monitoring when replacing an existing monitor with one using a different ambient air monitoring technique. The intent of the latter requirement is to provide a bridge between the two types of ambient air monitoring data (point and path-averaged values).

The EPA recognizes that these appendix D requirements can be more effectively and efficiently used to improve an ambient air monitoring network if consideration for the particular monitoring site, objective, and related conditions is included in the network analysis. As a result, these requirements are presented in general terms, with waiver provisions provided as appropriate.

## E. Appendix E—Probe and Path Siting Criteria for Ambient Air Quality Monitoring

This action amends appendix E by adding new siting criteria applicable to open path analyzers for monitoring of  $\hat{SO}_2$ ,  $\hat{O}_3$ ,  $\hat{NO}_2$ ,  $\hat{CO}$ , and  $O_3$  precursors (defined in the PAMS program as volatile organic compounds, oxides of nitrogen, and selected carbonyls). Because of the substantial similarity in the siting criteria for SO<sub>2</sub>, O<sub>3</sub>, and NO<sub>2</sub> (both the existing criteria for point monitors and proposed new criteria for open path analyzers), the siting requirements for these three pollutants are combined, consolidated, and set forth in section 2 of appendix E. As a result, the existing criteria for SO<sub>2</sub>, O<sub>3</sub>, and NO<sub>2</sub> in sections 3, 5, and 6 are deleted, and those sections are reserved. As noted below, the criteria for CO monitoring are somewhat different, so they are retained in a separate section 4. Siting criteria for measuring O<sub>3</sub> and its precursors as part of a PAMS network are included in section 10. In all cases, the new open path provisions have been incorporated into the existing provisions, as appropriate.

The new open path siting requirements largely parallel the existing requirements for point analyzers, with the revised provisions applicable to either a "probe" (for point analyzers), a "monitoring path" (for open path analyzers), or both, as appropriate. Accordingly, criteria for the monitoring path of an open path analyzer are described for horizontal and vertical placement, spacing from minor sources, spacing from obstructions, spacing from trees, and spacing from roadways. The open path requirements apply to most of the monitoring path—generally 80 or 90 percent—but not to the entire monitoring path, to allow some needed flexibility in siting open path analyzers. For example, using the proposed 80

percent requirement, a monitoring path may be sited across uneven terrain, where up to 20 percent of the monitoring path may not fall within the proposed 3- to-15 meter specification for height above ground.

Two comments were received on the optical obstructions, or physical interferences (e.g., rain, snow, fog) criteria discussed in sections 2.3, 4.2, and 10.2 of the proposed rule. The specific open path analyzer currently under consideration for designation as an equivalent method calculates the level of uncertainty for each data value obtained based on several factors including diminished light levels due to optical obstructions. These uncertainty levels may be used to invalidate data that are outside of established error acceptance levels. Invalidating these data will have an effect on the data capture percentages, and potentially, on the database's ability to properly characterize air quality for a given region. Because of this possibility, recommendations for conducting analyses of obscuration potential and its resulting effect on the representativeness of the data record have been included in sections 2.3, 4.2, and 10.2 of appendix E.

In addition to the criteria common to both point and open path analyzers mentioned above, two new provisions, applicable only to open path analyzers. are included which limit the maximum length of the monitoring path and the cumulative interferences on the path. The maximum monitoring path length limit helps to ensure that open path monitoring data represent the air volume that they are intended to measure according to the monitoring objectives of the spatial scale identified for the site. Similarly, the limit for the cumulative interferences on the monitoring path controls the total amount of interference from minor sources, roadways, obstructions, and other factors that might unduly influence the monitoring data collected by an open path analyzer. This limit is necessary because a long monitoring path presents a much greater opportunity to be affected by multiple

interferences. In the consolidation of current sections 3, 5, and 6 to section 2, Tables 2 and 3, which list the minimum separation distances between  $O_3$  and  $NO_2$  stations and nearby roadways, are combined and redesignated as Table 1. As a result, Table 1 (in section 3), Table 4 (in section 7), Table 5 (in section 10), and Table 6 (in section 12) are renumbered as Tables 2, 3, 4, and 5, respectively. Finally, the summary of all the general siting requirements in

renumbered Table 5 is modified to include the new criteria for monitoring paths.

IV. Administrative Requirements

A. Administrative Designation

## 1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

## 2. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875, we have involved State and local governments in the development of this rule. To accomplish this effort, we have presented information on the new open path analyzer technology at various national and international technical symposiums, such as the Air and Waste Management Association specialty conferences, which were attended by several State and local agencies. We have presented information and solicited comment from State and local ambient air monitoring agencies on the use of this new technology and the contents of this rule through forums such as the Standing Air Monitoring Work Group. This work group, which consists of various State and local agency and EPA representatives, is designed to provide a strategic vision and direction for the ambient air monitoring programs within the nation.