

Elizabeth A. Malone

Skadden

Counsel, Washington, D.C.

Environmental



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Education

J.D., University of Virginia School of Law, 2002 (Editorial Board Member, *Virginia Environmental Law Journal*)

B.A., Stanford University, 1997

Bar Admissions

Virginia
District of Columbia

Elizabeth Malone is head of the firm's Environmental Group. Her practice involves helping clients navigate the complicated and stringent area of environmental laws and regulations, handling litigation in state and federal courts and in administrative proceedings, representing clients in complex cleanup matters, and advising clients on environmental matters in corporate transactions.

Ms. Malone provides general regulatory and compliance advice and represents clients undergoing bankruptcy proceedings with respect to the resolution of their environmental claims and liabilities. Ms. Malone also is a member of Skadden's climate change practice, advising clients on the regulation of greenhouse gases, disclosure and transparency issues, and sustainability initiatives. She has been selected for inclusion in *Chambers USA*, where she is described as "a sophisticated, intelligent and disciplined advocate and a no-nonsense litigator," and "commercially focused and client oriented."

Ms. Malone's litigation experience includes a wide variety of contested matters, such as governmental investigations, Superfund cleanups and lawsuits, toxic tort class actions, actions against private parties to enforce contract provisions and contribution/allocation actions. Specific examples of her litigation experience include the representation of:

- **Appleton Coated** as a nonparty in significant discovery disputes concerning two major Superfund sites. Skadden successfully resolved the disputes and defeated claims that Appleton Coated should be sanctioned for the destruction of documents subject to a court order;
- **Sequana SA** in dismissing claims alleging that AWA Ltd, its wholly owned subsidiary, and AWA's directors violated the U.K. Companies Act and the directors' fiduciary duties by issuing dividends to Sequana totaling €585.5 million. Skadden's defense involved demonstrating that the estimates of AWA's environmental liabilities in the U.S., upon which the timing and amount of the dividends were based, met applicable accounting and legal requirements;
- **CF Industries, Inc.** in a challenge to numeric nutrient water quality criteria promulgated by EPA for the state of Florida;
- **Pfizer, Inc.** in connection with the negotiation of a removal order and the implementation of a remedial action at a National Priorities List Superfund site and at other cleanup sites;
- **Alcoa Inc.** in the defense of a \$42 million cost recovery action by the United States for the cleanup of the Agricultural Street Landfill in New Orleans. Ms. Malone and the Skadden team successfully brought a counterclaim against the United States Army Corps of Engineers, overcoming sovereign immunity defenses by the government;
- **Axel Johnson Inc.** as plaintiff in connection with its malpractice, fraud and unfair trade practices claims against Arcadis Geraghty and Miller, Inc. arising from the performance of a Superfund removal action;
- **The AES Corporation** in connection with an investigation into climate change disclosure issues brought by the New York attorney general under New York's Martin Act; and
- **CEMEX** in the development and implementation of an administrative strategy to secure a controversial modification to a Title V air permit and defense of a subsequent citizens' action challenging the permit.

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Ms. Malone also has advised hundreds of clients on corporate transactions involving significant environmental issues. In this area, she has extensive experience in the identification and analysis of environmental liabilities and compliance issues; the negotiation of representations and warranties, covenants, indemnities, insurance policies and other contract provisions to allocate and manage environmental liabilities; the management of post-closing cleanup and compliance obligations; compliance with transaction-triggered cleanup statutes, such as New Jersey's Industrial Site Recovery Act; and the drafting and evaluation of SEC disclosures.

Ms. Malone's transactional experience includes representing clients in a wide variety of industries, including **steel and mining** (OAO Severstal, ArcelorMittal, National Steel Corp., Foundation Coal), **chemicals** (E.I. du Pont de Nemours and Company, Huntsman Chemical Co., Access Industries), **pharmaceutical and life sciences** (Endo Pharmaceuticals, Inc., JLL PharmaNet Development Group, Abbott Labs, MDS Inc.), **manufacturing** (CEMEX S.A. de C.V., Ball Corporation, Danaher, Pactiv, Alcoa, Inc., The Middleby Corporation, Packaging Dynamics), **energy** (The AES Corporation, Reliant Energy) and **financial services** (Citigroup, Inc., Credit Suisse, Deutsche Bank AG, Goldman, Sachs & Co., J.P. Morgan Chase & Co., Morgan Stanley).

Ms. Malone also advises clients on compliance with environmental laws, including in the defense of enforcement actions brought by

federal and state agencies and administrative proceedings. Examples of her work in this area include the representation of:

- a large manufacturing company in connection with alleged MACT and Title V air permit noncompliance matters at a number of facilities;
- a large mining company in the defense of a Resource Conservation and Recovery Act investigation brought by the United States as part of a nationwide enforcement priority initiative;
- a major airline in connection with an enforcement action related to underground storage tanks; and
- a mining company in connection with proposed water quality standards.

In addition, Ms. Malone also routinely advises clients undergoing bankruptcy proceedings in connection with their environmental liabilities. Her work has included representing Chapter 11 debtors in the resolution of hundreds of environmental claims and litigating whether various environmental liabilities can be discharged. She has advised clients on the formation of trusts to hold contaminated property and the liquidation of such trusts. Ms. Malone has represented the official committee of the equity holders in the bankruptcy proceedings of Chemtura Corporation, involving more than \$2 billion in asserted environmental claims.