



# Key Environmental Issues in U.S. EPA Region 1

May 8, 2007

The Westin Copley Place, Boston, MA

## About the Program:

Key Environmental Issues in U.S. EPA Region 1 offers a unique opportunity to engage in dialogue with policy makers and representatives of the legal profession involved in environmental issues in New England. This regional seminar has been planned by local state bar representatives, EPA regional lawyers, and state government representatives. Special emphasis is placed on program initiatives and priorities both in Region 1 and in the six states as presented by EPA Regional Administrator Robert Varney, Massachusetts Secretary of Energy and Environmental Affairs Ian Bowles and the Commissioners of the six New England state environmental agencies. The program includes a keynote address from EPA Acting General Counsel Roger Martella. Pertinent issues of the day – emerging issues under the Clean Air Act and in water regulation, Superfund, brownfields, energy facility siting, enforcement, and ethics – are covered in the seven general and breakout sessions.

## Program Cosponsors:

U.S. Environmental Protection Agency, Region 1; Boston Bar Association; Connecticut Bar Association, Environmental Law Section; Maine State Bar Association, Natural Resources and Environmental Law Section; New Hampshire Bar Association, Environmental and Natural Resources Law Section; Rhode Island Bar Association; Vermont Bar Association, Environmental Law Section.

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## Program Agenda:

### 8:00 a.m.

Registration and Continental Breakfast

### 9:00 a.m. – 9:10 a.m.

Opening Remarks (Program Co-Chairs)

*Philip Ahrens, Pierce Atwood LLP, Portland, ME*

*Pamela Hill, Deputy Regional Counsel, U.S. EPA, Region 1, Boston, MA*

### 9:10 a.m. – 9:30 a.m.

Welcome and Introductory Remarks

*Secretary Ian A. Bowles, Massachusetts Executive Office of Energy and Environmental Affairs, Boston, MA*

### 9:30 a.m. – 11:20 a.m.

#### ***Directions in New England Environmental Policy***

U.S. EPA Region 1 New England Regional Administrator Robert Varney and the six New England state environmental agency Commissioners will describe the environmental priorities and recent initiatives of their respective agencies, focusing in particular on new approaches to environmental regulation and on matters of concern to federal and state environmental policy makers. The speakers will also take a longer view of environmental policy and provide their visions of the environmental agenda for New England over the coming years.

#### **Moderator:**

***Robert W. Varney, Regional Administrator, U.S. EPA, Region 1, Boston, MA***

#### **Panelists:**

***Thomas S. Burack, Commissioner, NH Dept. of Environmental Services, Concord, NH***

***David P. Littell, Commissioner, ME Dept. of Environmental Protection, Augusta, ME***

***Gina McCarthy, Commissioner, CT Dept. of Environmental Protection, Hartford, CT***

***Arleen O'Donnell, Acting Commissioner, MA Dept. of Environmental Protection, Boston, MA***

***W. Michael Sullivan, Director, RI Dept. of Environmental Management, Providence, RI***

***Jeffrey Wennberg, Commissioner, VT Dept. of Environmental Conservation, Waterbury, VT***

**11:20 a.m. – 11:30 a.m.**

***Networking Break***

**11:30 a.m. – 12:15 p.m.**

***Breakout Session 1: Air and Climate***

Panelists will focus on the Regional Greenhouse Gas Initiative and proposals to address climate change, implementing air toxics regulations at the federal level and state initiatives that augment the federal program, and recent developments in state and federal air permitting.

**Moderator:**

***David W. Dixon, Dirigo Environmental Consultants, Whitefield, ME***

**Panelists:**

***Ann Berwick, MA Undersecretary for Energy, Boston, MA***

***Thomas Olivier, Senior Enforcement Counsel, U.S. EPA, Region 1, Boston, MA***

***David W. Wright, ME Dept. of Environmental Protection, Bureau of Air Quality, Augusta, ME***

**11:30 a.m. – 12:15 p.m.**

***Breakout Session 2: Superfund & Brownfields***

Recent significant developments affecting Superfund litigation and brownfields transactions have created pitfalls to be avoided. This panel will address several such areas of change including the use of CERCLA 107(a) for direct third party claims based on post-*Aviall* case law as well as modified EPA consent decrees and state efforts to facilitate contribution claims; recent changes to the all appropriate inquiry standards for environmental site assessments and continuing obligations to obtain protection from CERCLA liability; trends in natural resource damages (NRD) litigation and settlements in the New England states; and recent approaches to brownfields sites in New England.

**Moderator:**

***Matthew Ranelli, Shipman & Goodwin LLP, Hartford, CT***

**Panelists:**

***Mark Barash, Senior Attorney, Office of the Solicitor, U.S. Dept. of the Interior, Newton, MA***

***Joanna Jerison, Chief, Superfund Legal Office, U.S. EPA, Region 1, Boston, MA***

***Kristen W. Sherman, Adler Pollock & Sheehan, Providence, RI***

**12:15 p.m. – 12:45 p.m.**

***Luncheon***

**12:45 p.m. – 1:30 p.m.**

***Introduction of Keynote Speaker***

***Carl Dierker, Regional Counsel, U.S. EPA, Region 1, Boston, MA***

***Keynote Speaker***

***Roger R. Martella Jr., Acting U.S. EPA General Counsel, Washington, DC***

**1:30 p.m. – 2:30 p.m.**

***Breakout Session 3: Water***

Panelists will address implementation of the Clean Water Act Section 401 certification process; permitting, implementation and enforcement of the Phase II final rule requiring NPDES permit coverage for stormwater discharges from a wide variety of sources and activities; the current state of TMDL development and implementation in New England; and other current topics including post-*Rapanos* wetlands developments.

**Moderator:**

***Michael J. Quinn, McLane, Graf, Raulerson & Middleton, Portsmouth, NH***

**Panelists:**

***Patrick Parenteau, Vermont Law School, South Royalton, VT***

***Christopher Kilian, Conservation Law Foundation, Montpelier, VT***

***Ann Williams, Senior Assistant Regional Counsel, U.S. EPA, Region 1, Boston, MA***

**1:30 p.m. – 2:30 p.m.**

***Breakout Session 4: Ethics (ethics credit applied for)***

Panelists will discuss current restrictions and efforts to ease restrictions on cross-border practice in the New England states and the limits on direct communications with an agency in the absence of the agency's counsel.

**Moderator:**

**James Ray**, *Robinson & Cole LLP, Hartford, CT*

**Panelists:**

**Peter G. Beeson**, *Devine Millimet & Branch PA, Manchester, NH*

**G. Dana Bisbee**, *Pierce Atwood LLP, Portsmouth, NH*

**Sharon Wells**, *Assistant Deputy Ethics Official and Senior Assistant Regional Counsel, U.S. EPA, Region 1, Boston, MA*

**2:30 p.m. – 2:45 p.m.**

***Networking Break***

**2:45 p.m. – 3:45 p.m.**

***Energy Facility Siting***

The siting of energy projects requires a multifaceted approach involving local, state and federal agencies, including environmental protection agencies. Siting regulations and laws have become increasingly complex, requiring extensive study and review and provisions for public involvement. This panel will discuss recent environmental issues faced by each in siting energy facilities, including wind projects, LNG facilities and transmission lines.

**Moderator:**

**Carl Dierker**, *Regional Counsel, U.S. EPA, Region 1, Boston, MA*

**Panelists:**

**Daniel F. Caruso**, *Chair, Connecticut Siting Council, New Britain, CT*

**Peter Didisheim**, *Director of Advocacy, Natural Resources Council of Maine, Augusta, ME*

**William L. Lahey**, *Anderson & Kreiger LLP, Cambridge, MA*

**3:45 p.m. – 5:00 p.m.**

***Enforcement***

This session will focus on recent developments and future directions in federal and state enforcement in New England, including recent case law as well as compliance and enforcement priorities. The session also will include a discussion of the role of alternative dispute resolution in enforcement and a perspective on enforcement from the private bar.

**Moderator:**

**Susan Studlien**, *Director, Office of Environmental Stewardship, U.S. EPA, Region 1, Boston, MA*

**Panelists:**

**Joel Blumstein**, *Chief, Regulatory Legal Office, U.S. EPA, Region 1, Boston, MA*

**James R. Milkey**, *Chief, Environmental Protection Division, MA Attorney General's Office, Boston, MA*

**Michelle N. O'Brien**, *Mackie Shea O'Brien, PC, Boston, MA*

**Elissa Tonkin**, *ADR Specialist, U.S. EPA, Region 1, Boston, MA*

**5:00 p.m.**

***Closing Remarks***

**Philip Ahrens**, *Pierce Atwood LLP, Portland, ME*

**Pamela Hill**, *Deputy Regional Counsel, U.S. EPA, Region 1, Boston, MA*

**5:00 p.m. – 6:30 p.m.**

***Reception***

Sponsored by Adler Pollock & Sheehan PC; Goodwin Procter LLP; McLane, Graf, Raulerson & Middleton; Pierce Atwood LLP; Primmer Piper Eggleston & Cramer, PC and Robinson & Cole LLP

**Registration Information**  
**Key Environmental Issues in U.S. EPA Region 1 ♦ May 8, 2007**  
**The Westin Copley Place, Boston, MA**

**Location and Lodging**

The site of the program is The Westin Copley Place, 10 Huntington Avenue, Boston, MA. The Section has not reserved a block of rooms for this meeting. However, lodging rates for the hotel are available at (617) 262-9600.

**Registration**

We request that all registrations be made in advance by completing the attached form and mailing it with your payment to the ABA Section of Environment, Energy, and Resources, Attn.: Key Environmental Issues in U.S. EPA Region 1, 321 N Clark Street, Chicago, IL 60610. The deadline for receipt of all registrations is May 1, 2007. Should you miss the deadline and need to register onsite, please call (312) 988-5724 to insure that space is available.

**Onsite Registration**

Onsite registration will be at 8:00 a.m. on May 8, 2007. If you plan to register at the door, you must call (312) 988-5724 at least 72 hours before the conference to confirm that space is still available. Failure to call in advance may result in not being admitted to a sold out program. Onsite registrations will be accepted when accompanied by a check, money order, government purchase order, or government training form. Visa, MasterCard, and American Express are also accepted onsite. No registration will be accepted without payment.

**Registration Confirmation**

If you have not received a written confirmation by May 4, 2007 please call (312) 988-5724 to verify that your registration form and payment were received.

**Cancellation Policy**

Registrants who are unable to attend the conference will receive a refund less a \$50 administrative fee if a written cancellation is received by May 1, 2007. Cancellations may be faxed to (312) 988-5572, attn.: Program Registrar. No refunds will be granted after May 1, 2007. Substitutions are acceptable. The ABA reserves the right to cancel any program and assumes no responsibility for personal expense.

**Fee Information**

Fee covers registration to the program, printed course materials, networking breaks, lunch and the closing reception.

**CLE Credit**

CLE accreditation has been requested for this program from every state with mandatory continuing education requirements for lawyers. Please be aware that each state has its own rules and regulations, including its definition of "CLE." Check with your state agency for confirmation of this program's approval. States with lawyer specialization programs have not been requested to certify this program. Certificates of attendance will be available in the registration materials at the program. **Please note: New York licensed participants are required to sign-in and sign-out on a special attendance sheet at each session.** The Section will not have the approved number of credit hours until the time of the program. However, if you would like information on the number that have been applied for, please contact the Section's Program and Membership Coordinator at (312) 988-5577.

**Special Needs**

If any special arrangements are required for a disabled individual to attend this program, please contact the Section at (312) 988-5724.

**Program Planning Chairs**

The ABA Section of Environment, Energy and Resources would like to thank the co-chairs of this program:

**Philip Ahrens**, Pierce Atwood LLP, Portland, ME  
**Pamela Hill**, Deputy Regional Counsel, U.S. EPA, Region 1, Boston, MA

**ABA and Section Membership**

This program has been organized by the State and Regional Environmental Cooperation Committee of the ABA Section of Environment, Energy, and Resources. To learn more about the benefits of membership in the American Bar Association, Section or one of our substantive committees, visit <http://www.abanet.org/environ>.

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I cannot attend this program. Please send me the course materials available after this meeting at the price of \$70, which includes postage and handling.

**Registrant Information:**

ABA Membership #: \_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_  
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 City, State, Zip \_\_\_\_\_  
 Daytime Phone Number \_\_\_\_\_  
 Fax \_\_\_\_\_ E-mail \_\_\_\_\_

**Fees and Payment**

(Payment and/or P.O. must accompany registration or registration form will not be accepted).

<input checked="" type="checkbox"/>	<b>Program Registration Fees:</b>	
	Section/Sponsoring Members	\$275
	Other ABA Members	\$300
	General Attendance	\$350
	Government, Public Interest, Academics	\$200
	Law Students	\$100

I am licensed to practice in the state of New York.

Do not list my name/contact information in the registration roster distributed to all participants on site at the meeting.

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ABA Section of Environment, Energy, and Resources  
 321 N Clark Street  
 Chicago, IL 60610  
 Fax: (312) 988-5572

**Questions? (312) 988-5724**

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Section of Environment, Energy, and Resources  
321 N. Clark Street  
Chicago, IL 60610



Visit our website @ [www.abanet.org/environ/](http://www.abanet.org/environ/)

Don't delay, register today!

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**Registration Deadline:**

May 1, 2007