



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

September 16, 2019

Mr. Luke Van Wyk
Vice President of Sales
Thunder Creek Equipment
1833 Highway 163
Pella, Iowa 50219

Reference No. 19-0082

Dear Mr. Van Wyk:

This letter is in response to your June 17, 2019, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to a previous letter of interpretation under Reference No. 19-0022. Specifically, you request clarification on the definition of local roads.

We have paraphrased and answered your questions as follows:

- Q1. You ask whether the Pipeline and Hazardous Materials Safety Administration (PHMSA) has adopted the U.S. DOT Federal Highway Administration's definition of a "local road" for the purposes of § 173.5(a).
- A1. The answer is no, PHMSA does not define the term "local road" as it is used in 49 CFR 173.5. Further, PHMSA does not use another agency's "local road" definition.
- Q2. You ask whether PHMSA considers a "local road" to be anything other than an interstate highway.
- A2. As stated in answer A1, PHMSA does not define the term "local road." However, HM-200 [62 FR 1215], the rulemaking that adopted the agricultural exceptions into the HMR, specifically states that an interstate highway would not be considered a "local road." Therefore, for the purposes of § 173.5(a), any road other than an interstate highway may be considered a local road.

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

Wolcott
8173 5
19-0082

Dodd, Alice (PHMSA)

From: Luke Van Wyk <luke@ldj-products.com>
Sent: Monday, June 17, 2019 8:29 AM
To: Dodd, Alice (PHMSA); Stevens, Michael (PHMSA); Kelley, Shane (PHMSA); Foster, Glenn (PHMSA)
Cc: art fleener; Brian Jarzen
Subject: RE: Response Letter of Interpretation
Attachments: Request For Interpretation PHMSA 6.14.2019.docx

Good Morning,

Please find a request for further interpretation of the term "local roads" used in 49CFR173.5. The Illinois DOT and Illinois State Police continue to hold to a very narrow interpretation of local roads.

Thank you,

Luke Van Wyk | Vice President - Sales

Thunder Creek Equipment
Direct: 641.620.4025
Cell: 641-780-1285
Luke@ThunderCreek.com
ThunderCreek.com | LDJ-Products.com

From: Dodd, Alice (PHMSA) <Alice.Dodd@dot.gov>
Sent: Monday, March 4, 2019 8:43 AM
To: Luke Van Wyk <luke@ldj-products.com>
Subject: Response Letter of Interpretation

Good Morning Mr. Wyk,

My name is Alice Dodd and I work in the Office of Hazardous Materials and Safety Administration (PHMSA) I am emailing and sending in regular mail your response to the Letter of Interpretation that was sent in. If there is anything else please feel free to contact us.

Thank you

Alice Dodd
Department of Transportation
Pipeline and Hazardous Materials Safety Administration (PHMSA)
1200 New Jersey Avenue SE
E-24-403
Washington, DC 20590
Office :202-366-9141
Fax:202-366-7041
Email: Alice.Dodd@Dot.Gov

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. Please note that

any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the company. Finally, the recipient should check this email and any attachments for the presence of viruses. LDJ Manufacturing Inc. (DBA Thunder Creek Equipment) accepts no liability for any damage caused by any virus transmitted by this email. LDJ Manufacturing Inc., 1833 Hwy 163, Pella, Iowa 50219



THUNDER CREEK EQUIPMENT
ThunderCreek.com

CONTACT

1833 Highway 163
Pella, IA 50219
P: 866.535.7667
F: 641.620.8302

Michael Stevens
Transportation Specialist
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Mr. Stevens:

This letter is a follow up to the letter of interpretation reference No. 19-0022, dated March 04, 2019.

Thank you for the interpretation. We have a couple of follow up questions regarding the letter of interpretation No. 19-0022.

1. Has PHMSA adopted the Federal Highway Administrations (FHWA) definition of what a "local road" is as it relates to HMR 49 CFR Section 173.5(a)? Our belief is that PHMSA has not adopted FHWA's definition of a local road. It is not adopted by reference in Section 171.7, it is not defined in Section 171.8 and FHWA's definition is also not specifically referenced in Section 173.5(a).
2. Does a local road mean any other road, other than an interstate highway? This would include a local farm to market road, county highway, state highway and US highways. The preamble of January 08 1997, final rule (62 FR 1207) PHMSA states: "For the purposes of this section, a local road does not include an interstate highway". Our believe is that any other road, other than an interstate highway would be considered a "local road" as it is used in Section 173.5(a).

Thank you for your help and clarification. We look forward to a timely response to our questions.

Please contact us if further information is needed.

Sincerely,

Luke Van Wyk
Vice President - Sales