



## **BLM changes policy on Commingling and Off-lease Measurement Approval**

**By:** [Will Reese](#)

On September 22, 2011 the Bureau of Land Management (BLM) issued Instruction Memorandum (IM) No. 2011-184<sup>1</sup> providing interim guidance concerning commingling, allocation approval and off-lease measurement. IM No. 2011-184 was written in response to a March 2010 Government Accountability Office (GAO) report concerning ambiguity as to when federal oil and gas may be commingled and calling for a standard measurement scheme.<sup>2</sup> The IM creates potential challenges regarding facility management and may also pose future ramifications regarding air quality emissions.

### **Commingling**

As to commingling, IM No. 2011-184 represents a large change in the policy of the BLM. Prior to issuance of IM No. 2011-184, the BLM could "approve measurement agreements that allow oil or gas produced from a federal lease to be combined with oil or gas from another federal, state, or private lease."<sup>3</sup> Once the oil and gas from separate leases are combined, "each upstream lease is then allocated a specific portion of the combined volume according to the commingling agreement."<sup>4</sup>

According to IM No. 2011-184, in order for the BLM to consider a Commingling and Allocation Approval (CAA), a long list of conditions must be

---

<sup>1</sup> Available at [http://www.blm.gov/wo/st/en/info/regulations/Instruction\\_Memos\\_and\\_Bulletins/national\\_instruction/2011/IM\\_2011-184.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2011/IM_2011-184.html)

<sup>2</sup> Available at <http://www.gao.gov/new.items/d10313.pdf>

<sup>3</sup> GAO-10-313 pg. 17.

<sup>4</sup> Id.

met. One of these conditions requires that the proposed commingling include production from “only federal leases, units, unit PAs, or CAs with 100 percent federal mineral ownership.”<sup>5</sup> IM No. 2011-184 also requires, among other new conditions, that each lease, unit, unit PA or CA of BLM lands or Indian minerals be capable of production in paying quantities before commingling is approved. IM No. 2011-184 additionally outlines what must now be included in an application for a CAA including gas analyses showing the Btu content and oil gravities for the previous 6 years of production.

It is important to note that IM No. 2011-184 is meant to be retroactive. IM No. 2011-184 states, “all existing commingling approvals must meet the requirements”<sup>6</sup> within two years. If compliance cannot be achieved, the field office is instructed to terminate the commingling approvals.

### **Off-lease Measurement**

In addition to the changes to commingling, IM No. 2011-184 also addresses Off-lease Measurement. Essentially, the BLM will now require that measurement of oil and gas production for all federal and Indian leases, units or CA’s take place upon the lease, unit participating area or CA. This measurement is limited to production from a single lease, unit, or CA or from a single CAA. Again, the application process for Off-lease Measurement is outlined in this IM and again the changes pertaining to Off-lease Measurement are retroactive.

One notable exception included in IM No. 2011-184 is that measurement on the well pad of a directionally drilled well which is sited off of the lease, unit or CA it produces from, will not constitute Off-lease Measurement. However, measurement located even slightly off of the well pad will constitute Off-lease Measurement and will be subject to these new policies and procedures.

### **Conclusion**

IM 2011-184 significantly changes the procedures and policies which the BLM will follow in granting commingling and Off-lease Measurement. By allowing commingling only when the mineral estate is completely owned by the federal government, BLM has significantly reduced the amount of minerals which will be allowed to be commingled while increasing the amount of infrastructure needed. These additional facilities will also pose challenges regarding

---

<sup>5</sup> IM 2011-184 (A)(1)

<sup>6</sup> IM 2011-184 (E)

increased air emissions, which may further exacerbate air regulation issues.

By making IM No. 2011-184 retroactive, the BLM has extended the impact of IM No. 2011-184 to older fields and operations. Additionally the BLM will now require that measurement take place upon the lease, unit or CA from which the federal minerals are being produced which could add an additional burden to operations, especially those in which Off-lease Measurement is currently being used.

Please contact [Bill Sparks](#), [Matt Hartford](#) or [Will Reese](#) for more information.



2011, Beatty & Wozniak, P.C. All rights reserved.  
This newsletter does not constitute legal advice. The views expressed in this newsletter are the views of the authors and not necessarily the views of the firm. Please consult with legal counsel for specific advice and or information.  
Read our complete [legal disclaimer](#).