

February 6, 2023

Dear Abioye Mosheim,

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Consumer Safety Product Commission (“CSPC”), 16 CFR Part 1015, I respectfully request the following records:

- A. All records related to CPSC Commissioner Richard L Trumka’s memo titled *NPR Proposing Ban on Gas Stoves (Indoor Air Quality)*
- B. All records regarding voluntary standards and natural gas stoves
- C. All record regarding ANSI Z21.1-2016 or CSA 1.1-2016
- D. All communications with other federal agencies, including but not limited to the Department of Energy, Environmental Protection Agency, and the Federal Energy Regulatory Commission, regarding natural gas stoves.
- E. All communications with the Office of the President or Executive Office of the President regarding natural gas stoves

Please limit the search for this request from December 1, 2021 to Jan 8, 2023. Please include the following custodians in any search:

- A. Office the Chairman, Alexander Dennis “Alex” Hoehn-Saric,
- B. Office of Commissioner Peter Feldman
- C. Office of Commissioner Mary T. Boyle
- D. Office of Commissioner Richard L. Trumka Jr.
- E. Office of Communications
- F. Office of the Inspector General
- G. Office of Equal Employment Opportunity and Minority Enterprise
- H. Office of the Executive Director
- I. Office of the General Counsel
- J. Office of Legislative Affairs

The term “record” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or a copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (emails), MMS or SMS text messages, instant messages, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat,

Twitter Direct Messages, Lync, Slack, and Facebook Messenger), contracts, cables, telexes, notations of any type of conversation, telephone call, voicemail, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), electronic or mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record. A draft or non-identical copy is a separate record within the meaning of this term.

The term “communication” means each manner or means of disclosure or exchange of information (in the form of facts, ideas, inquiries, or otherwise), regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, e-mail (desktop or mobile device), MMS or SMS text message, instant messages, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter Direct Messages, Lync, Slack, and Facebook Messenger), regular mail, telexes, releases, or otherwise.

“Communications with,” “communications from,” and “communications between” means any communication involving the related parties, regardless of whether other persons were involved in the communication, and includes, but is not limited to, communications where one party is cc’d or bcc’d, both parties are cc’d or bcc’d, or some combination thereof.

The terms “and” and “or” should be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The terms “all,” “any,” and “each” should each be construed as encompassing any and all. The singular includes

the plural number, and vice versa. The present tense includes the past and vice versa. The masculine includes the feminine and neuter genders.

Please consider all members of a document “family” to be responsive to the Request if any single “member” of that “family” is responsive, regardless of whether the “family member” in question is “parent” or “child.”

In the interest of expediency and to minimize the research and/or duplication burden on your staff, please send records electronically if possible. If this is not possible, please notify me before sending to the mailing address listed below. If access to this request takes longer than twenty (20) business days, please let me know when I might receive records or be able to inspect the requested records. Please produce responsive documents as soon as they become available. In all cases, please communicate with me at the email address below.

Please comply fully with 5 U.S.C. § 552 (b). Accordingly, without limitation to the foregoing, if any portion of this request is denied for any reason, please provide written notice of the records or portions of records that are being withheld and cite each specific exemption of the Freedom of Information Act on which the Agency relies. Moreover, to the extent the Agency believes that responsive records may be withheld in part, produce all reasonably segregable portions of those records.

Additionally, please provide all responsive documents even if they are redacted in full.

Fee Waiver Request

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) nonprofit, Heritage Foundation does not have a commercial purpose and the release of the information requested is not in Heritage Foundation’s commercial interest. Heritage Foundation’s mission is to formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. Heritage Foundation uses the information requested and analyzes it in order to educate the public through social media,¹ broadcast media² (traditional and nontraditional), and

¹ Heritage Foundation. [@ Heritage] (Accessed: 2022, February 18). 626.8K Followers Twitter. <https://twitter.com/Heritage>

² Fox News. (Accessed: 2022, February 18). Heritage Foundation launches Conservative Oversight

press releases.³ The requested information is in the public interest because the U.S. CPSC commissioner, Richard Trumka Jr., stated in an interview with Bloomberg, that CPSC is considering banning gas stoves amid health fears.⁴ This announcement generated a great deal of national news coverage of this issue. *See* Appendix 1.

This is a request by a member of the news media for information of public interest, made in my capacity as an author for the Daily Signal⁵ (a major news outlet⁶), I actively gather information of potential interest to our Daily Signal audience, I use my editorial skills to turn raw materials into a distinct work, and I distribute that work to our Daily Signal audience through podcasts⁷ and articles. Therefore, I request that you waive all applicable fees associated with this request. If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$50. Please send me a detailed and itemized explanation of those charges.

Expedited Processing is Warranted under 16 C.F.R. 1015.5

1. This provision provides that expedited processing shall be granted regarding: “With respect to a request made by a person primarily engaged in disseminating information, that there is an urgency to inform the public concerning actual or alleged Federal Government activity.”

Even though expedited processing under 36 C.F.R. § 1250.28 (a)(4) hasn’t been judicially construed under 16 C.F.R. 1015.5, courts have held that similar DOJ Regulation requires the requester to show: (1) that the request involves a “matter of widespread and exceptional media interest” (28 C.F.R. § 16.5(e)(1)(iv)); and (2) that the matter is one “in which there exists possible questions about the integrity of the government that affect public confidence” (*id.*). *See Edmonds v. FBI*, No. 02-cv-1294 (ESH), 2002 WL 32539613, *3 (D.D.C. Dec. 3, 2002). It is not necessary to show “prejudice or a matter of current exigency to the American public.” *Id.*

First, the DOJ Regulation requires showing that the matter about which questions of integrity have been raised is the subject of widespread national media attention. *See Am. Oversight v. DOJ*, 292 F.Supp.3d 501, 507–508 (D.D.C. 2018)

Project aimed at 'exposing' Biden admin, leftist policies. <https://www.foxnews.com/politics/heritage-conservative-oversight-project-biden-admin-leftist-policies>

³ Heritage Foundation. (Accessed: 2022, February 18). Press. <https://www.heritage.org/press> .

⁴ Bloomberg. (Accessed: 2023, January 27). US Safety Agency to Consider Ban on Gas Stoves Amid Health Fears. <https://www.bloomberg.com/news/articles/2023-01-09/us-safety-agency-to-consider-ban-on-gas-stoves-amid-health-fears?leadSource=uverify%20wall>

(denying motion for expedited processing because general media interest in Solicitor General’s nomination is insufficient to show media interest in possible ethics questions concerning the nomination). There need not be a showing that the disclosure would shed considerable light on agency operations; only that there is “exceptional” and “widespread” media interest. See *CREW v. DOJ*, 870 F.Supp.2d 70, 81 (D.D.C. 2012), *rev’d on other grounds*, 746 F.3d 1082 (D.C. Cir. 2014). While the media interest need be “widespread” and “exceptional” it need not be overwhelming. See *ACLU*, 321 F.Supp.2d at 31–32 (rejecting DOJ’s position that requester’s citation to what the court described as “only a handful of articles” was insufficient to show “widespread and exceptional media interest” because those articles “were published in a variety of publications and repeatedly reference the ongoing national discussion about the Patriot Act and Section 215” (second quotation added)); *Edmonds*, 2002 WL 32539613, at *3 (numerous national newspaper and network television broadcasts concerning whistleblower’s allegations of security lapses in FBI translator program met test).⁵

Second, the DOJ Regulation requires showing that “there exists *possible* questions about the government’s integrity that affect public confidence.” *CREW v. DOJ*, 436 F.Supp.3d 354, 361 (D.D.C. 2020) (*quoting* 28 C.F.R. § 16.5(e)(1)(4)) (emphasis by Court).⁶ It does not “require the requester to prove wrongdoing by the government in order to obtain documents on an expedited basis.” *Id.* at 362. “The primary way to determine whether such possible questions exist is by examining the state of public coverage of the matter at issue, and whether that coverage surfaces possible ethics issues so potentially significant as to reduce public confidence in governmental institutions.” *Am. Oversight v. DOJ*, 292 F.Supp.3d 501, 508 (D.D.C. 2018). This is not an extraordinarily high bar. See, e.g., *CREW*, 436 F.Supp.3d at 361 (complaint sufficient to survive a motion to dismiss where it alleged Attorney General’s action regarding disclosure of Mueller Report “supported an inference that at best, the Attorney General undertook to frame the public discussion on his own terms, and at worst that he distorted the truth”); *ACLU v. DOJ*, 321 F.Supp.2d 24, 32 (D.D.C. 2004) (allegations in press that Section 215 of the Patriot Act may be unconstitutional and reports that Members of Congress have alleged abuses of Section 215 “implicate[] government integrity” and hence are sufficient to meet test); *Edmonds*, 2002 WL 32539613, at *3–4 (test met where plaintiff alleged security

⁵ Cf. 28 C.F.R. § 16.5(e)(3) (“The existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an ‘urgency to inform’ the public on the topic.”).

⁶ To be sure, this standard does not require expedition of any questions concerning government integrity. See, e.g., *White v. DOJ*, 16 F.4th 539, 544 (7th Cir. 2021) (test not met in case where records sought to cast doubt on requestors’ criminal conviction where requestor claimed he was subject to an elaborate government sting operation).

lapses in FBI translators program, national news covered the issue, and two Senators expressed concern regarding “the significant security issues raised by plaintiff’s allegations and the integrity of the FBI”).⁷

2. The requested information is in the public interest because the U.S. CPSC commissioner, Richard Trumka Jr., stated in an interview with Bloomberg, that CPSC is considering banning gas stoves amid health fears.⁸ As Attachment A (000002-000087) demonstrates, the press interest in these revelations is immense and on-going.

There has been Congressional interest in the stated comment. The Energy and Commerce Committee is conducting oversight and has transmitted oversight letters to the CPSC and the White House. *See* Appendix B. Senate Energy and Natural Resources Committee Chairman Joe Manchin announced Thursday that he is working with Sen. Ted Cruz to introduce bipartisan legislation to prohibit the Consumer Product Safety Commission from banning gas stoves.⁹

Press coverage and public Congressional oversight has repeatedly surfaced “possible questions about the integrity of the government that affect public confidence.”

⁷ DOJ has granted expedition under the DOJ Regulation in a number of circumstances. *See, e.g., CREW v. DOJ*, 870 F.Supp.2d at 81 n. 14 (expedition granted to request seeking records on FBI’s closed investigation of Congressman DeLay for misconduct which did not result in charges, but received considerable media attention (subsequent history omitted)); *CREW v. DOJ*, 820 F.Supp.2d 39, 42, 46 (D.D.C. 2011) (expedition granted to request seeking information concerning possible deletion of Office of Legal Counsel emails where the possible deletion was flagged as a hindrance in an internal investigation, covered in the media, and was the subject of Congressional concerns); *Elec. Frontier Found. v. DOJ*, 565 F.Supp.2d 188, 189–91 (D.D.C. 2008) (expedition granted to request seeking information regarding storage of information obtained by National Security Letters in FBI’s Data Warehouse); *CREW v. DOJ*, No. 05-cv-2078 (EGS), 2006 WL 1518964, *1 (D.D.C. June 1, 2006) (expedition granted to request concerning government’s decision to seek a reduced penalty in tobacco litigation where government’s decision was subject to intensive news coverage and prompted concern from “several Congressman” which caused a request for an Inspector General investigation of “improper political interference” with the decision).

⁸ Bloomberg. (Accessed: 2023, January 27). US Safety Agency to Consider Ban on Gas Stoves Amid Health Fears. <https://www.bloomberg.com/news/articles/2023-01-09/us-safety-agency-to-consider-ban-on-gas-stoves-amid-health-fears?leadSource=verify%20wall>

⁹ Washington Examiner. (Accessed: 2023, February 2). Manchin teams up with Cruz on bill to block gas stove ban. <https://www.washingtonexaminer.com/restoring-america/faith-freedom-self-reliance/manchin-cruz-bill-block-gas-stove-ban>



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First. The proposed CPSC action to ban gas stoves has repeatedly been attacked as an extreme action undertaken without regards the CPSC's proper role and authority¹⁰. Indeed, many Members of Congress and members of the media have explicitly said the rule is motivated solely to advance and extreme climate agenda without regard to any applicable metrics. (Attachment A and B 000002-0000109)

Second. Many have raised serious concerns that a proposed ban would directly cause safety issues. (Attachment A 000002-000109)

Third. Many have argued that the proposed ban would potentially increase costs as it relates to energy(Attachment A 000002-000087). Some have suggested that this could have a more acute impact on certain disadvantaged segments of society

Thank you in advance for considering my request. If you have any questions, or feel you need clarification of this request please contact me at oversightproject@heritage.org.

Sincerely,

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The Heritage Foundation
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¹⁰Daily Mail. (Accessed: 2023, February 3). Biden's Consumer Product Safety Commission WAS serious about banning gas stoves before public backlash forced a rethink - as it's claimed it would cost over \$65BN to make every US household electric. <https://www.dailymail.co.uk/news/article-11707473/Internal-memo-shows-Biden-banning-gas-stoves-public-backlash.html>