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## NEW MEXICO ENVIRONMENT DEPARTMENT

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BUTCH TONGATE  
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### FACT SHEET INTENT TO ISSUE A HAZARDOUS WASTE FACILITY PERMIT UNDER THE NEW MEXICO HAZARDOUS WASTE ACT TO HOLLYFRONTIER NAVAJO REFINING LLC EPA ID NUMBER: NMD048918817 APRIL 2017

**Facility Name:** HollyFrontier Navajo Refining LLC

**Type of Facility:** HollyFrontier Navajo Refining LLC (HollyFrontier, or the Facility) is an operating refinery that has been in service since the 1920's. The Facility has a crude oil capacity of approximately 115,000 barrels (bbls) per day. The current and historic operations of the Facility process crude oils into gasoline, diesel and jet fuels. The Facility was issued a Hazardous Waste Facility Permit by the New Mexico Environment Department in September 2003 to conduct closure and post-closure care activities at the Facility under the New Mexico Hazardous Waste Act. HollyFrontier submitted a Permit renewal application in April 2013.

**Location:** HollyFrontier Navajo Refining LLC is located at the intersection of U.S. Highways 285 and 82 in Artesia, New Mexico. The Facility is situated on the east side of the City of Artesia in the Pecos River Valley of Eastern New Mexico in Eddy County and occupies approximately 561 acres. Specifically, the refinery is located in Township 17 South, Range 26 East, Sections 1, 2, 9, 10, 11, 12 and the southern portion of Township 17 South, Range 27 East Section 6. The Facility boundary is defined by a security fence that restricts access to the refinery property. The Refinery's primary contact and address for this action is: Mr. Scott M. Denton, Environmental Manager, Post Office Box 159, Artesia, New Mexico 88210-0159.

**Owner:** HollyFrontier Navajo Refining LLC

**Operator:** HollyFrontier Navajo Refining LLC

## INTRODUCTION

The New Mexico Environment Department (the Department or NMED) intends to issue a renewed Hazardous Waste Facility Permit for Post-Closure Care to HollyFrontier Navajo Refining LLC, as the owner and operator of HollyFrontier Navajo Refining LLC in Artesia, New Mexico to manage hazardous waste pursuant to the New Mexico's Hazardous Waste Act (HWA, §74-4 New Mexico Statutory Authority [NMSA] 1978) and the Solid Waste Disposal Act, and its associated

Hazardous Waste Management regulations (20.4.1 New Mexico Administrative Code [NMAC], as amended by the Resource Conservation and Recovery Act of 1976 (RCRA, 42 U.S.C. 6901 et seq.). The action to be taken by the Department will renew an existing permit that was issued in September 2003 and modified in December 2010. The Department is charged with issuing a permit that will ensure the Facility's hazardous waste operations are properly managed to protect human health and the environment. The 2003 Permit authorized the Facility to address closure and post-closure activities at the North Colony Landfarm (NCL), the Tetraethyl Lead Impoundment (TEL), Evaporation Ponds (EPs) and Three Mile Ditch (TMD). The Post-Closure Care Permit was modified in December 2010 and required HollyFrontier to monitor the groundwater, maintain all groundwater monitoring wells, and comply with applicable regulations of NMAC 20.4.1.500 during the post-closure period. Specific groundwater monitoring requirements are included in the Post-Closure Permit for areas of the EPs, NCL, TEL, TMD, and other areas identified through implementation of the investigations of various solid waste management units (SWMUs) and areas of concern (AOCs).

Prior to issuing the permit renewal, the NMED is required by regulation to issue a draft permit for public comment, pursuant to 20.4.1.901.A(3) NMAC. The Department is also required to issue a fact sheet which serves two functions: 1) to facilitate public review of a draft permit; and 2) to provide the basis for any specific requirements in the permit not specified in state regulations. This fact sheet contains all required information under 20.4.1.901.D(1) through (3).

## **HOLLYFRONTIER PERMIT HISTORY**

April 5, 2013 – HollyFrontier submitted the Permit Application Parts A and B.

May 6, 2013 – HollyFrontier submitted documentation of Notice of Permit Renewal Application Submittal, Public Repository Availability, and Public Meeting.

October 2, 2013 – NMED determined permit application to be administratively complete.

January 29, 2016 – HollyFrontier submitted a letter titled *Update to RCRA Part A Application, Site Owner and Operator Legal Name Change, Artesia and Lovington Refineries* to update information in the Permit Application A.

## **REGULATORY BACKGROUND**

Prior to the issuance of the September 2003 Permit, the Facility managed three inactive hazardous waste management units (HWMUs): the NCL, the TEL surface impoundment, and the Evaporation Ponds. Modifications to the Permit to address changes to the NCL and the Evaporation Ponds were completed in the December 2010 Permit modification.

The North Colony Landfarm (NCL) is an approximately 4.25-acre land treatment unit located adjacent to the north of aboveground diesel storage tanks 834 and 838. The NCL received listed hazardous wastes (K049, K050, K051 and K052) between 1980 and 1990. Soil and groundwater beneath the NCL has been affected by possible releases from the landfarm and from petroleum release(s) from the adjacent tank farm located south of the NCL. Closure was certified at the NCL

on January 30, 2010 and post-closure care monitoring requirements are in effect. The NCL will continue to be in post-closure care because of the installation of Tank 815 on the land treatment unit. Tank 815 was installed on the eastern half of the NCL in August 2005. Tank 815 is an 80,000-barrel tank that stores ultra-low sulfur diesel (ULSD) fuel. Tank 815 is enclosed within a separate soil berm that acts as secondary containment in the event the tank experiences catastrophic failure. As long as Tank 815 remains on the NCL, the NCL will continue to be in post-closure care. In addition, as a result of installing Tank 815 on the NCL, the Permit requires the Facility to implement an emergency response plan if there is a fire, explosion, or release of waste or product at the permitted hazardous waste management unit that may endanger human health or the environment. This plan is called the RCRA Contingency Plan. Terms of the Permit include required emergency equipment, testing and maintenance of emergency equipment, communication and alarm systems, emergency response procedures, establishment of a chain of command, and post-emergency procedures. HollyFrontier must notify the NMED in the event of emergencies.

The Tetraethyl Lead (TEL) site is an approximately 0.9-acre surface impoundment that was used to treat oily wastes and other hazardous materials. The unit was also historically used for weathering of piping and other materials generated in the Refinery tetraethyl lead processes. The piping and other process materials were removed from the site after weathering. Wastes were placed in the TEL site between 1980 and 1983. Placement of waste in the TEL site was discontinued in 1983. The TEL surface impoundment was capped with crushed and compacted caliche and revegetated in 1989. Closure was approved in June 1989. Post-closure care is currently in effect.

The Evaporation Ponds (EPs) is a RCRA-regulated surface impoundment comprised of five ponds (EPs 1, 2, 3, 5 and 6) measuring a total of approximately 107-acres is located adjacent to the Pecos River approximately three miles east of the Refinery. Pond 1 received refinery wastewater via an open ditch (Three-Mile Ditch) from the early 1930s to 1987. Pond 1 was taken out of service in 1987. Ponds 2, 3, 5, and 6 were constructed between 1966 and 1988; Pond 4 was never constructed. Refinery wastewater was discharged from the refinery through a wastewater conveyance pipe that replaced the TMD to an outfall in Pond 2 between 1987 and 1994 and to an outfall in Pond 5 between 1994 and 1999. Ponds 3 and 6 received overflow from Ponds 2 and 5. Discharge to Ponds 2, 3, 5 and 6 was discontinued in September 1999 when the ponds were removed from service. The Facility began operation of an on-site wastewater treatment system that discharges to the City of Artesia publicly owned treatment works (POTW) and to Class I injection wells owned by HollyFrontier in October 1999. The Class I injection wells operate under a discharge permit issued by the New Mexico Energy Minerals and Natural Resources Department Oil Conservation Division (OCD). The EPs are currently being investigated. Upon completion of the investigations, the Evaporation Ponds will be closed.

## **ADDITIONAL TERMS TO THE REGULATORY BACKGROUND**

In 1976 the Resource Conservation and Recovery Act (RCRA) was passed by the U.S. Congress to regulate “cradle to grave” management of hazardous waste. RCRA was enacted as an amendment to the Solid Waste Disposal Act of 1965, and mandates the development of regulations governing the actions of owners or operators of facilities that generate, transport, treat, store, or dispose of solid and hazardous wastes.

On November 19, 1980, the RCRA regulations became effective, and it became unlawful under certain conditions to treat, store, or dispose of hazardous waste without having, or having applied for, a permit. For then-existing treatment, storage, or disposal facilities (TSDFs), the requirement to submit a permit application was satisfied by submitting the “Part A” portion of the application; the “Part B” portion could be submitted at a later time. The roles of these application parts are clarified in 40 Code of Federal Regulations (CFR) §§ 270.1(b) and 270.10.

The United States Environmental Protection Agency (EPA) has authorized the State of New Mexico (the State) to implement and enforce hazardous waste management regulations, including corrective action requirements, under its own hazardous waste management program. The State’s authority for the program is the Hazardous Waste Act (HWA), which: (1) authorizes the State’s Environmental Improvement Board (EIB) to adopt hazardous waste management regulations, and (2) authorizes the Department to implement and enforce regulations issued under the HWA. These regulations are known as the Hazardous Waste Management Regulations (HWMR).

The EIB has adopted regulations concerning hazardous waste management and the issuance of hazardous waste permits. These regulations incorporate by reference pertinent sections of the federal Code of Federal Regulations (CFR) – 40 CFR Parts 260 through 270, 273, and 280 – and are codified in the HWMR at 20.4.1 NMAC.

Whenever the Permit cites a provision of 20.4.1 NMAC or Title 40 CFR, the Permit is meant to incorporate the citation by reference, including all subordinate provisions of the cited provision, and make binding the full text of the cited provision. Hazardous waste management regulations are frequently cited throughout the Permit. The federal hazardous waste management regulations, 40 CFR Parts 260 through 273, are generally cited rather than the HWMR. The federal regulations are cited because only the federal regulations set forth the detailed regulatory requirements; the State regulations incorporate by reference, with certain exceptions, the federal regulations in their entirety. Citing only the federal regulations also serves to avoid encumbering each citation with references to two sets of regulations. However, it is the State regulations that are legally applicable and enforceable. Therefore, for the purpose of the draft Permit, and enforcement of its terms and conditions when finalized, all references to provisions of federal regulations that have been incorporated into the State regulations are to be deemed to include the State incorporation of those provisions. The same method of citation of the regulations apply to this Fact Sheet - the federal hazardous waste management regulations, 40 CFR Parts 260 through 273, are generally cited rather than the HWMR.

The HWA and HWMR require corrective action for all releases of hazardous waste or hazardous constituents, regardless of when waste was placed in such a unit, from any solid waste management unit (SMWU) at a facility seeking a permit. [42 United States Code § 6924(u); NMSA 1978 § 74-4-4.2(B); 20.4.1.500 NMAC, incorporated by reference 40 CFR § 264.101(a)]. RCRA facilities also must conduct corrective action at areas of concern (AOCs). An AOC is an area to be investigated for known or potential releases. Depending on the type and extent of contamination, an AOC may subsequently be designated as a SWMU. Corrective action is required to be conducted beyond the facility boundary (42 U.S.C. § 6924(v); 20.4.1.500 NMAC, incorporated by reference 40 CFR § 264.101(c)) where necessary to protect human health or the environment.

On July 26, 1982, “units” managing and disposing of hazardous waste became subject to the closure and post-closure standards of 40 CFR Part 264, Subpart G and Part 265, Subpart G, requiring a post-closure care permit in some circumstances.

On January 25, 1985, the State of New Mexico received authorization from the EPA to implement its hazardous waste program under the HWA. *See* 50 Fed. Reg. 1515 (January 11, 1985). Subsequent program revisions were approved effective on April 10, 1990; July 25, 1990; December 4, 1992; August 23, 1994; December 21, 1994; July 10, 1995; January 2, 1996; March 10, 1997; July 13, 1998; October 9, 2001; October 16, 2007, May 26, 2009, and December 27, 2010. On July 25, 1990, the State received from EPA authorization to expand its hazardous waste program under the HWA, including the authority to regulate the hazardous component of mixed waste. *See* 55 Fed. Reg. 28397 (July 11, 1990). On January 2, 1996, the State received authorization from the EPA to implement a corrective action program under the HWA. *See* 60 Fed. Reg. 53708 (October 17, 1995); 61 Fed. Reg. 2450 (January 26, 1996).

## PERMIT ORGANIZATION

The Permit is comprised of four Parts, I through IV, and ten Attachments, A through J. The Parts contain general permit and facility conditions and post-closure care and corrective action requirements.

Permit terms are established to ensure compliance with New Mexico’s HWA and HWMRs and are derived from applicable regulatory requirements, the Permittees’ commitments, or requirements established by NMED to ensure adherence with the regulations or to protect human health and the environment as required by 20.4.1.900 NMAC, incorporating by reference 40 CFR §270.32(b)(2).

**Permit:** The Parts and Attachments of the Permit are described below:

**Part I: *General Permit Conditions*** contains permit conditions that apply to all hazardous waste management units, most of which are based on mandatory permit conditions set forth in 40 CFR Part 270.

**Part II: *General Facility Conditions*** contains mandatory permit conditions the Permittee must follow for operation of hazardous waste management facilities set forth at 20.4.1.500 NMAC, incorporating 40 CFR 264, subparts B through E, and H.

**Part III: *Post-Closure Care*** contains permit conditions the Permittee must follow for post-closure care of the inactive HWMUs: NCL, the TEL, the EPs and any other unit at which it is not possible to accomplish “clean closure” by removal of all waste, hazardous constituents, and waste residues as set forth at 20.4.1.500 NMAC, incorporating the applicable portions of 40 CFR 264, subparts F and G.

**Part IV: *Corrective Action*** contains the conditions and requirements for corrective action for releases from SWMUs and AOCs as set forth at 20.4.1.500 NMAC, incorporating 40 CFR

264.101. Part IV includes: notification and assessment requirements for releases; confirmatory sampling requirements; investigation requirements; interim measures; remedy selection; and permit modification requirements. SWMUs are any discernable units at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units may include any area at the Facility at which solid wastes has been routinely and systematically released, but does not include one-time accidental spills that are immediately remediated. AOCs are any discernable area at the facility, or off-site, as determined by the Department, where hazardous waste or hazardous constituent(s) are present, or are suspected to be present, and that may pose a current or potential threat to human health or the environment. The regulatory justifications for imposing corrective action are contained in the NMED's technical support documents filed in the administrative record. These permit conditions ensure that the Permittee appropriately addresses releases of hazardous waste and hazardous constituents to the environment.

**Attachment A: *Facility Description*** provides a general description of the Facility, the Facility location and background, geology and hydrogeology, descriptions of the RCRA permitted units, wastewater management at the site and RCRA-related activities.

**Attachment B: *Part A Permit Application*** contains a copy of the Part A Permit Application.

**Attachment C: *Inspection Plan*** provides the inspection schedule and log forms for the NCL, the TEL, and the EPs.

**Attachment D: *Post-Closure Care Plan*** provides post-closure plans for the NCL and TEL.

**Attachment E: *Compliance Schedule*** provides a list of corrective action submittals and their due dates for SWMUs and AOCs at the facility.

**Attachment F: *List of HWMUs, SWMUs and AOCs*** provides a table listing the HWMUs, and tables listing SWMUs, and AOCs and their unit designations. There are three tables that list SWMUs and AOCs by corrective action status (Corrective Action Required, Corrective Action Complete with Controls and Corrective Action Complete without Controls).

**Attachment G: *Closure and Post-Closure Care Cost Estimates*** will contain the closure cost estimate for the EPs (when submitted) and contains the post-closure cost estimates for the NCL and TEL.

**Attachment H: *Long-Term Monitoring and Maintenance Plans*** contains the long-term monitoring and maintenance plans for applicable portions of the Facility.

**Attachment I: *Figures*** provides figures of the Refinery and off-site properties.

**Attachment J: *RCRA Contingency Plan*** contains an emergency response plan if there is a fire, explosion, or release of waste at the NCL that may endanger human health or the environment.

## **PUBLIC PARTICIPATION**

The HWMR (20.4.1 NMAC) require an opportunity for public involvement any time there is a modification to change a permit, or issue a new or renewed permit. That process involves public notice and includes an opportunity for public comment on major permit modifications or permit issuance or rejection. Public notices are provided in local newspapers and are included with written correspondence to individuals on the Facility mailing list. The Facility mailing list is maintained by the NMED and any interested person may request to be placed on it to be informed of such actions.

There are significant opportunities for the public to learn about and become involved in the regulation of hazardous waste at the Facility, including major permit-related actions and corrective action activities. Documents pertinent to permitting and corrective action activities submitted to or issued by the NMED are available for public review in the Administrative Record maintained by the NMED at the address provided below, which describes how the public may comment on the draft Permit.

## **PUBLIC REVIEW OF THE ADMINISTRATIVE RECORD**

A copy of the administrative record may be reviewed at the following location:

NMED - Hazardous Waste Bureau  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505-6313  
Monday - Friday from 8:00 a.m. to 5:00 p.m.  
Contact: Ms. Pam Allen  
(505) 476-6000

A copy of the draft Permit, the Public Notice, and this Fact Sheet are also available on the Department's website at [www.env.nm.gov/HWB/nrcperm.html](http://www.env.nm.gov/HWB/nrcperm.html). To obtain a copy of the administrative record or a portion thereof, or for further information, contact Ms. Pam Allen at (505) 476-6000 or at the address provided above.

The 60-day public comment period begins on **April 28, 2017 and ends on June 27, 2017**. Any person who wishes to comment on this action or request a Public Hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and address to the respective address below. Only comments or requests received on or before **5:00 p.m. MDT June 27, 2017** will be considered. Written comments may be sent to:

Dave Cobrain, Program Manager  
Hazardous Waste Bureau - New Mexico Environment Department  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, NM 87505-6313  
Phone: (505) 476-6000

Ref: HollyFrontier Navajo Refining LLC Draft Permit Public Comments  
email: dave.cobrain@state.nm.us

Written comments must be based on the information available for review and include, to the extent practicable, all referenced factual materials. Documents in the administrative record need not be re-submitted if expressly referenced by the commenter. Requests for a Public Hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requester represents; (3) a statement of any objections to the Permit; and (4) a statement of the issues which the commenter proposes to raise for consideration at the hearing. NMED will provide a minimum 30-day notice of a Public Hearing, if scheduled.

All comments submitted will be considered in formulating a final decision and may cause the draft Permit to be modified. The Department will respond in writing to the comments received. This response will specify which provisions, if any, of the draft Permit have been changed in the final decision and the reasons for the changes. All persons who have submitted written comments or who requested notification of the final decision will be notified of the decision by mail. These responses also will be posted on the NMED website.

After consideration of all written public comments received, the Secretary of the Department or his designee will make the final decision on this draft Permit. The decision will be publicly available, and shall be included in a notification to the Applicants by certified mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the HWA.

### **ARRANGEMENTS FOR PERSONS WITH DISABILITIES**

Any person with a disability and requiring assistance or auxiliary aid to participate in this process should contact Mr. Vincent Velarde, NMED, Room S-4303, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502-6110, TDD or TDY users please access Mr. Velarde's number via the New Mexico Relay Network at 1-800-659-8331.

### **NONDISCRIMINATION STATEMENT**

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 CFR Part 7, including Title VI of the Civil

Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Ms. Kristine Pintado, Non-Discrimination Coordinator  
New Mexico Environment Department  
1190 St. Francis Dr., Suite N4050  
P.O. Box 5469  
Santa Fe, NM 87502-5469  
Phone: (505) 827-2855  
e-mail: NMED.NDC@state.nm.us

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/NMED/EJ/index.html> to learn how and where to file a complaint of discrimination.