

U.S. DEPARTMENT OF THE INTERIOR **BUREAU OF LAND MANAGEMENT**
National

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Washington, DC 20240
<http://www.blm.gov>

September 22, 2011

In Reply Refer To:
3160 (310) P

EMS TRANSMISSION 09/28/2011
Instruction Memorandum No. 2011-184
Expires: 09/30/2012

To: All Field Officials
From: Assistant Director, Minerals and Realty Management
Subject: Policy for Approving Requests for Commingling and Allocation Approval
and Off-lease Measurement Approval

Program Area: Fluid Minerals.

Purpose: This Instruction Memorandum (IM) provides field offices (FO) with interim guidance for the approval of requests for commingling and allocation approval (CAA) and off-lease measurement. This guidance also addresses concerns for production accountability from recent audit findings.

Policy/Action: Unless otherwise approved, measurement of oil and gas production for all Federal and Indian leases, units, or communitization agreements (CA) must occur within the boundary of the lease, unit participating area (PA), or CA from which the production originated. The Bureau of Land Management (BLM) prohibits measurement of production from any other lease, unit PA, CA, or non-Federal properties without prior approval. All off-lease measurement, commingling, or allocation of Federal or Indian production requires prior approval as stated in 43 CFR 3162.7-2 and 3162.7-3.

In the interest of accurate production accounting and reporting, FOs receiving requests for a CAA and off-lease measurement must only approve requests that meet the standards in Attachment 1. The FO must deny all other requests. All previously approved commingling, allocation, and off-lease measurement requests must meet the standards in Attachment 1. The FOs will work with operators to develop reasonable timeframes for compliance until such time as final guidance in the revision to Onshore Oil and Gas Order Number 3 is implemented. If compliance is not possible, the FO will terminate the commingling, allocation, and off-lease measurement approvals. Without an approval granting commingling, allocation, or off-lease measurement, the regulations dictate that measurement of oil and natural gas is to occur on the lease.

Timeframe: This policy is to be implemented immediately.

Budget Impact: There may be an increase in the time required to process a request to commingle production or for off-lease measurement.

Background: In March 2010, the Government Accountability Office (GAO) issued report GAO-10-313 recommending the BLM "develop guidance clarifying when Federal oil and gas may be commingled and establish standardized measurement methods in such a way that production can be adequately measured and verified." We will issue final guidance in the revision to Onshore Oil and Gas Order Number 3.

Manual/Handbook Sections Affected: At present, this interim guidance will not affect any manual or handbook. After approval of Onshore Oil and Gas Order Number 3, a manual and handbook for commingling and off-lease measurement will be developed.

Coordination: The Washington Office Fluid Minerals Division and BLM state fluid minerals staff coordinated preparation of this IM.

Contact: If you have any questions concerning the content of this IM, please contact me at 202-208-4201, or your staff may contact William Gewecke at 202-912-7152 or email at wgewecke@blm.gov, or Mike Wade at 303-236-1930 or email at mwade@blm.gov.

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1 Attachment

1-Minimum Requirements for Commingling and Allocation Approvals and Off-lease Approvals (8 pp)

Minimum Requirements for Commingling and Allocation Approvals and Off-lease Measurement Approvals

Definitions

Allocation: a method or process by which commingled production is measured at a central point and apportioned to the individual lease, unit, unit participating area (PA), or communitization agreement (CA) from which the production originated.

Commingling: for production accounting and reporting purposes, the combining of production from multiple leases, unit PAs, or CAs before the point of royalty measurement. Commingling is not the combining of production from multiple wells on a single lease, unit PA, or CA before measurement. Combining production on the surface between different geologic formations on the same lease that is not part of a unit PA or CA is not considered commingling for production accounting purposes.

Communitized area: the area committed to a federally approved communitization agreement.

Communitization agreement (CA): an agreement to combine a lease or a portion of a lease that cannot otherwise be independently developed with other leased or unleased tracts within an established well-spacing or well-development program.

Condition of Approval (COA): a site-specific requirement included in the approval of an application that may limit or amend the specific actions proposed by the applicant. Conditions of approval may minimize, mitigate, or prevent impacts to public lands or resources.

Gas: any fluid, either combustible or noncombustible, hydrocarbon or non-hydrocarbon, which has neither independent shape nor volume, but tends to expand indefinitely and exists in a gaseous state under metered temperature and pressure conditions.

Off-lease measurement: measurement that is not located on the lease, unit, or CA from which the production came.

Oil: a mixture of hydrocarbons that exists in the liquid phase and remains liquid at atmospheric pressure and is marketed or used in a liquid phase. Condensate is considered to be oil.

Participating area (PA): that part of a unit which is considered reasonably proven to be productive of unitized substances in paying quantities or which is necessary for unit operations and to which production is allocated in the manner prescribed in the unit agreement.

Unit: the area described in an agreement as constituting the land logically subject to exploration and/or development under such agreement.

Commingling and Allocation Approval (CAA) (Surface and Downhole)

- A. The Bureau of Land Management (BLM) will consider a commingling and allocation approval (CAA) on Federal minerals only if all of the following conditions are met:
1. The proposed commingling includes production from only Federal leases, units, unit PAs, or CAs with 100 percent Federal mineral ownership and the same fixed royalty rate and revenue distribution;
 2. There is a signed agreement among the operators of properties whose production is to be commingled prescribing an allocation method;
 3. The applicant demonstrates to the Authorized Officer that each of the leases, units, unit PAs, or CAs proposed for inclusion in the CAA is capable of production in paying quantities;
 4. The measurement point(s) for the proposed CAA measure production originating only from the leases, units, unit PAs, or CAs in the CAA;
 5. The Authorized Officer determines that the requested CAA is in the public interest, including evaluation of relevant environmental considerations, and assures the BLM's ability to verify and account for the proposed commingled production; and.
 6. Prior to approval of any CAA, a technical review and documentation must be included in the file to demonstrate that the conditions described in this section are met.
- B. The Bureau of Land Management will consider a CAA on Indian minerals only if all of the following conditions are met:
1. The proposed commingling includes production from only Indian tribal leases, units, unit PAs, or CAs wholly owned by the same tribe and with the same fixed royalty rate;
 2. There is a signed tribal concurrence for all leases, units, unit PAs, or CAs within the proposed CAA;
 3. There is a signed agreement among the operators of properties whose production is to be commingled prescribing an allocation method;
 4. The applicant demonstrates to the Authorized Officer that each of the leases, units, unit PAs, or CAs proposed for inclusion in the CAA is capable of production in paying quantities;
 5. The measurement point(s) for the proposed CAA measure production originating only from the leases, units, unit PAs, or CAs in the CAA; and

6. The Authorized Officer determines that the requested CAA is in the public interest, including consideration of relevant environmental considerations, and confirms the BLM's ability to verify and account for the proposed commingled production.
- C. The BLM must (1) approve the beneficial use under applicable regulations of any production used as fuel at the measurement facility located on one of the leases, units, or CAs subject to the proposed commingling, and (2) verify that the operation in which the fuel is used benefits only the production included in the proposed CAA. Beneficial use can only occur prior to the royalty measurement point. If the operator uses the fuel after the royalty measurement point, the operator must pay the royalty.

The request for beneficial use must include equipment specifications, including burner sizes and horsepower for production equipment using the fuel for beneficial use.

D. Application for a CAA

A complete application for a CAA from an operator must include the following information, if applicable:

1. A completed Sundry Notice for approval of:
 - a. Commingling and allocation; and
 - b. Off-lease measurement if measurement is outside the boundaries of any of the leases, units, unit PAs, or CAs whose production would be commingled;
2. A proposed allocation agreement, documentation for the common revenue distribution, and a proposed allocation schedule signed by each operator of each of the leases, units, unit PAs, or CAs whose production would be included in the CAA;
3. A list of all Federal or Indian lease, unit, unit PA, or CA numbers in the proposed CAA, specifying the type of production for which commingling is requested;
4. If the application is for Indian leases, units, unit PAs, or CAs, a signed tribal concurrence letter;
5. A map(s) showing the following:
 - a. The boundaries of all the leases, units, unit PAs, or CAs whose production is proposed to be commingled;
 - b. The proposed location by land description for the measurement point used for commingling of the production; and
 - c. A map or diagram of existing or planned facilities that shows, to the extent known or anticipated, the location of all wellheads, production facilities, flowlines, and measurement points existing or proposed to be installed;
6. Provide a statement that the CAA proposal is in the public's best interest, and why;

7. For existing facilities, site facility diagrams clearly showing any proposed change to current site facility diagrams;
8. A schematic or engineering drawing for all new proposed facilities showing the relative location of pipes, tanks, meters, separators, dehydrators, compressors, and other equipment;
9. If the operator proposes a new surface disturbance on one of the leases, units, or CAs and the surface is on BLM-managed land, submittal of an application on a separate Sundry Notice. The BLM must approve the surface disturbance Sundry Notice before or at the same time as the Sundry Notice for the CAA;
10. If the operator proposes a new surface disturbance on BLM-managed land outside any of the leases, units, unit PAs, or CAs whose production would be commingled, submittal of a right-of-way grant prior to approval of the CAA;
11. If the operator proposes a new surface disturbance on Federal land managed by an agency other than the BLM, submittal of written approval from the appropriate surface-management agency prior to approval of the CAA;
12. Documentation demonstrating that each of the leases, units, unit PAs, or CAs proposed for inclusion in the CAA is capable of production in paying quantities; and
13. All gas analyses showing the Btu content (if the CAA request includes gas) and all oil gravities (if the CAA request includes oil) for the previous 6 years or from date of first production, whichever timeframe is the shortest, for the leases, units, unit PAs, or CAs proposed for inclusion in the CAA.

E. Existing Commingling Approvals

All existing commingling approvals must meet the requirements above. If not, the FOs will work with operators to bring these approvals into compliance with policy within 2 years. If compliance is not possible, the FO will terminate the commingling approvals.

F. Modification of a CAA

At the request of all the operators who are a party to a CAA, the Authorized Officer may modify the CAA when:

1. There is a change in the allocation schedule resulting from a change in relative production from wells subject to the CAA or addition or elimination of a well from the CAA;
2. The operator proposes additional leases, units, unit PAs, or CAs for inclusion in the CAA;

3. A lease, unit, or communitization agreement within the CAA terminates, or a unit PA within the CAA ceases production; or
4. There is a change in operator.

The request for a modification of a CAA must include the following:

1. A completed Sundry Notice describing the modification requested;
2. A new allocation schedule, if appropriate; and
3. Certification by each operator that it agrees to the CAA modification.

G. Effective Date of CAAs

The effective date of a CAA will be the first day of the month following first production through the measurement point(s) for the approved CAA.

In the cases of a modification, the effective date will be the first day of the month following approval of the modification.

H. Termination of a CAA

1. Any operator who is party to a CAA may unilaterally terminate the CAA by submitting a Sundry Notice to the BLM. The Sundry Notice must identify the royalty measurement point(s) for the lease(s), unit(s), unit PA(s), or CA(s) operated by that operator.
2. The BLM may terminate the CAA for any reason including, but not limited to, the following:
 - a. Changes in technology, regulation, or policy;
 - b. Non-compliance with the terms or COAs of the CAA; or
 - c. When a lease, unit, or CA subject to the CAA has terminated, or a unit PA subject to the CAA has ceased production.
3. If only one lease, unit, unit PA, or CA remains subject to the CAA, the CAA terminates automatically.
4. The BLM will notify in writing all operators who are parties to the CAA of the CAA termination, the reason for the termination, and the effective date of the termination.

5. When the BLM terminates a CAA, each lease, unit, unit PA, or CA that was included in the CAA will revert to separate measurement. The separate measurement must be on-lease unless off-lease measurement is approved.
- I. To commingle production from adjacent properties (whether Federal, Indian, State, or private) from a single well drilled into the same geologic formation underlying and across those properties (e.g., a horizontal well), the operator must establish a unit PA or CA.
- J. Combining production downhole from different geologic formations on the same lease from a single well requires the Authorized Officer's prior approval, but is not included in this interim policy.

Off-lease Measurement

- A. Off-lease measurement must:
 1. Involve only production from a single lease, unit, or CA or from a single CAA;
 2. Provide for accurate production accountability; and
 3. Be in the public interest (considering factors including, but not limited to, best management practices (BMP), and maximum ultimate economic recovery).
- B. An application for off-lease measurement must include the following information:
 1. A completed Sundry Notice;
 2. Justification for off-lease measurement, (e.g., necessary for economic or physical accessibility reasons, BMPs);
 3. A topographic map of appropriate scale showing the following:
 - a. The boundary of the lease(s), unit(s), or CA(s) from which the production originates;
 - b. The location by land description of all wells, pipelines, and facilities associated with the proposal, with equipment identified as existing or proposed; and
 - c. The surface ownership of all land upon which equipment is, or is proposed to be, located;
 4. A schematic or engineering drawing for all new proposed facilities showing the relative location of pipes, tanks, meters, separators, dehydrators, compressors, and other equipment;

5. For existing facilities, site facility diagrams clearly showing any proposed change to current site facility diagrams;
6. If any of the proposed off-lease measurement facilities are located on non-federally owned surface, written concurrence signed by the surface owner(s), and the operator(s) of the measurement facilities. The written concurrence must grant the BLM unrestricted access to the off-lease measurement facility and the surface on which it is located for the purpose of (1) inspecting any production, measurement, or transportation equipment located on the non-Federal property, up to and including the measurement point, and (2) otherwise verifying production accountability. The BLM has a responsibility to ensure that operations are environmentally sound and ensure public safety. The written concurrence must include the surface owner(s)' name, address, and telephone number. If the ownership of the non-Federal surface or of the measurement facility changes, the operator must obtain the concurrence required under this paragraph from the new owner(s);
7. The appropriate right-of-way grant applications for pipelines or proposed storage facilities not on lease or on Indian land;
8. For Indian leases, units, unit PAs, or CAs, a signed tribal concurrence;
9. An application for approval of beneficial use, if the operator proposes to use production from the lease, unit, or CA at the off-lease measurement facility; and
10. A statement that indicates whether the proposal includes all, or only a portion of, the production from the lease, unit, or CA. (For example, gas, but not oil, could be proposed for off-lease measurement.) If the proposal includes only a portion of the production, identify where the remainder of the production from the lease, unit, or CA is measured or is proposed to be measured.

C. Effective Date of an Off-lease Measurement Approval

The effective date will be the date of approval, unless the approval specifies a different effective date.

D. Existing Off-lease Measurement Approval

All existing off-lease measurement approvals must meet the requirements above. If not, the FOs will work with operators to bring these approvals into compliance with policy. If compliance is not possible, the FOs will terminate the off-lease measurement approvals.

E. Termination of Off-Lease Measurement Approval

1. The operator may terminate the off-lease measurement by submitting a Sundry Notice. The Sundry Notice must identify the lease(s), unit(s), or CA(s) previously subject to the off-lease measurement approval.

2. The BLM may terminate off-lease measurement approval for any reason, including, but not limited to, the following:
 - a. Changes in technology, regulation, or BLM policy; or
 - b. Non-compliance with the terms or COAs of the off-lease measurement approval or this policy.
 3. The BLM will notify the operator in writing that the off-lease measurement approval has been terminated, the reason for the termination, and the effective date of the termination.
 4. If the BLM terminates the off-lease measurement, each lease, unit, or CA that was subject to the off-lease measurement will revert to measurement on the respective lease, unit, or CA.
- F.** The following instances do not constitute off-lease measurement and BLM approval is not required:
1. If the operator performs measurement on the well pad of a directionally drilled well that produces oil and gas from a lease, unit, or CA not located on the well pad. However, if the measurement is located off the well pad, regardless of distance, it is off-lease measurement and the operator must obtain BLM approval; or
 2. If a lease, unit, or CA consists of more than one separate surface area whose boundaries are not contiguous (e.g., a single lease comprised of two or more separate tracts), production is present if:
 - a. The production moves from one tract to another tract within the same lease, unit, or CA to another area of the lease, unit, or CA to be measured; and
 - b. Production does not divert during the movement between the tracts before royalty measurement, except for production used for beneficial use.
- G.** The operator may request approvals of surface commingling and allocation concurrently with requests for approval of off-lease measurement.