

design concept and scope has not changed significantly; or

\* \* \* \* \*

(c) Notwithstanding paragraphs (a) and (b) of this section, in nonattainment and maintenance areas subject to § 93.109(j) or (k) for a given pollutant/precursor and NAAQS, no recipient of Federal funds designated under title 23 U.S.C. or the Federal Transit Laws shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one of the following are met for that pollutant/precursor and NAAQS:

(1) The project was included in the most recent conformity determination for the transportation plan and TIP and the project's design concept and scope has not changed significantly; or

(2) The project was included in the most recent conformity determination that reflects the portion of the statewide transportation plan and TIP which are in the nonattainment or maintenance area, and the project's design concept and scope has not changed significantly.

11. Section 93.122 is amended by:

a. Redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e) and (g), respectively;

b. Adding new paragraphs (c) and (f); and

c. In newly redesignated paragraph (g)(1), revising the reference to "93.119

("Emission reductions in areas without motor vehicle emissions budgets")" to read "93.119 ("Interim emissions in areas without motor vehicle emissions budgets")".

The revisions and additions read as follows:

**§ 93.122 Procedures for determining regional transportation-related emissions.**

\* \* \* \* \*

(c) *Two-year grace period for regional emissions analysis requirements in certain ozone and CO areas.* The requirements of paragraph (b) of this section shall not apply for two years from the following:

(i) The effective date of EPA's reclassification of a moderate ozone or CO area that has an urbanized area population greater than 200,000 to serious or severe (ozone only); or,

(ii) The official notice by the Census Bureau that determines the urbanized area population of a serious or above ozone or CO area to be greater than 200,000.

\* \* \* \* \*

(f) *PM<sub>2.5</sub> from construction-related fugitive dust.* (1) For PM<sub>2.5</sub> areas in which the implementation plan does not identify construction-related fugitive PM<sub>2.5</sub> as a significant contributor to the nonattainment problem, the fugitive PM<sub>2.5</sub> emissions associated with highway and transit

project construction are not required to be considered in the regional emissions analysis.

(2) In PM<sub>2.5</sub> nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM<sub>2.5</sub> as a significant contributor to the nonattainment problem, the regional PM<sub>2.5</sub> emissions analysis shall consider construction-related fugitive PM<sub>2.5</sub> and shall account for the level of construction activity, the fugitive PM<sub>2.5</sub> control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

\* \* \* \* \*

**§ 93.125 [Amended]**

12. In § 93.125, paragraph (a) is amended by revising the reference "93.119 ("Emissions reductions in areas without motor vehicle emissions budgets")" to read "93.119 ("Interim emissions in areas without motor vehicle emissions budgets")", and paragraph (d) is amended by revising the phrase "emission reduction requirements of § 93.119" to read "interim emissions requirements of § 93.119".

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