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STATEMENT ON EPA'S PACKAGE OF POWER PLANT REGULATIONS

Today, the Environmental Protection Agency (EPA) finalized a package of regulations to reduce pollution from the power sector. EPA is fulfilling its statutory responsibilities to reduce several types of power plant pollution and providing regulated entities with a comprehensive picture of their obligations to internalize the harmful effects of the pollution from their facilities across multiple media: air, water, and solid waste.

In particular, EPA finalized regulations to reduce greenhouse gas emissions from existing coal-fired power plants and new gas-fired power plants. Together with Congressional incentives, such as those in the Inflation Reduction Act, EPA has found that these standards will help move the power sector to cleaner technology at reasonable costs.

The Institute for Policy Integrity at NYU School of Law has authored considerable analysis and commentary on these regulations, including comments on EPA's proposed greenhouse gas rule and new reports explaining that:

- Carbon capture & sequestration (CCS) can be "adequately demonstrated" even if it is not yet in widespread use in the power sector, based on longstanding case law;
- CCS fits the mold of EPA's most traditional pollution control strategies and avoids implicating the major questions doctrine;
- EPA's rule does not sacrifice grid reliability.

Dena Adler, Senior Attorney at the Institute for Policy Integrity at NYU School of Law, issued the following statement:

"EPA has worked within its wheelhouse to reduce power plant pollution using the authority left intact by the Supreme Court's 2022 West Virginia decision. Ever since the ink was still fresh on the Clean Air Act Amendments of 1970, EPA has set emissions limits based on evolving technologies that may not yet be in widespread use. Federal court decisions have repeatedly confirmed the appropriateness of this approach. Congress did not intend the Clean Air Act to merely preserve the status quo, but rather to push industry to better protect public health. That mission cannot be squared with limiting EPA to reliance only on technologies that are already widely deployed.

EPA can cut power plant pollution without sacrificing grid reliability. Many coal-fired plants may soon retire, regardless of EPA's rules, as they exceed their expected useful life and are outcompeted

by newer, cheaper generation. EPA is coordinating with the entities that have the tools to ensure reliability during the ongoing clean energy transition.

EPA also finalized its amendments to strengthen the Mercury and Air Toxics Standards (MATS) under the Clean Air Act. These standards better protect public health from mercury, chromium, arsenic, lead, and other pollution that can cause a range of adverse health effects including neurodevelopmental impairment and increased cancer risk. EPA first set these standards for coal- and oil-fired power plants in 2012. More than a decade later, the agency has tightened the standards in light of new information that control technologies have been cheaper and more effective than predicted in 2012, leading the vast majority of sources to outperform the existing standards.

The Institute for Policy Integrity at NYU School of Law has authored considerable analysis and commentary on these regulations including comments on the proposed MATS rule as well as a 2017 D.C. Circuit Brief and a 2015 Supreme Court Brief in litigation over the MATS rule prior to the new amendments.

Dena Adler, Senior Attorney at the Institute for Policy Integrity at NYU School of Law, issued the following statement:

"Industry has consistently implemented Clean Air Act regulations faster and more cheaply than EPA originally projected. So it makes sense that Congress structured the air toxics program to allow EPA to strengthen standards and better protect public health as new technology developments and decreasing costs make that possible. With these amendments to limit mercury and air toxics from power plants, EPA has made updates to the program with anticipated annual costs that are only a tiny fraction of revenue from annual electricity sales. EPA is acting within its authority to require that the worst-emitting outliers stop burdening their surrounding communities when cleaner alternative technologies are available.

EPA has based these standards on technology developments as required by the Clean Air Act, but it has also followed best regulatory practice to conduct a separate analysis of the rule's costs and benefits, including the public health benefits from reducing harmful air pollution. Reducing communities' exposure to toxic air pollution can meaningfully improve public health and save lives, even when some of the related benefits are difficult to quantify. These benefits can be most impactful for environmental justice communities suffering from the cumulative health risks of these different types of pollution."

Adler and others who work on these issues are available for interviews on these topics.

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