



Emily Schilling

Partner

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

PRACTICES

Environmental
Climate Change
Environmental Health and Safety
Environmental Transactions

INDUSTRIES

Energy and Resources
Mining
Oil and Gas
Conventional Power
Oil and Gas Litigation
Oil and Gas Regulatory
Renewable Energy and Storage

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

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 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 (SO₂) 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 SO₂ and oxides of nitrogen (NO_x), 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_{2.5} and ozone nonattainment areas.

Advise mining clients on Toxic Release Inventory compliance.

PUBLICATIONS

"EPA Formalizes Robust Civil and Criminal Enforcement Program Coordination," *Environmental Law Update*, April 30, 2024

"EPA Imposes Stringent Greenhouse Gas Rule for Fossil Fuel-Fired Power Plants," *Air Quality Update*, April 25, 2024

"EPA Tightens the Annual PM_{2.5} Standard, Creating Compliance Challenges Across the West," *Air Quality Update*, February 9, 2024

"New Mexico Announces New Crack Down on O&G Operations," *Oil and Gas Legal Update*, October 26, 2023

"EPA Doubles Down on Enforcement to Address Climate Change," *Holland & Hart Environmental Update*, October 19, 2023

"Tenth Circuit Ruling on Temporary Emissions in Colorado Will Have Widespread Impacts on Air Permitting in Western States," *Holland & Hart Legal Update*, September 22, 2023

"GHG Standards for the Power Sector: Is Third Time the Charm or Is It Déjà Vu?," *Holland & Hart Legal Update*, May 15, 2023

"Impacts on the Western US from EPA Proposed Strengthening of Annual PM_{2.5} NAAQS," *Holland & Hart Client Alert*, 01/11/2023

"EPA Super Sizes Proposal to Crack Down on Methane from Oil and Gas Sector," *Holland & Hart Client Alert*, 12/07/2022

"EPA Applies More Rigorous Emission Controls on Uintah and Ouray Indian Reservation Lands," 11/29/2022

"EPA Proposes Reversal on Fugitives in Major Source Permitting," 11/10/2022

"The Future of Federal Agency Rulemakings After *West Virginia v. Environmental Protection Agency*," *Holland & Hart News Update*, 07/15/2022

"Buckle Up for the SEC's Mandatory Climate Change Reporting Ride," *Holland & Hart News Update*, March 25, 2022

"Legal Storm Clouds Gather As New Climate Change Policies Are Released," *Holland & Hart News Update*, 12/01/2021

"Bipartisan Infrastructure Bill Invests Billions in CCUS," *Holland & Hart News Update*, 11/19/2021

"ESG Reporting: Why You Need To Care," *Utah Business*, 10/21/2021

"Policy Review Heats Up Under New EPA Administrator Regan ," *Holland & Hart News Update*, 03/29/2021

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

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

"Keep Calm and Carry On - Self-Audits Under UDEQ's Agreement with

EPA," *Holland & Hart News Update*, 08/31/2020

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

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

SPEAKING ENGAGEMENTS

"Responding to EPA Information Request Letters: Mitigating Further Agency Scrutiny," *Strafford CLE Webinar, Panelist*, May 23, 2023

RECOGNITION

- *The Best Lawyers in America*® Environmental Law, 2018-2024
- *Utah Business Magazine*, Utah Legal Elite, Environmental, 2015-2021
- *Chambers USA*, Environment, Natural Resources & Regulatory Industries, 2017-2020; Up and Coming, 2017-2018; Natural Resources & Environment, 2021-2023

PROFESSIONAL AND CIVIC AFFILIATIONS

- Utah Manufacturers' Association, Air Quality Subcommittee of Environment Committee, Co-chair
- Utah Clean Air (UCAIR) Partnership
 - Chair, 2021-2022
 - Board Member, 2019-present