

## EDITORIAL

### It's a Bill? It's a Law? No, It's a Sausage!

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On the 8th of August, the President signed the Energy Policy Act of 2005. The result? Probably the best demonstration in years that making legislation is very much like making sausages. If you don't like gory messes, avert your eyes, hold your nose, and get out of the kitchen.

We can, however, put a positive spin on some aspects of this Act: it truly was a bipartisan affair. Take, for example, the final vote in the United States Senate: 74 voted for and 26 against. Both yeas and nays included many Republicans and Democrats. Even more enjoyable was seeing Senators Kennedy (D, Massachusetts) and Boxer (D, California) voting nay along with Senators Kyl (R, Arizona) and McCain (R, Arizona). Similarly, there were other unusual pairings such as Senators Cornyn (R, Texas) and Obama (D, Illinois) voting yea. When you get pairings like these, you know the compromises were genuine.

For readers of this journal, the Act might be called the Full Employment for Environmental Professionals Act of 2005. It promotes projects involving practitioners. Build nuclear power plants. Make hydrogen from nuclear electricity. Enhance hydroelectric resources. Erect new transmission lines. Permit liquified natural gas (LNG) facilities and pipelines. Increase refining capacity. Bring oil shales and tar sands into production. Encourage use of renewable resources such as wind, biomass, landfill gas, and trash combustion.

These projects will keep many environmental professionals occupied in the years

to come. NEPA specialists, purveyors of environmental management systems, documentation and permitting firms, infrastructure development companies, and others will all find gainful work in the projects this Act seeks to stimulate. In addition, individuals, firms, tribal nation governments, and rural electric co-ops with skills to survey and marshal the uses of renewable fuels will find tax incentives stimulating their efforts. Co-ops, for example, are now eligible for a tax credit of \$.009 per kWh for certain types of electricity generated from hydropower or biomass.

On the less cheery side, it's clear that the spirit guiding this law was spelled out in *National Energy Policy* (May, 2001), often referred to, especially by critics, as the "Cheney secret energy policy report." That report, released early in the first George W. Bush administration, emphasized supply enhancement over conservation, and so, too, does the 2005 Act. Most noticeably, fuel economy standards for autos remain unchanged, although the Act mandates a study on the effects of fuel efficiency on supplies of gas, auto manufacturers, and air pollution.

Perhaps the biggest concession to complaints about Vice President Cheney's report is more emphasis on renewable fuels and a substantive nod to certain kinds of energy efficiency. Tax credits or deductions seek to promote energy-efficient appliances and other home improvements (\$0.56 billion), to promote commercial building power reductions (\$0.24 billion), and to buy new kinds of more efficient or alternative-fuel vehicles (\$0.87 billion).

The Act creates a renewable fuel standard that will nearly double the amount of corn-derived ethanol or other biofuels, from 4 billion gallons in 2006 to 7.5 billion gallons in 2012. Perhaps it is no coincidence that all senators from the major corn-belt states (Illinois, Indiana, Iowa, Minnesota, Missouri,

Nebraska, Ohio) supported the Act! What better incentive would bring Senators Durbin and Obama from Illinois and Harkin from Iowa, all liberal Democrats, to line up with conservative Republicans?

Full employment for environmental professionals is something this journal supports wholeheartedly. After all, yours truly also makes his living as an environmental professional in the education sector. Similarly, the softening of the harsh features of Mr. Cheney's 2001 energy report is to be welcomed. For example, the Act mandates that expenditures for renewable electrical energy by the federal government shall, if practical, be not less than 3% from years 2007 to 2009, rising to not less than 7.5% in 2013 and after.

Despite some good points, however, on four grounds this Act is a disappointment. First, encouragement of ethanol is highly controversial. Cornell University environmental scientist David Pimentel argues that it takes more energy to produce ethanol from corn than the ethanol contains. Farm interests attacked Pimentel's methods and conclusions, and no scientific consensus exists on this important topic at the moment. It's important to note, however, that ethanol as a supplement or replacement for gasoline has been technically possible for many years but has never happened without subsidy, suggesting Pimentel's argument has validity. In addition, American maize production creates enormous soil erosion and pesticide pollution of ground and surface water in the Midwest. Also, the land required for total substitution of gasoline by ethanol would essentially be that of the entire United States. Ethanol for fuel is probably better understood as an income enhancement for farmers, not a serious effort to deal with dependence on oil.

Second, revitalization of a moribund US nuclear industry causes one to wince. No new nuclear power plant has been started

in this country in three decades. These plants are a way to generate electricity that cannot compete with other fuels in price, given the liability for damages due to potential accidents. Limiting the liability of nuclear power plant owners has always been the aim of the Price-Anderson Act, which is now extended to 2025. This Act limits liability for power plant owners to \$10 billion, vastly less than the damage a serious accident could inflict in some areas. Government and nearby residents bear all remaining liability. Uranium-235 supplies, in addition, are limited, so electricity from this fuel is not a long-term solution. Oh, and did anyone say anything about terrorist attacks and proliferation of nuclear weapons, dangers of both of which increase with each new nuclear plant? And of course, despite 50 years of a nuclear industry, no agreement exists on what to do with the radioactive garbage these machines create. Do we want more of this stuff around?

Third, the Act reforms the licensing procedure for hydroelectric dams. Dams have been highly destructive to fish resources, especially in the western states. Twelve salmon and steelhead species in the Columbia-Snake basin of the Pacific Northwest, for example, are listed as threatened or endangered, and dams are a major mortality factor for these fish. Currently, many dams operate with restrictions on the amount of water that can be run through the turbines. In addition, strict rules govern methods for allowing juvenile fish to bypass the dams going downstream and enabling adults to go upstream to spawn.

Under the new Act, applicants for a license for a dam will be able to propose alternatives to restrictions, provided the proposals protect fish adequately and either cost less or lead to more efficient electricity production. Possibly the alternatives will be good ideas, but more likely they simply will be additional efforts to erode current rules.

Finally, and most significantly, this Act has major areas of silence. No direct effort combating climate threats appears in the Act, and efforts to include the issue fell to defeat. No mandatory efficiency increases in motor vehicles made their way into the final version. This was despite the fact that energy efficiency in motor vehicles is a proven way to reduce not only emissions, but dependence on foreign oil.

With the science available in 2005, the failure of this Act to address climate change is simply breathtaking, and this fact alone is a challenge to the intellectual integrity of environmental professionals. We may celebrate the arrival of a law that generates jobs for our profession and promotes some useful actions, but what ethical obligations do we have to address its deficiencies? The fact that climate change does not yet command a majority of votes in the Congress, let alone garner the President's support, is a threat to our future, our republic, and indeed to the whole world.

Environmental professionals like to distinguish themselves from environmental ac-

tivists, as we should when we wear the professional's hat. When something goes terribly wrong with policy, however, and we as professionals can see it, do we not have *professional* responsibilities to speak up? Does this then make us activists? Does the line between *professional* and *activist* need to disappear if we are to behave as ethical professionals?

Congress will soon be back in session. It's time to make new and better sausage.

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