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BRIAN SCHATZ, HAWAII
EDWARD MARKEY, MASSACHUSETTS
GARY PETERS, MICHIGAN
TAMMY BALDWIN, WISCONSIN
TAMMY DUCKWORTH, ILLINOIS
JON TESTER, MONTANA
KYRSTEN SINEMA, ARIZONA
JACKY ROSEN, NEVADA
BEN RAY LUJÁN, NEW MEXICO
JOHN HICKENLOOPER, COLORADO
RAPHAEL WARNOCK, GEORGIA
PETER WELCH, VERMONT

TED CRUZ, TEXAS
JOHN THUNE, SOUTH DAKOTA
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
DAN SULLIVAN, ALASKA
MARSHA BLACKBURN, TENNESSEE
TODD YOUNG, INDIANA
TED BUDD, NORTH CAROLINA
ERIC SCHMITT, MISSOURI
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CYNTHIA LUMMIS, WYOMING

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <https://commerce.senate.gov>

LILA HELMS, MAJORITY STAFF DIRECTOR
BRAD GRANTZ, REPUBLICAN STAFF DIRECTOR

March 15, 2023

The Honorable Richard L. Trumka, Jr.
Commissioner
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Commissioner Trumka:

I am disappointed by your February 17, 2023 response to my January 25, 2023 letter regarding recent actions by you and the Consumer Product Safety Commission (“CPSC”) concerning gas stoves. Rather than answering the majority of my specific and detailed questions, your letter provided a rambling—and generally unresponsive—narrative regarding CPSC’s ongoing efforts to decide if Americans get to keep their gas stoves. Furthermore, your letter dismissed many of my questions and failed to provide most of the requested documents on this topic. As a Senate-confirmed CPSC commissioner, you have a duty to be responsive and transparent to Congress and the American people. I urge you to recognize those obligations.

I therefore expect written responses to the questions raised in my initial letter no later than March 29, 2023. For your reference, I have included those questions and document requests at the end of this letter. If you refuse to answer a question, state so specifically and provide the reason for your refusal.

Furthermore, in your next letter, **please confirm that CPSC is preserving all records related to the gas stove RFI, your internal memorandum titled “NPR Proposing Ban on Gas Stoves (Indoor Air Quality),” and any pending or proposed regulatory actions related to gas stoves.**

I look forward to your forthcoming prompt and complete response.

Sincerely,



Ted Cruz
Ranking Member

Encl: Questions and Document Requests from January 25, 2023 Letter from Sen. Cruz to
Commissioner Trumka

Questions from January 25, 2023 Letter

1. On October 25, 2022, in advance of proposing your amendment to initiate a rule to ban gas stoves, you distributed an internal memorandum titled “NPR Proposing Ban on Gas Stoves (Indoor Air Quality).” In this memo, you state: “There is sufficient information available for CPSC to issue an [Notice of Proposed Rulemaking (NPR)] in FY 2023 proposing to ban gas stoves in homes.”¹
 - a) Please provide copies of all documents, research, and studies relied upon by you and your office in drafting this memorandum.
 - b) Will the forthcoming RFI seeking public input on “hazards associated with gas stoves”² rely, in whole or in part, on this memorandum. If so, why or why not?
 - c) Did you consult with any groups, including environmental groups, or individuals outside of the CPSC to draft your internal memorandum? If so, please provide a list of all individuals and groups.
2. In your internal memorandum, you state: “For health and inequity reasons, and because gas stoves strongly contribute to climate change through greenhouse emissions, America’s two largest cities – New York and Los Angeles – have already banned gas stoves in new construction.”³ Please provide copies of all supporting documents, research, and studies you used to conclude “gas stoves strongly contribute to climate change through greenhouse gas emissions.”
3. Sections 7 and 9 of the Consumer Product Safety Act provides the CPSC with limited authority to promulgate mandatory consumer product safety standards if, among other things, such standards are “reasonably necessary to prevent or reduce an unreasonable risk of injury.” In your view, are “greenhouse gas emissions” or “climate change” from gas stoves sufficient to represent “an unreasonable risk of injury” so that the CPSC may regulate them? If so, please provide all supporting legal memoranda, analyses, and research to substantiate such position.
 - a) Has the CPSC ever promulgated a regulation that imposed a product ban, voluntary standard, or mandatory standard based on climate change or greenhouse gas emissions? If so, please provide all supporting documents.
4. Did you vet any third-party research and studies relied upon by you or your office to substantiate your internal memorandum or proposed NPR to ban gas stoves? If not, why not? If so, please describe the process and describe (with relevant documents and studies) how you or

¹ Memorandum from the Office of Commissioner Rich Trumka, *NPR Proposing Ban on Gas Stoves (Indoor Air Quality)*, CPSC (Oct. 25, 2022).

² *Minutes of Commission Meeting, Decisional Matter: Fiscal Year 2023 Operating Plan*, CPSC (Oct. 26, 2022), available at https://www.cpsc.gov/s3fs-public/Commission-Meeting-Minutes-FY-2023-Operating-Plan_0.pdf?VersionId=wiJw89I902pxZ_6C.Zz08whJ616.9fo5.

³ Memorandum from the Office of Commissioner Rich Trumka, *NPR Proposing Ban on Gas Stoves (Indoor Air Quality)*, CPSC (Oct. 25, 2022).

your office vetted each study to substantiate the claims in your internal memorandum or proposed NPR to ban gas stoves.

5. Section 8 of the Consumer Product Safety Act provides the CPSC with limited authority to declare a consumer product a “banned hazardous product.” Is declaring gas stoves a “banned hazardous product” 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.
 - c) In your view, can CPSC use “climate change” or “greenhouse gas emissions” as the justification for declaring a consumer product a “banned hazardous product”? If so, why?
6. In your January 9, 2023, statement, you note: “To be clear, CPSC isn’t coming for anyone’s gas stoves. Regulations apply to new products.”⁴
 - a) Would you advocate for the use of CPSC’s recall authority to comply with any new regulations? If so, why or why not?
 - b) Would CPSC’s proposed regulations prohibit the importation or purchase of gas stove parts to fix an existing gas stove that is not in compliance with CPSC’s new regulations? If so, why or why not?
7. In your view, does regulating a consumer product to make it unaffordable for most Americans constitute a de facto ban?
8. Have you or your office considered or are you planning to consider any cost-benefit analyses for the regulation of gas stoves? If so, please provide all relevant documents.
9. 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?
10. Have you or your office 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?

⁴ Commissioner Richard Trumka, Jr. (@TrumkaCPSC), Twitter (Jan. 9, 2023, 3:54 PM), *available at* <https://twitter.com/TrumkaCPSC/status/1612553459462721536>.

11. Have you or your office 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?
12. Please explain why a ban on gas stoves is not a policy question that is left to the people's representatives in Congress.
13. 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."⁵ How are CPSC's proceedings, including a gas stove ban or use of "climate change" or "greenhouse gas emissions" to justify regulatory action, consistent with the Supreme Court's "major questions" doctrine that requires clear congressional authorization?

⁵ *West Virginia v. Environmental Protection Agency*, 142 S.Ct. 2587, 2609 (2022).

Document Requests from January 25, 2023 Letter

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

12. All calendar entries (including electronic calendars) associated with any person in your office that relates to the proposed gas stove ban and were created or generated between December 2, 2021, and the present;
13. A list of all persons in your office who have worked on issues related to the proposed gas stove ban between December 2, 2021, and the present.
14. All records⁶ sent, received, or created by any person in your office between December 2, 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”

⁶ 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.