

Reclamation Advisory Memorandum RAM # 126

Kentucky Natural Resources and Environmental Protection Environment Cabinet Department for Surface Mining Reclamation and Enforcement

From: Carl E. Campbell, Commissioner

Date: April 15, 1997

Subject: Transfer vs. Corporate Change

Effective May 1, 1997, form MPA-07, Application to Transfer a Mining Permit, must be submitted in order to effect a change in **control over the right to conduct surface coal mining operations**. Use of form MPA-06, Change of Corporate Owners, Officers or Directors, will be restricted to reporting changes in corporate owners, officers or directors that do not constitute changes of ownership or other effective control of the right to mine under a permit issued by this agency.

KRS 350.135(1) mandates that no surface coal mining permit issued pursuant to KRS Chapter 350 shall be transferred by sale, assignment, lease, or otherwise, except upon the written approval by the cabinet of a joint application submitted by both the transferor and the transferee. The term "transfer, assignment, or sale of permit rights" is defined at 405 KAR 8:001 Section 1(126) as **"a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the cabinet."** Therefore, a transfer application must be submitted when ownership or other effective control of the right to conduct surface coal mining operations changes.

Often, it will be necessary to analyze the specific facts and circumstances of a particular transaction to first determine whether there has been a change in ownership of the right to conduct mining operations pursuant to a surface mining permit, and if not, to then determine whether there has been a change in other effective control of that right.

Questions concerning this RAM should be directed to Jim Adamson or Mary Belle Fisher at (502) 564-2320.

The Natural Resources and Energy Protection Cabinet does not discriminate on the basis of race, color, national origin, sex, age, religion, or disability and provides, on request, reasonable accommodations including auxiliary aids and services necessary to afford an individual with a disability an equal opportunity to participate in all services, programs, and activities. This publication, and other materials offered to the public by this cabinet can be provided in an alternate format to any individual with a disability. To request this publication in an alternative format, contact: Office of the Commissioner, Department for Surface Mining Reclamation and Enforcement, 2 Hudson Hollow, Frankfort, Kentucky 40601-4321. Phone: (502) 564-6940