

Message

From: Mohon, David K.
[DKMohon@southernco.com]
Sent: 3/31/2025 8:00:18 PM
To: AirAction [AirAction@epa.gov]
CC: Turner, Stacey
[STATURNE@southernco.com];
Caldwell, Katlyn Stricklend
[KSCALDWE@SOUTHERNCO.COM];
Berry, Mark S.
[MSBERRY@southernco.com];
Starks, Circe
[CSTARKS@SOUTHERNCO.COM]
Subject: 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: Plants
Barry, Bowen, Daniel, Miller,
Scherer
Attachments: Southern Co MATS Presidential
Exemption Letter_March 31
2025.pdf
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Please accept the attached letter on behalf of Southern Company's operating company subsidiaries requesting a Presidential exemption under Section 112(i)(4) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(i)(4), from compliance with the requirements of the subject rule.

Thank you,

David K. Mohon

David K. Mohon, President, Southern Company Environmental & Regulatory Affairs



March 31, 2025

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

VIA ELECTRONIC SUBMISSION AT: airaction@epa.gov

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): Plant Barry, Plant Bowen, Plant Daniel, Plant Miller, Plant Scherer

Dear President Trump:

Please accept this letter on behalf of Southern Company's operating company subsidiaries (collectively, "Operating Companies") requesting a Presidential exemption under Section 112(i)(4) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(i)(4), from compliance with the requirements of the above-referenced rule (the "MATS RTR" or the "Rule"). The Southern Company ("Southern") has the appropriate delegation of authority to submit this request on behalf of the Operating Companies' identified facilities (see also attached descriptions for each facility) because it is the primary shareholder of each Operating Company, which owns and/or operates each facility, and has received delegation from each Operating Company to submit this request.

For each facility listed below, Southern requests a two-year exemption, beginning July 6, 2027, from compliance with the revised filterable particulate matter ("fPM") emission limitation and the mandatory PM continuous emission monitoring system ("CEMS") requirement, which were promulgated as revisions to the Mercury and Air Toxics Standards, ("MATS"), codified at 40 C.F.R. Part 63 Subpart UUUU, *see* 89 Fed. Reg. 38,508 (May 7, 2024) ("the MATS revisions").

Facility
Plant Barry, Unit 5
Plant Miller Units 1-4
Plant Bowen 1-4
Plant Scherer 1-3
Plant Daniel, Units 1-2

We request this exemption because the technology to implement the fPM limitation, particularly including demonstrating compliance via PM CEMS, is not available and the exemption is in the national security interests of the United States as laid out by the President in recent executive orders and other communications.

I. Background

The MATS revisions became effective on July 8, 2024. Under the MATS revisions, coal-fired electric generating units (“EGUs”) would be required to meet a new, more stringent filterable particulate matter (“fPM”) emission limitation as a surrogate to implement the emission standard for non-mercury metal hazardous air pollutants (“HAP”). This new fPM limitation is 66% lower than the previous limitation established in 2012. In addition, the MATS revisions require all coal-fired EGUs to install costly CEMS to implement the new fPM limitation, rather than allowing EGUs to continue to use quarterly stack testing to demonstrate compliance. The deadline for compliance with the MATS revisions is July 6, 2027. However, continuously demonstrating compliance with the fPM standard under all operating conditions is unproven. Of particular concern, PM CEMS are not sufficiently reliable at the revised fPM limitation.

Under Section 112(i)(4) of the Clean Air Act, the President may issue exemptions “for a period of not more than 2 years if the President determines that the technology to implement any 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). Accordingly, the President is authorized to exercise his discretion to provide exemptions from the MATS revisions where (1) the technology required to implement the standard is not available and (2) where he deems an extension to be in the interest of national security. In light of this authority and the significant unresolved challenges associated with the requirement to demonstrate compliance with the revised fPM limitation via PM CEMS, EPA has announced the potential availability of Presidential 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, the Operating Companies are requesting two-year exemptions for the above-listed facilities as to both the revised fPM numeric limitation and the PM CEMS monitoring requirements of the MATS revisions.

Section II of this request explains that the industry has expressed concerns that the ability of emission control technology to meet the lower fPM standard on a continuous basis is unproven and, regardless, that CEMS technology required to measure the lower fPM standard is unavailable within the current compliance timeline. Section III concludes that it is in the national security interest, as defined by the President, to issue exemptions from compliance with the MATS revisions. Attached is a specification sheet for each Operating Company and its facilities seeking an extension.

II. CEMS and the Control Technology Required to Implement the fPM Standard are Not Available

The MATS revisions require coal-fired units to meet a more stringent fPM limit of 0.010 lb/MMBtu and to demonstrate compliance using CEMS, rather than quarterly stack testing.¹ There are technological and operational limitations, as well as costs and market limits, that render the technology necessary to implement the new fPM limit “not available” by July 2027.

As members of the industry have explained, EPA based its decision to lower the fPM limit on select data from only a few units, *see* Pet’rs’ Brief at 65-68, *North Dakota v. EPA*, No. 24-1119, Doc. 2077742 (Oct. 1, 2024), and many units may not be able to continuously meet the fPM limit during low load or load-following conditions. While the Operating Companies generally expect their units’ existing controls are sufficient to meet the new limit, the new limit is very low, and it can nonetheless be challenging to operate existing controls to ensure continuous compliance. For example, the variable characteristics of coal (e.g. ash content) can impact the ability of a unit to continuously comply with the revised fPM limit.

If warranted, the option of upgrading or adding equipment to implement the fPM limit, including the necessary compliance margin, could be significant, costly, and take years to perform. In light of the unavailability of reliable CEMS as discussed below, the technology to implement the fPM limit on a continuous basis under all operating conditions is unproven, even with respect to units that are well-controlled and might expect to meet the limit during normal operating conditions.

Turning to CEMS, there are technological limitations that make PM CEMS “not available” and make demonstrating *continuous* compliance with an fPM limit of 0.010 lb/MMBtu via CEMS nearly impossible. A CEMS for fPM does not provide direct measurements; instead, it uses correlation curves to indirectly calculate estimated emissions levels based on the measurement of some other value. However, the low fPM limit in the Rule makes developing this correlation curve “virtually impossible.” PGEN Comments at 22 (citing and attaching Ralph L. Roberson, *Technical Comments on EPA’s Proposed Rule: Mercury and Air Toxics Standards Risk and Technology Review*, at 3 (2023) [hereinafter “PM CEMS Technical Memo”]). EPA admits as much—it explains that 0.010 lb/MMBtu is the “lowest achievable fPM limit that allows for the use of PM CEMS for compliance.” 89 Fed. Reg. at 38,530. And EPA’s analysis ignores the need for a compliance margin below 0.010 lb/MMBtu in order to “implement” that limitation in practice.

Similarly, the quality assurance / quality control (“QA/QC”) criteria for PM CEMS are extremely difficult to meet at such low levels. *See* Class of ’85 Comments at 16. In fact, at the

¹ The Rule offers an alternative option of complying with direct non-mercury HAP metal emission rate instead of the fPM limit. *See* 89 Fed. Reg. at 38,520. However, this option is not technologically available yet there is no approved performance specification or test method for certifying monitors to measure these rates. And this alternative is conditioned upon EPA approval. *Id.* Without the ability to certify a monitor, this alternative is not an available option for compliance with the non-mercury HAP limits in the Rule.

time of the proposed MATS revisions, no commercially available PM CEMS would have been able to meet the tight confidence and tolerance intervals associated with the low proposed fPM limitation. PGEN Comments at 23 (citing PM CEMS Technical Memo at 5). EPA was, thus, forced to address these issues in the final MATS revisions by adjusting the QA criteria and correlation procedures. *See* 89 Fed. Reg. at 38,528-29 (“PM CEMS currently correlated for the 0.030 lb/MMBtu fPM emission limit may experience difficulties should re-correlation be necessary . . . those concerns are also ascribed to yet-to-be installed PM CEMS”). However, these changes are not enough to address the fundamental issue: it has been shown that PM CEMS is not able to reliably measure such low PM levels – the error rates of the instrument prohibit it. *See* PGEN Comments at 23 (finding insurmountable the “uncertainties inherent in the measurement device” and the “problems associated with relative size of the uncertainty to the limited data range of fPM concentrations and the confidence levels and tolerances”); *see also* Class of ’85 Comments at 18. In reality, units would need to shoot for emissions below 0.010 lb/MMBtu in order to comply. *See* Pet’rs’ Brief at 72. Therefore, the PM CEMS technology needed to demonstrate compliance with the new fPM limitation is “not available.”

The costs and market limitations associated with PM CEMS also make it “not available.” Installing, certifying, and operating PM CEMS is very costly – far more costly than quarterly stack testing and far more costly than EPA estimates in the Rule. *See* PGEN Comments at 25-26. Costs include purchasing and installation of PM CEMS, as well as potential modifications to the electric generating units to accommodate CEMS, extended correlation testing, and annual operational costs. *See id.* 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”). Market factors also limit the availability of PM CEMS by the compliance deadline. There are a limited number of vendors for PM CEMS, as well as a limited number of professionals certified to install and test PM CEMS. Currently, two-thirds of facilities subject to the MATS revisions utilize stack testing and would need to install PM CEMS by July 2027, which would likely overwhelm the current supply of PM CEMS equipment and the availability of professionals certified to inspect and test the newly installed systems. *See* Class of ’85 Comments at 16.

Importantly, EPA has been very clear that these two requirements (the revised fPM limit and mandatory PM CEMS requirement) are integrated, such that any exemption should cover both requirements in the Rule. Specifically, EPA explained it finalized “a fPM standard of 0.010 lb/MMBtu [because it] 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 new 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 new standard depended jointly on both the new numeric standard for fPM and on the obligation to install new monitoring equipment. Because EPA predicates the new fPM limit on the use of (*i.e.*, availability of) PM CEMS, neither requirement can be implemented without the other. Accordingly, if *either* is unavailable, then an exemption as to *both* is appropriate.

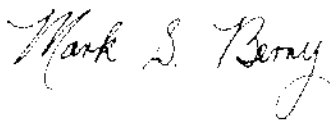
III. It is in the Interest of National Security to Issue an Exemption for the Rule

The requested exemptions from the MATS revision's amended fPM limit and mandatory PM CEMS requirement will support the national security interests of the United States laid out by the President. The lowered fPM emission limit and PM CEMS requirements represent additional challenges to energy affordability and grid reliability.

In Executive Order ("E.O.") 14154, *Unleashing American Energy*, President Trump states that prior regulations—which includes this Rule—have "limited the generation of reliable and affordable electricity" and, in turn, "weaken[ed] our national security." 90 Fed. Reg. 8,353, 8,353 (Jan. 29, 2025). This E.O. plainly states it is in "the national interest to unleash America's affordable and reliable energy" and that ensuring "an abundant supply of reliable energy" will help "protect the United States's economic and national security and military preparedness." *Id.* Providing an extension of the compliance timeline in the MATS revisions will support these goals of ensuring national security through the supply of reliable energy. Moreover, E.O. 14154 specifically calls for the review and potential rescission of rules like this one, which "impose an undue unburden on the . . . use of domestic energy resources." *Id.* at 8,354.

Thus, in order to help ensure an affordable and reliable supply of energy, President Trump should use his statutory authority under Section 112(i)(4) of the CAA to grant the requested exemptions from compliance with the MATS revisions.

Sincerely,



Mark S. Berry

SVP of Research, Environment & Sustainability

Attachments

Attachment to Southern Company's March 31, 2025 Exemption Request for *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)

Description of Facilities for which a 112(i)(4) Exemption is Requested

Operating Company: **Alabama Power Company**

Plant: **Barry Steam Electric Generating Facility**

Unit(s): 5

ORIS Code: 000003

Facility Registry System (FRS) I.D.: 110000741270

Currently an "affected facility" subject to 40 CFR Part 63 Subpart UUUUU pursuant to 40 CFR § 63.9981.

Current fPM compliance demonstration method: Quarterly stack testing

Particulate matter emission controls: Electrostatic precipitator, Flue gas desulfurization system

Additional considerations regarding potential technical or economic barriers to implementing the revised fPM limit (if applicable): N/A

Additional considerations regarding potential technical or economic barriers to implementing mandatory PM CEMS monitoring (if applicable): N/A

Additional considerations regarding length of exemption period requested:

On October 13, 2021, Alabama Power submitted a Notice of Planned Participation (NOPP) for Barry Unit 5. The NOPP indicated plans to retire Barry Unit 5 by December 31, 2028, to qualify for the permanent cessation of coal combustion subcategory under EPA's 2020 Effluent Limitation Guidelines. Nevertheless, Alabama Power is requesting a two-year exemption, beginning July 6, 2027, for Barry Unit 5, while preparing to cease operation of the unit.

Attachment to Southern Company's March 31, 2025 Exemption Request for *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)

Description of Facilities for which a 112(i)(4) Exemption is Requested

Operating Company: **Alabama Power Company**

Plant: **Miller Steam Electric Generating Facility**

Unit(s): 1, 2, 3, and 4

ORIS Code: 006002

Facility Registry System (FRS) I.D.: 110043792651

Currently an "affected facility" subject to 40 CFR Part 63 Subpart UUUU pursuant to 40 CFR § 63.9981.

Current fPM compliance demonstration method: Quarterly stack testing

Particulate matter emission controls: Electrostatic precipitator, Flue gas desulfurization system

Additional considerations regarding potential technical or economic barriers to implementing the revised fPM limit (if applicable): N/A

Additional considerations regarding potential technical or economic barriers to implementing mandatory PM CEMS monitoring (if applicable): N/A

Additional considerations regarding length of exemption period requested: N/A

Attachment to Southern Company's March 31, 2025 Exemption Request for *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)

Description of Facilities for which a 112(i)(4) Exemption is Requested

Operating Company: **Georgia Power Company**

Plant: **Bowen Steam-Electric Generating Plant**

Units: Steam Generator Unit 1 (SG01), Steam Generator Unit 2 (SG02), Steam Generator Unit 3 (SG03), and Steam Generator Unit 4 (SG04)

Facility I.D.: ORIS Code 703, FRS 110000356356

Currently an "affected facility" subject to 40 CFR Part 63 Subpart UUUUU pursuant to 40 CFR § 63.9981.

Current fPM compliance demonstration method:

Performance (stack) testing

Particulate matter emission controls:

Electrostatic precipitators, wet flue gas desulfurization (scrubbers), and baghouses (Steam Generator Units 3 and 4 only)

Additional considerations regarding potential technical or economic barriers to implementing the revised fPM limit (if applicable):

Georgia Power Company (GPC) does not anticipate the installation of additional controls to comply with the revised standards. However, in 2024, the GPC installed temporary PM monitors on units at both Plants Bowen and Scherer, collecting limited data to evaluate the performance and operations and maintenance ("O&M"). Stack testing was performed alongside the test monitors, which revealed likely challenges related to certifying and setting calibration curves for the monitors at Plant Bowen and Plant Scherer, which have very low emissions.

Additional considerations regarding potential technical or economic barriers to implementing mandatory PM CEMS monitoring (if applicable):

See above.

Additional considerations regarding length of exemption period requested: N/A

Attachment to Southern Company's March 31, 2025 Exemption Request for *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)

Description of Facilities for which a 112(i)(4) Exemption is Requested

Operating Company: **Georgia Power Company**

Plant: **Scherer Steam-Electric Generating Plant**

Units: Steam Generator Unit 1 (SG01), Steam Generator Unit 2 (SG02), and Steam Generator Unit 3 (SG03)

Facility I.D.: ORIS Code 6257, FRS 110007356066

Currently an "affected facility" subject to 40 CFR Part 63 Subpart UUUUU pursuant to 40 CFR § 63.9981.

Current fPM compliance demonstration method:

Performance (stack) testing

Particulate matter emission controls:

Electrostatic precipitators, wet flue gas desulfurization (scrubbers), and baghouses

Additional considerations regarding potential technical or economic barriers to implementing the revised fPM limit (if applicable):

Georgia Power Company (GPC) does not anticipate the installation of additional controls to comply with the revised standards. However, in 2024, the GPC installed temporary PM monitors on units at both Plants Bowen and Scherer, collecting limited data to evaluate the performance and operations and maintenance ("O&M"). Stack testing was performed alongside the test monitors, which revealed likely challenges related to certifying and setting calibration curves for the monitors at Plant Bowen and Plant Scherer, which have very low emissions.

Additional considerations regarding potential technical or economic barriers to implementing mandatory PM CFMS monitoring (if applicable):

See above.

Additional considerations regarding length of exemption period requested: N/A

Attachment to Southern Company's March 31, 2025 Exemption Request for *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)

Description of Facilities for which a 112(i)(4) Exemption is Requested

Operating Company: **Mississippi Power Company**

Plant: **Daniel Electric Generating Plant**

Unit(s): 1 and 2

ORIS Code: 6073

Facility Registry System (FRS) I.D.: 110040875666

Currently an "affected facility" subject to 40 CFR Part 63 Subpart UUUU pursuant to 40 CFR § 63.9981.

Current fPM compliance demonstration method: Stack Testing

Particulate matter emission controls: Electrostatic precipitator and Flue gas desulfurization system

Additional considerations regarding potential technical or economic barriers to implementing the revised fPM limit (if applicable): N/A

Additional considerations regarding potential technical or economic barriers to implementing mandatory PM CEMS monitoring (if applicable): N/A

Additional considerations regarding length of exemption period requested: N/A