

Congress of the United States

Washington, DC 20515

October 1, 2003

The Honorable Jeffrey Holmstead
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Holmstead:

On July 31, we wrote to President Bush regarding this year's State of the Union address, in which the President discussed the proposed Clear Skies Act.¹ We are in receipt of the Administration's August 13, 2003 response, signed by Edward Krenick, Associate Administrator, Office of Congressional and Intergovernmental Relations, U.S. EPA. It is our understanding that Mr. Krenick has left U.S. EPA; therefore, we are writing to you to help clarify the EPA's position on this important issue.²

Mr. Krenick's letter on behalf of your office failed to address our concerns or answer our questions. Instead, Mr. Krenick accused us of having a "fundamental lack of understanding of the Clear Skies Act and how a cap-and-trade system works."

This was an unacceptable response to a serious issue. The President presented his Clear Skies proposal to the American people, and he is urging Congress to pass this legislation. Our letter raised a fundamental question about the environmental effects of the proposal and the claims made for it. Avoiding our questions and baselessly accusing Members of Congress of ignorance hardly seems an effective way for your office to advance your proposal.

As you know, we wrote to the President on July 31, 2003, expressing our concern that while the President stated in the State of the Union that his Clear Skies legislation "mandates a 70 percent cut in air pollution from power plants over the next 15 years," EPA analyses performed both before and after the State of the Union address conclude that the cap-and-trade system established under the Clear Skies proposal would not lead to a 70 percent cut in air pollution within 15 years. In fact, EPA's most recent estimates, released July 1, 2003, indicate that power plant air pollution would still exceed the caps of the Clear Skies Act by 1,260,000 tons in 2020.

¹ "State of the Union Address," January 28, 2003.

<http://www.whitehouse.gov/news/releases/2003/01/20030128-19.html>

² It is our understanding that Mr. Krenick has left EPA to work for the lobbying firm Bracewell Patterson, which has led industry efforts to weaken the Clean Air Act.

EPA's August 13 letter does not dispute these facts. In fact, EPA appears to be backing away from the President's statement. Although EPA has stated in the press that, "the President's statement during the State of the Union is absolutely true, and EPA continues to use that same statement,"³ EPA's August 13 letter neither claims the President's statement is true, nor repeats the President's statement.

In fact, in other press accounts, EPA appears to confirm that the plain language meaning of the President's statement is incorrect. The President promised to require a 70% cut in air pollution "over the next 15 years." An EPA spokesperson confirmed in August 2003, "to say all of that 70 percent reduction would be achieved in those 15 years is not what the legislation says."⁴

EPA's public statements after the State of the Union Address have failed to repeat and even seem to avoid repeating the President's promise of reductions being required "over the next 15 years." In EPA's February 27, 2003 press release announcing the introduction of the Clear Skies Act in Congress, EPA Administrator Whitman stated that Clear Skies legislation would reduce emissions from power plants "by 70% from current levels and its passage is a top environmental priority." Administrator Whitman never identified the date by which the legislation would achieve these reductions. Furthermore, the same press release quotes the President's State of the Union Address, but omits his full statement, asserting only that Clear Skies legislation "mandates a 70 percent cut in air pollution from power plants..."⁵

Even the White House and the President appear to have dropped the claim that the reductions will be achieved in 15 years. In late August, White House spokesperson Scott McClellan told reporters that, "This initiative will significantly reduce emissions from older power plants -- from all power plants -- by a 70-percent reduction overall in reduction and emissions from power plants."⁶ He did not state over what timeframe this reduction would be achieved.

³ Ken Ward, Jr., "Democrats, Environmentalists Rip Bush's Clean-Air Proposal," Charleston Gazette, August 6, 2003.

⁴ Joan Lowy, "Lawmakers Fault State of the Union Claim about Emission Cuts," Scripps Howard News Service, August 4, 2003.

⁵ "Statement of Administrator Christie Whitman on Introduction of Clear Skies Legislation," February 27, 2003.
<http://yosemite.epa.gov/opa/admpress.nsf/b1ab9f485b098972852562e7004dc686/57cb9e07cabca97e85256cda006b1c5e?OpenDocument>

⁶ "Press Gaggle with Scott McClellan aboard Air Force One En Route Burbank, Washington," August 22, 2003.
<http://www.whitehouse.gov/news/releases/2003/08/20030822-3.html>

During a September 15 speech regarding air issues, the President said that his Clear Skies Act would, “reduce those three key pollutants by 70 percent over a reasonable period of time.”⁷

Finally, in EPA’s August 13, 2003, letter, your Agency failed to repeat the President’s claim. Instead, EPA recast the claim and stated, “Clear Skies mandates a cap on emissions 15 years from now. The Act mandates power plant emission reductions, which will be 70% below year 2000 levels.”⁸ These two sentences have a different meaning from the President’s promise to require that air pollution will be cut by 70 percent “over the next 15 years.” By ignoring the President’s actual statement in the State of the Union address, EPA’s answer ignores our central concern.

By omitting the date of attainment when discussing the percentage reductions and then referring to the cap date of 2018, the EPA and White House are misleading the general public.

We know you understand the difference between mandating a cap on emissions that is not achieved, and actually achieving a reduction in emissions. We believe that the year that clean air goals will actually be attained is a vital fact for the public to understand about any clean air legislative proposal, and we are disappointed that EPA officials appear to have decided that actual emissions under the Clear Skies legislation are of secondary importance to legalistic cap dates. We know that our constituents, whose health suffers from dirty emissions, and our states, which are working hard to attain clean air standards, know the difference.

We know that this may be an uncomfortable issue, since we understand that you personally approved the President’s statement in the State of the Union Address.⁹ However, for Congress and the public to have accurate information on the Clear Skies Act, you must act to set the record straight. Accordingly, please provide answers to the following questions:

1. Please explain whether you believed the statement to be true at the time you approved it for use in the State of the Union address.
2. Did you believe the general public would understand from the President’s statement that the Clear Skies proposal would not attain the 70 percent

⁷ “Remarks of President George W. Bush at Detroit Edison Monroe Power Plant in Monroe, Michigan,” September 15, 2003.
<http://www.whitehouse.gov/news/releases/2003/09/20030915-6.html>

⁸ Letter from Edward D. Krenick, Associate Administrator, EPA, to Rep. Tom Allen, August 13, 2003.

⁹ Lowy.

cuts promised until years after the 15 year time frame the President mentioned?

3. According to press reports, unnamed EPA sources have claimed that the Clear Skies Act would "achieve" the reductions in "2020 or thereabouts."¹⁰ This statement is inconsistent with U.S. EPA's September 2002 and July 2003 analyses of the Clear Skies Act. Please provide the basis for the claim that reductions would be achieved by 2020.
4. Please provide a specific date by which the 70 percent reductions will be achieved under the President's proposal.
5. Please explain how the Clear Skies Act would need to be revised in order to actually achieve the President's promise of a 70 percent reduction in 15 years.

Please provide an answer to these questions no later than October 3, 2003. Thank you for your prompt attention to this matter.

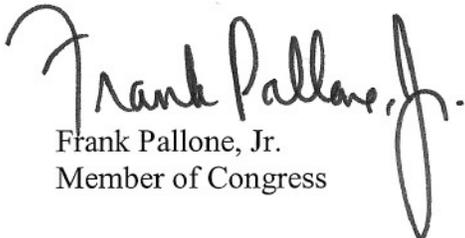
Sincerely,



Tom Allen
Member of Congress



Edward J. Markey
Member of Congress



Frank Pallone, Jr.
Member of Congress



Lois Capps
Member of Congress

¹⁰ Lowy.