



## Emily Schilling

Partner

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**Emily provides strategic counsel to companies of all sizes navigating complex air quality challenges.**

### PRACTICES

Environmental Compliance and Enforcement  
Environmental and Natural Resources

### INDUSTRIES

Energy and Resources  
Mining  
Oil and Gas  
Electric Power

### EDUCATION

Duke University School of Law, J.D., 2003  
*cum laude*  
*Alaska Law Review*, Editor

Duke University, Terry Sanford Institute of Public Policy, Master of Public Policy, 2003

Bowdoin College, B.A., 1997  
*magna cum laude*  
*Bowdoin Orient*, Editor in Chief

### BAR ADMISSIONS

Utah  
Wyoming  
District of Columbia  
Maine

### COURT ADMISSIONS

U.S. Court of Appeals for the District of Columbia Circuit  
U.S. Court of Appeals for the Tenth Circuit  
U.S. District Court for the District of Utah  
U.S. District Court for the District of Columbia

She leverages her technical skills and national experience to advise clients across industry sectors in the development of air quality permitting and compliance strategies, and to represent clients in enforcement actions and rulemaking proceedings before state agencies and the federal Environmental Protection Agency.

Emily's decade of experience in Washington D.C. counseling clients on federal air quality and climate change initiatives, coupled with her deep knowledge of air quality permitting programs across the Mountain West, give her insight into opportunities and challenges facing clients at both the state and federal levels.

Emily also has substantial experience drafting comments and petitions for reconsideration on behalf of clients in federal Clean Air Act rulemakings and representing clients in challenges to federal rulemakings in the D.C. Circuit Court of Appeals.

Emily leads the firm's Environmental and Natural Resources practice group, one of the largest in the country at over 100 lawyers. She is a part of the [Environment, Health and Safety](#) team and frequently works with [Jill Van Noord](#), [Kelly Johnson](#), and [Robert Ayers](#).

### EXPERIENCE

- Represent clients in mining, oil and gas, industrial, and mobile source sectors in responding to CAA section 114 and section 208 information requests issued by EPA pursuant to federal enforcement initiatives.
- Negotiate consent decrees and administrative consent agreements with EPA on behalf of clients in electricity, oil and gas, and mobile source sectors.
- Represent clients in resolution of state enforcement proceedings across the Mountain West.
- Advise clients on minor source and major source permitting, including triggers for permitting in both attainment and nonattainment areas on state and tribal lands.
- Advise clients on strategies for compliance with federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.

- Counsel clients in developing strategies in federal and state air quality rulemakings, from pre-proposal meetings with regulators through drafting comprehensive comments on proposed rules to representation of clients in challenges to rulemakings in state and federal courts.

## CLIENT RESULTS

### Representative Enforcement & Litigation Matters

Negotiated expedited resolution of state enforcement action against transload facility faced with stop work order, allowing the facility to restart operations within a week.

Represent Title V mining facility in resolving Utah enforcement action and associated development of comprehensive permitting package.

Represent client in resolution of largest enforcement action in history of Wyoming Air Quality Division.

Counsel client in strategy for challenging permits before Wyoming's Environmental Quality Council, including successful motion to stay permit conditions pending completion of EQC proceedings.

Represent utility client in administrative resolution of CAA section 114 request for information and related New Source Review enforcement action.

Represent Minnesota Pollution Control Agency in challenges to air quality permit issued to PolyMet for the NorthMet mining project, including representation of the agency before the Minnesota Supreme Court.

Represent industrial client in responding to CAA section 114 information request issued as part of national enforcement initiative, resulting in determination by EPA not to proceed with enforcement.

Represent oil and gas client in consent decree negotiations resulting from action initiated pursuant to EPA enforcement initiative.

Represent client in related state and federal enforcement actions related to compliance with state air permits and CAA section 112(r) Risk Management Plan requirements.

Represent client in Clean Air Act citizen suit action involving triggers for permitting under State Implementation Plan.

Represent mining client in EPA inspections and information requests related to compliance with Toxic Release Inventory reporting requirements, which resulted in no further action by EPA.

### Representative Rulemaking Matters

Represent client in successful request for a judicial stay of a federal Clean Air Act rulemaking in the D.C. Circuit, allowing client to avoid hundreds of millions of dollars in compliance costs pending EPA administrative

reconsideration proceedings.

Represent clients in D.C. Circuit challenges to various Clean Air Act rulemakings, including EPA greenhouse gas endangerment finding, Clean Power Plan and Affordable Clean Energy rulemakings, and organic liquids distribution and gold mining National Emission Standards for Hazardous Air Pollutants.

Represent client in challenge to EPA sulfur dioxide (SO<sub>2</sub>) nonattainment area designation in the D.C. Circuit.

Provide strategic counsel on EPA Risk and Technology Review for National Emission Standard for Hazardous Air Pollutants, including use of new federal policy and rulemaking allowing facilities to take area source status.

Develop comments on the Clean Power Plan, the Particulate Matter and Ozone NAAQS and related implementation rules, secondary NAAQS for SO<sub>2</sub> and oxides of nitrogen (NO<sub>x</sub>), Utility MACT standards, gold mining MACT standards, implementation of permitting for GHGs, and regional haze State Implementation Plan disapprovals.

### **Representative Compliance Matters**

Counsel oil services company in strategy associated with Clean Air Act section 112(r) Risk Management Plan compliance.

Counsel refinery in assessing enforcement risk associated with state standards and applicable National Emission Standards for Hazardous Air Pollutants.

Advise clients in use of EPA Audit Policy and Utah and Wyoming disclosure statutes.

Counsel clients on compliance with gold mining MACT, Boiler MACT, Reciprocating Internal Combustion Engine MACT, and Utility MACT standards.

Counsel oil and gas and mining clients on air issues associated with National Environmental Policy Act reviews.

Represent client in development of advocacy and compliance strategies associated with State Implementation Plan development in PM<sub>2.5</sub> and ozone nonattainment areas.

Advise mining clients on Toxic Release Inventory compliance.

### **PUBLICATIONS**

"[ESG Reporting: Why You Need To Care](#)," *Utah Business*, Co-Author, 10/21/2021

"[Policy Review Heats Up Under New EPA Administrator Regan](#) ," *Holland & Hart News Update*, Co-Author, 03/29/2021

"Assessing Climate Costs in Policy Decisions," *Holland & Hart News Update*, Co-Author, 03/22/2021

"EPA Under Biden Signals Continuing Importance of Self-Disclosure," *Holland & Hart News Update*, Co-Author, 02/23/2021

"Keep Calm and Carry On - Self-Audits Under UDEQ's Agreement with EPA," *Holland & Hart News Update*, Co-Author, 08/31/2020

"EPA Proposes to Retain Particulate Matter Standards of Importance to Industries in Arid West," Co-Author, 4/17/2020

"EPA Issues Temporary Policy for Violations Caused By COVID-19," *Holland & Hart News Update*, Co-Author, 03/27/2020

"Air Quality Control," *Environmental Regulation*, excerpted from the *Second Edition of the American Law of Mining, Chapter 168*, Co-Author, 2018-2020

"The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund)," *Environmental Regulation*, excerpted from the *Second Edition of the American Law of Mining, Chapter 171*, Co-Author, 2018-present

"Proposed Utah Designation Recommendations for NAAQS," *Holland & Hart News Update*, Co-Author, 01/11/2018

"Trumping Obama-Era Environmental Policy—What's Next?," *Holland & Hart News Update*, Co-Author, March 30, 2017

"EPA Proposes to Require Natural Gas Processing Facilities to Comply with Annual Toxic Release Inventory Reporting Requirements," *Holland & Hart News Update*, Co-Author, 01/12/2017

"Wyoming Environmental Compliance and Public Land News," Co-Author, December 2016

## **SPEAKING ENGAGEMENTS**

"The Interplay Between EPA, OSHA, and State Enforcement," *Rocky Mountain Mineral Law Foundation Special Institute*, December 2018

"The Potential to Trump Obama's Environmental Agenda: A Preview of the First 100 Days of the Trump Administration and the 115th Congress," Salt Lake City, UT, January 2017

## **RECOGNITION**

- *The Best Lawyers in America*© Environmental Law, 2018-2022
- *Utah Business Magazine*, Utah Legal Elite, Environmental, 2015-2021
- *Chambers USA: America's Leading Lawyers for Business*, Environment, Natural Resources & Regulatory Industries, 2017-2020; Up and Coming, 2017-2018; Natural Resources &

Environment, 2021

**PROFESSIONAL AND CIVIC AFFILIATIONS**

- Utah Manufacturers' Association, Air Quality Subcommittee of Environment Committee, Co-chair
- Utah Clean Air (UCAIR) Partnership  
Chair, 2021-present  
Board Member, 2019-present