

Statement of Senator James M. Inhofe

**Subcommittee on Superfund, Waste Management, and Regulatory
Oversight Hearing:**

**“Oversight of EPA Unfunded Mandates on State, Local, and Tribal
Governments”**

Tuesday, June 7, 2016

Thank you Subcommittee Chairman Rounds for convening today’s oversight hearing, and thank you to our witnesses for being here to testify; in particular, our state, local, and tribal representatives.

Today’s topic is especially important for me because the time I spent as Mayor of Tulsa showed me how difficult it is for cities to balance compliance with unfunded federal mandates while also responding to various local concerns and budget constraints. At that time, unfunded federal mandates on Tulsa, primarily those from the U.S. Environmental Protection Agency (EPA), forced me to pursue a one cent sales tax for capital improvements. I was also on the Board of Directors for the Conference of Mayors, along with Senator Feinstein when she was a mayor, advocating unfunded federal mandates reform, so this is a bipartisan concern that has been ongoing.

Indeed, I was an original cosponsor of the Unfunded Mandates Reform Act (UMRA), enacted in 1995, because I thought it would serve

as a useful tool to safeguard other levels of government from unjustified mandates by the federal government.

Unfortunately, as this committee's oversight has exposed, EPA's regulatory process has a pattern where the Agency evades the requirements in laws that are meant serve as a check on EPA's regulatory overreach.

EPA has used UMRA's definitions and exemptions to their advantage to push the Administration's priorities through the rulemaking process while minimizing the far-reaching effects its rules. For instance, EPA claimed its Waters of the U.S. (WOTUS) rule and so-called Clean Power Plan does not trigger UMRA because the rules are not expensive enough. We will hear from our witnesses today about how these rules, and many more, will impose significant costs on state, local, and tribal governments, despite EPA's assessment. It is astounding that many of EPA's costliest and most controversial rules have escaped UMRA's coverage.

While often avoiding UMRA's requirements on major rules, Obama's EPA has still been promulgating more rules that trigger UMRA than the previous Administration. Government-wide, Office of Management and Budget has reported that rules on state, local, and tribal governments triggering UMRA have overwhelming been issued by the EPA.

Even in instances where EPA has reviewed a rule triggering UMRA, the Agency falls far short of the law's consultation requirements. Consultation with state, local, and tribal representatives is a requirement set forth in UMRA as these governments all play a critical role in regulatory compliance. Yet, witnesses today and those at many other hearings have explained EPA's approach to consultation is a mere check-the-box exercise.

Better consultation is needed to align EPA's rulemaking process with the processes of other governments. For instance, many EPA rules, such as the Clean Power Plan, require state legislatures to pass legislation to give their state agencies the authority and resources to implement the mandates. Further, state, local, and tribal governments must all be coordinated in planning the implementation of these rules and relay to EPA various technical challenges they will face in implementing the rule. This consultation should happen before rules are even proposed to allow for sufficient time to plan and for rules to be altered or scrapped based on co-regulators' feedback.

This is why it is critical we hear from our state and local partners and conduct oversight over EPA's implementation of UMRA. Above all, we need to ensure that EPA action upholds the cooperative federalism framework where various levels of government work together to craft fair and efficient rules in a cost-effective manner. I look forward to hearing from our witnesses today who will share their

on-the-ground perspective of EPA's compliance with UMRA and implementation of EPA unfunded mandates.

I ask that my full statement be entered into the record. Thank you.