



GSP MERRIMACK

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March 31, 2025

Submitted via email to airaction@epa.gov

President Donald J. Trump
c/o Administrator Lee M. Zeldin
Office of the Administrator (1101A)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Presidential Exemption: *National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review*, 89 Fed. Reg. 38,508 (May 7, 2024): Merrimack Station, Plant #2364

Dear President Trump and Administrator Zeldin:

Please accept this letter on behalf of GSP Merrimack LLC ("GSP") requesting a Presidential exemption under Section 112(i)(4) of the Clean Air Act ("CAA") from compliance with the revised filterable particulate matter ("fPM") surrogate emission standard for non-mercury metal hazardous air pollutants ("HAP") and the requirement to install and use a particulate matter continuous emissions monitoring system ("CEMS" or "PM CEMS") promulgated in the above-captioned rule, commonly referred to as the MATS RTR, for the two coal-fired electric generating units ("EGUs") at Merrimack Station in Bow, New Hampshire. GSP requests a one-year exemption, beginning July 6, 2027, from these requirements for Merrimack Station.

The U.S. Environmental Protection Agency ("EPA") published the MATS RTR on May 7, 2024, and the rule became effective on July 8, 2024. In the MATS RTR, EPA revised the existing fPM limit to be 2/3 lower—from 0.030 lb/MMBtu to 0.010 lb/MMBtu—for all coal-fired EGUs. Additionally, EPA removed the option for EGUs to demonstrate compliance with the fPM limits through stack testing, instead requiring these units to install costly PM CEMS to comply with the lower fPM standard. Sources must demonstrate compliance with both the revised fPM limit and the PM CEMS requirement by July 6, 2027; however, work must begin well before July 6, 2027 to study, design, procure and install the necessary emission controls and PM CEMS.

Section 112(i)(4) of the Clean Air Act provides that the "President may exempt any stationary source from compliance with any standard or limitation under this section for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so." 42 U.S.C. § 7412(i)(4). The MATS RTR was promulgated under Section 112 of the Clean Air Act; therefore, the President may exempt EGUs from complying with the standards in the MATS RTR under Section 112(i)(4) if he determines the technology required to comply with the standard is not available and it is in the national security interests of the United States.

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On March 12, 2025, EPA issued a press release announcing that the Trump Administration was considering use of this exemption for the new requirements promulgated in the MATS RTR, <https://www.epa.gov/newsreleases/trump-epa-reconsider-biden-harris-mats-regulation-targeted-coal-fired-power-plants-be>, and EPA has since provided guidance on requesting such an exemption and directed the requests be submitted by March 31, 2025, <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-section-112-presidential-exemption-information>. For the reasons detailed below, GSP requests a one-year exemption for the two coal-fired units at Merrimack Station under Clean Air Act Section 112(i)(4) from the revised fPM standard and the requirement to install and use PM CEMS in the MATS RTR.

EPA has made clear that the revised, lower fPM standard and the PM CEMS requirement are intertwined, and therefore any exemption must cover both requirements from the MATS RTR. EPA has explained that the revised fPM standard and the PM CEMS requirement are 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.” 89 Fed. Reg. at 38,530. This is because, as EPA has noted, “a fPM standard of 0.010 lb/MMBtu . . . is the lowest fPM emission limit possible at this time with use of PM CEMS.” *Id.* at 38,534. Therefore, EPA’s efforts “to implement” and impose the revised standard depends on the lower fPM standard in conjunction with the continuous monitoring system. Sections I and II of this letter, respectively, explain that the technology required to implement the more stringent fPM standard on a continuous basis and the associated PM CEMS should be considered “not available,” particularly for sources that have announced their plan to cease burning coal in the near term, like Merrimack Station. Because these requirements rely on each other, the unavailability of technology as to either component makes “implementation” of the standard unavailable for the other. Section III of this letter explains that it is in the national security interests of the United States to issue an exemption from compliance with the MATS RTR.

I. The Control Technology Required to Implement the MATS RTR’s Revised fPM Standard Is Not Available

There are both technological and operational limits that make it difficult and costly to meet the more stringent fPM standard on a continuous and reliable basis. EPA failed to adequately consider these key limitations when attempting to justify its decision to reduce the fPM standard so significantly, and even well-performing and well-controlled units cannot reasonably ensure continuous compliance with the 0.010 lb/MMBtu limit in the manner contemplated by EPA. Moreover, EPA dismissed as unnecessary requests by industry to develop a subcategory for facilities with near-term retirements, 89 Fed. Reg. at 38,527, resulting in standards where the technology to implement such standard is functionally unavailable due to the need for costly control efforts with virtually no amortization period for such controls.

Merrimack Station Units 1 and 2, referred to as MK1 and MK2, are each equipped with two electrostatic precipitators (“ESPs”) operated in series to control the emissions of particulate matter (“PM”). When EPA initially promulgated the Mercury and Air Toxics Standards, which required compliance in 2015, EPA provided an alternative stack testing schedule for units that were able to demonstrate they were low-emitting EGUs (“LEE units”). *See, e.g.*, 40 C.F.R. § 63.10000(c). In compliance with the regulations, GSP conducted quarterly stack tests over a three-year period to demonstrate that MK1 and MK2 qualified as LEE units for PM, *i.e.*, that the units’ PM emissions were

less than 50% of the 0.030 lb/MMBtu standard. *Id.* § 63.10005(h). Although MK1 and MK2 have demonstrated they are well-controlled and have regularly demonstrated PM emissions lower than 0.015 lb/MMBtu, the 50% threshold for LEE units, even these units have not consistently tested at levels that would meet EPA's revised, more stringent 0.010 lb/MMBtu limit. Further, and importantly, GSP has committed to cease coal-fired operations at Merrimack Station by June 2028.

In revising the fPM standard in the MATS RTR, EPA relied on data from EGUs using stack testing for compliance in addition to those using PM CEMS, EPA's Response to Comments, Docket No. EPA-HQ-OAR-2018-0794-6922, at 28-29 (Apr. 2024) ("RTC"), but data from stack testing does not necessarily demonstrate the level that sources can operate at *continuously*. Although some units, including MK1 and MK2, may be able to achieve the revised, lower rate of 0.010 lb/MMBtu at times, the MATS RTR requires continuous compliance with this limit, which cannot be guaranteed. Units may not be able to continuously meet the lower fPM limit during all conditions. It can be difficult or may not always be feasible to maintain optimal operation of control technologies when the units are intermittently responding to high load demands during extreme weather and then require low and intermittent loads supporting non-dispatchable generation, especially while trying to ensure grid reliability. Moreover, the characteristics of coal and, specifically the ash content, vary and can impact the ability of a unit to comply with the fPM limit, regardless of the effectiveness of the control technologies in place. Other operational factors such as cleaning frequency, operational duration, and maintenance frequency may also impact the performance of ESP controls and, thus, the ability for a unit to continuously comply with the revised fPM limit.

Given the challenges in ensuring compliance on a continuous basis, upgrades to Merrimack's existing controls could be necessary to continuously meet the 0.010 lb/MMBtu limit. EPA failed to fully consider the availability of upgrades to control technologies necessary to implement the revised, lower standard on a *continuous* basis or the costs associated with those controls. Pet'rs' Brief at 68-69, *North Dakota v. EPA*, No. 24-1119, Doc. 2077742 (Oct. 1, 2024). Stakeholders informed EPA that the capital costs to rebuild or upgrade an ESP in an effort to meet the revised standard could be tens of millions of dollars to over \$100 million per unit. See, e.g., RTC at 38-43; *PGEN Comments on EPA's Proposed Rule: NESHA 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 3 (June 28, 2023) ("PGEN Comments"). Any such costs would make the control technology "not available" for Merrimack, given its commitment to cease coal-fired operations by June 2028. EPA ignored the reality of this scenario in promulgating the MATS RTR, claiming that "only a few facilities would likely be eligible for a near-term retirement subcategory[.]" See 89 Fed. Reg. at 38,527. Nonetheless, even with efforts to upgrade existing controls, continuous compliance with the revised, lower fPM standard cannot be guaranteed and significantly costlier controls could be necessary.

II. CEMS Technology Is Not Available

Additionally, the MATS RTR requires coal-fired units to demonstrate compliance with the fPM standard using PM CEMS instead of periodic stack testing, which as noted above, is integral to the numeric limit itself. Merrimack does not have PM CEMS and has historically utilized stack testing to demonstrate compliance with the fPM standard. There are technological limitations, as well as cost and market limitations, that make installation and use of PM CEMS by July 2027 "not available."

First, there are technological limitations that make PM CEMS “not available,” particularly at the revised fPM limit. Stakeholders provided significant information to EPA during the comment period on the MATS RTR on the technological issues associated with using PM CEMS at these levels. RTC at 60-61. Of note, PM CEMS does not directly measure PM emissions; instead, it uses correlation curves to calculate emissions levels. RTC at 60. However, “it would be ‘virtually impossible’ to establish a valid correlation of the PM CEMS” for such a low standard. See PGEN Comments at 22 (citing PM CEMS Technical Memo at 3). Additionally, it would be extremely difficult to operate within the proper QA/QC criteria at such low levels. See RTC at 60; *Comments of the Class of '85 Regulatory Response Group on the Proposal on National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review*, Docket No. EPA-HQ-OAR-2018-0794-5989, at 16 (June 28, 2024) (“Class of '85 Comments”). Although EPA revised certain criteria associated with PM CEMS in the final MATS RTR in an effort “to reduce the challenges with using PM CEMS” identified by commenters, see 89 Fed. Reg. at 38,528-29, it has not yet been demonstrated that these changes are sufficient to address the significant issues with the functionality of PM CEMS at such low fPM levels. Exacerbating this issue, units would have to aim to have emissions below the 0.010 lb/MMBtu limit to account for inherent variability in operations and emissions in order to ensure *continuous* compliance with the limit. Ultimately, the PM CEMS technology to demonstrate compliance with the lower fPM standard is “not available.”

Further, there are significant costs and market limitations associated with PM CEMS that make it “not available.” Installing and operating CEMS is costly, and EPA underestimates the costs in the MATS RTR. Costs include purchasing and installing PM CEMS, as well as potential modifications to the units to accommodate CEMS, and correlation testing. See PGEN Comments at 26; see also Class of '85 Comments at 18 (estimating \$180,000 to \$400,000 for “site preparation and engineering analysis, analyzer equipment and installation costs, and initial PS-11 correlation testing”). This does not even include the ongoing costs of PM CEMS after installation. Incurring such costs for units that will cease operating on coal in less than a year following the compliance date are futile and alone make the technology “not available” for these units.

Additionally, there are practical limitations that make this technology “not available” by July 2027. There are a limited number of vendors for CEMS and professionals certified to install and test CEMS. Currently, 177 EGUs utilize stack testing, RTC at 28, and any unit not retiring prior to July 6, 2027 would need to install CEMS by July 2027. This would overwhelm the current supply of CEMS and the availability of professionals certified to inspect and test the newly installed systems. Supply chain issues may also extend the lead time for obtaining and installing CEMS.

III. It Is in the Interest of National Security to Issue an Exemption for the Rule

The requested exemption from the MATS RTR requirements is in the national security interests of the United States. The MATS RTR contributes to ongoing challenges associated with the nation's energy generation capacity and threatens grid stability and the supply of affordable, reliable energy. The rule's stringent limits and the high costs associated with compliance could lead EGU owners to consider premature retirement of coal-fired EGUs—particularly those planning for near-term retirements but not necessarily before July 6, 2027—before there is sufficient new dispatchable generation to replace them, seriously endangering grid reliability. Indeed, earlier this year the North

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American Electric Reliability Corporation (NERC) noted that there are already grid reliability concerns in New England and New York. Specifically, they stated that “natural gas dependency in New England and New York pose[] a high risk for electric reliability during extreme winter weather under certain circumstances” and that “pipeline disruptions and protracted extreme weather[] pose severe threats to reliability.” <https://www.nerc.com/news/Pages/Statement-on-NPCC-Northeast-GasElectric-System-Study.aspx>. The need for diverse generation sources is evident, and the MATS RTR further compromises energy generation and grid security.

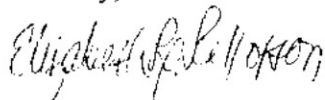
The President has identified energy generation and grid reliability as issues of national security. As stated in President Trump’s Executive Order (“E.O.”) 14156, *Declaring a National Energy Emergency*, the “generation capacity of the United States [is] . . . far too inadequate to meet our Nation’s needs” and “a reliable, diversified, and affordable supply of energy” is necessary to ensure “military preparedness.” 90 Fed. Reg. 8,433, 8,433 (Jan. 29, 2025). “[I]ntegrity . . . of our Nation’s energy infrastructure—from coast to coast—is an immediate and pressing priority for the protection of the United States’ national and economic security,” while “insufficient energy production . . . constitutes an unusual and extraordinary threat to our Nation’s economy, national security, and foreign policy.” *Id.* at 8,433-34. The MATS RTR is one of the “policies” contributing to the “inadequate and intermittent energy supply” and “increasingly unreliable grid.” *Id.* at 8,433.

Additionally, President Trump explained in E.O. 14154, *Unleashing American Energy*, that prior regulations have “limited the generation of reliable and affordable electricity” and resulted in high energy costs that have “weaken[ed] our national security.” 90 Fed. Reg. 8,353, 8,353 (Jan. 29, 2025). Pursuant to the E.O., it is “in the national interest to unleash America’s affordable and reliable energy.” *Id.* President Trump has stated that ensuring there is “an abundant supply of reliable energy” will help “to protect the United States’s economic and national security and military preparedness.” *Id.* Further, E.O. 14154 specifically directs agencies to review and potentially rescind rules, like this one, that “impose an undue burden on the . . . use of domestic energy resources.” *Id.* at 8,354.

An exemption from the requirements in the MATS RTR under Section 112(i)(4) of the Clean Air Act will help achieve President Trump’s goals of safeguarding national security through the supply of reliable energy. Thus, in order to ensure a sufficient and reliable supply of energy, President Trump should use his authority under Section 112(i)(4) to grant the requested one-year exemption from the lower fPM standard and requirement to install and use PM CEMS set forth in the MATS RTR.

If you have any questions regarding this submittal, please contact Elizabeth Tillotson at elizabeth.tillotson@graniteshorepower.com

Sincerely,



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