



Land Use Covenants

West Virginia Department of Environmental Protection
Office of Environmental Remediation

Land Use Covenant Inspection Form Instructions

Site Information

The Land Use Covenant (LUC) Inspection Form has been designed for utilization at all sites with LUCs. Reference the identifier (Site ID Number) used in the program which administered the environmental response project. These identifiers are typically located in the header of the LUC and in the administrative record section. Examples are provided below.

Program	Site ID Number
Leaking Underground Storage Tank (LUST) Program	WV ID #XXXXXXX and Leak #XX-XXX
RCRA Corrective Action	RCRA ID #WVDXXXXXXXXXX RCRA ID #WVRXXXXXXXXXX
Superfund Program	CERCLIS #WVDXXXXXXXXXX
Voluntary Remediation Program	VRP #XXXXXX

Person Conducting Inspection

Provide accurate contact information that allows WVDEP to contact you if a question regarding the inspection arises. Describe your relationship to the property (i.e., owner, consultant, responsible party, etc.).

Current Property Owner

Provide complete, accurate, and current information regarding the property owner(s) so that they can be contacted by WVDEP, if necessary. If the property is owned by multiple persons, provide a list of owners as an attachment to the LUC Inspection Form.

Ownership Transfer

Determine if property ownership has changed since the time the LUC was issued or since the last LUC inspection and attach documentation of that change to the LUC Inspection Form. The LUC requires that notice is provided to WVDEP when ownership of the real property subject to the covenant changes. This notification should be available from the current or previous property owner.

Activity and Use Limitations

Activity and use limitations (AULs) commonly included in LUCs are listed. Indicate if these AULs are recorded in the LUC and applicable to this property and then list any additional AULs applicable to the property. Determine if the site is in compliance with the AULs. Describe any non-compliance observed. Examples of non-compliance include:

- Residential use of a property where this use is prohibited. Residential use can include schools, day care centers, nursing homes, or other residential-style facilities or recreational areas.
- Use of groundwater (wells or springs) where groundwater use is prohibited.
- Signs of excavation where this is prohibited or regulated by the LUC.
- Damaged environmental monitoring wells.

Engineering Controls

Common engineering controls necessary to attain/maintain the remediation standard are listed. Indicate if any of these engineering controls are recorded in the LUC and applicable to this property, and then list any additional engineering controls applicable to the property. For all situations where the engineering control is not present, is damaged or inoperable, or otherwise fails to meet the standard described in the LUC, describe the situation that is causing non-compliance.

Notes, Comments, or Concerns

Use this space to further describe and clarify any findings or concerns that are revealed by the inspection. Provide specific examples of observations and situations that suggest any required AULs have been violated or where engineering controls are not in place, have not been maintained or are not operating.

Inspector Signature

Sign the inspection form, indicating that the inspection was completed and that the facts presented are accurate.

Submittal

Return the signed and completed inspection form in either electronic or hardcopy format to:

West Virginia Department of Environmental Protection
Office of Environmental Remediation
Attn: LUC Inspections
601 57th Street SE
Charleston, WV 25304

Long-Term Monitoring and Assistance

In addition to reporting requirements imposed on property owners and/or covenant holders, WVDEP continuously monitors and regularly inspects properties with recorded Land Use Covenants to protect citizens from coming into contact with contamination at a site. When a property owner, contractor, or other stakeholder needs assistance with understanding a LUC and its AULs, WVDEP is available to provide guidance.

If violation of a LUC occurs, the agency, affected persons, and municipality or other unit of local government may file a civil action for injunctive or other equitable relief.

LUC Amendment or Termination

LUCs remain on the property deed in perpetuity. If it is determined that residual contamination no longer presents an unacceptable risk to human health or environment (typically through additional remediation and sampling at the site), it is possible for the LUC to be amended or terminated. This requires consent by the agency, current property owner(s), and all original signers of the LUC (provided that those persons are still in existence).

Additional Assistance

All LUCs are executed pursuant to the Uniform Environmental Covenants Act (W. Va. Code § 22-22B). If you have questions or need assistance, contact the Office of Environmental Remediation at the West Virginia Department of Environmental Protection (304-926-0455).