

29 C.F.R. § 794.134

Distribution “for resale.”

A sale made to a customer engaged in the bulk distribution of petroleum products will be included in the 25 percent limitation only if the customer engages in the bulk distribution of petroleum products “for resale”. Except with respect to a specific exclusion in section 3(n) regarding certain building materials, the word “resale” is not defined in the Act. The common meaning of “resale” is the act of “selling again”. A sale is made for resale when the seller knows or has reasonable cause to believe that what is sold by him will be resold by the purchaser in the same or a different form. Where the sale is thus made for resale, it does not matter what ultimately happens to the subject of the sale. Thus, the fact that goods sold for resale are consumed by fire or no market is found for them and they are therefore never resold does not alter the character of the sale which is made for resale. In considering whether there is a sale of petroleum products for resale in any specific situation, the term “sale” includes, as defined in section 3(k) of the Act, “any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.”

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