



### ***This Week in Review – May 3-7, 2004***

**(1) Supreme Court Refuses to Hear TVA Case on NSR (May 3, 2004)** – The Supreme Court let stand the decision of the U.S. Court of Appeals for the Eleventh Circuit in *Leavitt v. TVA*, leaving intact the Eleventh Circuit's ruling that EPA's administrative compliance orders violate the due process clause of the Constitution. The TVA case, filed in 1999 as part of EPA's NSR initiative, alleged that numerous, extensive modifications made by the Tennessee Valley Authority were mischaracterized as "routine maintenance," and should have triggered requirements for PSD permitting and installation of BACT. The Supreme Court's rejection of the case leaves EPA unable to issue administrative compliance orders in Alabama, Georgia and Florida – the states within the jurisdiction of the Eleventh Circuit. EPA must now decide whether to file against TVA in District Court, a course of action recommended last June in the Eleventh Circuit's decision. [For further information: *Leavitt v. TVA*, U.S. No. 03-1162]

**(2) EPA Releases 2003 Ozone Statistics (May 4, 2004)** – EPA released *The Ozone Report: Measuring Progress through 2003*, which shows that in 2003 nationwide ozone levels were the lowest since 1980. EPA concludes in the report that improvements in last year's air quality are largely attributable to favorable weather conditions and continued reductions in emission of NO<sub>x</sub> and VOCs. The agency further notes that the overall downward trend in ozone levels is slowing and that, despite improvements in air quality, in 2003 more than 100 million people in 209 counties still lived in communities with poor air quality for ozone based on EPA's 8-hour ozone standard. Many of the areas with unhealthful air quality are highly populated areas of the Northeast, Mid-Atlantic, Midwest and California. EPA states in the report that although improvements in air quality have been made, ozone continues to be a pervasive air pollution problem, and existing control measures are not expected to achieve attainment in every area of the country even as late as 2015. [For further information: [www.epa.gov/airtrends](http://www.epa.gov/airtrends)]

**(3) EPA Announces Availability of Grants for Voluntary Diesel Retrofit Program (May 4, 2004)** – EPA is soliciting grant applications for its Voluntary Diesel Retrofit Program to assist applicants in implementing projects that demonstrate innovative uses of EPA-verified pollution control equipment in reducing emissions from diesel fleets onroad and off. The agency is especially encouraging applications from programs that target sensitive populations, including children, the elderly and the

chronically ill. Grant applications will be accepted from state, local, multi-state and tribal agencies, as well as non-profit organizations. EPA estimates that the total funding level for this grant program will be up to \$1,500,000 and anticipates awarding 10 to 15 cooperative agreements, each ranging from \$100,000 to \$150,000. Applicants must submit an intent to apply to EPA by May 28, 2004; the deadline for submitting complete applications is July 2, 2004. [For further information: Air Web – In the News and Mobile Sources and Fuels Committee pages]

**(4) House Subcommittee Advances DOD Authorization Bill without Environmental Exemptions (May 6, 2004)** – The House Armed Services Readiness Subcommittee passed, by unanimous consent, a defense authorization bill for FY 2005 that does not include amendments to the Clean Air Act and other environmental laws to exempt military readiness activities from environmental requirements; such amendments are being pursued by the Department of Defense. The amendments were excluded from the defense authorization bill because the House Energy and Commerce Committee, which shares jurisdiction over military environmental issues with the Armed Services Committee, has indicated that it will not take them up this year. STAPPA and ALAPCO have actively opposed amendments to the Clean Air Act to exempt military readiness activities (see April 19-23, 2004 *Washington Update*).

**(5) Connecticut Legislature Passes Bill Establishing GHG Reduction Goals (May 5, 2004)** – The Connecticut legislature approved a bill setting greenhouse gas (GHG) reduction goals for the state in line with regional reduction goals, and requiring facilities in the state to report their GHG emissions. By April 15, 2006, and annually thereafter, owners or operators of any facility with stationary emission sources emitting GHGs and required by Title V of the Clean Air Act to report air emissions data, must report direct stack GHG emissions to a regional GHG registry. (Connecticut is working with other northeastern states to establish a regional GHG registry.) The bill sets a goal of reducing GHG emissions to help achieve the regional GHG reduction goals of reducing emissions to 1990 levels by January 1, 2010 and 10 percent below 1990 levels by January 1, 2020. The state must develop, by January 1, 2005, a multi-sector, comprehensive climate change action plan that includes policies and programs needed to reach the state's 2010 and 2020 emission goals. [For further information: [www.cga.state.ct.us](http://www.cga.state.ct.us) (search for Senate Bill 595)]

**(6) Massachusetts Unveils Climate Protection Plan (May 6, 2004)** – Massachusetts Governor Mitt Romney released the Massachusetts Climate Protection Plan, which outlines steps for reducing the state's GHG emissions in order to meet regional GHG reduction targets of reducing GHG emissions to 1990 levels by 2010 and 10 percent below 1990 levels by 2020. The plan contains action steps for state agencies, businesses and communities and includes actions designed to promote renewable energy, increased building and vehicle efficiency, GHG accounting and carbon sequestration by trees. For example, the state is already working with other northeastern states to create a regional GHG registry; if emissions and reductions are reported in a consistent format, it will help ensure that sources in Massachusetts receive all appropriate consideration for verified emissions reductions

under any existing or future GHG regulatory regime. Massachusetts state agencies will strive to reduce GHG emissions by 25 percent by 2012, by, for example, purchasing vehicles that meet the ultra low-emitting vehicle standards and ensuring that all office equipment and supplies purchased meet EnergyStar™ standards. Massachusetts will also adopt GHG emission standards for all new light-duty vehicles; to implement this, the state will begin taking the steps necessary to facilitate adoption of California's GHG emissions standards for vehicles (which are expected to be finalized in 2008). [For further information: Air Web – Global Warming Committee page]

**(7) Rhode Island to Adopt California LEV Standards (May 5, 2004)** – Rhode Island Governor Donald L. Carcieri announced that he has instructed the state's Department of Environmental Management to promulgate rules implementing California's low-emission vehicle (LEV) program for new passenger cars and light-duty trucks. The program is expected to reduce hydrocarbon emissions in Rhode Island by 16 percent, toxic air emissions by 25 percent and greenhouse gas emissions by 2 percent by 2020. Governor Carcieri has indicated he will invite representatives of the auto industry, auto dealers, environmental groups and other stakeholders to take part in a panel to develop a framework for providing manufacturers with flexibility to meet the LEV program's 10-percent zero-emissions-vehicle mandate. [For further information: [www.gov.state.ri.us/pr\\_publist.php](http://www.gov.state.ri.us/pr_publist.php)]

**(8) U.S. Releases Inventory of GHG Emissions Trends for 1990-2002 (May 3, 2004)** – U.S. GHG emissions increased 13 percent between 1990 and 2002, according to a report prepared by EPA for submission to the United Nations. Under the U.N. Framework Convention on Climate Change, countries agreed to stabilize their GHG emissions in 2000 at 1990 levels – a target the U.S. missed. The largest portion of this emissions growth was CO<sub>2</sub> emissions from fossil fuel combustion, which increased 17 percent over the same time period. In 2002, electricity generation produced approximately 40 percent of U.S. CO<sub>2</sub> emissions from fossil fuel combustion. Net CO<sub>2</sub> sequestration from land use change and forestry decreased 28 percent between 1990 and 2002, largely from a decline in the amount of carbon sequestered in forest soil, because of a decrease in forested areas. Emissions of synthetic gases – hydrofluorocarbons (HFCs), perfluorocarbons and sulfur hexafluoride – increased 52 percent. Emissions of these synthetic gases, while in small quantities compared to CO<sub>2</sub>, have a much larger comparative impact because of their high global warming potential (for example, one kilogram of HFC-23 warms the atmosphere as much as 11,700 kilograms of CO<sub>2</sub>). [For further information: Air Web – Global Warming Committee page]

**(9) Proposed Regional Haze BART Guidelines Published in *Federal Register* (May 5, 2004)** – EPA's proposed guidelines for Best Available Retrofit Technology determinations were published in the *Federal Register*, kicking off a public comment period that extends to July 6, 2004. The proposed rule also changes the deadlines for submittal of regional haze SIPs to conform to new deadlines enacted in law (Consolidated Appropriations Act for Fiscal Year 2004, Public Law 108-199, January 23, 2004). Regional haze SIPs are due not later than three years after promulgation

of PM<sub>2.5</sub> designations, which are expected to become effective January 31, 2005 (thus, SIPs will be due January 31, 2008). [For further information: 69 *Federal Register* 25183]

### ***The Week Ahead***

- Energy Smart America 2004: Tools and Solutions for States and Communities, in Minneapolis, Minnesota – May 11-14, 2004
- Senate Environment and Public Works Committee Hearing on Oil and Gasoline Environmental Regulations, in Washington, DC – May 12, 2004
- STAPPA/ALAPCO 2004 Spring Membership Meeting, in Point Clear, Alabama – May 15-19, 2004

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