



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

DEC 14 2015

Mr. David Gobaud
1270 Ortiz Ct.
Sunnyvale, CA 94089

Ref. No.: 15-0192.

Dear Mr. Gobaud:

This responds to your September 17, 2015 email request for clarification of the definition of a consumer commodity under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether gasoline in a 110 gallon aluminum tank authorized by DOT SP 14227 meets the definition of consumer commodity. In your letter you note that gasoline meets the definition of a consumer commodity as defined by the HMR in § 171.8.

Gasoline transported in a 110 gallon tank would not meet the quantity limits specified for a limited quantity or a consumer commodity. To be shipped as a consumer commodity, the gasoline must be packaged in accordance with the limited quantity provisions in § 173.150. Gasoline is a flammable liquid of packing group II. As such, a limited quantity of gasoline is limited to 1L (0.3 gallons) per inner packaging. The inner packaging must be packed in a strong outer packaging and the completed package may not exceed 30 kg (66 lbs) gross weight (see § 173.150(b)). The package described in your letter exceeds the quantity limits for limited quantities and consumer commodities as described in § 173.150(b).

I hope this answers your inquiry. If you need additional assistance, please contact the Standards and Rulemaking Division at (202) 366-8553.

Sincerely,

Ben Supko
Senior Regulations Officer
Standards and Rulemaking Division

Goodall, Shante CTR (PHMSA)

Heary
171.80
Description
15-0192

From: Geller, Shelby CTR (PHMSA)
Sent: Tuesday, September 29, 2015 2:52 PM
To: Hazmat Interps
Subject: FW: Requesting Formal Letter of Interpretation

Dear Shante and Alice,

I wanted to follow up on the below request as it does not look to be in the database.

Thanks,
Shelby

From: Geller, Shelby CTR (PHMSA)
Sent: Thursday, September 17, 2015 1:29 PM
To: Hazmat Interps
Subject: FW: Requesting Formal Letter of Interpretation

Dear Shante and Alice,

Forwarded is a request for a formal letter of interpretation. I spoke with Mr. Gobaud.

Thanks,
Shelby

From: gobaudd7@gmail.com [<mailto:gobaudd7@gmail.com>] **On Behalf Of** David Gobaud
Sent: Thursday, September 17, 2015 5:21 AM
To: PHMSA HM InfoCenter
Subject: Requesting Formal Letter of Interpretation

Hi,

I recently called [1-800-467-4922](tel:1-800-467-4922) and talked to Shelby who confirmed that gasoline in a 110 gallon Aluminum Tank Industries tank covered by DOT special permit 14227 is a "consumer commodity" under 49 CFR 171.8 (<https://www.law.cornell.edu/cfr/text/49/171.8>). I then submitted an email last week requesting a formal letter of interpretation confirming this and Shelby called me back saying I should include some more information so I am resubmitting the request as follows:

I am requesting a formal letter of interpretation confirming that gasoline in the 110 gallon Aluminum Tank Industries tank covered by DOT special permit 14227 and sold by Amazon (<http://www.amazon.com/FUEL-TRANSFER-TANK--Rectangle--Gallon/dp/B008EUB250/>) is a "consumer commodity" under 49 CFR 171.8 (<https://www.law.cornell.edu/cfr/text/49/171.8>). Gasoline in the specified tank is a "consumer commodity" because: 1) an individual could buy 110 gallons of gasoline from a retail sales agency, 2) the gasoline could be packaged and distributed in the 110 gallon 14227 tank, and 3) gasoline is consumed by individuals for personal care and household use. Therefore gasoline is "a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for purposes of personal care or household use." Specifically, 1) gasoline is a material, 2) that could be packaged and distributed in the 110 gallon 14227 tank and sold through a retail sales agency such as Amazon and thus is suitable for such a sale, and 3) gasoline is consumed by individuals for personal care when used in a personal

car and household use when used in a household lawnmower. For example, I could order 110 gallons of gasoline when gasoline prices are low, have it delivered to my home in the 110 gallon 14227 tank, and use the gasoline to refuel my car and lawnmower at home.

My address is 1270 Ortiz Ct., Sunnyvale, CA 94089 and my phone is (650) 353-1084. Will you please let me know you have received this email and let me know how long it will take to get confirmation.

Thank you,
David