U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN - 5 2004

Mr. Elbert W. Muncy, Jr.
Attorney at Law
831 W Main Street
Barstow, CA 92311-2649

Ref. No. 03-0289

Dear Mr. Muncy:

This is in response to your letter of November 5, 2003, concerning the Hazardous Materials Registration Program. Specifically, you ask whether separately incorporated, partially owned companies are required to register as separate entities.

The answer is yes. The registration and fee requirements established in 49 CFR Part 107, Subpart G, apply to any person who offers for transportation or transports hazardous materials subject to the applicability criteria in § 107.601. The definition of "person" includes a firm, co-partnership, corporation, company, association, or joint-stock association (see 49 CFR 171.8).

I hope this satisfies your request.

Sincerely,

John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards

030289

107.601

ELBERT W. MUNCY, JR.

ATTORNEY AT LAW

831 W. Main Street
Barstow, Calif. 92311

Phone: 760-256-1550
Facsimile: 760-256-1954
e-mail: ebmuncy@desertamb.com

BAH
§107.601
Registration
03-0289

November 5, 2003

Edward Mazzlo
Dir. Office of Hazardous Material Standards
USDOT RSPA DHM 10
400 Seventh Street Southwest
Washington, DC 20590-001

Dear Mr. Mazzlo;

I am an attorney involved in a lawsuit where one of the issues is a requirement for an entity to obtain a Hazardous Materials Certificate of Registration. I am informed that your office will issue a written opinion regarding this issue. I understand any opinion will be limited to the facts as set forth in writing. The fact pattern is as follows:

Company A has a Hazardous Material Certificate of Registration. Company B is a partnership formed between Company A and two Individuals. Company A, is a corporation and has a 70% equity ownership in the Company B. The two individuals are a husband and wife which own the remaining 30% equity interest. The two individuals do not own any stock in Company A.

Company B purchase their propane from Company A at a facility owned by Company A. Company B transports the propane from Company A's facility to be resold to various customers in the community. Company B charges the customers for the propane delivered. The vehicle that the delivery is made in is owned by Company B.

With the above fact pattern does Company B have to obtain thier own Hazardous Materials Certificate of Registration?

Same facts except that the propane delivery vehicle is owned by Company A and is leased to Company B, does Company B have to obtain their own Hazardous Material Certificate of Registration?

Same facts except that the propane delivery vehicle is owned by Company A and is loaned to Company B, does Company B have to obtain their own Hazardous Material Certificate of Registration?

Same facts except that the propane delivery vehicle is owned by Company A and is and is being used Company B. Company B is making payments to Company A. When Company B pays a preset priced to Company A, Company A will transfer title of the delivery vehicle to Company B. Does Company B have to obtain their own Hazardous Material Certificate of Registration?

I thank you in advance for answering these questions for me. The answer will be helpful in resolve some of the issues presented in the litigation. Should you have any comments or questions regarding this matter please feel free to contact me.

Sincerely,

Elbert W. Muncy, Jr.
Attorney at Law