



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 15 2017

Mr. Rod Johnson
Enoch Keever PLLC
5918 W. Courtyard Drive, Suite 500
Austin, TX 78730

Reference No. 16-0208

Dear Mr. Johnson:

This letter is in response to your December 13, 2016, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the definition of an "offeror" of hazardous materials and the registration requirements under § 107.601. You state that your client is a producer of crude oil that sells to a purchaser. Under contract, ownership of the oil passes to the purchaser as it flows through the valve on your client's storage tank. It is your understanding that the purchaser is the "offeror" based on performance of a variety of functions, including certain hazardous material pre-transportation functions. Specifically, you ask whether the purchaser of the crude oil, your client, or both, are considered an "offeror" of hazardous materials and consequently required to register under § 107.601.

Based on the information provided in your letter, the purchaser is considered an offeror of hazardous materials and is required to register accordingly. Further, it is the opinion of this Office that your client is not an offeror as defined by the HMR and is not required to register under § 107.601. As defined in § 171.8, a "person who offers" or "offeror" means any person who does either or both of the following: (1) performs, or is responsible for performing, any pre-transportation function required under this subchapter for transportation of the hazardous material in commerce; or (2) tenders or makes the hazardous material available to a carrier for transportation in commerce. Any person that is determining the hazard class of a hazardous material, selecting a packaging, filling a package, securing a closure, or marking a package to indicate that it contains a hazardous material, etc. is also considered an offeror (see § 171.1(b)).

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division