

## **EXHIBIT "B"**

# **Texas Administrative Code**

<b><u>TITLE 43</u></b>	<b>TRANSPORTATION</b>
<b><u>PART 1</u></b>	<b>TEXAS DEPARTMENT OF TRANSPORTATION</b>
<b><u>CHAPTER 25</u></b>	<b>TRAFFIC OPERATIONS</b>
<b><u>SUBCHAPTER F</u></b>	<b>HAZARDOUS MATERIAL ROUTING DESIGNATIONS</b>
<b><u>RULE §25.103</u></b>	<b>Routing Designations by Political Subdivisions</b>

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(a) Purpose. Title 49, Code of Federal Regulations (C.F.R.), Part 397, Subpart C, authorizes a political subdivision of a state to establish NRHM route designations on roads and highways open to the public under the jurisdiction of the political subdivision. Transportation Code, §644.202 requires a municipality with a population of more than 850,000 to develop a route for commercial motor vehicles carrying NRHM on a road or highway in the municipality and to submit the proposed route to the department for approval. This section prescribes the responsibilities of political subdivisions in establishing NRHM route designations and requires a political subdivision proposing the establishment of a new or revised NRHM routing designation to comply with this section in order to ensure that all route designations are properly established.

(b) Costs. The political subdivision is responsible for all costs of NRHM route development, including proposal preparation, public hearings, signs, sign supports, sign installation, and sign maintenance.

(c) Initial contact. A political subdivision considering the establishment of a NRHM route shall contact the local district office of the department and any other political subdivisions within a 25 mile radius of any point along the proposed NRHM route, and shall consult with those entities during the process for determining the best NRHM route. Coordination with the Texas Department of Public Safety and the local emergency planning council or committee is encouraged.

(d) Route analysis and proposal. A political subdivision intending to establish a NRHM routing designation shall fully consider and address in writing all of the federal standards and factors listed in 49 C.F.R. §397.71(b) in the route determination process. When analyzing these standards and factors, the political subdivision shall use the most current version of the United States Department of Transportation publication entitled "Guidelines for Applying Criteria to Designate Routes for Transporting Hazardous Materials" or an equivalent routing analysis tool to develop a route proposal. If an equivalent routing analysis tool is used, the political subdivision shall include in its route proposal a written explanation of how the tool is equivalent to the United States Department of Transportation standards.

(e) Local public hearing. A political subdivision shall hold at least one public hearing on any proposed NRHM routing designation. Public hearings may take the form of a city council or commissioners court meeting and shall conform with all applicable state laws governing public meetings, including the Texas Open Meetings Act, Government Code, Chapter 551. Public notification of the hearing shall comply with the following criteria.

(1) The public shall be given 30 days prior notice of the hearing through publication in at least two newspapers of general circulation in the affected area, one of which is a newspaper with statewide circulation.

(2) The notice shall contain a complete description of the proposed route, including the location, route name, highway number if the route is on the state highway system, and beginning

and ending points of the route, together with the date, time, and location of the public hearing.

(3) The notice shall initiate a 30-day public comment period and shall inform the public where to send any written comments.

(f) Proposal submission. A political subdivision that has conducted a local public hearing in compliance with subsection (e) of this section shall submit eight copies of the NRHM route designation proposal and one original color map of the proposed NRHM route to the department for approval. The proposal and map shall be submitted to the Texas Department of Transportation, Traffic Operations Division, 125 East 11th Street, Austin, Texas 78701-2483. The proposal shall include:

(1) documentation demonstrating compliance with Title 49, C.F.R., Part 397, Subpart C, and this section;

(2) a complete description of the proposed route; and

(3) a signature of approval by an authorized official of the political subdivision such as the mayor, city manager, county judge or an equivalent level of authority.

(g) Proposal review. The department will provide the public with notice through publication in the *Texas Register*, a 30-day period in which to comment, and will conduct a public hearing to receive additional comments on the proposed NRHM routing designation. The public hearing will be conducted before the executive director or the designee of the executive director. The department will publish a notice satisfying the criteria identified in subsection (e) of this section in two newspapers of general circulation in the affected area. Public hearings under this subsection will be held in Austin, Texas.

(h) Consultation with other states or Indian tribes. At least 60 days prior to establishing the NRHM routing designation, the department will provide written notice to the officials responsible for NRHM highway routing in all other affected states or Indian tribes. If no response is received within 60 days from the date of receipt of the notification of the proposed routing designation, the routing designation will be considered approved by the affected states or Indian tribes. The department will attempt to resolve any concerns or disagreement expressed by any consulted states or Indian tribes related to the proposed routing designation. If these concerns or disagreements are not resolved, the department will petition the Federal Highway Administration for resolution of the dispute in accordance with 49 C.F.R. §397.75.

(i) Authorization and approval. If the department determines that a route has met all of the criteria for approval, the executive director will approve the NRHM routing designation, notify the political subdivision in writing that the proposed routing designation is authorized, and issue appropriate notice to the Federal Highway Administration and the Texas Department of Public Safety. A political subdivision that is issued a letter of approval shall designate the NRHM route by ordinance, resolution, rule, regulation, or other official order, and shall forward a copy of the order to the department within 30 days of receipt of the letter of approval.

(j) Route signing. After receipt of department approval and passage of the order, the political subdivision shall submit the proposed sign and installation locations of the NRHM route designation to the local district office for approval. All signs must conform to the latest version of the Texas Manual on Uniform Traffic Control Devices. Sign installations shall be coordinated with the local district office prior to placement.

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**Source Note:** The provisions of this §25.103 adopted to be effective January 8, 1998, 23 TexReg 153; amended to be effective January 5, 2012, 36 TexReg 9350