

Attachment 1: Actions Pertinent to the BLM that are Exempt from a Conformity Determination

For a full list of exemptions, refer to 40 CFR 93.153(c)

1. Actions where the total of direct and indirect emissions is below the *de minimis* emissions levels (see Attachment 3).
2. Actions that would result in no emissions increase or an increase in emissions that is clearly *de minimis*, such as:
 - i. Judicial and legislative proceedings.
 - ii. Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.
 - iii. Rulemaking and policy development and issuance.
 - iv. Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.
 - v. Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel.
 - vi. Administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties, and fees.
 - vii. The routine, recurring transportation of material and personnel.
 - viii. Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.
 - ix. Actions, such as the following, with respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally owned existing structures, properties, facilities, and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership or conservatorship authority, and assistance in purchasing structures.
 - x. The granting of leases; licenses, such as for exports and trade; permits; and easements where activities conducted will be similar in scope and operation to activities currently being conducted.
 - xi. Planning, studies, and provision of technical assistance.
 - xii. Routine operation of facilities, mobile assets, and equipment.
 - xiii. Transfers of ownership, interests, and titles in land, facilities, and real

and personal properties, regardless of the form or method of the transfer.

- xiv. Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the Federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.
 - xv. Transfers of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity and assignments of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity for subsequent deeding to eligible applicants.
3. Actions where emissions are not reasonably foreseeable.¹
 4. Actions that implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.
 5. The portion of an action that includes major or minor new or modified stationary sources that require a permit under the new source review (NSR) program (Section 110(a)(2)(c) and Section 173 of the Clean Air Act) or the prevention of significant deterioration program (Title I, part C of the Clean Air Act).
 6. Actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of paragraph (e) of this section.
 7. Actions that are part of a continuing response to an emergency or disaster under number 6 above and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster if additional regulatory requirements specified in 40 C.F.R. § 93.153(e) are met.
 8. Research, investigations, studies, demonstrations, or training (other than those exempted under paragraph (c)(2) of this section), where no environmental detriment is incurred and/or, the particular action furthers air quality research, as determined by the State agency primarily responsible for the applicable SIP.
 9. “Presumed to Conform” language from 40 C.F.R. § 93.153 (h)(4) Applicability

¹ The regulations at 40 C.F.R. § 93.153(c)(3) provide an example where emissions are not reasonably foreseeable, “Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.” Onshore oil and gas leasing is similarly not reasonably foreseeable, because the lease sale is made on a broad scale and followed by additional agency approval of exploration and development plans on a project level (i.e. decision to approve an Application for Permit to Drill).

(see also (g)(1), (g)(2) and (h) and(j)):

40 C.F.R. 93.153 (h)(4) provides:

“The Federal agency must publish the final list of such activities in the Federal Register.

(i) Emissions from the following actions are ‘presumed to conform’:

(1) Actions at installations with facility-wide emission budgets meeting the requirements in § 93.161 provided that the State or Tribe has included the emission budget in the EPA-approved SIP and the emissions from the action along with all other emissions from the installation will not exceed the facility-wide emission budget.

(2) Prescribed fires conducted in accordance with a smoke management program (SMP) which meets the requirements of EPA's Interim Air Quality Policy on Wildland and Prescribed Fires or an equivalent replacement EPA policy.

(3) Emissions for actions that the State or Tribe identifies in the EPA- approved SIP or TIP as ‘presumed to conform.’”