March 28, 2025

Honorable Lee Zeldin
Office of the Administrator (1101A)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
airaction@epa.gov

Re: Request for Presidential Exemption Pursuant to CAA Section 112(i)(4) for EPA's Final Rule Amending the National Emission Standards for Hazardous Air Pollutants For Coal- and Oil-Fired Electric Utility Steam Generating Units.

Dear Administrator Zeldin:

Pursuant to the Clean Air Act ("CAA") Section 112(i)(4), 42 U.S.C. § 7412(i)(4), Basin Electric Power Cooperative ("Basin Electric") respectfully requests two-year Presidential Exemptions from compliance with the standards under the Environmental Protection Agency's ("EPA") final rule amending the National Emission Standards for Hazardous Air Pollutants ("NESHAP") for coal- and oil-fired electric utility steam generating units—the Mercury and Air Toxics Standards ("MATS"), 89 Fed. Reg. 38,508 (May 7, 2024) ("2024 MATS Rule"). Basin Electric is a not-for-profit power generation and transmission cooperative, operating in nine states and serving 3 million consumers.

EPA published the 2024 MATS Rule on May 7, 2024. The 2024 MATS Rule imposed the following strict amendments to the MATS:

1. Lowering the filterable particulate matter ("fPM") emission limit from 0.030 lb/MMBtu to 0.010 lb/MMBtu for existing coal-fired electric generating units ("EGUs");
2. Requiring coal- and oil-fired EGUs to demonstrate compliance with the fPM standard using particulate matter continuous emissions monitoring ("PM CEMS"); and
3. Lowering the mercury emission standard from 4.0 lb/TBtu to 1.2 lb/TBtu for existing lignite-fired EGUs.[1]

The 2024 MATS Rule established July 8, 2027 as the deadline to demonstrate compliance with these requirements.

As both industry groups and EPA have recognized, these regulatory amendments impose burdensome requirements on power plants across the country—including the coal-fired EGUs that Basin Electric operates—as well as the nation's energy grid systems.

---

[1] *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, 38,510 (May 7, 2024).

Under CAA Section 112(i)(4), the President of the United States is authorized to grant up to two-year exemptions from compliance obligations for any NESHAP 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.S. § 7412(i)(4). On March 12, 2025, EPA announced reconsideration of the MATS Rule and requested feedback from affected sources on why technology is unavailable and why it is in the national security interests of the United States to provide an exemption to the MATS Rule.[2] Subsequent correspondence from EPA formally solicited requests for Presidential Exemptions under CAA Section 112(i)(4) by March 28, 2025.

Basin Electric hereby requests Presidential Exemptions from all requirements of the 2024 MATS Rule for the following affected EGUs that Basin Electric owns and operates:

- Leland Olds Station Units 1 and 2;
- Laramie River Station Units 1, 2, and 3;
- Antelope Valley Station Units 1 and 2; and
- Dry Fork Station Unit 1.

These EGUs provide significant electrical power to four different electricity grid systems: the Southwest Power Pool, Midwest Independent System Operator, Northwest Power Pool, and Western Area Power Administration's Rocky Mountain Region. In total, the affected EGUs produce 3,665 megawatts ("MW") of electricity:

- Leland Olds Station: 660 MW
- Laramie River Station: 1700 MW
- Antelope Valley Station: 900 MW
- Dry Fork Station: 405 MW

We understand that the "Class of '85 Regulatory Response Group" will be submitting a letter to Administrator Zeldin on March 31, 2025, which will recommend exemptions from the 2024 MATS Rule for affected facilities. The Class of '85 is a voluntary, ad hoc coalition of over 40 electric generating companies from across the country that have been actively involved in the development of CAA regulations for 35 years. Basin Electric adopts the findings of the forthcoming Class of '85 Letter. For the reasons discussed at length in the Class of '85 Letter and explained herein, Presidential Exemptions are necessary for Basin Electric's affected facilities

[2] EPA, *Fact Sheet – Reconsideration of Mercury and Air Toxics Standards* (Mar. 12, 2025), https://www.epa.gov/system/files/documents/2025-03/fact-sheet-reconsideration-of-mercury-and-air-toxics-standards.pdf.

because (I) granting the exemptions will protect vital national security interests; and (II) the technology necessary to implement the 2024 MATS is not "available."

I. Granting Presidential Exemptions for Basin Electric's Affected EGUs Will Protect America's National Security Interests.

As President Trump recognized in his January 20, 2025 Executive Order "Declaring a National Energy Emergency," "our Nation's inadequate energy supply and infrastructure" is an "[a]ctive threat to the American people."[3] The Executive Order further emphasizes that an "affordable and reliable domestic supply of energy is a fundamental requirement for the national and economic security of any nation" and highlights the need to "protect the United States's economic and national security and military preparedness by ensuring that an abundant supply of reliable energy is readily accessible in every State and territory of the Nation."[4]

Achieving compliance with the stringent standards under the 2024 MATS Rule at Basin Electric's affected EGUs will exacerbate the National Energy Emergency and generate significant national security risks. If Basin Electric's affected EGUs do not receive Presidential Exemptions, they may be forced to significantly curtail operational capacity because the technology necessary to comply with these requirements is not available and not feasible to implement by the 2027 deadline, as discussed further below. Such curtailments would result in the removal of up to 3,665 MW from the electricity grids that these EGUs serve, at a time when the supply of electricity is already inadequate and demand is only increasing. Additionally, as the Class of '85 Letter will further highlight, the short compliance deadline prevents Basin Electric and other electricity producers from constructing sources to replace such significant losses of electricity production.

This will directly threaten the reliability of these electricity grids. Not only will there be significantly less electric power available on such grids, but the loss of this power will also cause serious transmission issues. As Basin Electric's affected EGUs currently provide essential voltage support and inertia to local and regional sections of the electricity grids that they serve, curtailment of their operations will risk voltage collapse in these areas. To protect these areas, significant investment to upgrade the existing transmission infrastructure and to potentially construct new transmission lines and facilities will be necessary. As a result, compliance with the 2024 MATS will inflate the already high energy costs for the rural Americans that depend upon the electricity that Basin Electric provides.[5]

Indeed, regional transmission organizations and independent system operators have already issued warnings about the adequacy of generation resources to meet peak demand situations. For instance, in a February 2024 report, the Midcontinent Independent System Operator ("MISO") emphasized that "[w]idespread retirements of dispatchable resources, lower reserve

---

[3] Executive Order 14156, *Declaring a National Energy Emergency*, 90 Fed. Reg. 8,433 (Jan. 29, 2025).
[4] *Id.*
[5] *Id.* at 4.

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%20Final504018.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).

1. ***Existing PM CEMS technology is not capable of measuring fPM emissions at the level required by the 2024 MATS Rule.***

As highlighted in the forthcoming Class of '85 Letter, EPA acknowledged that PM CEMS presents technical challenges that impact the feasibility of compliance by the 2027 deadline. Indeed, in the Rule, EPA stated that "measuring very low and non-normal high fPM emissions can be challenging" using PM CEMS.[9] Though other continuous monitoring methods to directly measure non-mercury hazardous air pollutant metals are being developed, they are not currently available on the market.[10] Because the technology necessary for compliance with this requirement is not yet available, two-year Presidential Exemptions from the use of PM CEMS at Basin Electric's affected EGUs are necessary.

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.***

Basin Electric is currently working with its consultants to study whether upgrades to the emission control systems currently installed at the affected EGUs are necessary to comply with the fPM standard as well as the mercury emission standard for lignite-fired EGUs under the 2024 MATS Rule. Consistent with the discussion of this issue in the Class of '85 Letter, continuous compliance with the fPM standard is not possible with the emission controls currently installed at Basin Electric's EGUs. To identify necessary upgrades, Basin Electric is conducting comprehensive emissions testing at its affected EGUs.

Once the studies are complete, Basin Electric's consultants will need additional time to analyze the data and identify the necessary upgrades. This process has two possible outcomes—to comply with the new fPM standard, Basin Electric will need to either completely rebuild its hydrostatic precipitators with new parts or install baghouses. Under either scenario, upgrading the emission control systems by the 2027 deadline will have direct impacts on Basin Electric's ability to reliably operate its EGUs.

After identifying the upgrades, Basin Electric will have to navigate a protracted procurement process for the necessary parts and equipment, which can take up to a year. The timeline is then further complicated by the need to construct the upgrades during EGU outages, which are systematically planned by Basin Electric and approved by electricity grids operators years in advance to prevent grid disruptions. For Leland Olds Station Unit 1 and Laramie River Station Unit 1, the next available outage window for such construction will be in 2027. For Leland

[9] *See* EPA, *Summary of Public Comments and Responses on Proposed Rule*, 58 (Apr. 2024), https://www.regulations.gov/document/EPA-HQ-OAR-2018-0794-6922.
[10] *Id.* (citing EPRI, *Demonstration of Sorbent Traps for Continuous Measurement of Metal Hazards Air Pollutants (HAPS)* (Oct. 2024), https://msites.epri.com/spn/research/056617/demonstration-of-sorbent-traps-for-continuous-measurement-of-metal-hazards-air-pollutants-haps).

Olds Station Unit 2 and Laramie River Station Unit 2, the next available planned outages will not occur until 2028 and 2029, respectively. These planned outages are strictly controlled by grid management entities and require approval to adjust. This could be a serious issue if the installation of baghouses is necessary. Indeed, at the Leland Olds Station, the footprint for installation of a new baghouse simply does not exist, while Laramie River Station Unit 2 sits in the middle of two other units. In either case, Basin Electric would have to gut the current precipitators and rework entire systems in an unreasonably short period of time in order to comply with the standard.

Finally, completing any upgrades may be impacted by potential parts and labor shortages. While Basin Electric cannot predict at this time whether such shortages will occur, shortages certainly may be likely to occur if EGUs around the country are required to install similar technology at the same time to comply with the 2024 MATS Rule. Based on the steps that Basin Electric must take to study, procure, and construct necessary emission control technology, compliance with the 2027 implementation deadline is simply infeasible for Basin Electric's affected EGUs.

Under previously established EPA policy, such "shortages of labor, parts, control technology supply, supply-chain disruption, or other factors out of the facility's control" are an appropriate basis for granting exemptions from NESHAP requirements. Based on this policy, the timeline needed to modify Basin Electric's affected EGUs provides an additional basis to conclude that the technology necessary to comply with the fPM standard under the 2024 MATS Rule is not "available."

3. ***The 2024 MATS Rule is likely to result in operational restrictions and cause significant reliability challenges.***

EPA's 2024 MATS Rule requires coal-fired EGUs to meet the stringent new standards in three years or to commit to retirement.[11] Basin Electric's affected EGUs will risk operational constraints based on the unavailability of necessary PM CEMS technology and the infeasibility of the 2027 deadline. As a result, Basin Electric will be forced to significantly curtail operation of the EGUs which will harm the transmission infrastructure and threaten the reliability of the electricity grids that they serve, as discussed above.

EPA has previously found that circumstances where (1) generation from impacted units is needed to maintain reliability and (2) transmission upgrades are necessary but cannot be timely completed can provide reasonable bases for granting a one-year compliance extension of the MATS.[12] As explained in the Class of '85 Letter, there is significant overlap between the availability of a one-year compliance extension and circumstances supporting a two-year Presidential Exemption. Under CAA Section 112(i)(3)(B), a one-year extension is available if it is "necessary for the installation of controls." A Presidential Exemption under CAA Section 112(i)(4)

[11] 89 Fed. Reg. at 38,519.
[12] 77 Fed. Reg. at 9,410.

can similarly be granted based on the unavailability of technology, which may relate to supply-chain shortages and other installation challenges that would also fall within the scope of Section 112(i)(3)(B). Thus, the fact that the generation from Basin Electric's affected EGUs is necessary to maintain grid reliability provides an appropriate basis for concluding that the necessary technology is not "available."

****

Based on the significant national security risks and technological challenges described above, Basin Electric respectfully requests the President to grant two-year Presidential Exemptions under CAA Section 112(i)(4) from all of the requirements of the 2024 MATS Rule for its affected EGUs. Should you require any additional information or documentation to support this request, please contact Troy Tweeten.

Sincerely,

Troy Tweeten

Troy Tweeten
Sr. VP of Generation
Basin Electric Power Cooperative
Office: 701-557-5787 Cell: 307.689.1056