



February 28, 2025

Karen Wesson, Director  
U.S. Environmental Protection Agency  
OAQPS Air Quality Assessment Division  
Via email: [wesson.karen@epa.gov](mailto:wesson.karen@epa.gov)

Dear Director Wesson:

On December 19, 2024, the U.S. Environmental Protection Agency (EPA) released its “Ozone Resource Document: Due Diligence Framework for Air Agencies Developing RACT SIP Revisions.” The Ozone Transport Commission (OTC) welcomes this as a constructive step in describing EPA’s view of “due diligence.” It is the OTC’s understanding that the EPA will disapprove State Implementation Plans (SIPs) that include Reasonably Available Control Technology (RACT) revisions based on outdated Control Techniques Guidelines (CTGs) and Alternative Control Techniques (ACTs) absent a “due diligence” showing by the submitting agency. It is also the OTC’s understanding that EPA has no plans to update most CTGs and ACTs that could inform RACT SIP revisions. As a result, the OTC is concerned with EPA’s “due diligence” resource document and provides the following comments in response to it.

Clean Air Act (CAA) §108(c) provides that “The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria or information on control techniques issued pursuant to this section” [emphasis added]. Without EPA committing to and performing updates to CTGs and ACTs, its “due diligence” framework shifts the Agency’s statutory responsibilities to state and local air agencies. These agencies have limited resources and capacity to take on this added effort.

The OTC is a multi-state organization created by Congress in the 1990 CAA Amendments and is led by the governors and their designated representatives from 12 states and the District of Columbia. The CAA also designates the EPA Administrator and Regional Administrators of EPA Regions 1, 2, and 3 as non-voting members of the OTC. The OTC’s purpose is to assess interstate ozone transport, evaluate strategies to mitigate interstate ozone pollution, and make recommendations to the EPA Administrator on measures deemed necessary for states to meet their good neighbor ozone SIP obligations.

In keeping with its statutory purpose, the OTC commissioners in 2021 issued a public statement on the need for EPA to expedite updates to its CTGs and ACTs for the improved control of volatile organic compounds (VOC) and nitrogen oxides (NOx), which are precursors of ozone formation. The OTC

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Paul J. Miller  
Executive Director

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statement noted that many CTGs and ACTs have not been updated in over 20 years and do not reflect current, feasible approaches. Updates to these would greatly assist the states in achieving ozone attainment.

To contribute to EPA's updating of CTGs and ACTs, the OTC developed a RACT and Control Measures Tool with a supporting RACT Cost Effectiveness table that it has shared with EPA. It was the OTC's intent to support EPA by providing this information for the Agency to use in updating its CTGs and ACTs. It was not the OTC's intent for the states to shoulder a greater burden for assessing technology developments across a potentially wide range of source types in RACT SIP revisions.

An approach that puts a "due diligence" requirement largely upon the states, as described in the December 2024 "due diligence" resource document, can significantly impair the states' ability to produce approvable ozone SIPs. To illustrate this challenge, by the OTC's count, there are well over 40 CTGs and ACTs for VOC and NO<sub>x</sub> sources that states rely on for RACT SIP revisions. As provided in CAA §108(c), OTC member states look to EPA to provide robust and up-to-date CTGs and ACTs in accordance with its statutory obligations.

We recognize that government agencies, including federal agencies, have limited resources. However, states having to perform RACT SIP revisions according to a potentially broad "due diligence" obligation without the benefit of recently updated CTGs and ACTs is an inequitable "sharing" of the CAA's joint state-federal partnership obligations. Where sources are not covered by a CTG or ACT, we request that EPA apply a consistent RACT SIP approach across the country.

The OTC membership is available to discuss, with appropriate EPA staff, the OTC's concerns with EPA's "due diligence" RACT SIP requirements and EPA's intentions on updating CTGs and ACTs. Such a discussion can be arranged by contacting OTC Executive Director Paul Miller at [pmiller@nescaum.org](mailto:pmiller@nescaum.org) or 617-259-2016.

Sincerely,

Francis C. Steitz  
Chair, OTC Stationary and Area Sources Committee  
Director, Division of Air Quality and Radiation Protection  
New Jersey Department of Environmental Protection

cc: OTC Directors  
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