

Summary of the testimony of Oklahoma Attorney General Gentner Drummond

The EPA consistently promotes policies and issues rules that are adverse for businesses, harmful to consumers, and openly hostile to America's oil and gas industry.

The new RMP rule affects many in Oklahoma, including petroleum refineries and chemical manufacturers, chemical and petroleum wholesalers and terminals, midstream gas plants, agricultural chemical distributors, food manufacturers and packing plants, and a wide range of other businesses that use substances covered by the new rule.

The EPA's own estimate is that the new RMP rule will cost over \$250 million annually for businesses to comply. These increased costs are eventually pushed onto the average consumer such as those who use gasoline or drink purified water.

The information dissemination elements of the new RMP rule create a risk to public safety as applied to sensitive facilities by not providing proper guidance as to who can request or receive the information.

For the foregoing reasons, the new RMP rule should not be allowed to take effect.

Thank you, Chairwoman Rodgers, Ranking Member Pallone, and members of the Committee for the kind invitation to be here today and address the very important topic of the Environmental Protection Agency's recent rule submission relating to Risk Management Programs, titled *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention*.

As Oklahoma's Attorney General, I often find myself in the position of challenging rules adopted by federal agencies. During my 15 months in office, I have sued numerous federal agencies, but I have sued one federal agency more than others. That distinction goes to EPA.

Unfortunately, EPA consistently promotes policies and issues rules that are bad for businesses, harmful to consumers, and outright hostile to America's oil and gas industry. The rule under review today is no exception.

Adding to the regulatory burden of any private enterprise without providing sufficient corresponding benefit is a recipe for economic drag. The final RMP rule is a new burden that potentially applies to a wide range of businesses and facilities in my state and across the country.

The obvious and most concerning entities are petroleum refineries and chemical manufacturers, but the list does not end there. Also subject to the new rule would be chemical and petroleum wholesalers and terminals; midstream gas plants; agricultural chemical distributors; food manufacturers and packing plants; and a wide range of other businesses that use substances covered by the new rule.

As one who spent my career in the private sector building businesses and growing jobs, I can tell you that there is a cost to complying with any government regulation. Even regulations that

policymakers and bureaucrats may believe have only a minor impact are in fact costly to businesses.

The new RMP rule is far from minor. EPA's own estimate is that it will cost over \$250 million annually for businesses to comply.

While I believe that estimate to be woefully inadequate, the true amount of the cost is not the most important detail here. Most important is that there is in fact a significant cost. And while we may debate the actual amount of that cost, there is no debate over who ends up paying that cost: the American consumer.

As one example of how compliance with this new rule is likely to result in higher consumer costs, I point you to petroleum refineries. Many refineries use hydro-fluoric acid to produce higher octane gasoline. These refiners will be subject to the most stringent requirements of this new rule. The costs of complying get passed on to their customers, which in turn get passed on to American drivers who now must pay more to fill their tank.

Because the new rule is so far reaching, it will not only impact Americans who drive gas-powered vehicles. For instance, using chlorine to disinfect drinking water is a common practice for water treatment facilities. Under the new rule, the chlorine producer and distributor, as well as the water treatment facility itself, are subject to new and costly requirements. Complying with these requirements will generate a cost for all involved, and that cost will be passed on to the ultimate consumer: in this case, Americans who drink water.

There would have to be a very substantial benefit to justify these costs. Unfortunately, the new rule provides none. It is the proverbial solution in search of a problem.

I have heard some argue there is a community safety component to the rule. I do not find that argument to be convincing. EPA's own data indicates that 97 percent of RMP-regulated facilities reported no incidents in the most recent reporting period. Further, EPA data shows that RMP incidents across all industries have declined by more than 80% between 1996 and 2022.

This objective data confirms that RMP incidents are at a record low, which prompts a very relevant question: What problem is the rule actually solving?

Finally, I will address a concern that relates directly to my role as the chief law enforcement officer of Oklahoma. The new rule compromises the security of sensitive facilities and poses a risk to the safety of those who work there, by forcing compliance with new information disclosure requirements.

This aspect of the new rule is particularly concerning to those of us in law enforcement who have a duty to protect the public. The final rule requires RMP-regulated facilities to simply hand over sensitive information to essentially anyone who asks. Keep in mind that these facilities often use and store very dangerous chemicals that are identified by the Department of Homeland Security as posing a terrorism-related risk. That is the kind of information our federal government should want to protect, not disseminate.

To be fair, the rule does include language regarding who is entitled to this information. However, no sufficient guidance is given to determine who qualifies. For instance, the rule requires regulated facilities to release sensitive materials to any member of the public who lives, works, or spends "significant time" within six miles of the facility. EPA has not adequately defined what constitutes "significant time".

Regardless of that inadequate guidance, this type of information should remain in the hands of those who have the skills and training to use it properly. Regulated facilities already are required to share critical safety information with Local Emergency Planning Committees under the Emergency Planning and Community Right-to-Know Act. These are the only individuals we can trust with such sensitive information, not any member of the general public who may very well have ill motives.

Chairwoman Rodgers and members of the Committee, I believe the new RMP rule is bad for business, harmful to consumers, and that it poses a security risk to communities across this country. I will do everything I can to prevent this damaging new rule from taking effect, and I hope you will too.