

November 17, 2022

The Honorable Michael Regan, Administrator  
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Bill Charmley, Director of Assessment and Standards Division, Office of Transportation and Air Quality (OTAQ)

Re: Zero Emission in Freight Year in Review from 10/26/2022 Letter Submitted by MFN

Dear Administrator Regan:

A year ago, the Moving Forward Network<sup>1</sup> sent the U.S. Environmental Protection Agency (EPA) a letter demanding the Agency address the cumulative impacts from the freight sector.<sup>2</sup> Now, one year later, the Moving Forward Network is sending a renewed request due to little progress at EPA. We remain committed to working with the Agency to address the deadly pollution caused by the global freight system. We know the EPA has made efforts to address the myriad impacts cumulatively hitting ours and other environmental justice (EJ) communities across the country. Nevertheless, the urgency to do more to address freight-related pollution and freight-related burdens from both inland and seaports is ever growing and critical, especially as this sector continues to expand in its impacts. We urge EPA to reflect on the past year and the

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<sup>1</sup> The Moving Forward Network (MFN) is a national network of organizations that center grassroots, frontline knowledge, expertise, and engagement with the communities across the US that bear negative impacts of the global freight transportation system. MFN includes over 50 organizations spanning more than 20 sea and inland port adjacent cities. In collaboration with allies and partners, MFN identifies local solutions that call for community, industry, labor, government, and political action that advances equity, environmental justice, and a zero-emissions focused just transition. MFN's vision is to see that negatively burdened communities become healthy, sustainable places by reducing and ultimately eliminating the negative impacts of that system. MFN is deeply committed to advancing environmental justice, equity, economic justice, and a just transition.

<sup>2</sup> Moving Forward Network. (October 26, 2021). [Letter from Moving Forward Network to Administrator Michael Regan]. Retrieved from [https://www.movingforwardnetwork.com/wp-content/uploads/2021/11/MFN-Zero-Emission-in-Freight-Letter-to-EPA-10\\_26\\_21.pdf](https://www.movingforwardnetwork.com/wp-content/uploads/2021/11/MFN-Zero-Emission-in-Freight-Letter-to-EPA-10_26_21.pdf).

inactions on freight and renew the Agency’s commitment to addressing these cumulative burdens. We remain committed to holding this administration accountable and to prioritizing environmental justice, addressing overburdened communities<sup>3</sup>, and adopting policies and programs that will confront this deadly polluting sector.

The global freight transportation system is one of the largest sources of pollution across the country. On-port operations, coupled with thousands of diesel trucks, locomotives, and ships, contribute to significant amounts of localized pollution in areas already overburdened by other sources of pollution. Port pollution is an environmental and health injustice – increasing asthma, heart disease, and cancer rates. We know that the ports and freight-related industries, i.e., rail and warehouses, are often located closest to EJ communities. Frequently the ports are served by the oldest and, therefore, dirtiest sources of pollution, and to compound the issues, these sources move and are mobile, traversing through our communities and adding to the cumulative burdens.

### **A. Heavy-Duty Truck Standards**

The recent draft report from EPA’s Science Advisory Board reinforced the public health and environmental impacts from an overburden of traffic related air pollution for environmental justice communities. “Research also shows that heavy-duty vehicles are a major contributor to inequitable traffic-related air pollution distributions. In addition, reducing heavy-duty vehicle nitrogen oxides (NOx) emissions is necessary to reduce air pollution disparity, which persists across the U.S. despite declining regional average pollution levels over decades.”<sup>4</sup> Because of the deadly impacts from heavy-duty trucks, EPA must ensure that a strong policy is in place that will require/mandate emissions reductions for environmental justice communities.<sup>5,6,7</sup>

And while we acknowledge that in the past year, since our initial letter, EPA has made some advancements in streamlining zero-emission truck policy that enables more dramatic progress in tackling pollution, the timing and sense of urgency have not been met. MFN’s 2021 letter stated that EPA must also incorporate feasible controls in strategies for reducing all emissions,

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<sup>3</sup> We use this term to connect with regulatory authority definitions such as EPA’s definition of “overburdened community “Minority, low-income, tribal, or indigenous populations or geographic locations in the United States that potentially experience disproportionate environmental harms and risks.” <https://www.epa.gov/environmentaljustice/ej-2020-glossary>. However, it is important to note that MFN declares there is no acceptable level of pollution burden for our communities.

<sup>4</sup> United States Environmental Protection Agency. (n.d.). Science advisory board. United States Environmental Protection Agency. Retrieved October 17, 2022, from [https://sab.epa.gov/ords/sab/f?p=114:18:14582673407232::RP,18:P18\\_ID:262](https://sab.epa.gov/ords/sab/f?p=114:18:14582673407232::RP,18:P18_ID:262)

<sup>5</sup> Moving Forward Network. (August 2, 2022). *Comments in Support of Granting California’s Waiver Request for the Heavy-Duty Low NOx Omnibus Rule, Docket No. EPA-HQ-OAR-2022-0332*. [https://www.movingforwardnetwork.com/wp-content/uploads/2022/11/Moving-Forward-Network-Comments\\_-The-Omnibus-Low-NOxRegulation.pdf](https://www.movingforwardnetwork.com/wp-content/uploads/2022/11/Moving-Forward-Network-Comments_-The-Omnibus-Low-NOxRegulation.pdf)

<sup>6</sup> Moving Forward Network. (August 2, 2022). *Comments in Support of Granting California’s Waiver Request for the 2018 Heavy-Duty Emissions Warranty Amendments, Docket No. EPA-HQ-OAR-2022-0330*. [https://www.movingforwardnetwork.com/wp-content/uploads/2022/11/Moving-Forward-Network-Comments\\_Heavy-Duty-Vehicle-and-Engine-Emission-Warranty-and-Maintenance-Provisions.pdf](https://www.movingforwardnetwork.com/wp-content/uploads/2022/11/Moving-Forward-Network-Comments_Heavy-Duty-Vehicle-and-Engine-Emission-Warranty-and-Maintenance-Provisions.pdf)

<sup>7</sup> Moving Forward Network. (August 2, 2022). *Comments in Support of Granting California’s Waiver Request for the Advanced Clean Trucks Rule, Zero-Emission Airport Shuttle Rule, and Zero-Emission Powertrain Certification Rule, Docket No. EPA-HQ-OAR-2022-0331*. [https://www.movingforwardnetwork.com/wp-content/uploads/2022/11/Moving-Forward-Network-Comments\\_-Advanced-Clean-Trucks\\_-Zero-Emission-Airport-Shuttle\\_and\\_Power-Train-Certification.pdf](https://www.movingforwardnetwork.com/wp-content/uploads/2022/11/Moving-Forward-Network-Comments_-Advanced-Clean-Trucks_-Zero-Emission-Airport-Shuttle_and_Power-Train-Certification.pdf)

including criteria pollutants like NOx and particulate matter. In response to our letter, we were assured that the EPA was “actively pursuing rulemakings to establish new NOx and GHG standards for heavy-duty engines and vehicles.”<sup>8</sup> The assurances, however, began fading over time.

Since MFN’s 2021 letter, EPA did move forward with its Clean Trucks Plan, which includes two proposed rulemaking actions to address both global warming greenhouse gas (GHG) emissions and criteria pollution from new heavy-duty trucks. The first proposed rule targeting additional GHG reductions for a narrow three-year window (Truck Model Years 2027-2029) has now been postponed to next year to be combined with an as-yet proposed rule covering 2030 and beyond. We remain hopeful, based on public statements, that this will be finalized quickly and revise the woefully inadequate proposed targets to better align with what the industry is capable of achieving through electrification, as well as to lay a strong foundation for additional regulations consistent with a 100 percent zero-emission target for all new trucks by 2035. The second, a rule restricting NOx emissions from new vehicles, is on track to be finalized by 2022, as requested by MFN; however, based on the proposal, the final rule is not likely to do *anything* to accelerate the industry’s transition to zero-emission heavy-duty trucks, and, based on news reports, it appears unlikely the final rule will even clean-up diesel combustion engines to the greatest degree achievable as required by the Clean Air Act.

MFN remains committed to zero emission solutions that are being proposed that require renewable energy sources<sup>9</sup> and do not allow for so-called “near zero” fuel alternatives like natural gas. In fact, EPA’s allowing non-renewable energy sources like natural gas actually incentivizes the sorts of “false solutions” that MFN expressly warned EPA against. These “bridge” and alternative fuels only further the environmental injustices caused by the “false solutions” and exchange one source of pollution for another, increasing the impacts being felt in environmental justice communities by further entrenching fossil fuel pollution and delaying the zero emission solutions needed.

MFN reiterates their recommendation that as we move to implement zero-emission based technology for medium- and heavy-duty vehicles, EPA must include a plan along with additional policies to accelerate the retirement of all combustion trucks on or before 2045 and to quickly build out the infrastructure and operational environment to facilitate this transition without impacting drivers in environmental justice communities.

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<sup>8</sup> Letter from Joseph Goffman in response to Molly Greenberg on January 19, 2022

<sup>9</sup> Renewable energy may have many definitions based on the source of energy. MFN considers solar and wind to be renewable energy. However, there are important EJ and equity implications that come from these “cleaner” energy sources (i.e., siting, manufacturing, shipping, etc.). All of these must be considered with EJ leadership before endorsing specific renewable energy recommendations.

Importantly, neither of the rules EPA moved forward guarantees a minimum level of electric trucks on the road nor a clear path to eliminating the harmful emissions from heavy-duty trucks on *any* timetable, let alone one consistent with MFN's requests. The administration touts the importance of zero emissions for medium and heavy-duty vehicles, yet the policy is not matching the rhetoric. This disconnect between words and policy has resulted in zero regulatory actions put forth by EPA to date that address the ongoing harm from diesel trucks currently on the road or that mandate emission reductions in environmental justice communities.

## **B. Locomotives and Railyards**

The rail industry remains one of the most significant sources of environmental pollution for many environmental justice communities that are already experiencing cumulative impacts across the country. Many of our members live near railyards and freight rail routes, where some of the dirtiest switcher and line-haul locomotives belch diesel particulate matter each day. For these reasons, a year ago, MFN urged the EPA to initiate a rulemaking on locomotives and railyards by the end of 2022. MFN noted the immediate need for EPA to adopt a Tier 5 zero-emission standard, to set much more stringent standards for remanufactured locomotives and engines, and to require the retirement of heavily-polluting locomotives and engines. The need for EPA to take these actions to eliminate railyard pollution in environmental justice communities has not subsided, and if anything, has increased.

On November 9, 2022, EPA responded to petitions for rulemaking from California and the San Joaquin Valley Air Pollution Control District, asking the agency to adopt updated emission standards.<sup>10</sup> In these responses, EPA committed to evaluating how best to address air pollutant emissions from the locomotive sector. Notably, EPA did not approve the petitions or commit to adopting a Tier 5 zero-emission locomotive standard. While we appreciate that EPA agreed to take steps to clean up locomotive pollution at the federal level, it is critical that the agency adopt strong, zero-emission regulations that reflect the dire public health needs for communities and the requirements set forth under Clean Air Act section 213(a)(5) to achieve the greatest degree of emission reduction achievable. EPA must adopt these updated standards swiftly, and include zero-emission locomotive technology that is already available today, including overhead catenary and battery-electric technology. We continue to urge the EPA to take action on transitioning all new switchers to be zero-emission by 2025 and all new line-hauls to be zero-emission by 2030.

## **C. Marine Vessels**

Marine vessels are one of the largest contributors of cancer-causing pollutants around seaports and inland waterways. Ships and boats that operate along our coastlines and in our lakes still

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<sup>10</sup>Joseph Goffman. (November 9, 2022). [Letter from Joseph Goffman to Liane M. Randolph]. Retrieved from <https://www.epa.gov/system/files/documents/2022-11/locomotive-regs-carb-petition-response-2022-11.pdf>

operate on dirty diesel engines. The continual impacts on our environmental justice communities are immense. Air pollution causes 266,000 premature deaths per year worldwide, while one additional vessel in port leads to 3.1 hospital visits per thousand Black residents within 25 miles of a port and 1.1 hospital visits for White residents.<sup>11</sup>

For these reasons, one year ago, MFN noted effective rulemaking was necessary to maximize zero-emission requirements for marine engines. Additional recommendations included higher standards for new and remanufactured marine engines along with requirements for zero emissions from ships at-berth in U.S. ports, and federal adoption of California’s recent at-berth regulations.<sup>12,13</sup> EPA has yet to address implementing any rulemaking. We again implore EPA to take steps toward transitioning toxic diesel engines so that by 2035 100 percent of new marine engines will be zero-emission. Along with setting zero emission engine standards we continue to urge EPA to move on critical policies and programs that would guarantee emission reductions and can be implemented immediately like mandatory vessel speed reduction programs.

#### **D. Cargo Handling Equipment**

Our October letter, noted the ineffectively regulated pollution from cargo handling equipment operating within and around ports and other freight hubs. These typically diesel-powered pieces of equipment should be controlled under EPA’s nonroad engine rule, which has not been amended since 2004.

To date, we have received no response to our request that EPA promulgates new nonroad standards for cargo handling equipment by 2023 to transition these sources to zero-emissions. Based on our review of the EPA official webpage, “Regulations for Emissions from Nonroad Vehicles and Engines,” and of EPA publications in the Federal Register, we are not aware of any effort by EPA to revise its more than 18-year-old standards for nonroad engines.

The Clean Air Act directs EPA to update nonroad engine and vehicle standards to pursue the greatest degree of emissions reductions achievable. EPA’s failure to initiate any such update is all the more glaring given how remarkably the potential for emissions reductions from this source has improved with the widespread commercial availability of zero-emission cargo handling equipment. EPA’s 2004 standards are wildly out of step with the actions being taken by the State of California and Ports around the globe to transition to zero emission forklifts, yard

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<sup>11</sup> O’Leary, A. (2022). *Maritime freight: Local and global impacts, technologies and considerations*. (pp. 1-31). Opportunity Green/Moving Forward Network. [https://www.movingforwardnetwork.com/wp-content/uploads/2022/07/MFN\\_Maritime-Freight-Report.pdf](https://www.movingforwardnetwork.com/wp-content/uploads/2022/07/MFN_Maritime-Freight-Report.pdf)

<sup>12</sup> Briscoe, T. (2022, October 17). *Ports reveal unprecedented surge in harmful emissions; officials blame COVID-19 logjam*. Los Angeles Times; Los Angeles Times. <https://www.latimes.com/environment/story/2022-10-17/ports-blame-covid-19-for-spike-in-harmful-emissions>

<sup>13</sup> California Air Resources Board. (2020, August 27). *California approves updated “At-Berth” regulation, expanding efforts to cut pollution from ships in California ports*. California Air Resources Board. <https://ww2.arb.ca.gov/news/california-approves-updated-berth-regulation-expanding-efforts-cut-pollution-ships-california>

tractors, cranes, and container handlers. Hundreds of pieces of zero-emission cargo handling equipment are already commercially available, and new technology is actively being demonstrated in operations across the country and the world.<sup>14</sup> We urge EPA to correct course and immediately take steps to speed the transition from poisonous diesel to zero-emission cargo handling equipment so that by 2026, all new equipment will be 100 percent zero-emission.

### **E. Indirect Source Review Rules**

The impact of freight facilities that “indirectly” contribute to pollution hot spots such as warehouses, railyards, and ports was another important note in the letter sent in October of 2021. The EPA has not made any efforts to adopt any regulations for freight facilities and “major federally assisted” indirect sources. There continues to be an immediate need for the implementation of EPA’s authority to address indirect sources of pollution. MFN emphasized the growing problem of rapid and unchecked growth in warehousing and the need to immediately move an indirect source rule and review processes for warehouses, railyards, and ports.

### **F. Support State and Local Freight Controls**

We appreciate that EPA has followed up on some of the demands that focused on supporting state and local freight controls with a public dashboard to track SIP obligations, a port emissions inventory guidance document to guide ports across the country in quantifying their emissions, and a fuel cell technology assessment for ports. Within our 2021 letter, we also requested a commitment to accountability. We, therefore, ask how EPA has ensured that all of the states have submitted their state implementation plans and are meeting air quality standards. This information is important for transparency and accountability in general but also critical in the context of the recently announced funding from the Inflation Reduction Act and the Infrastructure Investment and Jobs Act. Clear guidance is needed to determine how the money and resources will be distributed to overburdened and environmental justice communities. Money and resources should be utilized to support and mandate emission reduction from freight sources.

A critical piece of supporting state action is the granting of California waivers. EPA must grant the five waiver requests from California on mobile source measures currently pending at the Agency. MFN submitted comprehensive comments signed by our members and supported by organizations outside of MFN from across the country, all arguing that these waivers must be granted in full.<sup>15</sup> While we appreciate EPA’s decision to hold a public hearing on these decisions, as reflected in our comments, there were numerous concerns over EPA’s commitment to environmental justice communities as a result of problems in the public comment, public outreach, transparency, and translation efforts.

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<sup>14</sup> California CORE. (2022). *Eligible Equipment Catalog*. California Core. (Accessed Oct. 5, 2022) <https://californiacore.org/equipmentcatalog/>

<sup>15</sup> Ibid. See footnotes 5, 6, and 7

## **G. Funding Strategies and Civil Rights Obligations**

In August 2022, President Biden passed the Inflation Reduction Act into law. The law provides billions in investments for zero-emission technology. Specifically, the bill includes \$3 billion in competitive grants and rebates to be administered to eligible recipients by EPA to purchase or install zero-emission port equipment and permitting and planning necessary. Of that funding, \$750 million must be used for ports in non-attainment areas. Another program to be administered by EPA is \$1 billion in competitive grants and rebates to purchase class 6 and 7 zero-emission vehicles and related infrastructure. In addition, the funding can be used for workforce development, training, and planning activities. \$400 million of this funding must be reserved for vehicles serving at least one community in non-attainment areas. \$60 million is available for the Diesel Emissions Reductions (DERA) program, which provides grants, rebates, and loans to reduce diesel emissions from transportation.

The Environmental and Climate Justice Block Grants include \$3 billion for projects up to three years in length, including investments in zero-emission technologies and the necessary technical assistance. EPA administers the Greenhouse Gas Reduction Fund; it includes \$15 billion for competitive grants to enable low-income and disadvantaged communities to deploy or benefit from zero-emission technologies, which would be important for EPA to track and coordinate. Another important program to coordinate is the Qualified Commercial Vehicle Tax credit administered by the IRS. Given all the funding opportunities, there needs to be clear guidance working with environmental justice communities on how the resources should be distributed to ensure that they reach those most burdened by the impacts of freight.

Additionally, there needs to be coordination with EPA and other federal agencies on the process for eliciting feedback and input from EJ communities. EPA should ensure continued engagement and clear next steps at the stakeholder meetings. Furthermore, there should be clear guidance that requires accountability and transparency in the spending but also the tracking of the application of the money. It is critical that EPA does not stop at distributing these investments - they must complement them with strong regulatory requirements that are in development now.

In September, the EPA announced a new Office of Environmental Justice and External Civil Rights. This office will have hundreds of staff members and a Senate-confirmed director, marking one of the most visible efforts so far by the Biden administration to ensure that the well-being of marginalized communities is an integral part of federal decision-making. While the announcement acts as a follow-up of the commitments from the administration, questions remain on what and how the office will work to ensure environmental justice and civil rights. How will this office move to address the decades of neglect that the industry has benefited from while communities have suffered at the hands of the freight sector? Administrator Regan is quoted that this office will “memorialize the agency’s commitment to delivering justice and equity for all, ensuring that no matter who sits in the Oval Office or no matter who heads EPA, this work will

continue long beyond all of us to be at the forefront and the center of everything this agency does.” For MFN, it is important that in addition to ensuring that resources and money go to environmental justice communities, there are clear commitments and timelines to moving critical policies that will hold the industry accountable and ensure protections in the long term.

## **Conclusion**

Environmental justice communities are impacted daily by the cumulative impacts of toxic pollution, environmental racism, and the consequences of climate change. Delays and inactions exacerbate these impacts on comprehensive policy needs that will mandate emissions reduction across the freight sector. The technology available and the economic and health benefits of moving comprehensive regulations that center zero emissions while prioritizing environmental justice are not just feasible; it is deadly to continue to delay action. Climate change is hitting the communities least responsible for the climate crisis, therefore requiring drastic changes in energy production, use, and consumption. MFN operates on the principle that environmental justice communities and frontline workers are stronger together. We also embrace the collaboration with EPA and regulatory departments; this is critical to moving the demands coming from MFN and begin addressing freight impacts. To ensure this commitment is a top priority from the EPA, we are raising our request for Administrator Regan to meet with the communities on the frontline of freight impacts. MFN is requesting an in-person meeting as soon as possible on the issues highlighted in both of the letters to develop a plan on how to engage and move forward together.

Thank you for your consideration. We look forward to hearing from you. If you have any questions or would like to schedule a follow up meeting, please contact Molly Greenberg at [greenbergm@oxy.edu](mailto:greenbergm@oxy.edu).

Sincerely,

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