

Accordingly, the President is authorized to exercise his discretion to exempt EGUs from complying with the MATS RTR where (1) the technology required “to implement” the standard is not available and (2) where it is in the interest of national security. In light of this authority, and in light of the burden imposed on electric generating facilities by the MATS RTR, EPA has announced the potential availability of such exemptions and asked that requests for exemptions be submitted by March 31. *See* <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-section-112-presidential-exemption-information>. Consistent with that announcement, and for the reasons set forth below, Coletto Creek requests a 2-year exemption from the fPM standard and the requirement to install and use PM CEMS.

Importantly, EPA has been very clear that the fPM standard and the CEMS requirement are completely integrated, such that any exemption must cover both requirements in the Rule. Specifically, EPA explained “that a fPM standard of 0.010 lb/MMBtu . . . is the lowest fPM emission limit possible at this time with use of PM CEMS.” 89 Fed. Reg. at 38,534. And EPA identified the revised fPM standard and the PM CEMS requirement as a combined “two-pronged approach,” stating that “requiring PM CEMS in addition to a lower fPM limit . . . is the most stringent option that balances the benefits of using PM CEMS with the emission reductions associated with the tightened fPM emission standard.” *Id.* at 38,530. In other words, EPA’s effort “to implement” its revised standard depends equally on both the more stringent numeric standard for fPM and on the obligation to install new monitoring equipment.

Section I explains that the technology required to implement the Rule’s revised fPM standard is not considered available on a continuous basis, and Section II explains that CEMS are likewise unavailable. Given the interdependence of these requirements, however, the unavailability of technology as to either component makes “implementation” of the standard likewise unavailable for the other. Section III concludes that it is in the national security interest to issue an exemption from compliance with the MATS RTR.

I. The Particulate Control Technology Required to Implement the Rule’s fPM Standard is Not Available

There are technological and operational limits at Coletto Creek that make it difficult and expensive to meet the more stringent fPM standard. EPA based its decision to lower the fPM standard on data from only a select few units, *see* Pet’rs’ Brief at 65-68, *North Dakota v. EPA*, No. 24-1119, Doc. 2077742 (Oct. 1, 2024), but not all units can meet the revised limit under all operating conditions. Coletto Creek currently utilizes a baghouse for particulate control. Even though Coletto Creek’s baghouse runs efficiently, the revised standard is challenging to meet because not all baghouses were designed to meet a limit this low. In addition, operational limitations could hinder the units’ ability to continuously comply with the fPM standard. Although some units may be able to achieve a rate of 0.010 lb/MMBtu under certain conditions, the Rule requires continuous compliance. Even units that can achieve the limit in ideal conditions may not be able to continuously meet that limit during peak load conditions when they cannot do maintenance and cleaning of PM controls. During the summer, most units operate at base load and run at high-capacity factors. It may be difficult to maintain optimal operation of control technologies during peak summer conditions unless there are additional outages scheduled for such maintenance, which may not always be feasible. Moreover, the characteristics of coal vary