

NOTICE OF 120-DAY (EMERGENCY) RULE

- The agency identified below in box 1 provides notice of a 120-day (emergency) rule pursuant to Utah Code Section 63G-3-304.
- Please address questions regarding information on this notice to the agency.

Rule Information

DAR file no: 40409 Date filed: 05/10/2016 12:01 PM
 State Admin Rule Filing Key: 157457
 Utah Admin. Code ref. (R no.): R926-14

Agency Information

1. Agency: Transportation - Program Development
 Room no.:
 Building: CALVIN L RAMPTON COMPLEX
 Street address 1: 4501 S 2700 W
 Street address 2:
 City, state, zip: SALT LAKE CITY UT 84119-5998
 Mailing address 1: PO BOX 143600
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 City, state, zip: SALT LAKE CITY UT 84114-3600

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
James Palmer	801-965-4000	801-965-4338	jimpalmer@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):
 Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes

Effective Date

3. Effective Date (mm/dd/yyyy): 05/10/2016

Rule Purpose

4. Purpose of the rule or reason for the change:
 An emergency amendment to this rule is necessary due to passage of H.B. 232 during the 2016 General Session. H.B. 232 amends Utah Code Section 72-4-303, which governs how the Utah State Scenic Byway Committee designates state highways as scenic byways, and the requirements for segmenting non-scenic property from a scenic byway designation. H.B. 232 requires the Department to amend this rule to conform to the requirements of the legislation. H.B. 232 takes effect on 05/10/2016. This 120-day emergency rule needs to be in place to prevent the Department from being out of compliance with the statute because there is not sufficient time to complete a standard rulemaking process before 05/10/2016.

Rule Summary

5. Summary of the rule or change:

The amended Section 72-4-303 allows owners of property situated adjacent to a state scenic byway, National Scenic Byway, or All-American Road to submit a request to Utah State Scenic Byway Committee that their property be segmented from the designated scenic byway, National Scenic Byway, or All-American Road, if the property owner believes the property is within a non-scenic area as defined by Section 72-4-303. The amendment to the rule sets forth the process for the Scenic Byway Committee to follow when determining if segmentation requests should be granted, and an appeal proceed for property owners to follow when their requests are denied.

6. Regular rulemaking procedures would:

- cause an imminent peril to the public health, safety, or welfare
- cause an imminent budget reduction because of budget restraints or federal requirements
- place the agency in violation of federal or state law

Justification: H.B. 232 was signed by the Governor on 03/22/2016, and became effective on 05/10/2016. Regular rulemaking procedures will take longer than the time the Department has before the bill takes effect, thus placing the Department in violation of Utah Code Section 72-4-303 as of 05/10/2016. This 120-day emergency rule will prevent the Department from violating the statute.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No Yes

The Department anticipates that this amendment will result in additional costs to the state. The H.B. 232 amendment to Utah Code Section 72-4-303 requires the Office of Tourism, Film, and Global Branding within the Governor's Office of Economic Development (GOED), acting as Chair of the Scenic Byway Committee, to cover the costs of engaging the services of private adjudicative law judges. The Fiscal Note attached to H.B. 232 states: "To the extent that requests for segmentation are denied by the Utah State Scenic Byway Committee and the owner of real property appeals, this bill could cost approximately \$5,000 per instance from the General Fund for the committee to hire an administrative law judge." Therefore, GOED will face additional costs.

B) Local government:

Affected: No Yes

The Department anticipates that this amendment will not result in additional costs to local governments. Section 72-4-303 requires the legislative bodies of the local governments where a requested segmentation is to occur to get involved in reviewing segmentation requests when they are filed. However, GOED (Scenic Byway Committee) is required to cover the costs of engage the services of private adjudicative law judges, not local governments.

C) Small businesses:

Affected: No Yes

("small business" means a business employing fewer than 50 persons)

This amendment may result in additional costs to small businesses, but the Department does not possess sufficient information to conclude that it will at this time.

D) Persons other than small businesses, businesses, or local government entities:

Affected: No Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

This amendment may result in additional costs to persons other than small businesses, businesses, or local government entities, but the Department does not possess sufficient information to conclude that it will at this time.

Compliance Cost Information

8. Compliance costs for affected persons:

This amendment may result in compliance costs for affected persons, but the Department does not possess sufficient information to conclude that it will, or what those costs might be at this time.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

The Legislature has changed the state law that governs how owners of private property situated adjacent to state designated scenic byways, National Scenic Byways, and All-American Roads may seek segmentation of their property if it is within a non-scenic area. This amendment to Rule R926-14 sets forth procedures that property owners will follow to request segmentation, and the Department will follow to apply the legislature's new requirements. I do not believe this amendment itself will have a fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Carlos Braceras, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :
Section 72-4-303

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)
Publisher
Date Issued (mm/dd/yyyy)
Issue, or version (including partial dates)
ISBN Number
ISSN Number
Cost of Incorporated Reference
Adds, updates, removes-- SELECT ONE --

Indexing Information

12. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

transportation, scenic byways, highways, segmentation

File Information

13. Attach an RTF document containing the text of this rule change (filename):

There is a document associated with this rule filing.

To the agency: Information requested on this form is required by Sections 63G-3-301, 304, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date and publication in the Utah State Bulletin.

Agency Authorization

Agency head or designee, and title: Carlos Braceras
Executive Director

Date (mm/dd/yyyy): 05/10/2016

Control Panel

DAR Control Panel

Control Name	Currently	Change To
Lock Status	Default	Force On
Filing Status	New	New
Text Status	New	New
Form Status	New	New
Incorp Status	New	New

DAR Notes:
NO DAR NOTES

Additional Links for DAR
Effective Note:

Title Note:

Invalidated Reason:

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:

- (1) administration of the Utah Scenic Byway program;
- (2) the criteria that a highway shall possess to be considered for designation as a state scenic byway;
- (3) the process for nominating a highway to be designated as a state scenic byway;
- (4) the process for nominating an existing state scenic byway to be considered for designation as a National Scenic Byway or All-American Road;
- (5) the process and criteria for removing the designation of a highway as a scenic byway or segmentation of a portion thereof; and
- (6) 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 52, Chapter 4; 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) "Local legislative body" means the elected governing board of a political subdivision, such as a town, city, county, or tribal government.

(10) "GOED" means the Utah Governor's Office of Economic Development.

~~(11)~~ 11 "Grant" means discretionary funding available on a competitive basis to designated scenic byways from the Federal Highway Administration through the National Scenic Byways Program.

~~(12)~~ 12 "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.

~~(13)~~ 13 "Local Scenic Byway Committee" means the committee consisting of the local byway coordinator and representatives from nearby local legislative 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.

~~(14)~~ 14 "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.

~~(15)~~ 15 "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.

~~(16)~~ 16 "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.

~~(17)~~ 17 "State Scenic Byway" means a Utah roadway corridor that has been duly designated by the committee for its intrinsic qualities.

~~(18)~~ 18 "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 conduct business to administer the State Scenic Byway program within the State of Utah. This business shall include, but not be limited to:

(a) designating, de-designating, ~~and~~ hearing appeals of segmentation denials of state scenic byways, and consideration of segmentation under a Request for Agency Action;

(b) recommending considerations for National and All-American Road recognition to the Legislature;

(c) recommending applications to the NSBP;

(d) prioritizing applications for Scenic Byway Discretionary funding and other funding that may be available; and

(e) other business as may be needed to administer the scenic byway program.

(3) The committee shall meet to conduct business necessary to administer the state scenic byway program.

(a) The meeting is intended to be an in-person gathering of the full committee at a single anchor location. Where the need arises, and as authorized by Title 52, Chapter 4, individual members may request to be connected to the meeting via teleconference, video conference, web conference, or other emerging electronic technology, if they make the request at least three days prior to the committee meeting to allow for arrangements to be made for the connection.

(b) All additional meetings called by the chair, [including committee meetings to consider factors associated with a Request for Agency Action to segment property adjacent to a scenic byway](#), may be held as either in-person or electronic meetings, at the discretion of the chair, as authorized by Title 52, Chapter 4.

(i) Electronic meetings may be fully electronic, i.e. each member may join on an individual remote connection (depending on the technology used), but an anchor location must be provided for the public at one or more connections, preferably at a conference room available to either the department or the Utah Office of Tourism, that is large enough to accommodate anticipated demand.

(ii) Electronic meetings may be via teleconference, video conference, web conference, or other emerging electronic technology, at the discretion of the chair, as long as adequate time is provided to set up the required electronic connections for all participants and the technology used is generally publicly available.

(iii) All meetings, whether in-person or electronic, must be advertised and accessible to the public for both hearing and comment, which in the case of electronic meetings will require publication of connection details and anchor locations.

(iv) The published agenda for electronic meetings needs to include details on the format of how and when public comment will be received and addressed by the committee. For example, comment during a web conference may be taken continuously via a chat window, then read by the moderator during the time set aside for public input, with committee responding. In a teleconference, public participants may be requested to hold their comments until a designated period is opened by the chair.

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 legislative 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 segmentation action of their local 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.

(7) On receiving notification of a newly designated state scenic byway, the department shall amend Rule 926-13 to include the description of the byway and the date of its approval. The department shall forward to the NSBP any electronic files needed to describe or display the new byway in online maps, brochures, or other publications of the NSBP. The department will add the scenic byway to the official highway map at its next printing.

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.

(6) On receiving notification of a change in byway status to National Scenic Byway or All-American Road, the department shall amend Rule 926-13 to update the description of the byway to reflect the approved changes and the date of NSBP approval.

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 local legislative body may 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 primarily 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) Highways that are part of the National Highway System (NHS) are still subject to certain federal outdoor advertising regulations, regardless of their scenic byway status. When considering a de-designation or segmentation on an NHS route, either the committee or the local legislative body should become familiar with the regulatory differences between scenic byway status and NHS status, since de-designation or segmentation would not affect the ongoing applicability of NHS regulations and may not always produce the desired effect.

(4) 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.

(5) Committee processes for de-designation may be initiated by the committee itself or by request from a local legislative body.

(6) ~~[Alternatively,]~~ Segmentation of specific parcels or portions of a scenic byway may be considered directly by the local 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 provided herein for committee actions.

(7) Alternately, segmentation of specific parcels of property adjacent to a scenic byway may be requested by the property owner by submitting a written Request for Agency Action, as provided in the Administrative Procedures Act, Title 63G, Chapter 4, Part 2.

(a) The Request for Agency Action shall contain the information required by 63G-4-201(3)(a), and shall include a statement why the owner considers the property to be non-scenic as defined in 72-4-301.

(b) The written Request for Agency Action shall be mailed to the Office of Tourism, Film & Global Branding within the GOED, with a copy of the request mailed to the Program Development Group within the Utah Department of Transportation to the attention of Program Development;

(c) Segmentation of property under a Request for Agency Action shall take effect 60 days after receipt of the written request by the Office of Tourism within GOED, unless the committee demonstrates to an administrative law judge within 60 days, with subsequent action by the administrative law judge, that the property fails to meet the definition of “non-scenic” as defined in 72-4-301;

(i) Pursuant to Section 72-4-303(3)(d), “receipt” of the request for Agency Action shall be the date on which the mailed copy of the request is received by GOED’s Office of Tourism.

(ii) Requests for Agency Action shall be mailed to:

GOED OFFICE OF TOURISM
Attention: Scenic Byway Committee
300 North State Street
Council Hall/ Capitol Hill
Salt Lake City Utah 84114

(iii) A copy of the Request for Agency Action shall be mailed to:

Program Development Group of the
Utah Department of Transportation
P.O. Box 143600
4501 South 2700 West
Salt Lake City Utah 84114

(d) a request for agency action segmentation is classified as an informal adjudicative proceeding.

~~(7)~~ 8 Requests to the committee for de-designation of state scenic byways shall be submitted by a local legislative body along or adjacent to the scenic byway corridor. Each request shall include discussion of the specific reasons for 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.

~~(8)~~ 9 Local legislative bodies shall inform the committee and UDOT Program Development of their action to segment within 30 days of the date of the action to segment. The local legislative body shall include the discussion of the specific reasons for segmenting. Reasons may include, but are not limited to those identified in R926-14-8(7)(a) through (e).

~~(9)~~ 10 Parcels on existing byways may not be segmented out of a byway solely for the purpose of evading state and federal regulations pertaining to byway designation, but must also be considered non-scenic or otherwise meet the criteria listed in Paragraph (7). However, towns, cities, and counties may remove themselves entirely for any purpose, as provided in Title 72, Chapter 4.

~~(10)~~ 11 State and federal highway regulations require that no regulated outdoor advertising be located within 500 feet of a designated scenic area. Therefore, the size of any parcel or parcels being considered for segmentation would need to be large enough to meet that offset requirement.

~~(11)~~ 12 Upon receipt of the local legislative body's action to segment, the committee chair will add the action to the agenda of the next committee meeting.

~~(12)~~ 13 The local legislative body shall provide the committee the following information at the next committee meeting:

- (a) the date of segmentation, being the day the local legislative body took action on the request to segment;
- (b) the defined limits of the segmented portion of the scenic byway, including route and milepost details and definitions;
- (c) the approved meeting minutes from the public meeting(s); and
- (d) a copy of the signed resolution from the local legislative body.

~~(13)~~ 14 After the responsible legislative body has heard and denied a request to segment a state scenic byway, the denial can be appealed to the committee. The appeal must include information regarding the public hearings, minutes of the hearings, including names and addresses of people making comments, a detailed summary of comments made, and proof of public notification.

~~(14)~~ 15 Following discussion of the request or appeal, the committee will vote on the request for de-designation or appeal of the denial of segmentation. The committee will then forward the result of the vote to the requesting local legislative body or appealing party. For segmentation denial appeals heard by the committee and for de-designation actions, the date of approval by the committee is considered the official date of the segmentation or de-designation, for the intent and purpose of how it affects byway program eligibility and subjection to byway regulations.

~~(15)~~ 16 Upon approval or disapproval of a de-designation or segmentation request or decision on appeal, 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 local legislative body shall also notify the committee and the local byway coordinator of the action taken. For segmentation requests heard by a local legislative body, the date of approval by the local legislative body is considered the official date of the segmentation, for the intent and purpose of how it affects byway program eligibility and subjection to byway regulations.

~~(146)~~ [17](#)) Appeals to the committee concerning local legislative actions are handled as provided in Title 72, Chapter 4.

~~(147)~~ [18](#)) ~~On~~ [Upon](#) receiving notification of segmentation or de-designation, the department shall amend Rule 926-13 to update the description of the byway to reflect the approved changes. The department shall forward to the NSBP any changes that would have a substantive effect on online maps, brochures, or other publications of the NSBP. The department will also show substantive changes on the official highway map at its next printing.

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.

[\(2\) Upon the receipt of a Request for Agency Action from a property owner to segment property adjacent to a scenic byway, the Chair of the committee shall call a meeting for the committee to consider factors associated with the request, including consideration of information listed in paragraph \(4\).](#)

[\(3\) For all other changes to scenic byway status:](#)

(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 local legislative 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.

R926-14-11. Requirements for consideration of adjudicative proceedings associated with a segmentation request submitted by a property owner under a request for agency action.

1. If the committee determines at a public hearing that property associated with a property owner's request for agency action to segment property does not meet the definition of non-scenic as defined in 72-4-301, the Chair of the committee shall notify the property owner that its Request for Agency Action is denied pending administrative hearing.
2. The Chair of the committee shall notify the property owner in writing of:
 1. The committee's denial of the Request for Agency Action;
 2. the Committee's intent to have the matter considered by an administrative law judge;
 3. A list of available administrative law judges, if known.
3. No more than 10 days after the written notice is sent advising the property owner of the committee's denial of the request for agency action and intent to have the matter considered by an administrative law judge, the property owner shall notify the committee in writing of their agreement on selection of the administrative law judge named by the committee, or advise the committee of an alternate judge agreed upon by the committee.
4. Administrative Hearings initiated under this provision shall be designated as informal hearings under the Utah Administrative Procedures Act and conducted as set forth in Utah Code Section 63G-4-203.

KEY: transportation, scenic byways, highways

Date of Enactment or Last Substantive Amendment: December 9, 2013

Notice of Continuation: June 16, 2015

Authorizing, and Implemented or Interpreted Law: 52-4-207; 63G-3-201; 72-4-301; 72-4-301.5; 72-4-302; 72-4-303; 72-4-304