Update on EPA Air Programs

Lynne Hamjian
Air & Radiation Division Director
EPA Region 1

2021 SIPRAC Meeting
April 8, 2021
EPA Region 1 - AIR and RADIATION DIVISION (ARD)

ARD - DIVISION DIRECTOR
Lynne Hamjian
8-1601
DEPUTY DIRECTOR
Cynthia Greene
8-1813

Air Quality Branch
John Rogan
8-1645

Energy and Resilience Branch

Air Permit, Toxics and Indoor Programs Branch
Patrick Bird
8-1287

Grants and Program Support Branch
Sandy Brownell
8-1797
Topics for Today’s Discussion

1. Region 1 ARD priorities
2. Ozone issues
3. Key EPA national rules
4. Air Toxics
5. New Source Review
6. Energy & Climate
7. Questions
R1 Air & Radiation Division Investment Areas

- Workforce Development
- Implement Core Programs
- Investment Areas:
  - Climate & Energy
  - Mobile Sources
  - Air Toxics/Community Assistance
<table>
<thead>
<tr>
<th>Order</th>
<th>Topic</th>
</tr>
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<tbody>
<tr>
<td>13985</td>
<td>Advancing Racial Equity and Support for Underserved Communities Through the Federal Government</td>
</tr>
<tr>
<td>13990</td>
<td>Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis</td>
</tr>
<tr>
<td>13992</td>
<td>Revocation of Certain Executive Orders Concerning Federal Regulation</td>
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<tr>
<td>14007</td>
<td>President's Council of Advisors on Science and Technology</td>
</tr>
<tr>
<td>14008</td>
<td>Tackling the Climate Crisis at Home and Abroad</td>
</tr>
<tr>
<td>14013</td>
<td>Executive Order on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration</td>
</tr>
<tr>
<td>Date</td>
<td>Action</td>
</tr>
<tr>
<td>--------</td>
<td>-------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Jan. 20</td>
<td><strong>Regulatory Freeze Pending Review</strong></td>
</tr>
<tr>
<td>Jan. 20</td>
<td><strong>Modernizing Regulatory Review</strong></td>
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<tr>
<td>Jan. 20</td>
<td><strong>Paris Climate Agreement</strong></td>
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<tr>
<td>Jan. 20</td>
<td><strong>Agency Actions for Review</strong></td>
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<tr>
<td>Jan. 27</td>
<td><strong>Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking</strong></td>
</tr>
<tr>
<td>Feb. 11</td>
<td><strong>Biden-Harris Administration Launches American Innovation Effort to Create Jobs and Tackle the Climate Crisis</strong></td>
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</table>
OZONE NONATTAINMENT
## Complexity of SIP Planning for two Ozone Standards

<table>
<thead>
<tr>
<th>Area Class</th>
<th>Percent above 1-hr ozone NAAQS</th>
<th>8-Hour ozone design values (ppm)</th>
<th>Attainment date (years after designation)</th>
<th>New York Area Attainment Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2008 NAAQS (0.075 ppm)</td>
<td>2015 NAAQS (0.070 ppm)</td>
<td>2008 NAAQS (0.075 ppm)</td>
</tr>
<tr>
<td>Marginal</td>
<td>From up to*</td>
<td>0.833 15</td>
<td>0.076 0.086</td>
<td>0.071 0.081</td>
</tr>
<tr>
<td>Moderate</td>
<td>From up to*</td>
<td>15 33.333</td>
<td>0.086 0.100</td>
<td>0.081 0.093</td>
</tr>
<tr>
<td>Serious</td>
<td>From up to*</td>
<td>33.333 50</td>
<td>0.100 0.113</td>
<td>0.093 0.105</td>
</tr>
<tr>
<td>Severe-15</td>
<td>From up to*</td>
<td>50 58.333</td>
<td>0.113 0.119</td>
<td>0.105 0.111</td>
</tr>
<tr>
<td>Severe-17</td>
<td>From up to*</td>
<td>58.333 133.333</td>
<td>0.119 0.175</td>
<td>0.111 0.163</td>
</tr>
<tr>
<td>Extreme</td>
<td>From up to*</td>
<td>133.333</td>
<td>0.175</td>
<td>0.163</td>
</tr>
</tbody>
</table>

*but not including
The ozone design value is based on the 3-year average of the 4th highest daily maximum 8-hour average. This value is used to determine if the area is meeting the National Ambient Air Quality Standard (NAAQS).
**Connecticut Maximum 8-Hour Ozone Design Value Trends**

- **SWCT 8-Hr Design Values**
- **GrCT 8-Hr Design Values**
- **84 ppb**
- **75 ppb**
- **70 ppb**

* 2020 Data Preliminary and Subject to Change
8-Hour Ozone Exceedance Days in New England for 2015 NAAQS (70 ppb)

*2020 Data Preliminary and Subject to Change
## 2020 Ozone Season*

<table>
<thead>
<tr>
<th>State</th>
<th>Number of 2015 8-hr (0.070 ppm) Exceedance Days</th>
<th>Number of 2008 8-hr (0.075 ppm) Exceedance Days</th>
<th>Number of 1997 8-hr (0.08 ppm) Exceedance Days</th>
<th>Number of 1-hr (0.125 ppm) Exceedance Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connecticut</td>
<td>17</td>
<td>9</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Maine</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>4</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Vermont</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>New England</td>
<td>18</td>
<td>9</td>
<td>3</td>
<td>0</td>
</tr>
</tbody>
</table>

* Preliminary data through September 30, 2020
OZONE TRANSPORT ISSUES

• **2008 Standard**
  – Cross State Air Pollution Rule (CSAPR) Update Remand Rule Update
    • Sept 2019 - D.C. Circuit issued decision in *Wisconsin v. EPA* addressing legal challenges to CSAPR Update
    • Final Rule was signed on March 15, 2021

• **2015 Standard**
  – Ozone Transport SIPs: three state groupings:
    – **Group 1 states** (<.7 ppb contribution to other states)
      ▪ MA and VT approved. CT, ME, NH & RI submitted.
    – **Group 2 states** (0.7 to 0.99 ppb contribution)
    – **Group 3 states** (>1 ppb contribution)
2015 STANDARD

• Due August 3, 2020:
  – Emissions inventory and emissions statement certification
  – Nonattainment NSR certification
  – RACT analysis (RACT implementation date = 1/1/2024)

• Due August 3, 2021:
  – Attainment demonstration
  – Reasonable further progress (RFP) plan
  – Reasonably available control measures (RACM)
  – Contingency measures

• Attainment date: August 3, 2024
## Northeast Ozone Litigation

<table>
<thead>
<tr>
<th>EPA Rule</th>
<th>Case</th>
<th>Date Decided</th>
<th>Impact on EPA Rulemaking</th>
<th>EPA Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>CSAPR Update</td>
<td>Wisconsin v EPA</td>
<td>Sept. 13, 2019</td>
<td>Remanded w/o vacatur</td>
<td>Revised CSAPR Update  Final Rule Signed</td>
</tr>
<tr>
<td>CSAPR Closeout</td>
<td>New York v EPA</td>
<td>Oct. 1, 2019</td>
<td>Vacated &amp; remanded</td>
<td></td>
</tr>
<tr>
<td>CSAPR Update (Mandamus)</td>
<td>New Jersey v EPA</td>
<td>July 28, 2020</td>
<td>EPA to issue CSAPR Update Remand Final Rulemaking by March 15, 2021</td>
<td></td>
</tr>
<tr>
<td>MD &amp; DE §126 Petitions Denied</td>
<td>Maryland v EPA</td>
<td>May 19, 2020</td>
<td>Partial remand: EPA to reevaluate four named sources EGUs w/SNCRs</td>
<td></td>
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<tr>
<td>NY §126 Petition Denied</td>
<td>New York v EPA</td>
<td>July 14, 2020</td>
<td>Vacated; remanded: EPA to reevaluate all 350 EGU and non-EGUs named sources in 9 states</td>
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<tr>
<td>PA RACT SIP Approval</td>
<td>Sierra Club v EPA</td>
<td>Aug. 27, 2020</td>
<td>Vacated; remanded: EPA to reevaluate NOx emission rate limit, SCR use, and recordkeeping for PA coal-fired EGUs w/SCRs</td>
<td></td>
</tr>
<tr>
<td>Failure to Act on Transport SIPs</td>
<td>State Of New York et al v. Wheeler et al</td>
<td>Jan 12, 2021</td>
<td>EPA has not made the required determinations approving or disapproving these Good Neighbor SIPs</td>
<td></td>
</tr>
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## CAA §184(c) Recommendation Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>June 8, 2020</td>
<td>Ozone Transport Commission (OTC) submitted a recommendation under Section 184(c) of the Clean Air Act (CAA) to require daily nitrogen oxides (NOx) emission limits for Pennsylvania coal-fired electric generating units (EGUs) with existing SCR and SNCR NOx controls.</td>
</tr>
<tr>
<td>July 7, 2020</td>
<td>EPA published a notice (85 FR 41972) acknowledging receipt of the Recommendation and describing the 184(c) process.</td>
</tr>
<tr>
<td>January 15, 2021</td>
<td>EPA published a notice (86 FR 4049) with an analysis of the recommendation and opening the public comment period.</td>
</tr>
<tr>
<td>Feb 2, 2021</td>
<td>The public hearing was held virtually.</td>
</tr>
<tr>
<td>April 7, 2021</td>
<td>Comment period closes (extended an additional 30 days by request).</td>
</tr>
<tr>
<td>Next steps</td>
<td><strong>EPA will consult with the OTC states.</strong></td>
</tr>
<tr>
<td></td>
<td><strong>EPA will propose to approve or deny the OTC Recommendation and solicit public comment.</strong></td>
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<tr>
<td></td>
<td><strong>EPA will issue a final rule.</strong></td>
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STATUS OF OTHER EPA KEY NATIONAL RULES
Vehicle Rules

SAFE Vehicle Rule

- Current administration revisiting the GHG targets for MY 2021-2026 light-duty vehicles.
- Anticipate clear indication by summer 2021 whether EPA will maintain current GHG targets of 1.5%/yr through MY2026 or set different targets.
- EPA also revisiting the decision to withdraw California's waiver of preemption under Section 209 of the Clean Air Act.

Cleaner Trucks Initiative NPRM

- ANPRM signed on Jan 6, 2020. Comment period is closed and EPA compiling input.
- OTAQ continues technical work to support the draft proposal.
- No updates in terms of timing at this point.
- High priority for the Administration.
Affordable Clean Energy (ACE) Rule

111(d) Process
- EPA identifies Best System of Emission Reduction (BSER)
- States submit state plans that establish standards of performance for designated facilities
- Affected sources comply with standards of performance

ACE vacated and remanded – January 19, 2021
- Clean Power Plan (CPP) is not in place as state plan submission dates have passed, emissions goals already achieved
- Therefore, no obligation for states to submit state plans under the CPP
- D.C. Circuit, February 22, 2021 – ordered partial stay of issuance of mandate on CPP repeal vacatur until EPA responds with new rulemaking
AIR TOXICS PROGRAM
UPDATES
Final Rule: Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act (Major MACT to Area-MM2A Rule)

- Published in Federal Register on November 19, 2020 (85 FR 73854) and became effective on January 19, 2021
- Allows major sources of hazardous air pollutants (HAP) to reclassify to area source status at any time by limiting its emissions and potential to emit (PTE) HAP to below the major source thresholds (10 tpy of a single HAP and 25 tpy of any combination of HAP)
- EPA received two petitions for reconsideration of the final rule and two petitions for judicial review. Petitioners include 10 environmental groups, 13 states, and 2 cities
Finalized amendments to existing NESHAP General Provisions (40 CFR 63 subpart A)

- **Applicability**
  - New provision allowing sources to reclassify at any time

- **Timing for Compliance with Applicable Standards**
  - Immediate compliance with applicable standards when a source reclassifies

- **Notification Requirements**
  - Electronic notification of initial notification and notification of change in status

- **Recordkeeping Requirements**
  - Removes 5-year record retention limit for applicability determination for sources that obtain new PTE limits

- **Interaction with Enforcement Actions**
  - Reclassification does not absolve a source subject to an enforcement action or investigation for violations or infractions that occurred before the source reclassified
2020 MM2A Final Rule

- Finalized amendments to individual NESHAP Subparts: Account for final amendments to General Provisions
  - Removed date limitations for reclassification
  - Updated dates for initial notification requirements that are in the past
  - Amended General Provisions Tables
- Deferred issue of enforceability of PTE HAP limits and effectiveness criteria but included a ministerial revision of the PTE definition (40 CFR 63.2) in the interim
- For more information: https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean (Or search: EPA MM2A)
Residual Risk and Technology (RTR) Review

- Clean Air Act (CAA) requires EPA to conduct two types of reviews of Maximum Achievable Control Technology (MACT) standards
  - Residual risk review, required under Section 112(f)(2), to determine whether the MACT standard protects public health with an “ample margin of safety” required within 8 years after a MACT standard is issued
  - Technology review, required under CAA Section 112(d)(6), is required every 8 years and focuses on developments in practices, processes and control technologies that reduce HAP and also evaluates and corrects regulatory gaps
  - In addition to RTR analyses, we evaluate and update other aspects of the rules including: electronic reporting, monitoring, testing, and consistency with legal requirements, such as, removal of startup, shutdown, and malfunction exemptions.
Finalized RTRs for about 98 source categories since 2005

In 2020, we finalized RTRs for 28 source categories

Additional RTRs have court-order deadlines: 6 have a deadline of November 1, 2021, one has a deadline of April 1, 2022, and one has a deadline of December 26, 2022

For more information on the schedule and RTR rules visit: https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous
Ethylene Oxide Regulatory Update

- Ethylene Oxide Commercial Sterilizers and Fumigation Operations NESHAP
  - Advanced Notice of Proposed Rulemaking, December 12, 2019, outlined potential control measures available, provided opportunity for public comment and opportunity to provide EPA with data to support rulemaking. (84 FR 67889)
  - Section 114 Information Collection Request to several companies requested information to support rulemaking, including facility data, control device information, work practices, and costs of emissions reduction methods.
  - Proposed Information Collection Request (ICR): June 12, 2020, proposed to broaden the data collection to all facilities subject to 40 CFR Part 63 Subpart O (85 FR 35932)
  - Proposed Rulemaking will be issued after EPA has completed all of the necessary analyses

Petitions to add 1-bromopropane to the List of HAPs Regulated Under the Clean Air Act

- On June 18, 2020, in the Federal Register EPA granted petitions to add 1-bromopropane (1-BP), also known as n-propyl bromide (nPB), to the Clean Air Act list of air toxics. (85 FR 36851)

- 1-BP is primarily used in metal parts cleaning and to clean electronics. It can also be used as an intermediate chemical in the manufacture of pharmaceuticals and agricultural products, as well as in spray adhesives and dry cleaning.

- The June 18, 2020 final notice does not have any direct impacts. No regulatory requirements will come into effect until EPA adds 1-BP to the CAA list of air toxics.

- In a subsequent action, EPA will add 1-BP to the CAA list of air toxics. Once 1-BP is added, some rules will immediately include 1-BP emission limits, while EPA will need to revise others to fully address 1-BP.
PFAS Update

Engagement with State Partners

- New England’s environmental commissioners and many US Representatives sent letters to the Administrator asking for action on PFAS.

Other Test Method 45 (OTM-45)

- Released on 1/13/2021.
- Method for PFAS Sampling and Analysis from Stationary Emission Sources
- Visit: https://www.epa.gov/emc/emc-other-test-methods

EPA Research on PFAS Treatment and Destruction

- Released Interim Guidance on the Destruction and Disposal of PFAS and Materials Containing PFAS for public comment on 12/18/2020
- EPA’s PFAS Innovative Treatment Team (PITT) evaluating novel technologies for destroying PFAS
  - Over 200 submissions received
  - EPA will promote next stage development for challenge winners
EPA is collecting wet deposition field measurements at four sites in the northeast, including a site in coastal Maine.
PERMITTING POLICIES & RULE CHANGES

- Final NSR Error Corrections Rule (1/5/21)
- Final Project Emissions Accounting Rulemaking (10/22/20)
- Draft “Begin Actual Construction” Interpretation (3/25/20)
- Hazelhurst Title V Petition Order and the General Duty Clause (12/31/20)
Final NSR Error Corrections Rule (1/5/21)
- EPA finalized a rule to correct minor errors that have accumulated over time in four NSR regulations.
- While these minor errors have not materially impeded the effective operation of the NSR program, EPA believes that it is important to remove such errors from the regulations in order to provide regulatory certainty and clarity.
- The corrections are all considered to be non-substantive and are intended to provide clarity and precision to the NSR regulations without altering any NSR policy or changing the NSR program as a whole. Revisions associated with this rulemaking included:
  - removing outdated cross references;
  - typographical errors; and
  - various provisions, such as certain “grandfathering” provisions, that, with the passage of time, no longer serve any practical function or purpose.

Final Project Emissions Accounting Rule (10/22/20)
- EPA finalized a rule to clarify the process for evaluating whether the New Source Review (NSR) permitting program would apply to proposed projects at existing air pollution sources.
- This rule makes it clear that both emissions increases and decreases from a major modification at an existing source can be considered during Step 1 of the two-step NSR applicability test.
  - This process is known as project emissions accounting (previously referred to as project netting).
  - Both emissions increases and decreases from a major modification are to be considered during Step 1 of the two-step NSR applicability test
- EPA has received requests for judicial review and administrative reconsideration on this rulemaking
Permitting Policies & Rule Changes

• Draft “Begin Actual Construction” Interpretation (3/25/20)
  – Draft guidance proposes that source owner or operator may, prior to obtaining an NSR permit, undertake physical on-site activities – including activities that may be costly, that may significantly alter the site, and/or are permanent in nature – provided that those activities do not constitute physical construction on an emissions unit
    • **Begin actual construction**: initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures.
  – This guidance remains to be finalized

• Hazelhurst Title V Petition Order and the General Duty Clause (12/31/2020)
  – On December 31, 2020, the EPA finalized a Title V petition order regarding the Hazlehurst Wood Pellet facility in Georgia.
  – In the order, the EPA determined that the General Duty Clause (GDC) under section 112(r)(1) is not an applicable requirement for the purposes of Title V permitting.
  – Furthermore, states do not have delegation of the GDC and the GDC is only enforceable by the EPA.
  – As a result, the EPA recommends removing the GDC provision from the proposed permit. The order only applies to the GDC, and other activities under 112(r) may be considered applicable requirements. Please refer to the order at the following link for a detailed analysis. [https://www.epa.gov/sites/production/files/2021-01/documents/hazlehurstorder2020.pdf](https://www.epa.gov/sites/production/files/2021-01/documents/hazlehurstorder2020.pdf)
ENERGY
ENERGY STAR IN NEW ENGLAND

• **New England Energy Management Best Practice Network**
  Regional network of industrial end-users, utilities, and strategic energy managers brought together with the common goal of saving energy. Next Webinar on Utility Offerings in New England (May 4 from 2:00 to 3:00 PM ET): [REGISTER HERE](#)

• **New England’s Treasure Hunt Campaign**
  Webinars on how to conduct a treasure hunts to find energy efficiency opportunities in commercial buildings and industrial facilities. Next Webinar on Energy Treasure Hunt for Microbreweries w/ EPA’s Pollution Prevention Program (April 27 from 1:00 to 2:00 PM ET): [REGISTER HERE](#)

• **ENERGY STAR Portfolio Manager (PM) tool**
  EPA offers trainings on PM to help you to determine your building’s energy performance.
• **Energize Connecticut** in partnership with Eversource Energy and AVANGRID of Orange, Conn., an initiative that provides utility services, which was recognized for evolving its energy efficiency programs to increase consumer awareness and drive sales of ENERGY STAR equipment.

• **Xerox Corp** of Norwalk, Conn., a work solutions company specializing in print technology, imaging and data analytics, which was recognized for exemplary promotion of ENERGY STAR certified products through extensive training and marketing efforts reaching more than 90,760 employees and customers.

• **2021 ENERGY STAR Partners will be announced soon!**
Air emissions from OCS sources are regulated under section 328 of the Clean Air Act and implementing regulations at 40 CFR part 55.

Part 55 provides procedures to make federal regulations, and state and local regulations from the Corresponding Onshore Area (COA) applicable to an OCS source. To date, Massachusetts is the COA for Region 1 projects.

EPA is required to promulgate a consistency update to part 55 which incorporates applicable COA regulations into federal law.

Under CAA § 328(a)(4)(C) and 40 C.F.R. § 55.2, an OCS source includes any equipment, activity, or facility which:

1. Emits or has the potential to emit any air pollutant;
2. Is regulated or authorized under the OCSLA (43 U.S.C. § 1331 et seq.); and
3. Is located on the OCS or in or on waters above the OCS.

Furthermore, 40 C.F.R. § 55.2 establishes that the OCS source definition shall include vessels that are:

1. Permanently or temporarily attached to the seabed and erected thereon and used for the purpose of exploring, developing or producing resources therefrom, within the meaning of section 4(a)(1) of OCSLA (43 U.S.C. §1331 et seq.); or
2. Physically attached to an OCS facility, in which case only the stationary sources [sic] aspects of the vessels will be regulated.
Wind Energy Development in the North Atlantic OCS

- **Deepwater Wind/Ørsted**
  - South Fork
    - 130 MW wind farm
    - Agreement with New York
    - Complete application in-house
  - Revolution Wind
    - 800 MW wind farm
    - Agreements with Connecticut and Rhode Island
    - NOI submitted
  - Bay State Wind
    - 800 MW wind farm (proposed)
  - Vineyard Wind
    - Vineyard Wind (501 North)
      - 800 MW wind farm
      - Agreement with Massachusetts
      - Poised to finalize permit in April 2021
    - Park City Wind (501 South)
      - 800 MW wind farm
      - Agreement with Connecticut
      - NOI submitted
  - Mayflower Wind Energy
    - Proposed 800 MW
    - Agreement with Massachusetts
  - Equinor Wind
WRAP UP/QUESTIONS?

R1’s ARD Management Team:

Lynne Hamjian 617-918-1601
hamjian.lynette@epa.gov
Cynthia Greene 617-918-1813
greene.cynthia@epa.gov
John Rogan 617-918-1645
rogan.john@epa.gov
Patrick Bird 617-918-1287
bird.Patrick@epa.gov
Sandra Brownell 617-918-1797
brownell.Sandra@epa.gov