Mirro, Rachel

From: Mirro, Rachel
Sent: Monday, September 18, 2017 11:28 AM
To: 'Mitzel, Glenn'
Cc: JeannaR Henry (HenryJeannar@epa.gov); McGoldrick, Catherine
Subject: Outcomes for FY17 PADEP Financial Assurance Review

Good morning Glenn,

Thank you for your continued support in providing our office with the necessary information needed to perform the FY17 financial assurance (FA) review for Air Products and Chemicals, Inc. (PAD003001070) and Sunoco Logistics Partners L.P. Marcus Hook Refinery (PAD980550594). Please see below for the outcome of our reviews.

- **Air Products and Chemicals, Inc. (PAD003001070):** After completing the evaluation on 9/12/2017, EPA determined that Air Products and Chemicals, Inc. has sufficient financial assurance for FY17. The facility demonstrates FA for FY17 by passing Alternative II of the Financial Test.

- **Sunoco Logistics Partners L.P. Marcus Hook Refinery (PAD980550594):** After completing the evaluation on 9/11/2017, Sunoco Logistics Partners L.P. was found to have insufficient FA for FY17 due to ongoing complications associated with the transfer of ownership among Sunoco's partnerships and corporations. EPA understands that the loss of FA staff in May 2017 has made it difficult for PADEP to continue to dedicate resources to an investigation. Therefore, EPA proposes to conduct a second review for FA compliance in FY18 to revisit any unresolved issues. EPA will support PADEP in performing the necessary actions to bring the facility back into compliance.

Please feel free to contact me at mirro.rachel@epa.gov or 215-814-3441, if you have any comments or questions regarding this review.

Sincerely,

Rachel Mirro

U.S. EPA Region 3|Land & Chemical Division|RCRA Hazardous Waste Branch (3LC32)
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Financial Assurance Review

Facility Name: Sunoco Logistics Partners L.P.
EPA ID Number: PAD 980 550 594
EPA Reviewer: Rachel Mirro
Date: 9/12/2017
Review Fiscal Year: 2017
Date package submitted to EPA by state: 4/10/2017
Date submitted to the State (fiscal review year): 3/30/2017

Type of Financial Assurance used for this fiscal year instrument:

Financial Test	☐	Surety Bond	☐
Trust Fund	☐	Corporate Guarantee	☒
Letter of Credit	☐	Insurance	☐

How did the facility demonstrate compliance?

- Cost Estimate for Closure: $421,357; Post Closure –$13,076,737; Sudden & Non-Sudden Liability Coverage – $8,000,000
- Closure and Liability Coverage
  - Letter from the Chief Financial Officer (CFO Letter)-3/30/2017
    - Includes the facility information and includes a passing Alternative II to demonstrate Sunoco Logistics Partners L.P. can cover the cost estimates. Note however, the permit has not been modified to accept the change of ownership. Therefore, this CFO is out of compliance before Sunoco applies for the permit modification.
  - 2016 Auditors Statement (10-K)
    - Includes financial information that has been used in the Surety Bond. Copy in file
  - "Special Report"- Report of Independent Certified Public Accountants-3/30/2017
    - Verifies the information in the Surety Bond with the Financial Report. All associated findings were "found to be in agreement".
  - "CPA Audit report" - Report of Independent Registered Public Accounting Firm-2/24/2017
    - Included in Audited Financial report, pg. 72

Is the financial assurance mechanism sufficient for the fiscal year?

- No, the Corporate Guarantee (CG) filed for PAD980550594 was not on behalf of the current owner/operator, Sunoco, Inc. Before this CG can be approved, the permit must be modified to reflect the transfer of ownership to Sunoco Marketing and Terminals, L.P.
- Records also indicate that Sunoco's liability insurance coverage for the Marcus Hook facility expired on 3/31/2013 and the bonds have not been updated since 2012.
- EPA completed the evaluation for EPA ID PAD980550594 on 9/11/2017, and determined that the facility has insufficient FA for FY17.

State's Financial Assurance Documentation

- On 8/10/2016 a letter was sent to Sunoco, from PADEP staff member Laura Henry, requesting necessary corrections be made by the facility to ensure appropriate FA as part of the permitting process.
- PADEP also requested a meeting be held with all involved parties to discuss the appropriate path forward.
- Meeting minutes for 9/26/2016 were recorded by PADEP, along with a timeline of events from 2004 until the meeting date, that document major milestones as it relates to the referred facility.
- During the 9/26/2016 meeting, attended by PADEP, Sunoco Inc., Evergreen Resources Management Operations, and EPA staff members, the facility requested a permit modification for the facility to transfer ownership to a new EPA ID number and have the operator, Evergreen Resources Management, keep the old EPA ID number.
- On 3/30/2017, Sunoco Logistics Partners L.P. requested Hazardous Waste Financial Assurance by issuing a CFO letter, Special Report, and a CPA Audit Report to PADEP that demonstrates financial responsibility under subpart G of 40 CFR parts 264 and 265.
- Sunoco Partners Marketing & Terminals L.P. also submitted a Guaranty and Suretyship Agreement to PADEP on 3/30/2017 securing $21,498,094 for ID number PAD980550594.
- No additional follow-up documentation has been provided since the request issued on 3/30/2017, however, PADEP indicates that the facility is still operating in non-compliance with permit and FA regulations.

Special Consideration

Due to ongoing complications associated with the transfer of ownership between Sunoco partnerships and filing of appropriate FA under PAD980550594, EPA recommends this facility undergo a second FA review in FY18. The second review will allow EPA and PADEP to revisit any items undetermined at the time of the FY17 review and also provide support to PADEP, who recently acquired a vacancy in their FA department after the departure of staff member Kiah DeSarro in May 2017.

Email Correspondence attached to file.