices, model shipping forms, update Commission licensing requirements for household good shippers, and promote alternative dispute resolution services.

The Commission and the Federal Motor Carrier Safety Administration (FMCSA) have committed to working together to provide enhanced protection and assistance to consumers shipping their household goods. The Commission and the FMCSA have agreed to share electronic information to help identify and address moving industry problems, refer cases to the appropriate agency, conduct joint investigations, and conduct joint training to enhance enforcement. The Commission and FMCSA are also committed to working together to coordinate education and outreach efforts for consumers, as well as enhancing consumer assistance by referring disputes involving international shipments to the FMC's office of Consumer Affairs & Dispute Resolution Services (CADRS).

Question 6. One of the Federal Maritime Commission's major tasks is to monitor the laws and practices of foreign governments which could have a discriminatory or otherwise adverse impact on shipping conditions in the U.S. Are there any specific practices we should be concerned about right now?

Answer. The Commission is currently monitoring the diversion of U.S.-bound cargo away from U.S. ports and to Canadian ports, and the impact this diversion is having on the U.S.'s West Coast ports. The Commission issued a Notice of Inquiry to gather information as to why this diversion is happening, and is currently preparing an analysis of the issue.

The Commission has been working to open the lines of communication with China to encourage compliance with licensing, bonding, and filing rules for NVOCCs as well as addressing issues, such as confidentiality concerns, with the Shanghai Shipping Exchange. The Commission is also monitoring the developments in the Panama Canal to determine any impact it would have on the movement of cargo to the U.S. East Coast.

Question 7. What steps do you feel the Commission can take to ensure security and improve infrastructure at our ports?

Answer. The Commission actively works to detect and deter shippers who mislabel or misdescribe cargo entering or leaving the United States. Such misdescription of cargo violates the Shipping Act and can cause significant safety and security concerns. The Commission is also working to ensure compliance with its licensing requirements and is assisting both Customs and Border Protections and the FBI in enforcement and compliance proceedings. The Commission has also revamped, streamlined, and expanded its data collection processes for all license applications, and is receiving periodic updates from the Treasury Department's Office of Foreign Assets Control on its list of individuals and organizations whose financial transactions have been blocked for various reasons including terrorism, and cross referencing those with those in the FMC data bases and new applicants.

Question 8. The Federal Maritime Commission has enormous amounts of information on nearly every aspect of marine transportation. How can the Commission use this information to assist other Federal agencies in securing our Nation's transportation network?

Answer. The Federal Maritime Commission continues to make available to the public and other agencies much of the information it has on maritime issues. This includes cooperating on joint ventures with other agencies, and maintaining a transparent agency by use of the Commission's website, social networking channels, and through a diligent consumer affairs department. The Commission also works to share information and expertise with other agencies, such as Customs and Border Protection, to detect and prevent fraud or smuggling.

Question 9. This Committee and its members have long enjoyed a close and productive working relationship with agencies under our jurisdiction. We often rely on the technical and legal expertise of agency staff when we are developing or reviewing proposed legislation. Can all members of this Committee, and their staff, count on this cooperative relationship continuing with the Federal Maritime Commission?

Answer. The Federal Maritime Commission has indeed enjoyed a close and productive working relationship with this Committee. If confirmed, I will ensure that this cooperative relationship continues.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER F. WICKER TO
HON. RICHARD A. LIDINSKY, JR.

Question 1. What non-security related risks would you identify as posing the greatest detriment to the flow of commerce in and out of our Nation's ports located in the Gulf of Mexico?

Answer. Many of the Gulf ports are in need of dredging and infrastructure improvements so that they can accommodate larger ships and increased flow of commerce that is likely to flow through the expanded Panama Canal.

Question 2. How could the FMC highlight infrastructure investments in our Nation's seaports in light of the anticipated surge in imports and exports from the Panama Canal expansion?

Answer. Although opinions differ on the magnitude of the likely impact of the Panama Canal expansion, you correctly identify infrastructure investments as critically important to support increased exports and imports. One of the purposes of the Shipping Act that we execute is to "provide an efficient and economic transportation system in the ocean commerce of the United States," and smart infrastructure investment is a key ingredient to doing so. Although the Commission does not make transportation infrastructure spending decisions, we will work to share our expertise to assist those in Congress and at our fellow agencies who do so.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO
WILLIAM P. DOYLE

Question. In his National Export Initiative, President Obama called for doubling U.S. exports by 2015. The Federal Maritime Commission—under Chairman Lidinsky's leadership—has taken initial steps to increase exports. What additional actions must the Commission take to help meet the President's goal?

Answer. If confirmed, I will assist the Commission to use its full authority to ensure that vessels, shippers, marine terminal operators, and other entities the Commission regulates support the President's National Export Initiative. If confirmed, I will also work with the Commission in its collaborative efforts to work with other agencies to advance that export initiative.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
WILLIAM P. DOYLE

Question 1. Freight Strategic Plan

Mr. Doyle, I'm sure you'll agree that our ocean transportation system is a critical component of our nationwide freight network for imports and exports. Washington state exported sixty-four billion dollars worth of goods last year, and billions more imports passed through our ports on their way to the Midwest and further east.

We're trying to help those goods move more smoothly on our nationwide freight network by mandating that the U.S. Department of Transportation come up with a nationwide freight strategic plan to help guide our investments and prioritize freight dollars. I worked with my colleagues Frank Lautenberg and Chairman Rockefeller to get those provisions included in the Senate's surface transportation bill and I will be fighting to preserve them through the Conference with the House.

Question 1a. Do you believe that any nationwide freight strategic plan should include our ocean transportation system?

Answer. I believe that any nationwide freight strategic plan should include the U.S. ocean transportation system since 95 percent of overseas cargo moves on ocean vessels and through ports.

Question 1b. What role does seaport connectivity to roads, rails, and other maritime shipping play in the success of our nationwide freight network and international competitiveness?

Answer. I believe that seaport connectivity to roads, rails, and other maritime shipping plays a vital role in the movement of cargo to and from the U.S. By way of example, the Columbia/Snake River provides a significant example of an inland waterway container operation and the challenges faced with sustainability of inland waterways in the U.S. The 465 mile corridor has served Oregon, Washington, and Idaho inland freight traffic since 1932 and container-on-barge since 1975, with Portland serving as the gateway port for all inbound and outbound cargo. The markets served are similar to the Mississippi River Valley in that the primary commodities for export are agricultural and food products. The producers of these products also are in close proximity to the inland terminals along the river system at the barge ports of Umatilla and Boardman in Oregon and Lewiston in Idaho. The startup of regular container on barge services began in 1975 and had grown from 125 TEU to 45,000 loaded TEU in 2000 until a steady decline from 2000 to 2010. According to the Pacific Northwest Waterways Association, three major factors contributed to the successful startup: cooperation, commodity mix and geography. According to officials at the Port of Portland, two major factors have contributed to the steady decline in barge activity since its 2000 peak: lack of full container loads in both the head-haul and export-haul legs and the ability of the gateway port to attract and keep ocean carrier services.

If confirmed, I will work with the Commission to provide you with information as to what extent this plays into the success of our nationwide freight network and international competitiveness, including information from the Commission's study on the diversion of U.S.-bound cargo through ports in Canada and Mexico.

Question 1c. In your view, do you believe that existing Federal programs are adequate to help ports improve their connections to local, regional, and nationwide freight road, rail, and maritime networks? If not, what more could be done?

Answer. I understand that different ports and regions have different needs and uses for Federal programs. I also understand that the Harbor Maintenance Tax (HMT) mechanism represents Congressional determination on how to structure a Harbor Maintenance Trust Fund (HMTF) to pay for dredging in U.S. ports, but that several Members of Congress suggest improvements to the HMT and HMTF to recognize those differing needs in legislation they have introduced. If confirmed, I will work to provide Congress with the information it needs to improve port connections to our intermodal freight networks.

Question 2. Cost of Freight Bottlenecks

Mr. Doyle, freight bottlenecks and other congestion costs this country more than two-hundred billion dollars a year. I'm not sure if you read the *New York Times* article² on May 7, 2012 that mentioned that a load of freight can take only 48 hours to go from Los Angeles to Chicago by rail, but then can take 30 hours to travel

² http://www.nytimes.com/2012/05/08/us/chicago-train-congestion-slows-whole-country.html?_r=1&pagewanted=all.

across the city. These sorts of delays exist across our country—and are hindering economic growth.

In my own state, the Washington State Department of Transportation has found that more than 27,000 jobs and \$3.3 billion in economic output at freight-dependent industries could be lost in if *truck* congestion within my state increases by just 20 percent. And we could be on our way, with freight movement in Washington expected to grow by up to 86 percent by 2040.

While the Federal Maritime Commission doesn't regulate roads or rails, I'm sure you'll agree that congestion at our ports and in our freight network nationwide directly impacts shipping.

Question 2a. Many products travel thousands of miles between their origin and final destination—whether agricultural products, manufactured goods, or bulk resources. How do freight rail and road delays in the American interior impact shippers on our coasts?

Answer. Such bottlenecks seriously impact shippers on our coasts as well as at diverse inland locations. If confirmed, I will work with the Commission to share the Commission's information and expertise with Congress and our fellow agencies on the impact of freight rail and road delays in the American interior on shippers on U.S. coasts, including information from the Commission's study on the diversion of cargo to Canada and Mexico.

Question 2b. In your view, how does congestion at seaports impact shipping imports and exports? Does congestion that prevents the rapid transfer of goods from ship to rail and truck hamper America's economic potential?

Answer. I believe that congestion at seaports is a serious issue that can limit the Nation's ability to increase trade if not addressed. If confirmed, I will work with the Commission to share any information or Commission expertise with Congress and fellow agencies on the impact of freight rail and road delays in the American interior on shippers on U.S. coasts, including from the Commission's study on the diversion of cargo to Canada and Mexico.

Question 3. Panama Canal Expansion and Shipping

Mr. Doyle, as you know, the Panama Canal expansion project is expected to be completed in 2014. As a result larger ships are able to sail directly from East Asia to East Coast and Gulf ports.

Question 3a. In your view, how are ocean common carriers and marine terminal operators preparing for this new shipping option?

Answer. It is my understanding that some of the deep water harbors and ports on the U.S. west coast can support the size of many post-Panamax vessels. Some ports on the U.S. east coast are trying to dredge their harbors and make other changes to infrastructure (including bridge clearance and terminal handling equipment) to accommodate the larger post-Panamax generation of vessels that may transit the Panama Canal once the expansion project is completed. All ports in the U.S. are working to improve their infrastructure to address any increase in port activity. Finally, many Congressional members support legislative changes to the Harbor Maintenance Trust Fund.

Question 3b. Do you believe that the Panama Canal expansion will dramatically change international shipping traffic patterns to the U.S.?

Answer. I believe that the canal expansion will have an impact on international shipping to the United States, though there are varying estimates on how large the impact will be. If confirmed, I will monitor developments with the Panama Canal along with any impacts on cargo movement to U.S. coasts.

Question 3c. Do you believe that the Panama Canal expansion will lead to a significant change in ocean transportation costs for shippers?

Answer. I believe that after the Panama Canal expansion, the main drivers of ocean transportation costs will continue to be shipping supply, demand, and fuel costs. If confirmed, I will monitor developments with the Panama Canal along with any impacts on cargo movement to U.S. coasts.

Question 3d. Do you believe that the United States is adequately preparing for this expansion—on both a planning and infrastructure level?

Answer. I believe that the U.S. is working to improve its port, rail, and truck infrastructure to prepare for the Panama Canal expansion. I believe that the U.S. needs to do what is necessary to stay competitive in this increasingly interconnected world, and you have correctly identified that infrastructure planning and investment will be key parts of that effort.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO
WILLIAM P. DOYLE

Question 1. You have Federal Government experience in both the maritime and energy sectors. How has your experience prepared you to be a Federal Maritime Commissioner? Are there specific changes you would recommend at the Commission?

Answer. If confirmed, I will use the knowledge I have gained from my professional career in the maritime and transportation area to support regulatory relief for the maritime industry, support the growth of U.S. exports, and protect the American exporter, importer, and consumer. I believe that my experience in directly managing cases, disputes, arbitrations, and complex transactions in the maritime field of practice of law will help me in my role as a Commissioner at the Federal Maritime Commission, if confirmed.

Question 2. You are currently Chief of Staff to the organized labor group, the Marine Engineers Beneficial Association (MEBA). Given this close association, can this committee be assured that your decisions will be even handed and not favor one stakeholder over another?

Answer. If confirmed, my decisions will be impartial and will not favor one stakeholder over another.

I have been impartial in my service on objective advisory boards during both the Bush and Obama Administrations. In 2004 I was tapped by the Secretary of Labor to serve as a board member on the Advisory Committee on Apprenticeship, where I served through 2007. I was also appointed as a Liaison on the Labor Advisory Committee to the United States Trade Representative from 2006 to 2008.

I also sought consensus, and achieved the same, when I managed and directed coordination between approximately 24 U.S. Federal agencies, numerous state agencies and Federal and provincial entities in Canada for the permitting and construction processes for a large diameter natural gas pipeline that would transport natural gas from Alaska's North Slope.

Question 3. If confirmed, what specific issues would you like to focus on during your time on the Commission?

Answer. One of the Commission's top priorities must be to work with stakeholders in order to significantly increase the export of goods, the vast majority of which move on ships. Significantly increasing exports will require appropriate coordination and cooperation between the government and the private sector. Such cooperation and coordination may be focused on increasing the availability of shipping containers for mid-continent agriculture and manufactured goods, and working with our overseas trading partners to rectify any limitations to waterborne export of goods and services.

If confirmed, I will work with the Commission to continue its priority and efforts to provide regulatory relief to support job growth and economic recovery. The Commission has announced plans to systematically review its rules and procedures to streamline, modernize, update, and reduce the regulatory burdens on the maritime industry. If confirmed, I look forward to helping the Commission succeed in this project.

Another priority area is helping to cut down on court litigation between parties through the Commission's newly established Rapid Response Teams in its Office of Consumer Affairs and Dispute Resolution Services (CADRS). If confirmed, I will work with the Commission to find fast solutions to disputes between shipping lines and customers to make sure cargo keeps moving. This helps with the Commission's role of protecting American exporters, importers, and consumers.

Question 4. One of the Federal Maritime Commission's major tasks is to monitor the laws and practices of foreign governments which could have a discriminatory or otherwise adverse impact on shipping conditions in the U.S. Are there any specific practices we should be concerned about right now?

Answer. If confirmed, I will support the Commission's mandate to identify and address any unreasonable foreign practices that cause harm to shipping in the U.S. foreign trades. As well as investigations by its staff, the Commission relies upon other Federal agencies and the shipping public to bring to its attention any foreign practices that possibly have such effects. If confirmed, I would look forward to diligently pursuing any such allegations and make independent conclusions based on evidence the Commission collects.

Question 5. What steps do you feel the Commission can take to ensure security and improve infrastructure at our ports?

Answer. If confirmed, I will work with the Commission to strengthen efforts to share informational resources with other agencies to help ensure security and improve infrastructure at our ports.

Question 6. The Federal Maritime Commission has enormous amounts of information on nearly every aspect of marine transportation. How can the Commission use this information to assist other Federal agencies in securing our Nation's transportation network?

Answer. If confirmed, I will work with the Commission to coordinate opportunities to share informational resources with other agencies to help ensure security and improve infrastructure at our ports.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY THE HON. ROGER F. WICKER TO
WILLIAM P. DOYLE

Question 1. What non-security related risks would you identify as posing the greatest detriment to the flow of commerce in and out of our Nation's ports located in the Gulf of Mexico?

Answer. Another major Hurricane could pose a detriment to the flow of commerce in and out of our Nation's ports in the Gulf of Mexico.

Inefficient utilization of inland waterway transportation system for container services is another issue. The heavy reliance on ground transport has resulted in increased traffic congestion, worsened bottlenecks throughout the network, road deterioration, air pollution, highway accidents, and fuel consumption. The integration of the inland waterway network into our current intermodal transportation system could serve as an alternative to long-haul freight movements and alleviate some of these negative impacts.

For instance, the Mississippi upriver ports are integral parts of two major inland transportation hubs: Memphis and St. Louis. These two metropolitan areas represent the largest transportation and distribution hubs located within the portion of the Mississippi river trade corridor unimpeded by the lock system. They also represent a diverse network of transportation systems that link to all major consumption markets east of the Mississippi River. These areas offer a unique set of diverse transportation assets including Class 1 railroads, interstate highway networks, and inland port facilities.

If confirmed, I would help provide objective facts to identify ways to ways to enhance ocean commerce to and from our Nation's ports in the Gulf of Mexico.

Question 2. How could the FMC highlight infrastructure investments in our Nation's seaports in light of the anticipated surge in imports and exports from the Panama Canal expansion?

Answer. If confirmed, I will monitor developments with the Panama Canal along with any impacts on cargo movement to U.S. coasts, and work to share any information, expertise, or insights the Commission or its staff may have in this area.