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## THE NATION

# EPA Radio Ads for Bush's 'Clear Skies' Initiative May Be Illegal

advertisement



By Elizabeth Shogren  
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WASHINGTON — A child is heard wheezing. A Latina mother complains of running to the emergency room in the middle of the night. Then an announcer says President Bush's proposed "Clear Skies" legislation, if enacted, "would create purer air, better health and a more brilliant future in the United States."

The Environmental Protection Agency is running the ad on Spanish-language radio stations across the nation as part of a six-week campaign to inform the public about the president's environmental initiatives. The campaign coincides with Hispanic Heritage Month.

Legal experts say the ads appear to violate the federal law that prohibits executive agencies from spending money on advertisements, letters, phone calls and other such efforts to influence members of Congress.

But an EPA spokeswoman said the ads were designed to educate the public and did not expressly tell people to contact their representatives in Congress to support the legislation.

"It's a public information campaign," said EPA spokeswoman Lisa Harrison. "It's not lobbying."

Georgetown University law professor Roy Schotland disagreed. "It's out-and-out saying that this pending legislative effort is very important to your child's health," he said. "That isn't lobbying? Can they say that with a straight face?"

The EPA announced late last month that, starting Sept. 22, it would air radio spots for six weeks on the Hispanic Radio Network throughout the United States and Puerto Rico as part of an effort to educate Latinos about Clear Skies and some of the president's other environmental initiatives. The spots run during "Planeta Azul" (Blue Planet), an environmental program carried by 162 stations.

The agency also announced plans to publish three paid "columns" in 90 Spanish-language newspapers. One of those columns describes the connection between asthma and "Clear Skies," Harrison said.

On Tuesday, three Democratic members of Congress asked acting EPA Administrator Marianne Horinko to explain the campaign, which they believe may be breaking the law.

"We are concerned that EPA's Clear Skies advertising campaign constitutes an inappropriate use of taxpayer dollars, quite possibly a violation of federal law," Reps. Henry A. Waxman of Los Angeles, John D. Dingell of Michigan and David R. Obey of Wisconsin said Tuesday in a letter to Horinko.

The president and members of his administration are allowed to give speeches to promote legislative proposals, and political parties can pay for ads to publicize a presidential initiative.

But the criminal code bans executive agencies from spending money on efforts intended to influence Congress. And the EPA is specifically barred from spending money for "publicity or propaganda purposes to support or defeat legislation pending before Congress, except in presentation to the Congress itself."

"They want to favorably influence how millions of Americans view this legislative proposal," Waxman said in an interview. "This is clear propaganda."

The lawmakers asked that the EPA discontinue the ads. Waxman said if the EPA was found to be in violation of the law, there could be prosecution.

Harrison said the EPA counsel and the Justice Department approved of the campaign.

"Our general counsel and the Department of Justice have interpreted the law very narrowly to avoid constitutional problems," Harrison said. She said the EPA paid for the advertisements, but she did not know how much was spent.

The president proposed the Clear Skies initiative in 2002. Under the program, power plants would be given pollution allotments that could be traded on a pollution exchange. Utilities would find it financially advantageous to cut pollution, thus enabling them to sell some of their pollution allotments to other plants whose pollution exceeded their allotments.

Administration officials say the program will cut pollution faster than current regulations. Environmental groups and most Democrats say it will be weaker than current law.

The proposal has stalled in Congress, with neither the House nor the Senate acting on it despite White House pressure.

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