NATIONAL ENFORCEMENT CONFERENCE

NOVEMBER 12, 2019

RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER

WASHINGTON, D.C.

AMBAR.ORG/ENFORCEMENT
Join us in the heart of the Nation’s capital for the American Bar Association’s Section of Environment, Energy, and Resources National Enforcement Conference. This one-day conference includes presentations and panel discussions on criminal enforcement, U.S. Environmental Protection Agency national compliance initiatives, CERCLA/Superfund, recent enforcement reforms and methods at the federal and state level, and the role of the courts. Speakers include senior environmental enforcement officials – both past and present – from the U.S. Department of Justice and the U.S. Environmental Protection Agency, and state agencies, as well as leading scholars, private law practitioners, and representatives of nongovernmental organizations. Held just steps away from EPA headquarters, the conference features a “fireside” chat with the federal government’s top environmental enforcement officials:

- **Susan Bodine**, Assistant Administrator, Office of Enforcement and Compliance, U.S. Environmental Protection Agency
- **Jeffrey B. Clark**, Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice

Come ready with questions and expect to hear a robust and lively discussion addressing key questions for environmental enforcement:

- When should violations of environmental law trigger criminal prosecution?
- Will recent enforcement reforms and changes endure beyond the current administration?
- What principles and priorities are currently guiding environmental enforcement at the federal and state levels, and what needs to change?
- Is the U.S. Environmental Protection Agency succeeding in its vital mission under CERCLA, and have recent Superfund reforms begun to accelerate the pace of cleanup?
- Are changes in monitoring technologies and more active citizen engagement resulting in real changes to the enforcement picture?
- How will recent and anticipated rulings by the U.S. Supreme Court and other federal courts impact environmental enforcement in the months and years ahead?
- And many more!

**2019–2020 Section Chair**

**Karen Mignone**, Arrowsic, ME

**Conference Planning Committee**

**LeRoy Paddock**, Associate Dean for Environmental Studies and Professorial Lecturer in Law, George Washington University Law, Washington, D.C.

**Matthew J. Todaro**, Program Co-Chair, Verrill Dana LLP, Portland, ME

**Patrick Traylor**, Program Co-Chair, Vinson & Elkins LLP, Washington, D.C.

**Amanda Waters**, General Counsel, National Association of Clean Water Agencies, Washington, D.C.

**Jeffrey H. Wood**, Program Co-Chair, BakerBotts LLP, Washington, D.C.

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2019 Annual Section Sponsors

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### AGENDA

#### November 12, 2019

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<td>7:30 a.m.</td>
<td>Registration Opens and Continental Breakfast</td>
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<td>8:15 a.m. – 8:30 a.m.</td>
<td>Welcome and Opening Remarks</td>
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<td>8:30 a.m. – 9:45 a.m.</td>
<td>EPA’s National Compliance Initiatives: Understanding EPA’s Enforcement Priorities in 2020–2023</td>
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<td>9:45 a.m. – 10:00 a.m.</td>
<td>Networking Break</td>
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<td>10:00 a.m. – 11:15 a.m.</td>
<td>The Evolution of Environmental Enforcement: EPA Policy, Cooperative Federalism, Monitoring Technology/Citizen Science, and Citizen Suits</td>
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<td>11:15 a.m. – 12:30 p.m.</td>
<td>Will EPA’s CERCLA Reform Yield a New Super (fund) Power?</td>
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<td>12:30 p.m. – 1:15 p.m.</td>
<td>Luncheon</td>
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<td>1:15 p.m. – 2:30 p.m.</td>
<td>Drawing a Line: When Should Violations of Environmental Law Trigger Criminal Prosecution?</td>
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<td>2:30 p.m. – 3:45 p.m.</td>
<td>The Judiciary and Environmental Enforcement: New Precedents, Pending Cases, and Trends in the Courts</td>
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<td>3:45 p.m. – 4:00 p.m.</td>
<td>Networking Break</td>
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<td>4:00 p.m. – 5:00 p.m.</td>
<td>Closing Keynote Address</td>
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The U.S. Environmental Protection Agency (EPA) focuses its enforcement and compliance resources on the most serious environmental violations by developing and implementing national program priorities called National Compliance Initiatives (NCIs). For the 2020–2023 NCI cycle, EPA has added three new initiatives, modified a fourth, left two the same, and returned four previous initiatives to the core enforcement program. These significant changes to the NCIs warrant close attention. This session will discuss each of the 2020–2023 NCIs and touch on the status of core enforcement efforts for previous NCIs. Attendees will learn about the noncompliance that led to the selection of these NCIs, EPA’s goals for the NCIs, and the use of the full range of enforcement and compliance assurance tools in these NCIs to foster compliance and correct noncompliance.

**Panelists**

- **John Cruden**, Beveridge & Diamond PC, Washington, D.C.
- **Rosemarie Kelley**, Director, Office of Civil Enforcement, U.S. Environmental Protection Agency, Washington, D.C.
- **Lauren Tozzi**, Attorney-Advisor, Air Enforcement Division, Office of Civil Enforcement, U.S. Environmental Protection Agency, Washington, D.C.
- **Patrick Traylor**, Vinson & Elkins LLP, Washington, D.C.

**10:00 a.m. - 11:15 a.m.**

The Evolution of Environmental Enforcement: EPA Policy, Cooperative Federalism, Monitoring Technology/Citizen Science, and Citizen Suits

The approaches to environmental enforcement evolve over time depending upon the administration’s views, the status of state-federal relationships, changes in monitoring technology and citizen involvement, and the emphasis on citizen suits. Each of these areas have been significantly impacted under the current administration resulting in important developments that directly relate to the how, why, when, and what is considered in environmental enforcement. This panel will provide attendees with a picture of the factors influencing enforcement today and potential methods to identify them and respond effectively, no matter who the client might be.

**Panelists**

- **Aileen Nowlan**, Senior Manager, EDF+Business, Washington, D.C.
- **John Pendergrass**, Vice President, Environmental Law Institute, Washington, D.C.
- **Nancy Stoner**, President, Potomac Riverkeeper Network, Washington, D.C.

**11:15 a.m. - 12:30 p.m.**

Will EPA’s CERCLA Reform Yield a New Super (fund) Power?

The U.S. Environmental Protection Agency’s “Superfund Task Force” was launched by the current administration in May 2017 to restructure, incentivize, accelerate, and generally reinvigorate its Superfund Program. In August 2019, the Task Force plans to release its culminating report. This panel, featuring leading perspectives from the administration, private practice, and state government, will provide in-depth analysis of progress made and opportunities missed by the reform efforts. The panel will also touch on critical developments that directly relate to the how, why, when, and what EPA envisions in its new approach to this landmark program.

**Panelists**

- **Bonnie Barnett**, Drinker Biddle & Reath LLP, Philadelphia, PA
- **Cyndy Mackey**, Director, Office of Site Remediation Enforcement, U.S. Environmental Protection Agency, Washington, D.C.
- **Thomas A. Mariani, Jr.**, Chief, Environmental Enforcement Section, U.S. Department of Justice, Washington, D.C.
- **Mike McLaughlin**, Senior Vice President of Environmental Services, SCS Engineers, Reston, VA
2:30 P.M. - 3:45 P.M.
The Judiciary and Environmental Enforcement: New Precedents, Pending Cases, and Trends in the Courts

Recent decisions across the federal judiciary are impacting the environmental enforcement landscape. From the meaning of key statutory provisions and penalty assessments to the application of statutes of limitations and beyond, the case law related to environmental enforcement continues to evolve and develop in important ways. The environmental bar is also watching the U.S. Supreme Court closely, with recent and upcoming decisions on topics such as agency deference, Clean Water Act compliance, and CERCLA liability set to play a role in the future of environmental enforcement. This experienced panel will share valuable insights and perspectives on recent and anticipated decisions at the Supreme Court and elsewhere across the federal courts, providing attendees with a roadmap to navigate potential environmental enforcement issues related to specific client and/or stakeholder matters.
# National Enforcement Conference

**November 12, 2019  Washington, D.C.**


We encourage you to register online at ambar.org/enforcement. All attendees must be preregistered for this conference to participate. Any questions regarding registration can be directed to environ@americanbar.org.

## Registration Rates

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<td>Section Member</td>
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<td>ABA Member</td>
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<td>Law Student</td>
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CANCELLATION POLICY
Registrants who are unable to attend the conference will receive a refund less a $50 administrative fee if written notice of cancellation is received by October 24, 2019. No refunds will be granted after this date. Cancellations may be e-mailed to environ@americanbar.org. Registration fees are not transferable to other Section or ABA programs. Attendee substitutions for the program are acceptable. The ABA reserves the right to cancel any program and assumes no responsibility for personal expense.

TUITION ASSISTANCE
Scholarships to defray tuition expense for SEER programs are available upon application on a program-by-program, case-by-case basis. Preference will be given to public interest lawyers, government lawyers, full-time law professors, solo or small firm practitioners of limited means, and unemployed attorneys. Scholarship applications must be received by Thursday, October 24, 2019. You will be notified prior to the program if your application is approved. A minimum fee may be charged on all approved scholarship applications to defray expenses. To apply, complete the online application https://bit.ly/2kV1f8n.

DRESS
Section conferences are business casual. The venue will be cool, so please bring a jacket or sweater.

CONFERENCE COURSE MATERIALS
Course materials and related background information will be provided to attendees online prior to the conference. You may wish to bring a device to view the materials on-site; complimentary Wi-Fi access will be available.

CLE CREDIT
The ABA will seek 6.25 hours of CLE credit in 60-minute states, and 7.5 hours of CLE credit for this program in 50-minute states. Credit hours are estimated and are subject to each state’s approval and credit rounding rules. For general information on CLE at the ABA, please visit www.americanbar.org/mcle.

DIETARY RESTRICTIONS
If you have any dietary restrictions, please indicate so during registration or by email environ@americanbar.org by Monday, November 4, 2019, so that your needs are noted.

AMERICANS WITH DISABILITIES ACT
If any special arrangements are required for a person with a disability to attend this conference, please call Allison Read at (312) 988–5641 by Monday, November 4, 2019.

Questions? Contact environ@americanbar.org with all program related questions.