because it is not economically significant.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 10, 2005.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart GG—New Mexico

■ 2. The second table in § 52.1620(e) entitled ''EPA approved nonregulatory provisions and quasi-regulatory measures in the New Mexico SIP'' is amended by adding a new entry, immediately following the last entry in the table, to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

Name of SIP provision	Applicable geographic or nonattainmentdate area	State submittal/effective date	EPA approval date	Explanation
* *	* *	*	*	*
Clean Air Action Plan and 8-hour ozone standard attainment demonstration for the San Juan County EAC area.	San Juan County	12/16/04	8/17/05 [Insert **Federal Register** page number where document begins].	.....

[FR Doc. 05–16290 Filed 8–16–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–WV–0001; FRL–7954–3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Attainment Demonstration for the Eastern Panhandle Region Ozone Early Action Compact Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the West Virginia State Implementation Plan (SIP). This revision consists of an Early Action Compact (EAC) Plan that will enable the Eastern Panhandle Region Ozone EAC Area to demonstrate attainment and maintenance of the 8-hour ozone national ambient air quality (NAAQS) standard. This action is being taken under the Clean Air Act (CAA or Act).

DATES: This final rule is effective on September 16, 2005.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) ID Number R03–OAR–2005–WV–0001. All documents in the docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Once in the system, select ''quick search,'' then key in the appropriate RME identification number. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 7012

MacCorkle Avenue, SE., Charleston, West Virginia 25304–2943.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 17, 2005 (70 FR 28264), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of the attainment demonstration and the Early Action Plan (EAP) for the West Virginia Eastern Panhandle Region EAC Area, which consists of Berkeley and Jefferson Counties. The formal SIP revision was submitted by the West Virginia Department of Environmental Protection on December 29, 2004. Other specifics of the State's SIP revision for the Eastern Panhandle Region Ozone EAC Area, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. On June 16, 2005, EPA received adverse comments on its May 17, 2005, NPR. A summary of the comments submitted and EPA's responses are provided in Section II of this document.

II. Summary of Public Comments and EPA Responses

Comment: One commenter opposes the approval of the SIP revision for the Eastern Panhandle Region Ozone EAC Area because the Area is in violation of the 8-hour ozone standard. The commenter also states that the SIP revision provides for the deferment of a nonattainment designation until a future date, potentially as late as December 31, 2007, and relieves the Area of obligations under Title I, subpart D of the CAA. Although the commenter is supportive of the goal of addressing proactively the public health concerns associated with ozone pollution, the commenter believes that EPA does not have legal authority to defer effective dates of designations or to allow areas to be relieved of obligations under Title I, part D of the CAA while they are violating the 8-hour ozone standard or are designated nonattainment of that standard.

Response: EPA first announced the EAC process in a June 19, 2002 letter from Gregg Cooke, Administrator, EPA Region VI to Robert Huston, Texas Commission on Environmental Quality, followed by a November 14, 2002 memorandum from Jeffrey R. Holmstead, Assistant Administrator, EPA's Office of Air and Radiation to the EPA Regional Administrators, entitled, ''Schedule for 8-Hour Ozone Designations and its Effect on Early Action Compacts.'' EPA formalized the EAC process in the designation rulemaking on April 30, 2004 (69 FR 23858). In the designation rule, EPA designated 14 EAC areas as nonattainment, but deferred the effective date of the designation until September 30, 2005. The EAC program gives local areas the flexibility to develop their own approach to meeting the 8-hour ozone standard, provided the participating communities are serious in their commitment to control emissions from local sources earlier than the CAA would otherwise require. By involving diverse stakeholders, including representatives from industry, local and State governments, and local environmental citizens' groups, a number of communities are discussing for the first time the need for regional cooperation in solving air quality problems that affect the health and welfare of its citizens. People living in these areas that realize reductions in pollution levels sooner will enjoy the health benefits of cleaner air sooner than might otherwise occur. EPA believes this proactive approach involving multiple, diverse stakeholders is beneficial to the citizens of the area by raising awareness of the need to adopt and implement measures that will reduce emissions and improve air quality.

EPA disagrees with the comments that this action on this SIP revision for the Eastern Panhandle Region Ozone EAC Area defers the nonattainment designation for this Area. In our May 17, 2005, NPR (70 FR 28264), EPA proposed approval of an attainment demonstration and EAP SIP revision for the Eastern Panhandle Region Ozone EAC Area. This SIP revision includes an attainment demonstration which demonstrates attainment of the 8-hour ozone NAAQS in the Eastern Panhandle Region Ozone EAC Area by December 31, 2007, and also demonstrates maintenance of the 8-hour NAAQS for five years following the attainment date. As noted in the proposed action, approval of the attainment demonstration and EAP constitutes one of several milestones that an area must meet in order to participate in the EAC process. While approval of this plan is a prerequisite for an extension of the deferred effective date of the designation of this Area, *see* 40 CFR 81.300(e)(3), neither the proposed approval of this SIP revision nor this final action approving the SIP purports to extend the deferral of the effective date of the nonattainment designation for this Area. In a separate rulemaking (69 FR 23858, April 30, 2004), EPA deferred the effective date of the air quality designations of all 14 EAC areas to September 30, 2005. In the April 30, 2004, final rule, EPA responded to comments received during the comment period for this final rule. In a separate proposed rule (70 FR 33409, June 8, 2005), EPA proposed to extend the deferral of the effective date of the air quality designations for these 14 EAC areas. EPA will consider comments regarding its legal authority in the final rule associated with the June 8, 2005, proposed rule.

Regardless of whether EPA's separate actions deferring the effective date of the nonattainment designation for this Area are appropriate, EPA sees no basis to disapprove the attainment and maintenance plan. The provisions of the statute generally provide that areas must demonstrate attainment and maintenance of the NAAQS. *See, e.g.*, CAA section 110(a)(1) (requiring areas to submit plans providing for ''implementation, maintenance, and enforcement'' of each NAAQS) and CAA section 172(c)(1) (requiring nonattainment areas to submit plans demonstrating attainment of the NAAQS). The commenter has provided no substantive reason why this plan does not demonstrate attainment and maintenance of the 8-hour standard. Therefore, this action approving the attainment demonstration and maintenance plan is appropriate.

III. Final Action

EPA is approving the attainment demonstration and the EAP for the West Virginia Eastern Panhandle Region Ozone EAC Area. The modeling of the ozone and ozone precursor emissions from sources affecting the Eastern Panhandle Region EAC Area demonstrates that the specified control strategies will provide for attainment of the 8-hour ozone NAAQS by December 31, 2007, and maintenance of that standard through 2012.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional

requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, approving the attainment demonstration and the EAP for the Eastern Panhandle Region Ozone EAC Area, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 9, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is revised by adding the entry for the Attainment Demonstration and Early Action Plan for the Eastern Panhandle Region Ozone Early Action Compact Area at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NONREGULATORY AND QUASI-REGULATORY MATERIAL

Name of nonregulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *	*	*	*
Attainment Demonstration and Early Action Plan for the Eastern Panhandle Region Ozone Early Action Compact Area.	Berkeley and Jefferson Counties	12/29/04	8/17/05 [Insert **Federal Register** page number where the document begins].	

[FR Doc. 05–16292 Filed 8–16–05; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket Nos. 96–98, 96–115, 99–273; FCC 05–93]

Requirements for Nondiscriminatory Access to Directory Assistance

AGENCY: Federal Communications Commission.

ACTION: Clarification.

SUMMARY: This document denies BellSouth Corporation (BellSouth) and SBC Communications Inc.'s (SBC) joint request that the Federal Communications Commission (Commission) reconsider the Commission's conclusion that local exchange carriers (LECs) may not impose specific contractual restrictions on competing directory assistance (DA) providers' use of DA data obtained pursuant to section 251(b)(3) of the Communications Act of 1934, as amended. The Order on Reconsideration (Order) clarifies that competing DA providers may not, however, use data obtained pursuant to this section for purposes not permitted by the Act, the Commission's rules, or state regulations. The Order also denies petitioners' joint request that the Commission reconsider its conclusion that LECs are required to provide nondiscriminatory access to local DA data acquired from third parties. Finally, the Order denies SBC's petition for reconsideration of the Commission's determination that competing providers are entitled to nondiscriminatory access to operator services (OS), DA and features adjunct to these services.

DATES: Effective September 16, 2005.

FOR FURTHER INFORMATION CONTACT: Rodney McDonald, Attorney, Competition Policy Division, Wireline Competition Bureau, (202) 418–7513, or William Dever, Deputy Chief, Competition Policy Division, Wireline Competition Bureau, (202) 418–1578.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration (Order) in CC Docket Nos. 96–98, 96–115, 99–273, FCC 05–93, adopted April 29, 2005, and released May 3, 2005. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Synopsis of the Order on Reconsideration (Order)

Background

1. Section 251(b)(3) of the Act imposes on LECs the ''duty to permit all [competing] providers [of telephone exchange service and telephone toll service] to have nondiscriminatory access to * * * directory assistance.'' In the *Local Competition Second Report and Order* (61 FR 47284–01, September 6, 1996), the Commission concluded that section 251(b)(3) requires LECs to provide such competing providers with access to DA equal to that which the LECs provide to themselves, and that LECs treat all such competitors equally.

2. The Commission affirmed this conclusion in the subsequent *SLI/DA Order on Reconsideration and Notice* (64 FR 51910–01, September 27, 1999) and determined that nondiscriminatory access under section 251(b)(3) of the Act requires that all LECs provide competing providers of telephone exchange service and toll service with nondiscriminatory access to the LECs' directory assistance databases. The Commission further acknowledged that ''requesting carriers would not have nondiscriminatory access to operator services and directory assistance under section 251(b)(3) unless those carriers have access to adjunct features such as rating tables and customer information databases.'' SBC filed a petition for clarification or reconsideration of some of the Commission's conclusions in the *SLI/DA Order on Reconsideration and Notice* (64 FR 51910–01, September 27, 1999).

3. In the *SLI/DA First Report and Order* (66 FR 10965–02, February 21, 2001), the Commission explained that section 251(b)(3) provides competing DA providers with the same rights and obligations regarding DA data as it does to the providing LECs and concluded that ''section 251(b)(3)'s requirement of nondiscriminatory access to a LEC's DA database thus does not contemplate continuing veto power by the providing LEC over the uses to which DA information is put.'' SBC and BellSouth filed a joint petition for reconsideration and/or clarification of certain conclusions made by the Commission in the *SLI/DA First Report and Order* (66 FR 10965–02, February 21, 2001).

Discussion

4. In this Order, we address a joint petition for reconsideration filed by SBC and BellSouth, and a separate petition for reconsideration filed by SBC. We further clarify conclusions made in the *SLI/DA First Report and Order* (66 FR 10965–02, February 21, 2001) and *SLI/DA Order on Reconsideration and Notice* (64 FR 51910–01, September 27, 1999). SBC/BellSouth request that the Commission reconsider its decision and restrict the purposes for which competing DA providers may use DA information, or alternatively establish that LECs may contractually impose their own restrictions. In particular, SBC/BellSouth argue that restrictions should include limits on resale and a prohibition on use for purposes other than DA and DA-like services, such as sales solicitation and telemarketing.

5. *Contractual Restrictions on the Use of DA Information.* We deny SBC/BellSouth's petition for reconsideration of our determination regarding the scope of competing DA providers' access to DA databases. As we have previously noted, ''[s]ection 251(b)(3) does not, by its terms, limit the use of directory assistance data solely to the provision of directory assistance.'' As we have previously concluded, ''nondiscriminatory access'' under section 251(b)(3) means that providing LECs must offer access equal to that which they provide themselves. We recognize that further restrictions on resale and other such use also might substantially increase the costs of providing competitive DA services, thereby reducing the benefits to consumers of competitive DA providers in the market.

6. We also agree with commenters that argue that the Commission should not provide LECs with the authority to impose their own restrictions on the purposes for which competing DA providers may use DA information. We find that the imposition of such contractual restrictions by the providing LEC is inconsistent with the nondiscriminatory access requirements of section 251(b)(3).

7. We clarify, however, that no language in the *SLI/DA First Report and Order* (66 FR 10965–02, February 21, 2001) was ever intended to grant competing DA providers greater latitude in their use of DA data than that permitted to providing LECs, or to permit competing DA providers to use that data in a manner inconsistent with Federal or state law or regulation. We again note that all qualified DA