

margins, more frequent and severe weather events and increased reliance on weather-dependent renewables and emergency-only resources have altered the region's historic risk profile, creating risks in non-summer months that rarely posed challenges in the past.”⁶

Granting two-year Presidential Exemptions for Basin Electric's affected EGUs will protect America's national security interests by preventing these threats to the electricity grids that our nation depends upon. The Presidential Exemptions will also be consistent with President Trump's Executive Order “Declaring a National Energy Emergency.”

II. The Technology Necessary to Implement the 2024 MATS is Not “Available.”

Based on EPA's broad approach to evaluating whether “technology to implement [the] standard is not available,” as established by previous administrative actions, the technology necessary for Basin Electric to implement the 2024 MATS is not “available.” A January 16, 2025 memorandum from former President Biden directed the EPA Administrator to consider “shortages of labor, parts, control technology supply, supply-chain disruption, or other factors out of the facility's control” as grounds for supporting an exemption.⁷ Other administrations have adopted a similarly holistic approach to assessing requests for compliance exemptions by considering, among other factors, whether “generation from the retiring unit was needed to maintain reliability while other units install emission controls” and whether “transmission upgrades were needed in order to maintain electric reliability after the unit retired but could not be completed within 3 years.”⁸

Under EPA's holistic approach, the technology necessary to implement the 2024 MATS requirements at issue at not “available” because (1) existing PM CEMS technology is not capable of measuring fPM emissions at the level required, (2) the necessary studies, procurement, and construction of the technology necessary to comply with the new standards cannot be completed by the 2027 implementation deadline, and (3) the 2024 MATS Rule will risk availability of Basin Electric's EGUs and cause significant reliability challenges.

⁶ *MISO's Response to the Reliability Imperative*, MISO (Feb. 2024), <https://cdn.misoenergy.org/2024%20Reliability%20Imperative%20report%20Feb.%2021%20Final%204018.pdf?v=20240221104216>.

⁷ *Memorandum on the Orderly Implementation of the Air Toxics Standards for Ethylene Oxide Commercial Sterilizers*, Section 2(b)(i) (Jan. 16, 2025).

⁸ 77 Fed. Reg. 9,340, 9,410 (Feb. 16, 2012).