

FACT SHEET
Draft Hazardous Waste Corrective Action Renewal Permit
Lexmark International, Inc.
Lexington, Fayette County, Kentucky
EPA ID # KYD-006-375-737
AI# 1058

The Kentucky Environmental and Public Protection Cabinet (Cabinet) and the Division of Waste Management (Division) has reached a tentative decision to issue a hazardous waste corrective action renewal permit to Lexmark International, Inc. (Lexmark) for continued corrective action at Solid Waste Management Units (SWMUs 17/20) and Area Of Concern (AOC A2). A draft renewal permit has been prepared for Lexmark, which is located at 740 West New Circle Road, Lexington, Fayette County, Kentucky. The draft permit addresses investigation, sampling, and remediation at this site. The facility contact person is Mr. Ralph Hill, Counsel, EH&S, Lexmark International, Inc. – (859) 232-7857.

Purpose of the Permitting Process

The Division has tentatively decided to issue a Hazardous Waste Corrective Action Renewal Permit to Lexmark International, Inc. The Division's permit will include conditions required under the United States Resource Conservation and Recovery Act (RCRA) and portions of the Hazardous and Solid Waste Amendments (HSWA).

Facility Description

The facility was formerly owned and operated by International Business Machines Corporation (IBM) and purchased by Lexmark International, Inc (Lexmark) in 1991. Formerly, the IBM facility served primarily as a typewriter, printer, copier, ink, and ribbon manufacturing facility. Following the 1991 purchase of the facility, operations evolved to reflect Lexmark's services and products. Current operations at Lexmark have shifted from manufacturing and moved towards corporate administrative services and the research, development and design of printers, cartridges, and ink.

The initial hazardous waste permit for this facility was issued to IBM in 1983. The permit was transferred to Lexmark in 1991. The existing permit was renewed in 1995, expired in October 2005, and renewed again in 2007. The hazardous waste management units which consisted of containers and tanks were closed in 2000 and Lexmark currently manages all generated hazardous waste in 90-day accumulation areas.

In 1993 the corrective action process began at the Lexmark Facility. After an inspection of the property in 1995, 42 Solid Waste Management Units (SWMUs) and 11 Areas of Concern (AOCs) were identified. A RCRA Facility Investigation (RFI) was required for six SWMUs and six AOCs, confirmatory sampling was required for four SWMUs and three AOCs, and two SWMUs and five AOCs were authorized for no further action. In October of 1997 approval of the RFI report was given and it also required a Corrective Measures Study (CMS) for another SWMU. The RFI report also suggested that co-mingling of impacts supported integration of corrective action efforts for SWMU 17 and SWMU 20. Approval of the RFI work plan led to the authorization of RFI activities for SWMU 17/20,

SWMU 24, and AOC A2 in April 1998. Then in January of 1999 the CMS for SWMU 23 was approved giving no further action upon filing a notice to the deed.

The Cabinet gave the remaining 39 SWMUs and 10 AOCs no further action determinations, however, further corrective action activities were required for SWMUs 17/20 and 24 and AOC A2. Lexmark submitted a CMS for the 2 SWMUs and one AOC on July 13, 2012. The CMS proposed submitting individual Site Management Plans (SMPs) for each of the three units to make certain that any current and future operations and developments use and manage the site in a manner that is in compliance with regulatory requirements. Current operations to be continued at the facility include monitoring of groundwater and operation of the soil vapor extraction (SVE) and the groundwater containment systems. Following a public notice and comment period, the CMS was given final approval in March of 2014. Lexmark then submitted three separate SMPs in June of 2014, one for each unit. Each of the SMPs was accompanied by an Environmental Covenant, to be attached to a deed for the site and describes the environmental conditions of the site and any corrective action activities that might be required of the facility.

In the fall of 2016, Lexmark sold the southern portion of the property which contains SWMU 24 to Setzer Properties (Setzer). As a part of KDWM's understanding that Setzer would accept all liability for the property and SWMU 24, KDWM required Setzer and Lexmark enter into an Agreed Order, which was final as of October 7, 2016. The Agreed Order outlines the conditions required of Setzer in assuming ongoing liabilities for corrective action of SWMU 24. Setzer also is responsible for following requirements of the SMP and environmental covenant, conducting groundwater sampling events, conducting annual inspections, and maintaining financial assurance. Lexmark retains responsibility for following the requirements of the SMPs and environmental covenants for SWMU 17/20 and AOC A2. Their responsibility includes but is not limited to performing any ongoing corrective action, groundwater monitoring, inspections, and maintenance of financial assurance for those units and the rest of the facility.

Purpose of the Tentative Corrective Action Permit Renewal

The purpose of the approval process is to provide the public the opportunity to evaluate the proposed action. Division personnel have reviewed the corrective action permit renewal for technical and regulatory completeness as it pertains to the site. The Division has determined that the actions defined in the Corrective Action Permit Renewal as proposed will meet these requirements and result in protection of human health and the environment. Therefore, tentative approval has been issued and now the public has the opportunity to comment on the proposed action. The public has (45) forty-five days to comment on any aspect of the tentative Corrective Action Permit Renewal before the Division makes a final decision.

Procedures for Reaching a Final Decision on the Draft Permit

The existence and availability of the draft permit is being announced through public notice, which is mailed to appropriate agencies and individuals indicated on the mailing list from the facility. The public notice is also published in a major local newspaper and broadcast over a commercial radio station in the city/county where the facility is located. The public

notice announces the opening of a forty-five (45) day public comment period in which any interested person is encouraged to submit comments on the proposed activity.

The public comment period for the Lexmark International, Inc. draft permit began on October 22, 2017; the date the public notice was first published in Lexington Herald Leader in Lexington. The public comment period will end on **December 6, 2017**.

The Division will conduct a public hearing, if requested (pursuant to 401 KAR 38:050, Section 9) for the draft permit. The purpose of the hearing will be to explain the crucial points in the draft permit and to accept oral and written comments from the public. Individuals and citizen groups are encouraged to present oral or written comments and data concerning the proposed permit. Reasonable limits may be set on the time allowed for oral statements. The Cabinet will consider all comments received during the comment period in making a final decision regarding the permit application.

The administrative record, which includes the draft permit and related information, can be reviewed at the following locations:

1. Northside Branch
1737 Russell Cave Road
Lexington, Kentucky 40505
(859)231-5590
Hours of Operation:
Mon.-Thurs: 9:30am – 9:00pm; Fri. and Sat: 9:30am - 5:00pm; Sunday: 1:00pm – 5:00pm

2. Division of Waste Management
300 Sower Blvd.
Frankfort, Kentucky 40601
Point of contact: Tina Fisher
(502) 564-6716
Email: Tina.Fisher@ky.gov
Hours of Operation:
Monday – Friday: 8:00am – 4:30pm

To make an appointment, submit a written request at least 72 hours prior to the desired review date. Copying charges are 10 cents per page, and \$3 for each map. Upon request, this information can be made available in alternative formats.

Anyone wishing to comment or request a hearing on our tentative approval should submit their comments to the Cabinet on or before midnight on **Wednesday, December 6, 2017**, the close of the public comment period. Electronic comments should be submitted to John Moore at johnf.moore@ky.gov or mail April Webb, P.E., Branch Manager, Division of Waste Management, Hazardous Waste Branch, 300 Sower Blvd 2nd floor, Frankfort KY 40601. After consideration of all oral and written comments and requirements of state laws and regulations, the Director of the Division of Waste Management will make a final

decision regarding permit issuance. If the tentative decision to issue a permit is substantially changed, the Cabinet will issue a public notice indicating a revision of decision. If the tentative decision to issue a permit is substantially unchanged from those announced in the public notice, notification of issuance will be given to the applicant and each person who has submitted comments or who has requested notice of the final permit decision.

When a final permit is issued, the Cabinet will also release a Response to Comments document. All significant comments on the draft permit, raised during the public comment period, will be responded to in the Response to Comments document.

Any person who may be aggrieved by the issuance of the permit for the hazardous waste storage facility may file a petition with the Cabinet, which sets forth the grounds of the objection and the demand for a formal hearing pursuant to KRS 224.10-420(2).

The Division of Waste Management does not discriminate on the basis of race, age, religion, sexual orientation or gender identity, ancestry, age, disability, or veteran status. The division provides, on request, reasonable accommodations necessary to afford an individual with a disability an equal opportunity to participate in all services, programs and activities. To request materials in an alternate format, contact John F. Moore at (502) 782-6419.