

## Hydraulic Fracturing: Attorneys General can influence federal policy

### Background

In May, 2012, the U.S. Bureau of Land Management (BLM) proposed sweeping new rules to regulate hydraulic fracturing and well construction for oil and natural gas wells on federal lands, potentially causing serious harm to states. The rule would:

- Add significant and unnecessary costs to the production of oil and natural gas without additional benefit in an area in which state regulation and sound industry practices have led to a superb environmental record.
- Include numerous expensive and time-delaying measures such as cement bond logs that do not guarantee additional safety or environmental protection.
- Create cost impacts to the oil and natural gas industry that greatly exceed \$100 million, rendering the BLM rule noncompliant with various federal orders and acts. In fact, the BLM and Office of Management and Budget (OMB) are in possession of third-party comments and documentation of annual potential costs in excess of \$1.4 billion.
- Include complicated permitting requirements that would further increase federal permitting times, which already may be measured in months or even years, compared with weeks for permits granted by states. This would discourage exploration and production on federal and Indian lands, leading to significant lost investment and employment for states with federal lands.
- Delay or prevent activity on federal lands that provide states with mineral royalties, bonus payments and rents. These revenues — states received more than \$2 billion from the federal government in 2012 — offset the loss of tax base by having federal lands in states, and contribute to funding a range of state programs from education to emergency services as well as many others.
- Grossly underestimate the investment and employment costs of implementation. The agency even has gone so far as to state, incorrectly, a belief that employment will go up because of additional work that will be required to comply with the proposed new regulations.
- Would not be based on sound science and proven engineering practices, nor does it acknowledge differences between regions based on geography, geologic formations, hydrology and historic conditions of the areas. Current state regulations already provide appropriate oversight that is specific to the needs of the states.

In July 2012, with the leadership of Oklahoma Attorney General Scott Pruitt and Virginia Governor Bob McDonnell, the Republican Attorneys General Association (RAGA) and the Republican Governors Association (RGA) submitted a joint letter to President Obama objecting to the proposed rule.

After several months passed without a response, RAGA and RGA followed with a second letter in December 2012 re-asserting its position. Following delivery of the letter — and perhaps in partial response to it — BLM announced a delay of the rule until summer of 2013.

### Recommendation

Attorneys General — on a bipartisan basis — should continue to provide visible input to federal regulatory efforts, signaling legal action when necessary and building pressure on the federal government with respect to state interests.