

United States Senate

January 25, 2023

The Honorable Alexander Hoehn-Saric
Chairman
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Chairman Hoehn-Saric:

On January 9, 2023, Bloomberg published an article titled, “US Safety Agency to Consider Ban on Gas Stoves Amid Health Fears,” in which Consumer Product Safety Commission (CPSC) Commissioner Richard Trumka, Jr. claimed that “[gas stoves are] a hidden hazard Any option is on the table. Products that can’t be made safe can be banned.”¹ A ban was presaged on October 25, 2022, when Commissioner Trumka sought to initiate a notice of proposed rulemaking at the CPSC to ban gas stoves in homes.² In both the Bloomberg article and a memorandum authored by Commissioner Trumka, titled “NPR Proposing Ban on Gas Stoves (Indoor Air Quality),” two studies were cited that attributed gas stoves to high levels of nitrous oxide as well as childhood asthma.³ As the incoming ranking member of the Senate Committee on Commerce, Science, and Transportation, I am concerned that a total or partial ban on gas stoves would constitute government overreach and generally conflict with the Supreme Court’s recent opinion in *West Virginia v. EPA*. Further, I have reason to believe that both of the aforementioned studies were authored or paid for by radical environmental activists seeking to gin up misleading, false studies to further their and the Biden administration’s agenda to ban the use of fossil fuels.

As you are well aware, after the Bloomberg article went viral, Americans were predictably and justifiably outraged by Commissioner Trumka and the CPSC’s attempt at government overreach. This prompted not only the White House and President Biden⁴ to disavow the efforts, but also you. On January 11, 2023, you stated: “Contrary to recent media reports, I am not looking

¹ Ari Natter, *US Safety Agency to Consider Ban on Gas Stoves Amid Health Fears*, Bloomberg, Jan. 9, 2023, <https://www.bloomberg.com/news/articles/2023-01-09/us-safety-agency-to-consider-ban-on-gas-stoves-amid-health-fears?leadSource=uverify%20wall>.

² Memorandum from the Office of Commissioner Rich Trumka, NPR Proposing Ban on Gas Stoves (Indoor Air Quality), U.S. Consumer Product Safety Commission, Oct. 25, 2022.

³ Paul Hope, *Is Your Gas Range a Health Risk?*, Consumer Reports, Oct. 6, 2022, <https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-risk-a6971504915/>; Taylor Gruenwald, et al., *International Journal of Environmental Research and Public Health*, *Population Attributable Fraction of Gas Stoves and Childhood Asthma in the United States*, Dec. 21, 2022, <https://www.mdpi.com/1660-4601/20/1/75>.

⁴ Maegan Vazquez, *Biden not in favor of ban on gas stoves, White House says*, CNN, Jan. 11, 2023, <https://www.cnn.com/2023/01/11/politics/biden-gas-stoves/index.html>.

to ban gas stoves”⁵ While your statement appears to be an attempt to re-direct the legitimate concerns of the public away from a potential gas stove ban, I am concerned that the CPSC is nonetheless continuing to advance its gas stove request for information (RFI)—the likely first step of the agency’s process to partially or totally ban gas stoves.⁶ This endeavor, as well as the remarks and actions of Commissioner Trumka, raise the distinct possibility that the CPSC is engaged in clear regulatory overreach. Congress did not create the CPSC to pick winners or losers in the appliance market.

Furthermore, the CPSC’s claim that these proceedings are related to possible health hazards is deceptive. I am concerned that the true intent is to misuse the unelected bureaucracy to carry out a radical environmental activist agenda that irrationally seeks to ban the use of fossil fuels at increased expense, reduced reliability, and potential harm to the American people. One flawed and unpopular policy to carry out this radical environmental agenda, in part, seeks the mandated electrification of all existing buildings in the United States.⁷

In fact, banning gas stoves is just one part of the radical environmental activist lobby’s playbook, which seeks to eventually ban Americans’ gas hot water heaters and furnaces. Testifying before the U.S. Joint Economic Committee in September 2021, Dr. Leah Stokes, Associate Professor of Political Science at the University of California Santa Barbara and Senior Policy Counsel for the nonprofit Rewiring America, noted:

*To address the climate crisis, and limit warming to 1.5 °C, scientists have also found that no new fossil fuel infrastructure can be built Hence, at all scales – from gas furnaces, to cars, to gas power plants and fossil fuel pipelines – we need to stop building new fossil fuel infrastructure. This includes new and existing infrastructure in the US buildings sector such as gas hot water heaters, gas stoves, gas clothes dryers, and gas furnaces.*⁸

Speaking at the White House Electrification Summit in December 2022, Dr. Arati Prabhakar, Director of the White House Office of Science and Technology Policy, amplified similar radical environmental activist views stating:

⁵ Statement of Chairman Alexander Hoehn-Saric Regarding Gas Stoves, U.S. Consumer Product Safety Commission, Jan. 11, 2023, <https://www.cpsc.gov/About-CPSC/Chairman/Alexander-Hoehn-Saric/Statement/Statement-of-Chair-Alexander-Hoehn-Saric-Regarding-Gas-Stoves>.

⁶ *Id.*

⁷ For simplification, in this document we are utilizing the term “electrification.” Electrification is spun as the “green” alternative to fossil fuels. However, note that such a transfer—natural gas stoves to electric stoves—is trading one fossil fuel for another fossil fuel. According to the U.S. Energy Information Administration, fossil fuels make up 61% of U.S. electricity generation with 22% coming from coal which generally releases between two and two and a half times more carbon dioxide per unit of energy. As such, electric stoves—like electric cars—are truly fossil fuel powered.

⁸ Dr. Leah Stokes, Statement on “Examining the Economic Benefits of Electrifying America’s Homes and Buildings,” Joint Economic Committee, Sept. 22, 2021, <https://www.jec.senate.gov/public/cache/files/5e969399-88da-4ac0-b8a5-7316da265138/leah-stokes-testimony.pdf>.

*We've been electrifying our lives, our economy for 140 years. And so we've made a lot of progress . . . it is sobering to realize that we are going to have to scale much farther and much faster over an extended period of time if we are going to net zero emissions by 2050, which we have to do in order to have a shot at avoiding the worst of climate change It's going to require systems innovation. And to give you a little bit of a sense of that just think for a moment about what it looks like if we can succeed. What the electricity system in our future looks like when we are successful. It's going to be cars and buses and home heating and cooking – all of which are electric*⁹

And while President Biden and the White House have now publicly disavowed any support for banning gas stoves, such a ban is fully consistent with the administration's ongoing effort to "decarbonize" and electrify buildings and appliances, including President Biden's recently released federal building and appliance electrification policy.¹⁰ At the heart of the Department of Energy's (DOE) *Better Climate Challenge* are recommendations for residential, commercial, and industrial buildings to transition away from natural gas furnaces and water heaters¹¹ and for commercial kitchens to replace their gas equipment with electric.¹²

With this push from the DOE, it is no wonder that Dr. Stokes' Rewiring America (sponsored by the 501(c)(3) Windward Fund) was named by the DOE a *Better Climate Challenge* ally along with the Rocky Mountain Institute (RMI).¹³ RMI co-authored the study in the *International Journal of Environmental Research and Public Health* touted by Commissioner Trumka to justify a gas stove ban. In addition, both the Windward Fund and RMI have received

⁹ Remarks by Dr. Arati Prabhakar at the White House Electrification Summit, Dec. 14, 2022, <https://www.youtube.com/watch?v=m-at3GSBu2Y> at 2:27.

¹⁰ The White House, *Fact Sheet: Biden-Harris Administration Announces First-Ever Building Performance Standard, Catalyzes American Innovation to Lower Energy Costs, Save Taxpayer Dollars, and Cut Emissions*, Dec. 7, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/12/07/fact-sheet-biden-harris-administration-announces-first-ever-federal-building-performance-standard-catalyzes-american-innovation-to-lower-energy-costs-save-taxpayer-dollars-and-cut-emissions/>.

¹¹ U.S. Department of Energy, *Decarbonizing HVAC and Water Heating in Commercial Buildings*, Better Buildings, Nov., 2021, <https://betterbuildingssolutioncenter.energy.gov/sites/default/files/attachments/Decarbonizing%20HVAC%20and%20Water%20Heating%20in%20Commercial%20Buildings%2011.21.pdf>.

¹² U.S. Department of Energy, *Low Carbon Technology Strategies: Commercial Kitchen*, Better Buildings, Oct. 2021, https://betterbuildingssolutioncenter.energy.gov/sites/default/files/attachments/Kitchen_Resource_BB_Carbon_Strategies.pdf.

¹³ U.S. Department of Energy, Better Climate Challenge Allies, <https://betterbuildingssolutioncenter.energy.gov/climate-challenge/allies> (last visited Jan. 20, 2023).

grants from the Climate Imperative Foundation, another radical environmental activist group that helped fund the Consumer Reports study cited in the Bloomberg story.¹⁴

To better understand CPSC's actions, plans, and future proceedings in this matter, as well as how its efforts comport with the Biden administration's apparent whole-of-government approach to eliminating gas-powered appliances and systems, I am seeking further data and information. Please provide answers and relevant documents in response to the following questions no later than February 1, 2023.

1. On October 26, 2022, after failing to adopt Commissioner Trumka's amendment to immediately initiate a new rule to ban gas stoves, the CPSC instead adopted Commissioner Trumka's amendment to conduct an RFI on public input on the "hazards associated with gas stoves."¹⁵ Is this RFI still going to be published? If so, when is the expected publication date?
 - a) Please provide the legal definition of the term "hazards associated with gas stoves" along with copies of all documents, including internal memoranda and analyses, used to justify such definition.
 - b) On October 25, 2022, Commissioner Trumka circulated within the CPSC a memorandum titled "NPR Proposing Ban on Gas Stoves (Indoor Air Quality)." Will the RFI rely, in whole or in part, on Commissioner Trumka's memorandum? If so, why or why not?
 - c) Please provide copies of all documents, research, and studies relied upon by the CPSC in publishing the RFI.
2. Does the CPSC have a process to vet third party research and studies relied upon by the agency to substantiate its regulatory actions? If not, why not? If so, please describe the process and describe (with relevant documents and studies) how the agency vetted each study to substantiate the RFI on "hazards associated with gas stoves."
 - a) In vetting third party research and studies, does the CPSC consider who funded the research or study, including any potential conflicts of interest? If not, why not? If so, please describe how the CPSC vetted each third-party research and study used to substantiate the RFI on "hazards associated with gas stoves."

¹⁴ Paul Hope, *Is Your Gas Range a Health Risk?*, Consumer Reports, Oct. 6, 2022, <https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-risk-a6971504915/>. At the bottom of the article, an editor's note states: "This project was funded in part with a grant from the Climate Imperative Foundation."

¹⁵ U.S. Consumer Product Safety Commission, Minutes of Commission Meeting, Decisional Matter: Fiscal Year 2023 Operating Plan, Oct. 26, 2022, https://www.cpsc.gov/s3fs-public/Commission-Meeting-Minutes-FY-2023-Operating-Plan_0.pdf?VersionId=wiJw89I902pxZ_6C.Zz08whJ6l6.9fo5.

3. In your statement on January 11, 2023, you noted: “I am not looking to ban gas stoves and the CPSC has no proceeding to do so.”¹⁶ Section 8 of the Consumer Product Safety Act (15 U.S.C. § 2057) provides the CPSC with limited authority to declare a consumer product a “banned hazardous product.” While you may not be “looking” to ban gas stoves, is declaring a gas stove a “banned hazardous product” nonetheless a possible solution contemplated by the RFI or any future proceeding by the CPSC?
 - a) If so, please provide all documents and legal memoranda that support the use of Section 8 to ban gas stoves as a possible solution for the CPSC to consider.
 - b) Where else in the CPSC’s authorizing statutes do you believe CPSC has the authority to ban gas stoves generally as opposed to a specific make and model of gas stove? Please be specific.
4. In your statement on January 11, 2023, you noted: “CPSC is looking for ways to reduce related indoor air quality hazards.”¹⁷ How does the CPSC define an “indoor air quality hazard”? Please provide copies of all supporting documents, research, and studies you used to conclude gas stoves result in the presence of “indoor air quality hazards.”
5. In your statement on January 11, 2023, you noted: “Research indicates that emissions from gas stoves can be hazardous.”¹⁸ Please provide all documents, internal memoranda, and analysis provided to the CPSC that substantiate your claim.
6. Under 15 U.S.C. § 2056(b), the CPSC is to rely on a voluntary standard rather than a mandatory standard when voluntary standards would reduce the risk of injury and likely have substantial compliance. In your statement, you noted: “CPSC also is actively engaged in strengthening voluntary safety standards for gas stoves.”¹⁹
 - a) Please provide all documents and actions taken by the CPSC to influence, direct, or request gas stove voluntary standards with the American National Standards Institute (ANSI), Canadian Standards Association (CSA), ASTM International, or any other manufacturing standards setting body between January 20, 2021, and the present.
 - b) Please provide all research, documents, and studies relied upon by the CPSC to substantiate a decision to influence, direct, or request a gas stove voluntary standard.

¹⁶ Statement of Chairman Alexander Hoehn-Saric Regarding Gas Stoves, U.S. Consumer Product Safety Commission, Jan. 11, 2023, <https://www.cpsc.gov/About-CPSC/Chairman/Alexander-Hoehn-Saric/Statement/Statement-of-Chair-Alexander-Hoehn-Saric-Regarding-Gas-Stoves>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

- c) Federal regulations (16 C.F.R. § 1031.5) specify CPSC’s requirements for considering involvement with voluntary standards setting bodies, including consideration of the likelihood a voluntary standard reduces the risk of injury and review of the anticompetitive effects resulting from a voluntary standard. Please provide all documents, internal memoranda, and analysis documenting the CPSC’s consideration and compliance with 16 C.F.R. § 1031.5 while “engaged in strengthening voluntary standards for gas stoves” from January 20, 2021, to the present.
7. In your statement on January 11, 2023, you noted: “I am not looking to ban gas stoves and the CPSC has no proceeding to do so.”²⁰ In your view, does regulating a consumer product to make it unaffordable for most Americans constitute a de facto ban?
8. The CPSC’s Fiscal Year 2023 (“FY23”) Operating Plan²¹ notes, under project “23335 – Combustion (Carbon Monoxide) Hazards: Voluntary Standards Activities,” that CPSC staff will have active participation in voluntary standards to reduce death and injuries associated with carbon monoxide (CO) poisonings and other combustion hazards through “[c]ollaboration with voluntary standards organizations on CO and Nitrogen Oxide (NOx) emission from gas range.”
- a) Please explain, describe, and provide all relevant documents, research, and studies regarding the voluntary standards that the CPSC staff will advocate for in regards to NOx emissions from gas ranges.
- b) Please explain why CPSC resources are being directed to advocate for voluntary NOx emissions standards under a project that is dedicated to CO poisoning.
9. The CPSC’s FY23 Operating Plan²² notes, under project “23336 – Combustion (Carbon Monoxide) Hazards: Rulemaking Activities,” that “[i]n FY 2023, the CPSC staff will prepare and submit a Supplemental Notice of Proposed Rulemaking (SNPR) for portable generators and an [Notice of Proposed Rulemaking (NPR)] and Final Rule for furnaces.”
- a) Please explain and describe the scope of the NPR and Final Rule for furnaces.
- b) Do the NPR and Final Rule for furnaces consider any hazards unrelated to carbon monoxide poisoning? If so, please provide all applicable documents, research, and studies used to substantiate the rule and the additional hazards considered.

²⁰ Statement of Chairman Alexander Hoehn-Saric Regarding Gas Stoves, U.S. Consumer Product Safety Commission, Jan. 11, 2023, <https://www.cpsc.gov/About-CPSC/Chairman/Alexander-Hoehn-Saric/Statement/Statement-of-Chair-Alexander-Hoehn-Saric-Regarding-Gas-Stoves>.

²¹ U.S. Consumer Product Safety Commission, Operating Plan: Fiscal Year 2023, Oct. 26, 2022; <https://www.cpsc.gov/s3fs-public/FY2023CPSCOperatingPlan.pdf?VersionId=Z.vZzSezwTIX224uG66J5fHTkFcIvL.G>

²² *Id.*

10. In the context of the CPSC’s consideration of “hazards associated with gas stoves,” has the CPSC considered the “hazards” associated with electric stoves? If so, explain and describe the scope of hazards considered? If not, why not?
 - a) In the context of the CPSC’s consideration of “hazards associated with gas stoves,” has the CPSC considered how a ban on gas stoves would affect the ability of Americans to cook and heat their homes during electric outages tied to natural disasters, power outages, and boil water advisories? If not, why not? If so, please explain and describe the CPSC’s findings.
11. Has the CPSC considered or is it planning to consider any cost-benefit analysis for the regulation of gas stoves? If so, please provide all relevant documents.
12. If the regulatory costs to the American people outweigh the benefits, should that be a determining factor that prevents the CPSC from moving forward with a proposal?
13. Has the CPSC considered the cost and impacts on restaurants and food service providers if gas stoves were banned or further regulated by the CPSC? If so, please provide all relevant documents. If not, why not?
14. Has the CPSC considered how a gas stove ban or a heavy regulatory burden on gas stoves would affect low income and minority Americans? If so, please provide all relevant documents. If not, why not?
15. Please explain why a ban on gas stoves is not a policy question that is left to the people’s representatives in Congress.
16. In *West Virginia v. EPA*, the Supreme Court struck down overreach by the Environmental Protection Agency, noting that there is a “particular and recurring problem: agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted.”²³ How are CPSC’s proceedings, including a gas stove ban, consistent with the Supreme Court’s “major questions” doctrine that requires clear congressional authorization?

In addition, I request that you promptly preserve all records related to the gas stove RFI, Commissioner Trumka’s internal memorandum titled “NPR Proposing Ban on Gas Stoves (Indoor Air Quality),” and any pending or proposed regulatory actions related to gas stoves (collectively known as “proposed gas stove ban”). Please provide the following documents by no later than February 1, 2023:

1. All emails, text messages, and internal message system messages related to the proposed gas stove ban that were sent between any CPSC person and any individual or entity outside the Executive Office of the President between January 20, 2021, and the present;

²³ *West Virginia v. Environmental Protection Agency*, 142 S.Ct. 2587, 2609 (2022).

2. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual in the Executive Office of the President between January 20, 2021, and the present;
3. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any relevant CPSC person and any individual involved with the Climate Imperative Foundation between January 20, 2021, and the present;
4. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual involved with the Rocky Mountain Institute between January 20, 2021, and the present;
5. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual involved with Rewiring America between January 20, 2021, and the present;
6. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual involved with the Windward Fund between January 20, 2021, and the present;
7. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual involved with Consumer Reports (formerly known as Consumers Union) between January 20, 2021, and the present;
8. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual involved with the Energy Foundation, including the Energy Foundation China, between January 20, 2021, and the present;
9. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual involved with the American National Standards Institute (ANSI) between January 20, 2021, and the present;
10. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual involved with the Canadian Standards Association (CSA) between January 20, 2021, and the present;
11. All emails, text messages, and internal message system messages related to the proposed gas stove ban between any CPSC person and any individual involved with ASTM International between January 20, 2021, and the present;

12. All calendar entries (including electronic calendars) associated with any CPSC person that relate to the proposed gas stove ban and were created or generated between January 20, 2021, and the present;
13. A list of all CPSC persons who have worked on issues related to the proposed gas stove ban between January 20, 2021, and the present.
14. All records²⁴ sent, received, or created by any CPSC person between January 20, 2021, and the present that contain any of the following key words or key word combinations:
 - a) “gas stove”
 - b) “gas range”
 - c) “gas stove” & “close hold”
 - d) “gas range” & “close hold”
 - e) “gas stove” & “climate”
 - f) “gas range” & “climate”
 - g) “nitrogen dioxide” & “gas stove”
 - h) “nitrogen dioxide” & “gas range”
 - i) “NOx” & “gas stove”
 - j) “NOx” & “gas range”
 - k) “carbon dioxide” & “gas stove”
 - l) “carbon dioxide” & “gas range”
 - m) “CO2” & “gas stove”
 - n) “CO2” & “gas range”
 - o) “climate justice”
 - p) “climate” & “gas stove”
 - q) “climate” & “gas range”

Thank you for your attention to this matter.

Sincerely,



Ted Cruz
United States Senator

²⁴ The term “records” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded or preserved, and whether original or copy.