

Department of Environmental Quality grants a one-year extension that is the maximum extension allowable under law. As a result, the project is unavailable within the regulatory timeframe.

B. It is in the “national security interests of the United States” to exempt Colstrip from compliance with the 2024 MATS Rule.

The statute requires the President to determine that exempting Colstrip from the 2024 MATS Rule “is in the national security interests of the United States.” 42 U.S.C. § 7412(i)(4).

As a threshold matter, Presidential determinations on national security receive the utmost deference. “[T]he Supreme Court has always been reluctant to second-guess the Executive Branch on matters of national security—especially where Congress has not acted to restrict it.” *Lee v. Garland*, 120 F.4th 880, 889 (D.C. Cir. 2024); *see also Haig v. Agee*, 453 U.S. 280, 291 (1981) (“[I]n the areas of . . . national security, . . . congressional silence is not to be equated with congressional disapproval.”); *United States v. Curtiss-Wright Exp. Corp.*, 299 U.S. 304, 320 (1936) (discussing “the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations”).⁵

And the President has spoken. Through Executive Order 14156, the President declared a “national energy emergency” concerning energy resources and costs. 90 Fed. Reg. 8433 (Jan. 29, 2025) (“Declaring a National Energy Emergency”). According to the President, “a reliable, diversified, and affordable supply of energy” is necessary for the nation’s “defense industries” and “military preparedness.” *Id.* Further, “an affordable and reliable domestic supply of energy is a fundamental requirement for the national and economic security of any nation,” especially when “hostile state and non-state foreign actors have targeted our domestic energy infrastructure, [and] weaponized our reliance on foreign energy.” *Id.*

The national security implications of reliable, unrestrained energy production echoes in Executive Order 14154 as well. 90 Fed. Reg. 8353 (Jan. 29, 2025) (“Unleashing American Energy”). Through this Executive Order, the President determined that various regulations have impeded resource development, “limited the generation of reliable and affordable electricity,” and inflicted high energy costs, all of which “weaken[s] our national security.” *Id.* Thus, the President determined that it is “in the national interest to unleash America’s affordable and reliable energy and natural resources” which, in turn, will “rebuild our Nation’s economic and military security.” *Id.*

As such, the President directed all agencies to “exercise any lawful emergency authorities” to facilitate “production, transportation, refining, and generation of domestic energy resources,” including “in and through the West Coast of the United States.” 90 Fed. Reg. at 8434. Likewise, the President directed all agencies to “suspend, revise, or rescind” all regulations that “impose an

⁵ Because CAA Section 112(i)(4) is fundamentally concerned with national security, this same high level of discretion must be afforded to Presidential determinations on all elements of the Section, including determinations that a particular control technology is “not available.”