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Transportation/Hazardous Materials: U.S. Pipeline and Hazardous Materials Safety Administration Addresses Definition of "Offeror" in Sale of Crude Oil

Arkansas Environmental, Energy, and Water Law Blog

12/07/2016

The United States Pipeline and Hazardous Materials Safety Administration ("PHMSA") addressed in a November 2nd letter a request for a clarification of the Hazardous Materials Regulations ("HMR") as applicable to the definition of "offeror" as relating to § 173.41.

Cimarron Oil LLC ("Cimarron") posed the question to PHMSA in a July 26th letter to the agency.

Cimarron described a scenario in which a producer of crude oil sells to a purchaser. Pursuant to the scenario, the ownership of the oil passes (under contract) to the purchaser as it flows through the valve on the (producer's) storage tank.

PHMSA references Cimarron's belief that under this scenario:

...the purchaser is the "offeror" based on performance of a variety of functions including certain hazardous material pre-transportation functions, e.g., loading the crude oil from a storage tank to a transport vehicle, sampling and testing of crude oil, and preparing shipping papers.

Cimarron is stated to have asked whether in this case and based on the reasons provided:

...the purchaser of the crude oil is the "offeror" as defined in § 171.8.

PHMSA concludes in its November 2nd letter that the purchaser is an "offeror." The agency states that there may be multiple offerors during transportation. It further notes:

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.

PHMSA further states that 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 an offeror (citing § 171.1(b)).

[A copy of the letter can be downloaded here.](#)