



## Legislation Text

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Department of Community Development

Reference: E-470 Hazardous Material Route Designation

**To:** Mayor Kenneth J. Kreutzer and Members of City Council

**Through:** Philip A. Rodriguez, City Manager

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### **PURPOSE**

Per the direction of City Council at their October 23, 2018, Study Session, City staff is bringing forth additional information regarding the potential designation of E-470 as a Hazardous Materials ("HazMat") route. Additionally, City staff is looking for direction from City Council as to whether or not the City of Brighton joins the E-470 Public Highway Authority ("Authority") in petitioning for the designation of E-470 as a HazMat route.

### **STRATEGIC FOCUS AREAS**

Safe, Active and Engaged Community

Strong Regional Relationships and Partnerships

### **BACKGROUND**

Per state statute, the Colorado State Patrol ("Patrol") regulates HazMat route designation. A petition from local agencies to the Patrol is needed in order to start the designation process. The Authority is seeking to partner with its member jurisdictions and agencies for designation, and is willing to provide the financial resources needed to go through the designation process. Before a petition can be filed, a HazMat route analysis needs to be completed. The Colorado Department of Transportation ("CDOT") has offered to assist with the route analysis.

The route analysis will determine if the below statements are true and backed in factual data.

1. The route is feasible, practical, and not unreasonably expensive for HazMat transportation.
2. The route is continuous both within a jurisdiction and from one jurisdiction to another.
3. The route provides greater safety to the public than other feasible routes.
4. Interstate or intrastate commerce is not unreasonably burdened.
5. The route is not arbitrary or intended to merely divert hazardous materials to other communities.
6. The designation will not interfere with the pick-up or delivery of hazardous materials.

7. The designation is consistent with all applicable federal laws and regulations.

A prepared petition needs to be approved by the governing body of each supporting jurisdiction. The Patrol will have six months to approve or deny a petition for a route designation from the date of its submission. Public input is part of the Patrol's review process of the petition.

#### **CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM**

Colorado Revised Statutes Section 42-20, 'Transportation of Hazardous and Nuclear Materials', outlines the procedures for HazMat route designation. The Authority itself is not eligible to directly petition the Patrol for designation. The Authority's member jurisdictions are empowered to petition the Patrol to designate E-470 as a HazMat route for those portions of the highway that lie within their respective jurisdictions in accordance with the statutory provisions and the Patrol's rules and regulations.

#### **SUMMARY OF FINDINGS / STAFF ANALYSIS**

Brighton already has two HazMat routes running through its boundaries: US-85 and I-76. Nearby HazMat routes include Interstates 25, 70, and 270. HazMat transportation haulers submit their travel routes in advance, routing their cargo to the nearest HazMat route. Once submitted, these predetermined travel routes are mandatory. Because haulers have to use local roads to get to designated HazMat routes, the further a site is from a HazMat route, the longer haulers must travel along local roads with those hazardous materials.

Not all of the 47 miles of E-470 would be required to be designated as a HazMat route, but a designated section must begin and end at a currently active or approved HazMat route. Governmental jurisdictions must approve a HazMat designation through its respective boundaries. Brighton's decision will impact the potential route designation in two sections: I-25 to US-85, and US-85 to I-76.

It is worth noting that the two railroad lines running through Brighton are additionally able to transport hazardous materials in large quantities. Thus, Brighton already has a total of four existing hazardous materials transport corridors within its city limits.

Governmental jurisdictions in support of the HazMat designation for E-470 are Adams County, Douglas County, Parker, and Thornton. Reasons for support from these entities included stating that "E-470 is a safer and more efficient route for transporting hazardous materials than the city's local arterial streets" and that "[a]llowing this type of transportation on E-470 will minimize the number and severity of potential conflicting transportation movements and risks". Additionally, it has been stated in letters of support that E-470, given its design and construction, is better suited than the local transportation system to handle the nature and character of vehicles that haul hazardous materials, and that "the physical proximity of E-470's traveling lanes are much further away from homes, schools, and businesses than the City's streets in the unlikely event of an emergency situation".

Aurora has decided that it is not in the best interests of their city to move the petition forward. Designating the 23 miles of E-470 through their boundaries as a HazMat route would require a new, secondary HazMat team for Aurora Fire Rescue, as well as the training and equipment that comes with it. Additionally, Aurora raised a concern about the lack of a reliable water source for rescue purposes along the route. The costs of mitigating these two concerns is something that Aurora is willing to work with the Authority to remedy, but present conditions have led them to not move forward with their own petition. This does not stop the Authority from seeking to have other jurisdictions petition to have their applicable portions of E-470 designated.

The Authority is waiting to hear back from Arapahoe County, Commerce City, and Brighton.

City staff has engaged in discussions on this matter with the Greater Brighton Fire Rescue District's Chief, Mark Bodane, and Deputy Chief, Mike Schuppe. Their emergency service area includes nine miles of E-470 (Quebec Street to 112<sup>th</sup> Avenue). The Fire District has an Intergovernmental Agreement with the Authority that outlines the provided coverage for the applicable portion of E-470. The Chief stated that the majority of their calls regarding hazardous materials take place on local roads, and as such, he is in support of getting these materials onto roadways that are more conducive to the transportation of such materials. Additionally, they support the E-470 HazMat designation as a way of moving materials away from more densely populated neighborhoods. The Fire District still has operational issues that it would need to work out between neighboring fire and rescue service providers and the Authority, should the petition move forward. The Fire District does not view these operational issues as a reason to stall moving forward, as they believe these issues can be

worked out as the process continues.

In looking at the Comprehensive Plan designations for the area around the portion of E-470 within City limits and the City's Growth Boundary, future residential density and primary wage jobs are expected near the Adams County Government Center. Large undeveloped areas are designated for High Density Residential, Mixed-Use Commercial, and Employment - Commercial and the area contains a DRCOG designated Urban Activity Center. Staff is concerned that designating Brighton's portion of E-470 as a HazMat route could limit possible economic development prospects for the area and may be detrimental to the future residents as well.

In addition, the area further west along E-470 is designated on the Comprehensive Plan as Local District Mixed Use, which includes some of the oldest and most productive farms in Colorado. As set forth in the District Plan, Adams County and the City are working with landowners to identify ways to preserve agricultural land and ensure local food production remains a viable part of the City's character and economy. Staff is also concerned with the potential additional impacts to prime agricultural lands in the area if E-470 is designated as a HazMat route, especially considering that the City already has more than one designated route through this area i.e., US-85. *(Please see attached Future Land Use Map for the land use designations along the E-470 corridor.)*

Below are the major pros and cons of the proposed designation that City staff would like to present to City Council as it contemplates moving forward on this matter.

**Pros:**

1. An alternative transportation route for hazardous materials may reduce the hauling that is occurring on local roadways and get the vehicles on to designated routes more quickly.
2. The additional route option for haulers may help avoid more densely populated areas in the region.
3. The Fire District has stated they support the petition and are able to serve the additional route.

**Cons:**

1. Adds an additional HazMat route to the City (the City already has two roadways and two railroads that have been designated as such).
2. Brighton may be taking on more than its fair share of HazMat designated routes as compared to other communities in the region.
3. At this point in time, it is unknown as to how much additional traffic this will create or reroute.
4. There is a possibility of fire and rescue operational issues not being properly addressed.
5. Uncertain impact on economic development opportunities and prospects in the area.
6. Uncertain impact on desirability of undeveloped land designated in the Comprehensive Plan as High Density Residential, Mixed-Use Commercial, and Employment - Commercial. Additionally, may also impact the ability to build-out as a DRCOG Urban Activity Center.
7. Uncertain impact on the Local District Mixed Use designation areas.
8. Uncertain impact on existing and future residents of the area in regards to health, safety and welfare.
9. Uncertain impact on staff time and resources, particularly of the Police Department.
10. Additional unintended consequences of designation in a fast growing area.
11. Uncertainty as to if the designation could be rescinded in the future.

**STAFF RECOMMENDATION**

City staff is not formally making a recommendation to City Council at this time as it has numerous unanswered concerns.

**NEXT STEP**

Per the City Attorney, a formal vote would need to occur for the City to issue a letter of support or opposition to the petition. This can be done by Resolution and it could authorize the Mayor to evidence the support or opposition by sending a letter. If Council provides direction that they are generally in support or opposition of the designation, City staff will schedule the item for an upcoming City Council meeting, provide a draft Resolution, and provide a draft letter in support or opposition of designation.

**ATTACHMENTS**

- CDOT Map of Colorado Hazardous and Nuclear Materials Routes
- Comprehensive Plan's Future Land Use Map
- Draft City Staff PowerPoint