
Climate Change Milestones: The Copenhagen Accord, the EPA's Endangerment Finding and More

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On December 19, heads of state and negotiators from 193 countries at the UN Conference in Copenhagen formally acknowledged the Copenhagen Accord, a US-led agreement for combating global warming. The accord, a three-page framework that is not legally binding, recognizes the need to take steps to hold the increase in global temperatures to less than 2 degrees Celsius. It sets out basic agreements on key elements of the global climate change framework; it does not, however, contain country-specific commitments for reducing greenhouse gas emissions in either the short or the long term. Negotiations towards a more detailed, legally-binding agreement and pressure towards a more ambitious outcome will continue throughout 2010.

Twelve days prior to the accord, the US Environmental Protection Agency (EPA) issued a decision finding that greenhouse gases emitted from motor vehicles cause or contribute to an "endangerment" under the Clean Air Act. The endangerment finding is the most recent, and perhaps most significant, domestic development to date involving climate change.

During the past three months, the US Senate has reported comprehensive climate change legislation out of the Environment and Public Works Committee; the EPA has issued final regulations establishing a first-of-its-kind federal reporting requirement for greenhouse gases (GHGs); and the EPA has issued several regulatory proposals that would apply to GHG emissions from both mobile and stationary sources.

In addition, there have been two significant decisions from the US Courts of Appeals and one from a US District Court in cases involving public or private nuisance claims arising from the impacts of climate change. Finally, the myriad of issues vigorously debated in the international climate change negotiations that led to the Copenhagen Accord serve to confirm that efforts to identify and proactively address climate change developments must be widely cast and cannot be focused on just the US Congress or the EPA.

"It is increasingly difficult for companies to track developments that are occurring daily with regard to climate change," says WilmerHale Regulatory Partner [Ken Meade](#). "Each week brings new

legislative concepts, as well as regulatory proposals and court decisions. Rarely have all three branches of the federal government acted on an issue as important as climate change in such a concentrated timeframe. Add to that the Copenhagen Accord and further international negotiations, and it is apparent that the climate change regulatory landscape is undergoing radical transformation.”

See the full text of three recent WilmerHale Email Alerts on this subject:

- [The Copenhagen Climate Change Agreement: Failure or Success? Next Steps and Key Considerations for Business](#)
- December 21, 2009
- [The Next Step--EPA Makes Greenhouse Gas Endangerment Finding](#)
- December 7, 2009
- [The Perfect Storm: Congress, EPA and the Courts Tackle Climate Change](#)
- October 26, 2009

Lawyers in WilmerHale’s Environmental Practice help clients navigate the challenges and opportunities presented by climate change, including advice that addresses the inter-related legal, economic, public policy, political and media dimensions of those issues. WilmerHale’s Climate Change and Carbon Markets Practice teams give clients a single venue offering up-to-date environmental, corporate, government contracting, energy and clean technology, intellectual property, international trade and government litigation experience. For more information, see WilmerHale’s [Climate Change and Carbon Markets Practice](#) page.