

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, Kincaid Generation requests a 2-year exemption for the Kincaid Plant from the fPM standard and from the requirement to install and use PM CEMS.

Importantly, EPA has been very clear that the fPM standard and 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 Kincaid 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. Kincaid currently utilizes an electrostatic precipitator (“ESP”) for particulate control. To ensure compliance with the more stringent fPM standard, Kincaid would need to upgrade the existing emission control equipment and/or install new particulate control. EPA did not consider the availability of upgrades to control technologies that would be required to implement the revised standard on a continuous basis or the costs associated with those controls. *Id.* at 68-69. If Kincaid were to rebuild its ESP in an attempt to meet the revised standard, the capital costs per unit could be from \$52 million to \$148 million. *PGEN Comments on EPA’s Proposed Rule: NESHAP Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review*, Docket No. EPA-HQ-OAR-2018-0794-5994, at 12 (June 28, 2023) [hereinafter “PGEN Comments”]. Such a project is extremely cost ineffective per ton of fPM removed. *Id.* at 17. Moreover, continuous compliance with the revised fPM standard cannot be guaranteed, even with considerable upgrades or a complete rebuild of the ESP. Instead, it is likely that installation of a new baghouse would be necessary to meet the lower standard. However, this technology is not available because it is designed and installed on a site and facility specific basis and is cost prohibitive. A new baghouse would cost \$150-360/kW to install, which does not include operating costs. Ralph L. Roberson, *Technical Comments on EPA’s Proposed Rule: Mercury and Air Toxics Standards Risk and Technology Review*, Docket No. EPA-HQ-OAR-2018-0794-5994, at 3 (2023) [hereinafter “PM CEMS Technical Memo”]. Additionally, other