

KEY VOTE ALERT!

November 19, 2013

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, strongly supports H.R. 2728, the "Protecting States' Rights to Promote American Energy Security Act."

The U.S. is in the midst of an energy renaissance that is transforming our economy, creating millions of jobs, and increasing our energy security. Through American ingenuity and innovation, domestic production is increasing and energy imports are declining. Last week the Department of Energy reported that in October, the U.S. produced more crude oil domestically than it imported for the first time in nearly 20 years.

This tremendous abundance of energy resources is also spawning a rebirth of U.S. manufacturing. Dozens of shuttered steel and petrochemical facilities have reopened to take advantage of abundant and economical energy resources. A recent report sponsored by the Institute for 21st Century Energy, an affiliate of the U.S. Chamber of Commerce, found that this energy revolution and manufacturing rebirth supported more than 2.1 million jobs, which is expected to grow to 3.9 million jobs by 2025. Additionally, the report found that more than \$1.6 trillion dollars in government revenue will be generated by these activities through 2025.

As the necessary infrastructure is built out to bring energy supplies to market, the report projects that energy-intensive manufacturers could invest nearly \$120 billion to increase output, which in turn is expected to generate nearly \$180 billion in government revenue, support nearly 376,000 new jobs, and generate \$180 billion in additional net trade. Moreover, through cheaper energy, fuel, and goods, this revolution has increased the disposable income of the average American family by \$1,200, which is expected to grow to over \$3,500 in 2025.

However, the federal government is taking steps that can threaten all of these projected benefits. The Bureau of Land Management (BLM) has twice proposed new regulation of hydraulic fracturing on federal and tribal lands. However, in neither case has BLM justified additional regulation. State regulatory authorities have maintained primacy in the regulation of oil and natural gas exploration and production within each respective state's borders, including, to a large extent, federal lands.



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State and tribal regulators not only possess the regulatory mandate from their respective state and tribal laws, but they have also developed the expertise necessary to understand the specific geology, hydrology, and other physical nuances of the lands in their respective states and tribal jurisdictions. As such, the nation has benefited from the efficient extraction of oil and natural gas from producing states and tribal lands while also protecting human health and the environment. H.R. 2728 would ensure BLM defers to states and tribal nations with existing regulatory regimes, while allowing a federal backstop for those lacking such regulations.

While energy producers must comply with applicable state regulations when operating on federal lands, they must also navigate the moribund federal permitting process. As such, oil and natural gas exploration and production on federal lands has grown increasingly inefficient, preventing Americans from realizing job creation, economic growth, and increased energy security that accompany additional domestic production. The additional time required by the federal permitting process, in addition to existing regulatory requirements, increase the cost of production and makes operations on federal lands less economical than on state and private lands.

In March 2013, the Congressional Research Service released an analysis concluding that oil production on federal lands had decreased 4 percent between 2007 and 2012, while production on state and private lands had increased more than 35 percent. Similarly, natural gas production on federal lands decreased 23 percent while production on state and private lands increased more than 40 percent. Over this five-year span, oil production on federal lands dropped from 33 percent of the nation's total production to 26 percent, while natural gas production on federal lands dropped from 28 percent of the nation's total to 18 percent. Clearly, the existing federal regulatory process is much less efficient than the respective state processes.

While the U.S. is on the path towards tremendous manufacturing growth fueled by shale energy development, this future is not predestined, and unnecessary federal regulation threatens this future. BLM's proposed rule would alter the balance of regulatory authority in a manner that would further disincentivize businesses from investing in the development of oil and natural gas on federal and tribal lands, while not identifying or addressing any specific issue that warrants the regulation. A July 2013 study sponsored by the Western Energy Alliance found that BLM's proposed hydraulic fracturing rule would create nearly \$350 million in annual compliance costs, which corresponds to approximately \$100,000 per well.

In proposing its rule, BLM failed to identify any specific shortcomings of the existing framework of state regulation and in many cases merely duplicates state requirements. H.R. 2728 would prevent BLM's arbitrary decision to further regulate hydraulic fracturing and make oil, natural gas, and geothermal energy production on federal lands even less economical than it already is. By clearly designating the primacy of state hydraulic fracturing regulations and preventing BLM from adding an unnecessary layer of federal regulation, this legislation would help maintain the economic benefits of America's shale revolution and preserve its nascent manufacturing renaissance.

Additionally, the Environmental Protection Agency (EPA) is currently conducting an unprecedented, multi-year study into hydraulic fracturing and its impact on drinking water resources titled "Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources." While thorough and fair environmental analysis could add value to the regulatory process, it must be done with the highest levels of transparency and scientific standards. H.R.

2728 would ensure that any findings from EPA's study are based upon, among other things, sound science, properly peer-reviewed work, and well-defined risk assessments.

The science and data that inform the results of the study must be of the highest caliber and instill confidence in the final work product. In order to achieve these standards, H.R. 2728 would:

- Codify EPA's designation of the final report as a Highly Influential Scientific Assessment (HISA);
- Require the EPA Administrator to ensure that peer review of the report is conducted in compliance with the guidelines that govern HISAs, including EPA's Peer Review Handbook, EPA's Scientific Integrity Policy, and OMB's Final Information Quality Bulletin for Peer Review;
- Mandate that the EPA Administrator adhere to the guidelines for disseminating influential scientific information; and
- Require that the identification of any possible impacts of hydraulic fracturing on drinking water resources be accompanied by objective estimates of the probability, uncertainty, and consequence of each identified impact, factoring in the risk management practices of states and industry.

Under OMB guidelines, a scientific assessment is considered "highly influential" if its "dissemination could have a potential impact of more than \$500 million in any one year on either the public or private sector or that the dissemination would be novel, controversial, or precedent-setting, or has significant interagency interest." The EPA hydraulic fracturing study clearly would meet these qualitative criteria because no federal study like it exists, the wider implications of the report likely will generate controversy, it will help inform policy in this country and possibly around the world, and it is of significant interest to other Federal agencies.

The EPA study would also unquestionably meet OMB's quantitative criteria for a HISA designation. Oil and natural gas production from hydraulic fracturing have had an extraordinarily positive impact on the U.S. economy. H.R. 2728 would assure the public that the study is sufficiently peer-reviewed, based upon quality scientific and technical data, and properly disseminated, and that any potential impacts identified in the study results would be put in the appropriate context in terms of risk assessment.

The Chamber strongly supports H.R. 2728, which would prevent federal regulatory overreach from derailing the onset of a U.S. manufacturing renaissance. **The Chamber may include votes on, or in relation to, H.R. 2728 in our annual *How They Voted* scorecard.**

Sincerely,



R. Bruce Josten