224.80-190 Amendment or termination of environmental covenant by consent of the parties -- Assignment of holder's rights.

- (1) An environmental covenant may be amended or terminated by consent only if the amendment or termination is requested as a modification to the corrective action plan approved by the cabinet, and only if the amendment or termination is signed by:
 - (a) The cabinet:
 - (b) The current owner of the fee simple of the real property subject to the covenant:
 - (c) Each person that originally signed the environmental covenant or that person's heirs, assigns, or transferees unless:
 - 1. The person or the person's heirs, assigns, or transferees waived in a signed document the right to consent; or
 - 2. A court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence; and
 - (d) The holder, except as otherwise provided in subsection (4)(b) of this section.
- (2) If an interest in real property is subject to an environmental covenant, the interest shall not be affected by an amendment of the environmental covenant unless:
 - (a) The current owner of the interest consents to the amendment; or
 - (b) The current owner of the interest has waived in a signed record the right to consent to the amendments.
- (3) Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder shall be deemed an amendment of the environmental covenant.
- (4) Except as otherwise provided in an environmental covenant:
 - (a) A holder may not assign its interest without consent of the other parties to the environmental covenant specified in subsection (1) of this section; and
 - (b) A holder may be removed and replaced by agreement of the other parties specified in subsection (1) of this section.
- (5) A court of competent jurisdiction may fill a vacancy in the position of the holder.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 92, sec. 10, effective June 20, 2005.