



## COALEX STATE INQUIRY REPORT - 321

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**TOPIC:** TRANSFER, ASSIGNMENT OR SALE OF PERMIT RIGHTS (Updates Reports Nos. 231 and 169)

**INQUIRY:** Is there any material that describes the percentage of stock or shares be sold to qualify for a "transfer, assignment or sale" requiring compliance with change in ownership rules? What about a two-person partnership where one partner sells out?

**SEARCH RESULTS:** Several existing COALEX State Inquiry Reports were identified which address aspects of this inquiry. Using LEXIS, several relevant OSM Directives, proposed "transfer" rules and final ownership and control rules were identified to update the enclosed reports. A quote from a 1994 Directive on the definition of "transfer" appears below, the additional materials are attached.

Please note: Copies of the COALEX Reports are enclosed without attachments. If you need copies of the attachments, please contact the IMCC office.

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**OSM DIRECTIVE, Subject No. INE-42, Transmittal No. 665, "Verification of federal permittee ownership and control information after site disturbance" (Issued 3/26/91 and incorporates INE-42-1, dated 6/12/92, and INE-42-2, dated 8/5/94)**

Definitions:

"a. Transfer, assignment, or sale of permit rights (permit transfer) is a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit. This definition is based on the common understanding of the terms to include any effective shift in control over rights, in addition to technical changes in ownership. (See 30 CFR 701.5 and 44 FR 15106, March 13, 1979.) The term includes, for example, changes such as a new officer, director, as well as the addition of a new operator (not listed in the original permit) who actually performs surface coal mining operations, or owner of 10 percent or more of any class of voting stock, except in situations involving two or more levels of ownership of an entity, the percentages of ownership which any remote owner has in the entity. For example, a 45 percent owner of a 20 percent owner will be considered to own a 9 percent interest."



## ATTACHMENTS

- A. COALEX STATE INQUIRY REPORT - 131, "Individual liability of corporate officer, director or agent" (1989).
- B. COALEX STATE INQUIRY REPORT - 148, "Contractor liability for violations; ownership and control of operations" (1990).
- C. COALEX STATE INQUIRY REPORT - 169, "Ownership and control; AVS" (1991).
- D. COALEX STATE INQUIRY REPORT - 231, "Ownership and control: related parties" (1992).
- E. OSM DIRECTIVE, Subject No. INE-42, Transmittal No. 665, "Verification of federal permittee ownership and control information after site disturbance" (Issued 3/26/91 and incorporates INE-42-1, dated 6/12/92, and INE-42-2, dated 8/5/94).
- F. OSM DIRECTIVE Subject No. INE-33, Transmittal No. 636, "510(c) Permit review procedures for federal permit applications" (Issued 9/18/90 and incorporated INE-33-1, dated 6/12/92 and INE-33-2, dated 8/5/94).
- G. OSM DIRECTIVE, Subject No. INE-2, Transmittal No. 688, "Ownership and control information update after receipt of a cessation order" (Issued 9/3/91).
- H. 59 FR 54306 (OCTOBER 28, 1994). Final rules. AVS standards and procedures for ownership and control determinations.
- I. 58 FR 34652 (JUNE 28, 1993). Proposed rules. Definition and procedures for transfer, assignment and sale of permit rights; Definitions of ownership and control; Permit information requirements and the AVS system.