

Issue Brief for Congress

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National Park Management and Recreation

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National Park Management and Recreation

SUMMARY

The 108th Congress is likely to consider legislation or conduct oversight on many National Park Service (NPS) related issues. The Administration also is likely to continue to address park and recreation issues through budgetary, regulatory, and other actions. Several key issues are covered in this report.

Maintenance Backlog. There is debate over the funding level to meet the physical maintenance obligations of the land management agencies and whether to appropriate new funds or use funds from existing programs for them. Attention has focused on the NPS's multi-billion dollar maintenance backlog. President Bush set out to eliminate that backlog by FY2006. Congress included money for some maintenance backlog needs in the FY2003 Interior appropriations law.

Personal Watercraft and Snowmobiles. Motorized recreation, notably the use of personal watercraft (PWC) and snowmobiles in NPS units, has fueled debate over the balance between recreation on, and protection of, park lands. Regulatory actions that restrict use of these vehicles are particularly controversial. The NPS currently is evaluating PWC use in 16 areas. A February 2003 NPS plan allows snowmobile recreation to continue in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr. Memorial Parkway.

Aircraft Overflights. Grand Canyon National Park is at the center of a conflict over whether to limit air tours over national parks to reduce noise. The NPS and the Federal Aviation Administration continue to work on implementing a 1987 law that sought to reduce noise at Grand Canyon as well as a 2000 law that regulates overflights at other park

units. Recent regulations require air tour operators to seek authority to fly over park units, and the agencies then must develop Air Tour Management Plans at park units.

Recreational Fee Demonstration Program. The "Fee Demo" Program was created to allow the NPS and other land management agencies to test the feasibility of supplemental self-financing through new fees. The Bush Administration supports making the program permanent, and in the past, Congress has considered related proposals. P.L. 107-63 extended the program through FY2004 for fee collection and FY2007 for expenditures and gave agencies discretion to establish any number of fee projects, among other changes.

The National Trails System. While designation of trails is often popular, issues remain regarding funding, expansion, and quality of trails. Congress is considering bills to amend the National Trails System Act to provide authority to acquire land from willing sellers for certain trails; to authorize studies of routes for possible additions to the System; and to add routes to the System.

Heritage Areas. Congress has designated 23 National Heritage Areas whereby the NPS, through partnerships, supports state and local conservation of natural, scenic, historic, cultural, and recreational resources. The NPS provides technical and limited financial assistance to these areas, which remain in non-federal ownership. As in recent Congresses, a number of legislative initiatives are pending to study, designate, and fund heritage areas as well as to establish consistent criteria and a process for designating and managing these areas.



MOST RECENT DEVELOPMENTS

For FY2004, President Bush requested \$706 million for all NPS construction and regular and deferred maintenance. It is unclear what portion of that total is for deferred maintenance. The NPS currently is working on regulations on the use of personal watercraft in 16 areas, with no use allowed until the process is completed. Also, the NPS overturned a snowmobile ban in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr. Memorial Parkway; the March 2003 Record of Decision establishes daily snowmobile entry limits, requires trained guides, requires reservations for non-commercially guided groups, and implements best available technology standards for noise and emissions. Two lawsuits have been filed to overturn this decision and restore the phase-out. On March 24, 2003, the Federal Aviation Administration published a supplemental notice of proposed rulemaking proposing a standard for quiet technology for aircraft used for air tours over the Grand Canyon National Park. The President's FY2004 budget request states that the Administration will propose legislation to make the Recreational Fee Demonstration Program permanent. Currently, six bills have been introduced to extend an existing trail or to study new historic or scenic trails, and two bills would authorize land acquisition from willing sellers for specified trails. In addition, 13 bills are pending to study or designate new heritage areas, as well as a "generic" bill to establish a policy structure and consistent criteria.

BACKGROUND AND ANALYSIS

Introduction

The National Park System [<http://www.nps.gov/legacy/>] is perhaps the federal land category best known to the public. The National Park Service (NPS) in the Department of the Interior (DOI) manages 388 units, including 56 units formally entitled "national parks" and a host of other designations. The System has more than 84 million acres.¹ The NPS had an appropriation of approximately \$2.25 billion in FY2003, employs about 21,000 permanent and seasonal employees, and uses an additional 90,000 volunteers. An estimated 276 million people visited park units in 2002. While high, this figure is a decline from the 1999 peak of about 287 million visitors. The decrease is attributed to a downturn in the economy as well as security concerns following the September 11, 2001 terrorist attacks on the United States. Security concerns led to a drop in international tourism and closure of NPS icons, such as the White House and the Statue of Liberty, which usually draw large numbers of visitors.

The NPS statutory mission is multi-faceted: to conserve, preserve, protect, and interpret the natural, cultural, and historic resources of the Nation for the public and to provide for their use and enjoyment by the public. The mission's dichotomy of use and preservation can sometimes be inherently contradictory. In general, activities which harvest or remove resources from units of the System are not allowed. The NPS also supports the preservation

¹ This figure includes an estimated 79 million acres of federal land, 1 million acres of other public land, and 4 million acres of private land. NPS policy is to acquire these non-federal "in-holdings" from willing sellers or to create special agreements to encourage land owners to sell.

of natural and historic places and promotes outdoor recreation outside the System through grant and technical assistance programs. The emphasis is on cooperation and partnerships with state, municipal, and local governments as well as foundations, corporations, and other private parties to protect National Park System units and to advance NPS programs. Congressional and management attention centers on how to balance the recreational use of parklands with the preservation of park resources. Another focus has been on determining appropriate levels and sources of funding to operate and maintain NPS facilities and to manage NPS programs.

History

The establishment of several national parks preceded the 1916 creation of the National Park Service (NPS) as the park system management agency. Congress established the Nation's first national park — Yellowstone National Park — in 1872. The park was created in the then-territories of Montana and Wyoming “for the benefit and enjoyment of the people,” and placed “under the exclusive control of the Secretary of the Interior” (16 U.S.C. §§21-22). In the 1890s and early 1900s, Congress created several other national parks mostly from western public domain lands, including Sequoia, Yosemite, Mount Rainier, Crater Lake, and Glacier. In addition to the desire to preserve nature, there was interest in promoting tourism. Western railroads, often recipients of vast public land grants, were advocates of many of the early parks and built grand hotels in them to support their business.

At the same time, there were efforts to protect the sites and structures of early Native American cultures along with other special sites. In 1906, Congress enacted the Antiquities Act to authorize the President to proclaim national monuments on federal lands that contain “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest” (16 U.S.C. §431). Most national monuments are managed by the NPS. (For more information on national monuments, see CRS Report RS20902, *National Monument Issues*.)

There was no system of national parks and monuments until 1916, when President Wilson signed a law creating the NPS to manage and protect the national parks and many of the monuments then in existence and those yet to be established. That law — the “Organic Act” — provided that the NPS “shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations ... to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations” (16 U.S.C. §1). A major step in developing a system of park lands more national in scope occurred in 1933, when President Franklin D. Roosevelt transferred 63 national monuments and historic military sites from the USDA Forest Service and the War Department to the NPS.

Overview of Issues

The 108th Congress is likely to consider legislation or conduct oversight on many NPS-related issues. Several major issues are covered in this report: funding for the maintenance backlog of the NPS and other agencies, regulation of personal watercraft, use of snowmobiles, overflights of aircraft, extension of the Recreational Fee Demonstration Program, expansion of the National Trails System, and designation of heritage areas. While

in some cases the issues discussed here are relevant to federal lands other than parks and to other agencies, this report does not comprehensively cover issues primarily affecting other federal lands. For background on federal land management generally, see CRS Report RL30867, *Federal Land Management Agencies: Background on Federal Land and Resource Management*. Information on BLM and Forest Service lands is contained in CRS Issue Brief IB10076, *Public (BLM) Lands and National Forests*. Information on appropriations for the NPS is included in CRS Report RL31306, *Appropriations for FY2003: Interior and Related Agencies*.

NPS-related issues not described in this brief include protection from outside threats, funding of the Land and Water Conservation Fund (LWCF), the creation of new park units, and funding for anti-terrorism activities. First, while parks historically were “buffered” from much human impact by their remote locations and adjoining wild lands, the situation has changed. How to protect park resources from outside threats such as detrimental land uses, growing populations, contaminated water, and tourist attractions, while at the same time recognizing the benefits of growth, development, and tourism to surrounding communities, presents difficult issues for Congress. Second, the LWCF is the principal federal source of money for the NPS (and other agencies) to acquire new recreation lands. Policy issues include the size of the fund, need for an annual appropriation, and the congressional role in choosing lands to acquire. (For more information on LWCF, see CRS Report 97-792 ENR, *Land and Water Conservation Fund: Current Status and Issues*.) Third, how national park units are created and what qualities make a potential area eligible to be an NPS unit are of continuing interest. (For more information on creating NPS units, see CRS Report RS20158, *National Park System: Establishing New Units*.) Fourth, the NPS manages high profile natural and commemorative sites, including many of the monuments in Washington, DC, and is thus undertaking new security initiatives in response to the terrorist attacks of September 11, 2001. Congress determines the level of funding for anti-terrorist activities in the regular annual appropriations laws. (For more information on anti-terrorism funds and activities, see “Funding to Combat Terrorism” in CRS Report RL31306.)

Current Issues

Maintenance Backlog (by Carol Hardy Vincent and David Whiteman)

Background. The four federal land management agencies — the National Park Service, Bureau of Land Management (BLM), and Fish and Wildlife Service (FWS) in the Department of the Interior and the Forest Service (FS) in the Department of Agriculture — have extensive physical maintenance obligations involving buildings, roads, trails, recreation sites, and other infrastructure. There is debate over the levels of funds appropriate to maintain this infrastructure, whether to appropriate new funds or to use funds from existing programs, and the best balance between maintaining the existing infrastructure and acquiring new assets. The agencies, particularly the NPS and FS, assert considerable unmet maintenance needs, often called “deferred maintenance” or the “maintenance backlog” — essentially maintenance that could not be done when scheduled or planned. The estimate of deferred maintenance for the four agencies is \$13.8 billion. The FS and the NPS together account for nearly 90% of the backlog, with the FS having the largest estimated share (\$6.5 billion) and the NPS having the second largest (\$5.4 billion). The FWS share is \$1.5 billion, and the BLM backlog is the lowest (\$0.4 billion). The backlogs have been attributed to

decades of funding shortfalls. The agencies assert that deferred maintenance of facilities accelerates their rate of deterioration, increases their repair costs, and decreases their value.

Congressional and administrative attention has centered on the NPS maintenance backlog. Concern about deteriorating NPS facilities led to increased overall NPS appropriations for each year from FY1996 to FY2002 and to new funding sources for the maintenance backlog. The Clinton Administration's FY2000 budget proposal first highlighted an Interior Department-wide campaign to identify priorities in maintenance needs over a 5-year period. For each year since, the NPS has submitted a Five Year Maintenance and Capital Improvement Plan identifying deferred maintenance projects by priority. Also, an Interior Department Inspector General report (December 2001) recommended establishing a single maintenance budget funded through one appropriation for the entire department.

Administrative Actions. The Bush Administration set out to eliminate the NPS backlog over 5 years. In FY2002, the President requested \$4.9 billion over 5 years (FY2002–FY2006) to eliminate that backlog through a combination of transportation fund money, appropriated funds, and revenues from recreation fees. For deferred maintenance the President requested \$440 million yearly. Because the President's FY2004 budget combines funding for all NPS construction and regular and deferred maintenance (\$706 million), it is unclear what amount is requested for deferred maintenance. The FY2004 combined request is a \$58 million increase (9%) over FY2003 and a \$24 million (3.5%) increase over FY2002.

The agencies are undertaking to define and quantify their maintenance needs. These efforts include improvement or development of computerized systems for tracking maintenance projects; prioritizing maintenance projects, with emphasis on critical health and safety and resource protection; and collecting comprehensive data on the condition of facilities, to more definitively identify maintenance needs. Without such data, the precise extent and nature of deferred maintenance might not be fully known, potentially hampering federal efforts to overcome the backlog.

Legislative Activity. Legislation pertaining to the maintenance backlog has not been introduced in the 108th Congress. For the NPS for FY2003, the 107th Congress appropriated \$648 million for construction and regular and deferred maintenance, a \$34 million decrease (-5%) from FY2002 (\$682 million). The FY2003 law did not specify the portion to be used for deferred maintenance.

Personal Watercraft (by Kori Calvert)

Background. PWCs are high-speed, very shallow draft, and highly maneuverable watercraft “operated by a person or persons sitting, standing, or kneeling on the vessel rather than within the confines of the hull” (36 CFR §1.4). Often used to perform stunt-like maneuvers, PWCs include watercraft known by their brand and generic names as jet ski, sea doo, surf jet, water sled, wavejammer, wetjet, waverunner, and wet bike. Representing a small but fast growing segment of the recreational boat market, PWCs reportedly account for a disproportionate number of accidents. These watercraft, and other forms of motorized recreation, such as snowmobiles, have fueled the ongoing conflict between preservation of, and recreation on, NPS lands and water. Critics of motorized recreation cite environmental concerns with motorized uses, including noise, air, and water pollution; damage to land, plants, and wildlife; and public safety. Supporters of motorized access argue that

technological advances will enable manufacturers to produce cleaner, more efficient machines, and point to the economic benefits to communities serving users. Recent controversies have focused on regulatory actions that would restrict recreational use or “access” of these vehicles, often in specific park units.

Administrative Actions. In an effort to manage PWC use, the NPS issued a rule (effective April 20, 2000) prohibiting PWC use from 66 of the 87 units where motorized boats were allowed (65 *Fed. Reg.* 15077). The rule allowed PWC use to continue until April 22, 2002, at the remaining 21 areas while the NPS evaluated whether to permanently authorize PWC use and develop special regulations. The rule recognized that PWC use might continue in certain National Recreation Areas (NRAs), such as Lake Mead and Glen Canyon, where the establishing legislation emphasized motorized water-based recreation as a primary purpose. The April, 2001 negotiated settlement of a lawsuit by Bluewater Network and Earth Island Institute over the PWC rule prohibited PWCs from the 21 areas unless the Park Service initiated park-specific rules and environmental analyses. PWCs could continue to operate during the rulemaking process, with a completion deadline of April 22, 2002, for 13 units and September 15, 2002, for 8 NRAs.

Of the 13 units with April 22, 2002 deadlines, the NPS prohibited PWC use in 5 units (effective April 22, 2002) that had completed an environmental review process and favored PWC bans: Cape Cod National Seashore, Delaware Water Gap NRA, Indiana Dunes National Lakeshore, Cumberland Island National Seashore, and Whiskeytown NRA. A federal judge denied an injunction sought by PWC users and manufacturers to overturn these bans on April 19, 2002. The other 8 units closed to PWCs on April 22, 2002, and will remain closed until the environmental assessment and rulemaking process is completed. The 8 NRAs with the September 15, 2002 deadline were to close temporarily then if the public review process was not completed. However, on September 6, 2002, an agreement was filed in federal court that extended PWC use at these 8 NRAs through November 6, 2002, when the recreational boating season ended. The Lake Mead PWC ban subsequently was postponed until to April 10, 2003. PWCs are banned after these dates unless and until the rulemaking process is finalized. Currently, the 16 park units are working on special regulations and environmental reviews, which may not all be completed before the 2003 boating season.

Legislative Activity. The 107th Congress considered legislation to encourage safe and responsible PWC use and to allow PWC use to continue in 21 park units until December 31, 2004. These measures were not enacted, and to date, legislation on this issue has not been introduced in the 108th Congress.

Snowmobiles (by Kori Calvert)

Background. On April 26, 2000, the NPS announced the strict enforcement of existing, long-standing regulations on snowmobile use which would have substantially reduced snowmobile use in those 42 national parks units that allowed recreational snowmobiling. Exceptions included Yellowstone and Grand Teton National Parks, park units in Alaska, Voyageurs National Park in Minnesota, and access to private land within or adjacent to a park. The snowmobile prohibition was both praised and reviled in the press and prompted several congressional hearings. By July 2000 the Interior Department had backed

away from its strict enforcement stance—rather, there would be no snowmobile ban in park units pending formal rulemaking, which to date has not occurred for parks generally.

Administrative Actions. Regulatory action to restrict or allow snowmobile use has centered on Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr. Memorial Parkway. The Clinton Administration issued rules on snowmobile use in these areas (66 *Fed. Reg.* 7260, Jan. 22, 2001) that would phase out snowmobile use beginning with the start of the 2003/2004 winter season, with limited exceptions, and phase in a replacement of snowmobiles with multi-passenger “snow coaches.” The Bush Administration announced in April 2001 that it would allow the rule to stand. The NPS delayed implementation until the end of the 2003-2004 winter use season (67 *Fed. Reg.* 69473, Nov. 18, 2002). Four environmental groups filed a lawsuit on December 3, 2002, to restore the snowmobile phase-out schedule under the Clinton rules.

Concurrently, the Administration continued to negotiate settlement of a lawsuit by the International Snowmobile Manufacturers Association and others to overturn the ban in these three areas and re-open the rulemaking process. The June 29, 2001 settlement agreement required NPS to prepare a supplemental environmental impact statement (66 *Fed. Reg.* 39197, July 27, 2001) on snowmobile use in these areas by early 2002, and to decide whether to keep or modify the ban by November 2002. The deadline for the record of decision was extended to March 15, 2003.

The NPS announced release of its final supplemental environmental impact statement on February 20, 2003 (68 *Fed. Reg.* 8616, Feb. 24, 2003). The NPS winter use plan outlined a controversial preferred alternative that allows continued snowmobile use within specific phased-in parameters. These include daily limits on snowmobile numbers; use of cleaner, 4-stroke engines; commercially-guided access for up to 80% of all snowmobiles; NPS-certified guides and a reservation system for the remaining 20% non-commercial entries; development of snowcoach technology for winter transit; and monitoring of long- and short-term effects of noise and pollution on park resources.

On March 25, 2003, a Record of Decision (see [<http://www.nps.gov/grte/winteruse/winteruse.htm>]) finalized the snowmobile management plan with a few modifications, increasing daily entry limits to 1,140 from 1,100. NPS anticipates proposed implementation rules by mid-summer. Meanwhile, plan proponents characterize it as an attempt to achieve equilibrium between motorized and non-motorized recreational activities as it neither calls for a total snowmobile ban nor provides for unlimited numbers of snowmobilers. Opponents, however, note that the final winter use plan also identifies the alternative implementing the Clinton Administration snowcoaches-only policy in the 2005-2006 winter season as the “environmentally preferred alternative.” Environmental groups filed 2 federal court challenges to the NPS final decision on March 25, 2003, seeking to overturn it and to halt winter road grooming until its impact on bison and other wildlife is determined.

In related developments, on September 13, 2002, the U.S. Environmental Protection Agency (EPA) issued final regulations limiting air emissions from nonroad recreational vehicles (67 *Fed. Reg.* 68241). They require snowmobile manufacturers to reduce hydrocarbon and carbon monoxide emissions about 50% below current levels by 2012. Two environmental groups filed a lawsuit against EPA on January 7, 2003, claiming the standards

do not meet Clean Air Act requirements. (For additional information, see CRS Report RL31149, *Snowmobiles: Environmental Standards and Access to National Parks*.)

Legislative Activity. The Yellowstone Protection Act (H.R. 1130), introduced March 6, 2003, requires implementation of the Clinton Administration final rulemaking to phase out snowmobiles in Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr. Memorial Parkway.

In the 107th Congress, bills were introduced to prohibit snowmobile use in most national parks as well as to overturn the snowmobile ban. Other legislation directed EPA and NPS to develop noise and emission standards for snowmobiling. None of these measures was enacted. The House Small Business Committee held a field hearing in January 2002 on the economic concerns of Yellowstone area small businesses and communities that serve snowmobilers.

Aircraft Overflights (by Kori Calvert and Carol Hardy Vincent)

Background. Minimizing noise to protect the natural condition is an important element of the NPS mission to preserve natural resources and enhance visitor enjoyment. The Federal Aviation Administration (FAA) controls airspace and the aircraft overflights that may jeopardize a park unit's natural quiet, impair visitor enjoyment, and raise safety concerns. This creates a conflict between resource protection and aviation access authorities and their constituencies.

Grand Canyon National Park has been the focal point of the conflict between groups seeking to limit overflights and air tour operators whose economic stability, with ripple effects on local businesses, may depend on providing overflights. The National Parks Overflights Act of 1987 (P.L. 100-91) directed NPS to recommend a flight control plan for Grand Canyon that would provide a "substantial restoration of the natural quiet" and prohibited flights below the Canyon's rim. It also mandated an NPS study on the effects of all aircraft overflights, which was submitted to Congress in 1994. An October 3, 2002 Senate hearing explored why the Act has not been fully implemented. An FAA official testified that while the substantial restoration of quiet has not been achieved, there has been a significant reduction in noise in the Canyon.

The National Parks Air Tour Management Act of 2000 (Title VIII, P.L. 106-181) regulates overflights at other park units. It requires the FAA and NPS to create management plans for air tours at individual park units and within a half mile of their boundaries. Each plan could prohibit or limit air tours, such as by route and altitude restrictions. The Act also requires the FAA to establish quiet aircraft technology standards for the Grand Canyon within one year and to designate Grand Canyon routes or corridors for aircraft and helicopters using quiet technology. Quiet aircraft would not be subject to existing caps on Canyon overflights.

Administrative Actions. President Clinton directed the Secretary of Transportation to develop regulations to address the impacts of transportation, including overflights, on national parks (61 *Fed. Reg.* 18229, April 22, 1996). The President also set 2008 as the date to substantially restore natural quiet at Grand Canyon National Park.

That mandate, and congressional directives, have segued into an ongoing and contentious rulemaking process. Controversial regulations include two FAA rules affecting Grand Canyon. The first one, a “limitations rule” that caps the annual number of commercial air tour overflights at Grand Canyon, took effect on May 4, 2000. An August, 2002 appeals court decision on the limitations rule directed the FAA to use NPS “natural quiet” standards and to consider commercial flight-generated noise impacts in developing air tour overflight regulations. This stricter standard is viewed as likely to lead to increased quiet at Grand Canyon. The Court simultaneously rejected a challenge by the air tour industry that the limitations rule is unlawful. The air tour industry seeks exemptions to air tour caps, as well as curfews and air route restrictions, if quiet aircraft technology is used.

The second rule, the “airspace rule,” imposes increased flight-free zones and restrictive routing over the Canyon (65 *Fed. Reg.* 17736 and 17708, April 4, 2000). New routes and airspace restrictions for the Canyon’s west end Special Flight Rules Area (SFRA) took effect April 19, 2001. To address air tour operators’ safety concerns, east end SFRA airspace changes were delayed until February 20, 2003 (66 *Fed. Reg.* 63294). On February 27, 2003, the FAA issued a final rule (68 *Fed. Reg.* 9496) staying the east end changes until February 20, 2006, to resolve issues surrounding routes.

A third FAA action relates to Grand Canyon. On March 24, 2003, the FAA published a supplemental notice of proposed rulemaking (68 *Fed. Reg.* 14276) to establish a standard for quiet technology for certain aircraft in commercial air tour operations over Grand Canyon National Park. In defining quiet technology, the FAA proposes to use a noise efficiency approach, whereby larger aircraft with more seats for passengers are allowed to make proportionately more noise. Aircraft used for air tours would be categorized according to noise efficiency. The goal of the proposal is to help the NPS achieve its mandate (under P.L. 100-91) to provide for the substantial restoration of natural quiet at Grand Canyon, and to determine the role of quiet technology in that regard. Further, the proposal seeks to comply with an FAA mandate (under P.L. 106-181) to designate reasonably achievable requirements for aircraft to be considered as using quiet aircraft technology. The rule is open for public comment through June 23, 2003.

Other regulatory actions affect commercial air tours at park units generally. The FAA issued a National Parks Air Tour Management Act final rule (67 *Fed. Reg.* 65661, October 25, 2002,) to complete the definition of “commercial air tour operation.” The rule requires air tour operators to apply for authority, by January 23, 2003, to fly over national park and abutting tribal lands. This application process triggers the development of an Air Tour Management Plan (ATMP) by the FAA and NPS for each unit where none exists [<http://www.atmp.faa.gov/default.htm>]. The purpose of the plans is to mitigate or prevent any adverse impacts of commercial air tours on natural and cultural resources, visitor experiences, and tribal lands. Development of an ATMP requires an environmental analysis under the National Environmental Policy Act of 1969 (NEPA). After applying for operating authority, current air tour operators receive interim permission to continue commercial air tours until the ATMP for the relevant park is completed. The agencies have decided to first develop ATMPs for Haleakala National Park and Hawaii Volcanoes National Park, with the order of other locations to be determined later. About 50 of the nearly 400 NPS units have commercial air tours that would be subject to the new rules.

Legislative Activity. To date, legislation dealing with aircraft overflights has not been introduced in the 108th Congress. Measures pertaining to quiet technology and commercial air tour operations were introduced but not enacted in the 107th Congress.

Recreational Fee Demonstration Program (by Carol Hardy Vincent)

Background. Congress is considering whether to extend, amend, or make permanent the Recreational Fee Demonstration Program (“Fee Demo,” 16 U.S.C. §460l - 6a note). The program allows the four major federal land management agencies — NPS, Bureau of Land Management, Fish and Wildlife Service, and Forest Service — to test the feasibility of recovering some of the costs of operating recreation sites. Currently, each agency can establish any number of fee projects and spend the revenue collected without further appropriation; at least 80% of the funds are to be retained at the collecting site. The NPS typically collects far more revenues than the other three agencies combined, with NPS revenues estimated at \$125 million for FY2003. The agencies may spend the money on the repair and maintenance backlog; interpretation; signs; habitat and facility enhancement; resource preservation; maintenance and operation, including the costs of fee collection; and law enforcement. Originally a 3-year trial authorized in FY1996, the program has been extended through FY2004 for fee collection with the revenue available to be spent through FY2007.

The agencies generally favor Fee Demo because it generates substantial revenue and allows discretion in determining fee locations, setting fees, and using the revenues. Critics counter that the fees discriminate against those less able to pay, are a double tax on the recreating public, and, together with other agency fees, confuse the public. The Forest Service’s Fee Demo Program has received most of these criticisms.

Administrative Actions. The Bush Administration supports making the Fee Demo Program permanent, and the land management agencies have collaborated on developing a permanent program. The Administration’s FY2004 budget states that the Administration will propose legislation providing permanent fee authority. The Interagency Recreation Fee Leadership Council, which facilitates coordination and consistency among the agencies on recreation fees, has developed seven guiding principles for a permanent fee program [<http://www.doi.gov/oc/2002/s2473.htm>].

The Administration has supported using a large portion of the NPS collections to address the agency’s deferred maintenance backlog. For instance, the FY2003 budget stated that half of the monies collected would be used for deferred maintenance needs. In the past, approximately 60% of NPS Fee Demo funds have been allocated to the maintenance backlog, including new construction which may result from deferred maintenance. The NPS has asserted that more analysis is needed to determine whether to shift the current 80/20 percent split in funds to increase monies for the agency’s deferred maintenance needs.

Legislative Activity. Proposals to make the Program permanent were introduced in the 107th Congress, but to date no such proposals have been introduced in the 108th Congress. The 107th Congress proposals included bills to establish a permanent program for all the agencies or for only NPS, with varying percentages of funds retained at collecting sites. Other measures would have removed the Forest Service from the program, extended the

program to other agencies, or exempted residents of counties containing Fee Demo program areas from paying fees.

The 107th Congress extended the Fee Demo Program. Specifically, the FY2002 Interior and Related Agencies Appropriations Act (P.L. 107-63) reauthorized the Fee Demo Program through September 30, 2004, for collection and September 30, 2007, for expenditures. The conferees stated that the extension was intended to allow the authorizing committees to decide whether, and in what form, to continue the program. Also, a GAO report (November 2001) found that agencies in the program could increase innovation in setting and collecting fees, improve program coordination and consistency, and establish performance measures for program managers.

The National Trails System (by Sandra L. Johnson)

Background. On October 2, 1968, the National Trails System Act (P.L. 90-543), authorizing the National Trails System (NTS), became law. With the addition of the newly designated Old Spanish National Historic Trail, the federal portion of the trails system consists of 23 national trails (8 scenic trails and 15 historic trails) covering almost 40,000 miles, more than 800 recreation trails, and 2 connecting and side trails. More than three decades since the trails system began, issues remain regarding funding, quality, and quantity of trails.

Administrative Actions. On January 18, 2003, Secretary of the Interior Gale Norton, representing President George W. Bush, addressed the official Commencement of the Lewis and Clark Bicentennial at Monticello in Charlottesville, VA. Twenty-one agencies signed a memorandum of understanding to collaborate on the commemoration of the Bicentennial. The federal interagency touring exhibition named the *Corps of Discovery II: 200 Years to the Future* launched the three-year (2003-2006) national celebration which will extend from Virginia to the Oregon coast. The National Park Service, under the authority of the Lewis and Clark National Historic Trail, provides funding, design, transportation, and support staff.

Legislative Activity. The Senate Energy and Natural Resources Subcommittee on Parks, Recreation, and Public Lands scheduled, but cancelled, a trails oversight hearing for March 25, 2003. The hearing was expected to examine the impact of possible federal agency plans to restrict activities within view of a designated trail on private property rights and nearby development, including oil and gas drilling. Testimony on several trails bills was also expected for the Subcommittee hearing. Legislation (S. 324; S. 651) has been introduced in the 108th Congress to amend the NTS Act, to clarify federal authority to acquire land from willing sellers for certain trails. S. 324 would give acquisition authority to the Ice Age, the North Country, and the Potomac Heritage NSTs. S. 651 would extend this authority to the three trails listed in S. 324, and to the Oregon, Lewis and Clark, Mormon Pioneer, Iditarod, and Nez Perce NHTs and the Continental Divide NST.

The 107th Congress considered but did not enact legislation to amend the NTS Act to provide federal authority to acquire land from willing sellers to complete nine named NSTs and NHTs authorized under the Act. Proponents asserted it would restore both basic property rights and parity to the National Trails System. In the 106th Congress, a Willing Seller bill passed the House but was not taken up for Senate floor consideration.

The several bills introduced in the 108th Congress to designate or study specific trails are shown in the following table.

Bill Number	Type	Title	Status
H.R. 461/S. 642	Extend	Lewis and Clark NHT Amendments Act of 2003	Introduced
H.R. 897	Study	Mississippi River Trail Study Act	Introduced
H.R. 1051/S. 635	Study	Pioneer National Historic Trails Studies Act	Introduced
S.634	Study	a bill for an NHT study of the Trail of the Ancients	Introduced

Heritage Areas (by David Whiteman)

Background. Congressional designation of National Heritage Areas has become a popular strategy to recognize and assist areas that may not merit inclusion in the National Park System. National Heritage Areas are collaborative partnerships with States and local communities to conserve and commemorate distinctive regional landscapes. In these partnerships the NPS perceives its role as facilitators, not managers. Congress has continued to consider measures to study and report on the suitability and feasibility of establishing heritage areas, to designate new heritage areas, and to create a process for establishing heritage areas, standards for their management and limits on financial support. As part of its annual budget justification to Congress, the NPS requests funding for heritage areas. Through the appropriations process, Congress sets the overall level of funding for heritage areas, determines which areas will receive funding, and specifies the amount of funds for each area.

Over the last two decades Congress has designated 23 National Heritage Areas where the NPS, working through partnerships, supports state and local community conservation and preservation goals through limited “seed money,” recognition, and technical assistance. These partnerships seek to conserve, protect, and promote locally important natural, scenic, historic, cultural, and recreational resources that may lack the uniqueness, national significance, suitability, and feasibility to qualify for inclusion in the National Park System. The NPS does not assume ownership of any heritage areas lands, impose land use controls or take responsibility for permanent funding. Heritage area lands remain in state, local government or private ownership. Heritage areas have been supported as promoting tourism and community revitalization, but property-rights advocates have voiced concern that the designation of heritage areas could exert federal control over non-federal lands. Supporters contend that the Federal government does not assume land ownership, impose zoning or land use controls, but property-rights proponents contend that because of their preservation orientation the NPS indirectly influences and promotes locally restrictive zoning and land use planning that could impede development opportunities.

When creating a heritage area, Congress usually, but not always, enacts a law and provides funding to study an area’s suitability for designation as a heritage area before enacting a law designating the area. There is no statute establishing criteria for heritage areas or providing standards for funding and management of these areas. The lack of such a statute

has been criticized as leading to an *ad-hoc* process that could result in the designation of inappropriate areas or in long-term managerial and financial obligations by the Park Service.

The NPS does not take responsibility for permanent funding and encourages heritage areas to become self-sufficient, so that available NPS funding can be shifted to support more recently designated areas. The NPS would like to limit each area at \$1 million per year, not to exceed \$10 million overall.

National heritage areas are one of a growing number of collaborative, community-based conservation strategies that have developed in recent years to identify, preserve and interpret resources. There is growth in the formation of separate state heritage programs that are not connected with the Federal program. So far eight states across the country have state heritage programs of their own. The recently announced White House initiative; “ Preserve America,” Executive Order 13287, of March 3, 2003, encourages Federal government agencies to seek “...partnerships with State and local governments, Indian tribes, and the private sector to promote the preservation of the unique cultural heritage of communities and of the Nation ...”

Administrative Actions. The NPS has formed an administrative entity, the Heritage Partnership Program, to advise and assist heritage areas. The agency assists communities in attaining the heritage area designation, and provides a variety of types of assistance to areas once designated — administrative, budget, policy, technical, and public information. It provides limited financial assistance while seeking to avoid long term management and financial support. Further, at congressional request, the NPS prepares studies as to the suitability of designating heritage areas.

In recent Congresses, NPS representatives have testified in hearings as to the desirability of generic heritage area legislation that would provide consistent criteria and standards for the establishment, management, and financial assistance of heritage areas and has offered to work with congressional committees to develop a generic program framework.

Legislative Activity. An omnibus national heritage area initiative that would have established 11 new heritage areas emerged at the end of the 107th Congress but was not enacted before adjournment. The 107th Congress did enact three measures to study the suitability and feasibility of certain heritage areas — Niagara Falls in New York (P.L. 107-256), Buffalo Bayou in Texas (P.L. 107-337), and Muscle Shoals in Alabama (P.L. 107-348).

Congress appropriated \$13 million in FY2002 for heritage area studies and management plans. The 108th Congress provided \$14.4 million for heritage areas for FY2003. The Administration has requested \$7.6 million in funding for FY2004.

Legislation has been introduced in the 108th Congress — H.R. 1427, the National Heritage Area Policy Act — that would establish criteria and mechanisms for designating heritage areas, as well as management standards and funding support limits. Similar legislation was considered in the 107th Congress, but was not enacted. The several bills introduced in the 108th Congress to designate or study specific areas are shown in the following table.

Bill Number	State	Type	Title	Status
H.R. 280/S. 180	OH/IN	Desig.	National Aviation Heritage Area Act	Introduced
H.R. 505/S. 211	NM	Desig.	Northern Rio Grande National Heritage Area Act	Introduced
H.R. 524/S. 230	NJ	Desig.	Crossroads of American Revolution Nat. Heritage Act	Introduced
H.R. 567/S.472	VA	Study	Northern Neck National Heritage Area Study Act	Introduced
H.R. 744/S. 276	SC	Study	Southern Campaign of the Revolution Heritage Area Study Act	Introduced
H.R. 1069/S. 577	MA/NH	Desig.	Freedom's Way National Heritage Area Act	Introduced
H.R. 907	CA	Study	Highway 49, "Golden Chain Highway" National Heritage Corridor Study Act	Introduced
S. 323	LA	Desig.	Atchafalaya National Heritage Area Act	Introduced

LEGISLATION

H.R. 1130 (Holt)

Requires implementation of the final rule to phase out snowmobile use in Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr. Memorial Parkway. Introduced March 6, 2003; referred to Committee on Resources.

H.R. 1427 (Hefley)

The National Heritage Areas Policy Act establishes criteria and mechanisms for designating national heritage areas. Introduced March 25, 2003; referred to Committee on Resources.

S. 324 (Levin)

Amends the National Trails System Act to clarify federal authority for acquiring land from willing sellers for two NSTs. Introduced Feb. 6, 2003; referred to Committee on Energy and Natural Resources.

S. 651 (Allard)

The National Trails System Willing Seller Act amends the National Trails System Act to clarify federal authority for acquiring land from willing sellers for four NSTs and five NHTs. Introduced March 18, 2003; referred to Committee on Energy and Natural Resources.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress, House Committee on Resources, *National Heritage Areas Policy Act*, H.Rept. 107-498, 107th Cong., 2nd Sess., June 11, 2002, Washington, DC, 2002.

— Subcommittee on National Parks and Public Lands, *Issues Regarding the New NPS Methodology Used to Evaluate the Achievement of Natural Quiet Restoration Standards in Grand Canyon National Park*, hearing, 106th Cong., 1st Sess., May 25, 1999, Washington, DC, 1999.

U.S. Congress, House Committee on Small Business, *Protecting Small Business and National Parks: The Goals Are Not Mutually Exclusive*, hearing, 107th Cong., 2nd Sess., January 26, 2002, West Yellowstone, MT [<http://www.house.gov/smbiz/hearings/107th/2002/020126/index.html>].

U.S. Congress, Senate Committee on Energy and Natural Resources, *National Discovery Trails Act of 2001*, S.Rept. 107-26, 107th Cong., 1st Sess., June 5, 2001, Washington, DC, 2001.

— *National Trails System Willing Seller Act*, S.Rept. 107-276, 107th Cong., 2nd Sess., September 12, 2002, Washington, DC, 2002.

— *Omnibus National Heritage Area Act of 2002*, S.Rept. 107-286, 107th Cong., 2nd Sess., September 17, 2002, Washington, DC, 2002.

— Subcommittee on National Parks, Historic Preservation, and Recreation, *Snowmobile Activities in the National Park System and Miscellaneous National Heritage Bills*, hearing, 106th Cong., 2nd Sess., May 18, 25, 2000, Washington, DC, 2000.

FOR ADDITIONAL READING

CRS Report 98-794 ENR, *Federal Recreation Fees: Demonstration Program*, by Rosemary Mazaika.

CRS Report 98-981 ENR, *The National Trails System: An Overview*, by Sandra L. Johnson.

CRS Report RL31149, *Snowmobiles: Environmental Standards and Access to National Parks*, by James E. McCarthy.

U.S. General Accounting Office, *Recreation Fees: Management Improvements Can Help the Demonstration Program Enhance Visitor Services*, GAO-02-10, Washington, DC, November 2001.

— *Federal Lands: Agencies Need to Assess the Impact of Personal Watercraft and Snowmobile Use*, GAO/RCED-00-243, Washington, DC, September 2000.

- *National Park Service, Efforts to Identify and Manage the Maintenance Backlog*, GAO/RCED-98-143, Washington, DC, May 1998.
- U.S. Dept. of the Interior, National Park Service. *Air Quality Concerns Related to Snowmobile Usage in National Parks*, Washington, DC, February 2000 at: [http://www.aqd.nps.gov/ard/pubs/snowmobile_report.htm].
- *Budget Justifications and Annual Performance Plan, Fiscal Year 2003; Annual Performance Report, Fiscal Year 2001*; Washington, DC, 2002 at: [<http://data2.itc.nps.gov/budget2/fy03toc.cfm>].
- *Report to Congress: Report on Effects of Aircraft Overflights on the National Park System*, Washington, DC, September 12, 1994.
- Office of Inspector General. *Audit Report on Deferred Maintenance, National Park Service*, report 99-I-959, Washington, DC, September, 1999.
- U.S. Dept. of the Interior and U.S. Dept. of Agriculture. *Recreational Fee Demonstration Program, Progress Report to Congress, Fiscal Year 2001*. Washington, DC, April 15, 2002.