

Part 3 Utah State Scenic Byway Program

72-4-301 Definitions.

As used in this part:

- (1) "Committee" means the Utah State Scenic Byway Committee created in Section 72-4-302.
- (2) "Corridor management plan" means a written document:
 - (a) required to be submitted for a highway to be nominated as a National Scenic Byway or All-American Road that specifies the actions, procedures, controls, operational practices, and administrative strategies to maintain the scenic, historic, recreational, cultural, archeological, and natural qualities of a scenic byway; and
 - (b) adopted by each municipality or county affected by the corridor management plan.
- (3) "Non-scenic area" means:
 - (a) any property that is unzoned or zoned for commercial or industrial use adjoining a highway that does not contain at least one of the intrinsic qualities described in Subsection 72-4-303(1)
 - (b) immediately upon the property; or
 - (b) any property that is unzoned or zoned for commercial or industrial use that contains an intrinsic quality described in Subsection 72-4-303(1)(b) immediately upon the property but the intrinsic quality does not represent the primary use of the property.
- (4) "Segmentation" means:
 - (a) removing the scenic byway designation from a portion of an existing scenic byway that adjoins a non-scenic area; or
 - (b) excluding a portion of a highway from a scenic byway designation where the highway adjoins a non-scenic area.

Amended by Chapter 195, 2010 General Session

72-4-301.5 Designation of highways as a National Scenic Byway or All-American Road -- Legislative approval.

- (1) Except as provided in Section 72-4-304, a highway or state scenic byway may not be nominated for designation as a National Scenic Byway or All-American Road unless the corridor management plan that will be submitted with the application for the highway or state scenic byway to be nominated for designation as a National Scenic Byway or All-American Road is approved by the Legislature.
- (2)
 - (a) In accordance with Subsection (1), the Legislature may:
 - (i) approve the corridor management plan;
 - (ii) approve the corridor management plan with conditions specified by the Legislature; or
 - (iii) deny the corridor management plan.
 - (b) Upon a decision by the Legislature under Subsection (2)(a), the nominating entity is not required to move forward with the nomination for the National Scenic Byway or All-American Road designation.

Amended by Chapter 195, 2010 General Session

72-4-302 Utah State Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

(1) There is created the Utah State Scenic Byway Committee.

(2)

(a) The committee shall consist of the following 15 members:

(i) a representative from each of the following entities appointed by the governor:

(A) the Governor's Office of Economic Development;

(B) the Utah Department of Transportation;

(C) the Department of Heritage and Arts;

(D) the Division of Parks and Recreation;

(E) the Federal Highway Administration;

(F) the National Park Service;

(G) the National Forest Service; and

(H) the Bureau of Land Management;

(ii) one local government tourism representative appointed by the governor;

(iii) a representative from the private business sector appointed by the governor;

(iv) three local elected officials from a county, city, or town within the state appointed by the governor;

(v) a member from the House of Representatives appointed by the speaker of the House of Representatives; and

(vi) a member from the Senate appointed by the president of the Senate.

(b) Except as provided in Subsection (2)(c), the members appointed in this Subsection (2) shall be appointed for a four-year term of office.

(c) The governor shall, at the time of appointment or reappointment for appointments made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(d)

(i) The appointments made under Subsections (2)(a)(v) and (vi) by the speaker of the House and the president of the Senate may not be from the same political party.

(ii) The speaker of the House and the president of the Senate shall alternate the appointments made under Subsections (2)(a)(v) and (vi) as follows:

(A) if the speaker appoints a member under Subsection (2)(a)(v), the next appointment made by the speaker following the expiration of the existing member's four-year term of office shall be from a different political party; and

(B) if the president appoints a member under Subsection (2)(a)(vi), the next appointment made by the president following the expiration of the existing member's four-year term of office shall be from a different political party.

(3)

(a) The representative from the Governor's Office of Economic Development shall chair the committee.

(b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as nonvoting, ex officio members of the committee.

(4) The Governor's Office of Economic Development and the department shall provide staff support to the committee.

(5)

(a) The chair may call a meeting of the committee only with the concurrence of the department.

(b) A majority of the voting members of the committee constitute a quorum.

(c) Action by a majority vote of a quorum of the committee constitutes action by the committee.

(6)

- (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 258, 2015 General Session

72-4-303 Powers and duties of the Utah State Scenic Byway Committee -- Requirements for designation -- Segmentation -- Rulemaking authority -- Designation on state maps -- Outdoor advertising.

- (1) The committee shall have the responsibility to:
 - (a) administer a coordinated scenic byway program within the state that:
 - (i) preserves and protects the intrinsic qualities described in Subsection (1)(b) unique to scenic byways;
 - (ii) enhances recreation; and
 - (iii) promotes economic development through tourism and education;
 - (b) ensure that a highway nominated for a scenic byway designation possesses at least one of the following six intrinsic qualities:
 - (i) scenic quality;
 - (ii) natural quality;
 - (iii) historic quality;
 - (iv) cultural quality;
 - (v) archaeological quality; or
 - (vi) recreational quality;
 - (c) designate highways as state scenic byways from nominated highways within the state if the committee determines that the highway possesses the criteria for a state scenic byway; and
 - (d) remove the designation of a highway as a scenic byway if the committee determines that the highway no longer meets the criteria under which it was designated.
- (2)
 - (a) A highway located within a county, city, or town within this state may not be included as part of a designation or nomination as a state scenic byway, National Scenic Byway, or All-American Road unless the nomination or designation is sanctioned in writing by an official action of the legislative body of each county, city, or town through which the proposed state scenic byway, National Scenic Byway, or All-American Road passes.
 - (b) If a county, city, or town does not give approval as required under Subsection (2)(a), then the portion of the highway located within the boundaries of the county, city, or town may not be included as part of any state scenic byway designation or nomination as a National Scenic Byway or All-American Road.
- (3)
 - (a) Except as provided in Subsection (3)(d), a non-scenic segment of a state scenic byway, National Scenic Byway, or All-American Road shall be segmented from the byway or road:
 - (i) by the legislative body of the county, city, or town where the segmentation is to occur if:
 - (A) a person or another entity, with the consent of any landowners affected by the segmentation, has requested the segmentation of a portion of a road or highway; and

- (B) the legislative body of the county, city, or town reviews the segmentation proposed under this Subsection (3)(a)(i); or
- (ii) by the committee at the written request of the owner of real property that is a non-scenic area adjacent to a state scenic byway, National Scenic Byway, or All-American Road.
- (b) The legislative body of a county, city, or town shall render a decision on a segmentation request under Subsection (3)(a)(i) within 60 days and may grant segmentation to the person or entity if the property is a non-scenic area.
- (c)
 - (i) If the legislative body of a county, city, or town denies the request to segment the state scenic byway, National Scenic Byway, or All-American Road under Subsection (3)(a)(i) upon the request of a person or another entity, with the consent of any landowners affected by the segmentation, that person or entity may appeal the denial of the request to the committee.
 - (ii) The committee shall hear and answer an appeal of the denial of a segmentation request within 60 days of a request submitted in accordance with Subsection (3)(c)(i).
 - (iii) If the committee does not render a decision on an appeal in accordance with Subsection (3)(c)(ii), the segmentation request shall be granted if the property is a non-scenic area.
- (d) A state scenic byway, National Scenic Byway, or All-American Road is not required to be segmented under Subsection (3)(a)(ii) if, within 60 days after the day on which the request is received, the committee demonstrates to an administrative law judge selected by agreement of the owner of real property and the committee where the non-scenic area is located, that the property to be segmented is not a non-scenic area.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules in consultation with the committee:
 - (a) for the administration of a scenic byway program;
 - (b) establishing the criteria that a highway shall possess to be designated as a scenic byway, including the criteria described in Subsection (1)(b);
 - (c) establishing the process for nominating a highway to be designated as a state scenic byway;
 - (d) specifying the process for hearings to be conducted in the area of proposed designation prior to the highway being designated as a scenic byway;
 - (e) identifying the highways within the state designated as scenic byways; and
 - (f) establishing the process and criteria for removing the designation of a highway as a scenic byway.
- (5) The department shall designate scenic byway routes on future state highway maps.
- (6) A highway within the state designated as a scenic byway is subject to federal outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

Amended by Chapter 152, 2016 General Session

72-4-304 Exceptions to approval and segmentation requirements.

- (1) Legacy Parkway, from the junction of I-215 in Davis County northerly to the junction with US 89 and I-15:
 - (a) is exempt from the legislative approval requirement in Section 72-4-301.5; and
 - (b) may not be segmented.
- (2) A highway nominated for National Scenic Byway or All-American Road designation prior to January 1, 2009 is exempt from the legislative approval requirement in Section 72-4-301.5.

Enacted by Chapter 393, 2009 General Session

R926. Transportation, Program Development.

R926-14. Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes.

R926-14-1. Purpose.

The purpose of this rule is to establish the following:

- (a) administration of the Utah Scenic Byway program;
- (b) the criteria that a highway shall possess to be considered for designation as a state scenic byway;
- (c) the process for nominating a highway to be designated as a state scenic byway;
- (d) the process for nominating an existing state scenic byway to be considered for designation as a National Scenic Byway or All-American Road;
- (e) the process and criteria for removing the designation of a highway as a scenic byway or segmentation of a portion thereof; and
- (f) the requirements for public hearings to be conducted regarding proposed changes to the scenic byway status of corridor, and related notifications.

R926-14-2. Authority.

The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Code: Title 63G, Chapter 3; and the Designation of Highways Act, Title 72, Chapter 4.

R926-14-3. Definitions.

Terms used in this rule are defined in Title 72, Chapter 4. The following additional terms are defined for this rule:

- (1) "All-American Road" means a scenic byway designation made at the national level for state scenic byways that significantly meet criteria for multiple qualities out of the six defined intrinsic qualities.
- (2) "America's Byways" means the brand utilized by the National Scenic Byways Program for promotion of the National Scenic Byways and All American Roads.
- (3) "Committee" or "State Committee" means the Utah State Scenic Byway Committee as defined in Title 74, Chapter 4 and does not refer to any local scenic byway committee, herein defined.
- (4) "Corridor management plan" means a written document prepared by the local scenic byway committee in accordance with federal policies that specifies the actions, procedures, controls, operational practices, and administrative strategies necessary to maintain the intrinsic qualities of a scenic byway.
- (5) "De-designation" means removing a current state scenic byway designation by the committee from an entire existing scenic byway.
- (6) "Department" means the Utah Department of Transportation.
- (7) "Designation" means selection of a roadway by the committee as a state scenic byway or selection of an existing state scenic byway by the U.S. Secretary of Transportation as one of America's Byways.
- (8) "Federal policies" means those rules outlining the

National Scenic Byway Program and that set forth the criteria for designating roadways as National Scenic Byways or All-American Roads, specifically the FHWA Interim Policy.

(9) "Governmental Body" means the elected governing board of a political subdivision, such as a town, city, county, tribal government or Association of Governments.

(10) "Grant" means discretionary funding available on a competitive basis to designated scenic byways from the Federal Highway Administration through the National Scenic Byways Program.

(11) "Intrinsic quality" means scenic, historic, recreational, cultural, archaeological, or natural features that are considered representative, unique, irreplaceable, or distinctly characteristic of an area. The National Scenic Byways Program further defines each of these qualities.

(12) "Local Scenic Byway Committee" means the committee consisting of the local byway coordinator and representatives from nearby governmental bodies, agencies, tourism related groups and interested individuals that recommends and prioritizes various projects and applications relating to a scenic byway. The local scenic byway committee promotes and preserves intrinsic values along the byway.

(13) "Local Byway Coordinator" means an individual recognized by the local scenic byway committee as chair. If a local scenic byway committee does not exist for a scenic byway, the local byway coordinator is an individual recognized by the state committee chair as the person to contact for applications and other administrative business for the state scenic byway.

(14) "National Scenic Byway" means a scenic byway designation made at the national level for byways that significantly meet criteria for at least one quality out of the six defined intrinsic qualities.

(15) "National Scenic Byways Program" or "NSBP" means a program provided by the Federal Highway Administration to promote the recognition and enjoyment of America's memorable roads.

(16) "State Scenic Byway" means a Utah roadway corridor that has been duly designated by the committee for its intrinsic qualities.

(17) "Status" refers to the current designation of a scenic byway, i.e., state scenic byway, National Scenic Byway, All-American Road, undesignated roadway, segmented scenic byway or de-designated scenic byway.

R926-14-4. Utah State Scenic Byway Committee Organization and Administration.

(1) The authorization of the committee, its membership, administration, powers, and duties are defined in Title 72, Chapter 4.

(2) The committee shall meet annually, at a minimum, or as frequently as needed to administer the State Scenic Byway program within the State of Utah. This business shall include, but not be limited to designating, de-designating and segmenting of state scenic byways; recommending considerations for National and All-American Road recognition to the Legislature, recommending applications to the NSBP; prioritizing applications for Scenic

Byway Discretionary funding and other funding that may be available; and other business as may be needed to administer the scenic byway program.

(3) The committee will meet in the second quarter of the calendar year. Additional committee meetings may be called to conduct business necessary to administer the state scenic byway program.

(6) A poll by telephone or email may be taken of all members for the purpose of approving applications submitted for National Scenic Byway or All-American Road recognition. All committee members will be furnished poll results. A second poll will then be taken of the voting committee members concerning submitting the applications, with the results determining if the application will be submitted. The results will be forwarded to all committee members, and reported at the next committee meeting.

(7) A poll by telephone or email may be taken of all members for the purpose of prioritizing the funding of grant applications submitted for Scenic Byway Discretionary funds and other available funds. All committee members will be furnished poll results. A second poll will then be taken of the voting committee members concerning prioritizing the applications, with the results determining priorities of the applications to be submitted. The results will be forwarded to all committee members, and reported at the next committee meeting.

R926-14-5. Criteria Required of a Highway to Be Considered for Designation as a State Scenic Byway.

(1) A road being considered for state scenic byway designation must meet all of the following criteria:

(a) the nominated road must possess at least two unusual, exceptional, or distinctive intrinsic qualities, as defined;

(b) the nominated road may be either a planned or existing route and in the case of a planned route, legal public access, safety standards and all-weather pavement must be guaranteed at completion of construction;

(c) roadway safety on the nominated road must be evaluated against and guided by American Association of State Highway and Transportation Officials (AASHTO) safety standards for federal aid primary or secondary roads;

(d) the nominated road must have strong local support for byway designation and the proponents must demonstrate this support and coordination;

(e) the nominated road must accommodate recreational vehicles or provisions should be made for travel by recreational vehicles;

(f) the nominated road need not lead to or provide connection to other road networks; it may be dead-ended, or provide only a single outlet for traffic;

(g) the nominated road need not be open during the winter months, but seasonal road closures must be clearly posted, shown on applicable maps, and specified in any promotional literature; and

(h) the nominated road may include portions of the Interstate Highway System, but only if the Interstate component is

a small part of the mileage of the overall nominated scenic byway and is included primarily for continuity of travel.

(2) It is the intent of these criteria to be restrictive in nature so as to limit the number of designated state scenic byways in order to maintain the quality and integrity of the scenic byway system.

R926-14-6. Process for Nominating a Highway to Be Designated a State Scenic Byway.

(1) Nominations for a corridor to be designated a state scenic byway shall be forwarded to the committee by a local governmental body.

(2) The nomination application must demonstrate how the nominated road meets the criteria to qualify as a state scenic byway.

(3) The committee will act on a byway-related application only after the responsible organization has held public hearings and submitted minutes of the hearings, including names and addresses of people making comments, a detailed summary of comments made, and proof of public notification.

(4) The committee will consider the nomination after review of the application and after a presentation by the nominating sponsor group, either at the byway location, or at a committee meeting. The committee will vote on proposed designations at the next committee meeting. The committee will report the results of the vote to the nomination sponsor.

(5) Individual communities along the byway corridor that do not support the designation of the byway within the limits of their community have the statutory right, as prescribed in Title 72, Chapter 4, to opt out of any new byway designation through official action of their legislative body, but they become ineligible for byway grants and promotional considerations by doing so.

(6) Upon approval by the committee of a scenic byway nomination, the committee shall notify the Utah Office of Tourism, the department and other interested agencies of the new designation and of the approved alignment and limits of the designated corridor.

(a) The committee will make a request to these agencies that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

R926-14-7. Process for Nominating a Highway to Be Designated a National Scenic Byway or All-American Road.

In addition to state recognition, state scenic byways may be nominated to the National Scenic Byways Program so that they may be recognized as a byway of national significance through designation as a National Scenic Byway or All-American Road.

(1) Local scenic byway committees shall notify the state committee of their intent to apply for National Scenic Byway or All-American Road status and the state committee shall in turn notify the Legislature of this intent.

(2) Local scenic byway committees desiring national

designation are required by the National Scenic Byways Program to prepare nomination applications, adhering to the criteria outlined in applicable federal policies.

(a) A corridor management plan for the byway will be required by the NSBP to be prepared before a nomination application will be considered. The required information and criteria to be included in the corridor management plan are outlined in the federal policies.

(b) The NSBP will issue a call for applications, at which time the local scenic byway committee may submit a nomination application as long as the state scenic byway has been approved for consideration in accordance with the requirements of Title 72, Chapter 4.

(3) Local scenic byway committees are to confer with the state committee during the preparation of a corridor management plan and will submit their nomination applications to the committee for review prior to submitting to the NSBP.

(4) The committee will refer all considerations for America's Byways designations to the Legislature for approval, along with the recommendation of the committee. As required in Title 72, Chapter 4, Legislative approval must be obtained before any application for nomination may be submitted to the NSBP.

(5) Upon approval by the NSBP of a National Scenic Byway nomination, the committee shall notify the Utah Office of Tourism, the department and other interested agencies of the new designation and of any differences in alignment or limits as related to existing state scenic byway designations.

(a) The committee will make a request to these agencies that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

R926-14-8. Process and Criteria for Removing the Designation of a Highway as a Scenic Byway or Segmentation of a Portion Thereof.

(1) The committee may de-designate a scenic byway if the intrinsic values for which the corridor was designated have become significantly degraded and no longer meet the requirements for which it was originally designated.

(2) The committee may also remove designation on a localized segment of a designated byway if the intrinsic values within the segment have become degraded or if the segment being considered was included for continuity of travel along the designated corridor, does not in and of itself contain the intrinsic values for which the corridor was designated, and the segmentation has strong community-based support.

(3) De-designated corridors and communities or parcels segmented out of the scenic byway designation are no longer subject to byways-related regulations and are no longer eligible for byways-related grants and promotional considerations.

(4) Committee processes for de-designation or segmentation may be initiated by the committee itself or by request from a governmental body.

(5) Alternatively, segmentation of specific parcels or portions of a scenic byway may be considered directly by the

legislative body of a county, city, or town where the segmentation is proposed, as provided in Title 72, Chapter 4. The same public hearing requirements are followed for local legislative actions as are stipulated herein for committee actions.

(6) Requests to the committee for segmentation or de-designation of state scenic byways shall be submitted by a governmental body along or adjacent to the scenic byway corridor. Each request shall include discussion of the specific reasons for segmentation or de-designation. Reasons may include, but are not limited to:

(a) segment or corridor is no longer consistent with the state's criteria for selection as a scenic byway;

(b) failure to have maintained or enhanced intrinsic values for which the scenic byway was designated;

(c) degradation of the intrinsic values for which the scenic byway was selected;

(d) segment of byway is not representative of the intrinsic values for which the scenic byway was designated and was included primarily for connectivity; or

(e) state scenic byway designation has become a liability to the corridor.

(7) Upon receipt of the request for segmentation or de-designation, the committee chair will add the request to the agenda of the next committee meeting.

(8) The committee will review the request at the next committee meeting and discuss at least the following:

(a) reasons for segmentation or de-designation;

(b) whether segmentation or de-designation of the scenic byway will significantly degrade the statewide scenic byway system; and

(c) whether segmentation or de-designation is an attempt to evade applicable rules, regulations or requirements.

(9) The committee will act on a byway segmentation or de-designation request only after the responsible organization has held public hearings and submitted minutes of the hearings, including names and addresses of people making comments, a detailed summary of comments made, and proof of public notification.

(10) Following discussion of the request, the committee will vote on the request for segmentation or de-designation. The committee will then forward the result of the vote to the requesting governmental body.

(11) Upon approval or disapproval of a de-designation or segmentation request, the acting body, whether the committee or the local legislative body, shall notify the Utah Office of Tourism, the department and other interested agencies of the action taken.

(a) In the case of approval of a de-designation or segmentation, the acting body will make a request to these agencies that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

(b) In the case where the committee approves the de-designation of a scenic byway that had also been designated as a

National Scenic Byway, the committee will inform the National Scenic Byway Program of the decision and make a request to the NSBP that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

(c) In the case of a local legislative action on a segmentation request, the legislative body shall also notify the committee and the local byway coordinator of the action taken.

(12) Appeals to the committee concerning local legislative actions are handled as provided in Title 72. Chapter 4.

R926-14-9. Local Government Consent.

Consent of affected local governments along the byway corridor is required by Title 72, Chapter 4 for any change in scenic byway status.

R926-14-10. Requirements for Public Hearings to Be Conducted Regarding Changes to Status of a State Scenic Byway and Related Notifications.

(1) Whenever changes to the scenic byway status of a corridor or of a segment thereof are considered, one or more public hearings must be held for the purpose of receiving the public's views and to respond to questions and concerns expressed before action is taken.

(a) The organization initiating the request for change in status is responsible for arrangement, notification, and execution of the hearing(s). The responsible organization may be:

(i) an organization (local scenic byway committee, community, county or association of governments) submitting an application or request to the committee;

(ii) the committee, in the case of a process initiated by the committee itself; or

(iii) a local legislative body considering a segmentation request.

(b) The hearing(s) shall be held in the area affected by the proposed status changes.

(c) Multiple hearings in varied locations may be appropriate, based on the length of the corridor or the affected area within the corridor. The committee chair will review and approve the number and locations of hearings as proposed by the nominating organization to ensure collection of a broad base of public comments throughout the length of the corridor where the scenic byway status changes are proposed.

(d) The responsible organization shall invite the state committee and the local scenic byway committee to attend the public hearing(s).

(2) The required public hearing(s) may be held separately, or as an identifiable agenda item of a regular meeting of a governmental body.

(3) Notification of all public hearings shall be made as required by the laws governing the responsible organization.

(4) At a minimum, the following information related to the proposed change in status is to be addressed at each public hearing:

- (a) the impact on outdoor advertising;
- (b) the potential impact of traffic volumes;
- (c) the potential impact of land use along the byway;
- (d) the potential impact on grant eligibility; and
- (e) the potential impact on the local tourist industry.

(5) The responsible organization shall keep minutes of the hearing, including a detailed summary of comments and the names and addresses of those making comments and shall make these available to the committee, along with proof of required notifications.

KEY: transportation, scenic byways, highways

Date of Enactment or Last Substantive Amendment: June 21, 2010

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