

CRS Issue Brief for Congress

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Heritage Areas: Background, Proposals, and Current Issues

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Heritage Areas: Background, Proposals, and Current Issues

SUMMARY

Over the past 20 years, Congress has established 27 National Heritage Areas (NHAs) to commemorate, conserve, and promote important areas that include natural, scenic, historic, cultural, and recreational resources. NHAs are partnerships between the National Park Service (NPS), states, and local communities, where the NPS supports state and local conservation through federal recognition, seed money, and technical assistance. NHAs are not part of the National Park System, where lands are federally owned and managed. Rather, lands within heritage areas typically remain in state, local, or private ownership. In addition, other heritage areas have been designated by states and local governments and announcements. This issue brief focuses on heritage areas designated by Congress, and related issues and legislation.

There is no comprehensive statute that establishes criteria for designating NHAs or provides standards for their funding and management. Rather, particulars for each area are provided in its enabling legislation. Congress designates a management entity, usually non-federal, to coordinate the work of the partners. This entity typically develops and implements a plan for managing the NHA, in collaboration with other parties. Once approved by the Secretary of the Interior, the management plan becomes the blueprint for managing the area.

NHAs might receive funding from a wide variety of sources, and Congress and the NPS do not ordinarily expect to provide NHAs with permanent federal funding. Congress determines the total level of federal funding for NHAs under annual appropriations bills and typically specifies in appropriations documents the funds for each area. NHAs can use federal funds for many purposes, including

staffing, planning, and projects. P.L. 109-54, the FY2006 Interior appropriations law, contains \$13.5 million (excluding a rescission) for the NPS for assistance to heritage areas.

Heritage areas have been supported as protecting lands and traditions and promoting tourism and community revitalization, but opposed as potentially costly and possibly leading to federal control over nonfederal lands.

More than thirty measures to designate NHAs and study the suitability and feasibility of areas for heritage status have been introduced in the 109th Congress. Some of these have passed the House — H.R. 412, H.R. 694, and H.R. 938. A Senate-passed bill, S. 203, would establish 10 new areas and authorize three area studies. The 109th Congress also provided appropriations for NHA assistance for FY2006. The 108th Congress considered about 60 such measures, some of which passed the House and/or Senate. Debate on private property rights provisions was contentious during consideration of some of these bills. The 108th Congress also created four new NHAs.

The sizeable number of existing NHAs, together with the number of measures proposed in recent Congresses to study and designate new ones, has intensified interest by the Administration and some Members in enacting a law providing criteria for designating NHAs, standards for their management, and limits on federal funding support. Two such measures have been introduced in the 109th Congress — H.R. 760 and S. 243 — and the Senate bill has passed the Senate. A related bill passed the Senate in the 108th Congress but no further action was taken.

MOST RECENT DEVELOPMENTS

On July 26, 2005, the Senate passed S. 243, broad legislation to establish a system of National Heritage Areas, provide criteria for their designation, set standards for their management, and limit federal funding support. Similar legislation (H.R. 760) has been introduced in the House. On the same date the Senate passed S. 203, to create 10 new heritage areas, authorize three area studies, and amend the Illinois and Michigan Canal National Heritage Corridor regarding transition of the management entity. P.L. 109-54, the FY2006 Interior appropriations law, contained \$13.5 million (excluding a rescission) for the NPS for NHA activities.

BACKGROUND AND ANALYSIS

Background

Over the last two decades, Congress has designated 27 National Heritage Areas (NHAs) to recognize and assist efforts to protect, commemorate, and promote natural, cultural, historic, and recreational resources that form distinctive landscapes. Congress has established heritage areas for lands that are regarded as distinctive because of their resources, their built environment, and the culture and history associated with these areas and their residents. A principal distinction of these areas is an emphasis on the interaction of people and their environment. Heritage areas seek to tell the story of the people, over time, where the landscape helped shape the traditions of the residents. In a majority of cases, NHAs now have, or have had, a fundamental economic activity as their foundation, such as agriculture, water transportation, or industrial development. Congress also has enacted measures authorizing the study of areas to determine their suitability and feasibility for heritage designation.

Congress designated the first heritage area — the Illinois and Michigan Canal National Heritage Corridor — in 1984. This area was located in one of the nation's most industrialized regions and sought to combine a diversity of land uses, management programs, and historical themes. A goal was to facilitate grassroots preservation of natural resources and economic development in areas containing industries and historic structures. The federal government would assist the effort (e.g., through technical assistance) but not lead it. The idea of linking and maintaining a balance between nature and industry, and encouraging economic regeneration, resonated with many states and communities, especially in the eastern United States. Interest in establishing heritage areas was commensurate with growing public interest in cultural heritage tourism.

Since 1984, Congress has designated a total of 27 NHAs. The attributes of each NHA are set out in its establishing law. Because they are based on distinctive cultural attributes, NHAs vary in appearance and expression. They are at different stages of developing and implementing plans to protect and promote their attributes. **Table 1**, below, identifies the current NHAs.

Table 1. Existing National Heritage Areas, by Date of Authorization

| National Heritage Area | State | Date of Authorization | Enabling Legislation |
|---|-------|-----------------------|----------------------|
| Illinois and Michigan Canal National Heritage Corridor | IL | August 24, 1984 | P.L. 98-398 |
| John H. Chafee Blackstone River Valley National Heritage Corridor | MA/RI | November 10, 1986 | P.L. 99-647 |
| Delaware and Lehigh National Heritage Corridor | PA | November 18, 1988 | P.L. 100-692 |
| Southwestern Pennsylvania Heritage Preservation Commission (Path of Progress) | PA | November 19, 1988 | P.L. 100-698 |
| Cane River National Heritage Area | LA | November 2, 1994 | P.L. 103-449 |
| Quinebaug and Shetucket Rivers Valley National Heritage Corridor | CT/MA | November 2, 1994 | P.L. 103-449 |
| Cache La Poudre River Corridor | CO | October 19, 1996 | P.L. 104-323 |
| America's Agricultural Heritage Partnership (Silos and Smokestacks) | IA | November 12, 1996 | P.L. 104-333 |
| Augusta Canal National Heritage Area | GA | November 12, 1996 | P.L. 104-333 |
| Essex National Heritage Area | MA | November 12, 1996 | P.L. 104-333 |
| Hudson River Valley National Heritage Area | NY | November 12, 1996 | P.L. 104-333 |
| National Coal Heritage Area | WV | November 12, 1996 | P.L. 104-333 |
| Ohio and Erie Canal National Heritage Corridor | OH | November 12, 1996 | P.L. 104-333 |
| Rivers of Steel National Heritage Area | PA | November 12, 1996 | P.L. 104-333 |
| Shenandoah Valley Battlefields National Historic District | VA | November 12, 1996 | P.L. 104-333 |
| South Carolina National Heritage Corridor | SC | November 12, 1996 | P.L. 104-333 |
| Tennessee Civil War Heritage Area | TN | November 12, 1996 | P.L. 104-333 |
| (MotorCities-)Automobile National Heritage Area | MI | November 6, 1998 | P.L. 105-355 |
| Lackawanna Valley National Heritage Area | PA | October 6, 2000 | P.L. 106-278 |
| Schuylkill River Valley National Heritage Area | PA | October 6, 2000 | P.L. 106-278 |
| Wheeling National Heritage Area | WV | October 11, 2000 | P.L. 106-291 |
| Yuma Crossing National Heritage Area | AZ | October 19, 2000 | P.L. 106-319 |
| Erie Canalway National Heritage Corridor | NY | December 21, 2000 | P.L. 106-554 |
| Blue Ridge National Heritage Area | NC | November 10, 2003 | P.L. 108-108 |
| National Aviation Heritage Area | OH/IN | December 8, 2004 | P.L. 108-447 |
| Oil Region National Heritage Area | PA | December 8, 2004 | P.L. 108-447 |
| Mississippi Gulf Coast National Heritage Area | MS | December 8, 2004 | P.L. 108-447 |

Sources: P.L. 108-447, and U.S. Dept. of the Interior, National Park Service, *Heritage Areas: Legislative Citations*, at [<http://www.cr.nps.gov/heritageareas/INFO/legisindex.HTM>], visited Dec. 1, 2003, and U.S. Dept. of the Interior, National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2004* (Washington, DC: 2003), page NR&P 83.

Heritage areas are not federally owned, and a designation generally is not intended to lead to federal acquisition of lands. They consist mainly of private properties, although some include publicly owned lands. In most cases, the laws establishing NHAs do not provide for acquisition of land, and once designated, heritage areas generally remain in private, state, or local government ownership. However, in a few cases Congress has authorized federal acquisition of land in heritage areas. For instance, Congress authorized creation of the Cane River Creole National Historical Park (LA) within the Cane River NHA. Such cases of federal acquisition/ownership have been challenged by property rights advocates, who generally oppose federal land ownership and possible resulting limitations on private land uses. (See “Support, Opposition, and Challenges,” below.)

Heritage areas are among the types of entities that use technical and financial aid from the National Park Service (NPS) but are not directly owned and managed by the agency. They also are not part of the National Park System, where lands are federally owned and managed. Congressional designation of heritage areas is commonly viewed as a less expensive alternative to creating and operating new units of the National Park System. That System now has 388 diverse units: national parks, national monuments, national historic sites, national battlefields, national preserves, and other designations. (For information on establishing units of the National Park System, see CRS Report RS20158, *National Park System: Establishing New Units*, by Carol Hardy Vincent.)

While the concept of heritage areas is more than two decades old, NHAs are viewed by some as an experimental form of protecting lands that reflects an evolution in roles and responsibilities. The traditional form of NPS land protection has been through government ownership, management, and funding of lands set aside for protection and enjoyment. By contrast, NHAs typically are non-federally owned, managed by local people with many partners and NPS advice, funded from many sources, and intended to promote local economic development as well as protect natural and cultural heritage resources and values.

Since the creation of the first NHA, interest in additional NHA designations has grown considerably. There has been significant interest from communities seeking tourism and economic revitalization as well as conservation and preservation. The Bush Administration generally has supported NHAs because they embody partnerships between communities and the federal government, locally driven resource preservation, and local (rather than federal) control of land. At hearings early in the 109th Congress, however, the Administration recommended deferring action on certain bills seeking to establish heritage areas, despite favorable studies of the areas, until systemic NHA legislation is enacted. (See “Legislative Activity,” below.) In the past few Congresses, many proposals to designate heritage areas or study lands for heritage status have been introduced, and Congress has held many hearings on heritage bills and issues. More than thirty bills introduced thus far in the 109th Congress, and approximately 60 proposals introduced in the 108th Congress, to designate heritage areas or study lands for heritage status indicate a continued high level of congressional interest in NHAs. The sizeable number of existing NHAs, together with the substantial number of proposals to study and designate new ones, has fostered interest by some Members and the Administration in establishing a standardized process and criteria for designating NHAs. (See “Legislative Activity,” below.) However, some opponents believe NHAs present such numerous problems and challenges that Congress should oppose efforts to designate new areas and create a “system” of NHAs. (See “Support, Opposition, and Challenges,” below.)

In addition to the federal heritage areas, other heritage areas have been designated by local governments or announcements by local preservation groups, and a number of states have developed their own heritage area programs. A White House initiative, *Preserve America* (Executive Order 13287, Mar. 3, 2003), directs federal agencies to improve management of historic properties through adaptive reuse initiatives and to promote heritage tourism through partnerships with communities. Also, the Alliance of National Heritage Areas (ANHA), a collaboration of the management entities for the federally designated NHAs, working through its Heritage Development Institute initiative, provides training to practitioners of heritage development. (See [<http://www.heritagedevelopmentinstitute.org/home>], visited on August 24, 2005.) The ANHA also operates a resource center for heritage areas, organizes educational workshops and programs, and promotes heritage tourism.

Overview of Operations

There is no comprehensive statute that establishes criteria for designating NHAs or provides standards for their funding and management. Rather, particulars for an area are provided in its enabling legislation. While there tended to be greater variety in the creation and operation of earlier heritage areas, over the past several years the establishment and management of heritage areas have become somewhat more standardized. Common understandings and characteristics are discussed below.

NHAs involve partnerships between the NPS, states, and local interests. In establishing heritage areas, Congress typically designates a management entity to coordinate the work of the partners. Management entities could include state or local government agencies, nonprofit corporations, and independent federal commissions. The management entity usually develops and implements a plan for managing the NHA, in collaboration with partners and other interested parties. While the components of the plans vary, in accordance with the authorizing legislation and local needs, they often identify resources and themes; lay out policies and implementation strategies for protection, use, and public education; describe needed restoration of physical sites; discuss recreational opportunities; outline funding goals and possibilities; and define the roles and responsibilities of partners. Once the Secretary of the Interior approves a plan, it essentially becomes the blueprint for managing the heritage area and is implemented as funding and resources are available. Implementation of management plans is accomplished primarily through voluntary actions.

NHAs might receive funding to prepare and implement their plans from a wide array of sources, including philanthropic organizations, endowments, individuals, businesses, and governments. Congress and the NPS do not ordinarily expect to provide NHAs with permanent federal funding, but rather encourage NHAs to develop alternative sources of funding to become financially self-sufficient. A March 30, 2004 report of the General Accounting Office (now called the Government Accountability Office) states that during the six-year period from FY1997 to FY2002, heritage areas received \$310 million in total funding. About half the funds (\$154 million) were derived from state and local governments and private sources, with the other half (\$156 million) provided by the federal government. Of the federal funding, about \$50 million came from the NPS heritage program and \$44 million came from other NPS programs, with the balance (about \$61 million) provided by

11 other federal sources.¹ A report of the Alliance of National Heritage Areas with data over a longer period shows the federal contribution at about one-third (34%) of total funding from 1985 through 2004. State and local governments also contributed about one-third (35%) of NHA funds, with private funding sources providing 27% and the remaining 4% deriving from other sources. For 2004, the report indicates that the federal (30%) and state and local (27%) shares of NHA funding were significantly less than private contributions (42%). The remaining 1% of NHA funding during 2004 was provided by other sources.²

Congress determines the total level of federal funding for NHAs and typically specifies in appropriations documents the allocation for each NHA that is funded. The management entity generally receives any federal appropriations for the area. Federal funds might be used to help rehabilitate an important site, develop tours, establish interpretive exhibits and programs, increase public awareness, and sponsor special events to showcase an area's natural and cultural heritage. In testimony presented in March 2003, an official from the Department of the Interior (DOI) testified to the success of NHAs in using funds provided by the NPS to leverage additional funding from other sources.³

Support, Opposition, and Challenges⁴

Some believe that the benefits of heritage areas are considerable and thus Congress should expand its assistance for creating and sustaining heritage areas. Supporters view NHAs as important for protecting history, traditions, and cultural landscapes, especially where communities are losing their traditional economic base (e.g., industry or farming), facing a loss of population, or experiencing rapid growth from people unfamiliar with the region. Advocates see NHAs as unifying forces that increase the pride of people in their traditions, foster a spirit of cooperation and unity, and promote a stewardship ethic among the general public.

Advocates of NHAs assert that they foster cultural tourism, community revitalization, and regional economic development. Heritage areas are advertised as entertaining and

¹ The data reflect funding for 22 of the then existing 24 heritage areas. See U.S. General Accounting Office, *National Park Service: A More Systematic Process for Establishing National Heritage Areas and Actions to Improve Their Accountability Are Needed*, GAO-04-593T, Summary (Washington, DC, March 30, 2004), at [<http://www.gao.gov/>].

² See Alliance of National Heritage Areas, *Telling America's Story: Annual Report 2004*, p. 10, at [<http://www.nationalheritageareas.org/reports.htm>].

³ Testimony of Paul Hoffman, U.S. Dept. of the Interior, before the Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, March 13, 2003, available at [http://energy.senate.gov/hearings/testimony.cfm?id=627&wit_id=1714].

⁴ For sources generally supportive of NHAs, see, for example, the websites of the National Park Service at [<http://www.cr.nps.gov/heritageareas/>], Alliance of National Heritage Areas at [<http://www.nationalheritageareas.com/>], and the National Trust for Historic Preservation at [<http://www.ruralheritage.org/workarea.html>]. For information generally opposed to NHAs, see, for example, the websites of the Property Rights Foundation of America, Inc., at [<http://prfamerica.org/HeritageRiversAreasIndex.html>] and the American Policy Center at [<http://www.americanpolicy.org/prop/main.htm>], and congressional testimony by Daniel M. Clifton of Americans for Tax Reform at [<http://resourcescommittee.house.gov/108cong/parks/2003sep16/agenda.htm>].

educational places for tourists, and may involve activities such as stories, music, food areas, walking tours, boat rides, and celebrations. Through increased tourism, communities benefit locally when services and products are purchased. In some cases, increased heritage tourism, together with an emphasis on adaptive reuse of historic resources, has attracted broader business growth and development.

Some supporters see NHAs as generally more desirable than other types of land conservation. They prefer the designation of NHAs because the lands typically remain in nonfederal ownership, to be administered locally. Other NHA backers view establishing and managing federal areas, such as units of the National Park System, as too costly, and observe that small federal investments in heritage areas have been successful in attracting funds from other sources. Some proponents also see NHAs as flexible enough to encompass a diverse array of initiatives and areas because the heritage concept lacks systemic laws or regulations, while other proponents favor a standardized program and process.

Property rights advocates take the lead in opposing heritage areas. They contend that some national heritage areas lack significant local support. They charge that private property owners should be routinely notified when their lands fall within proposed heritage areas, because the NPS could exert a degree of federal control over nonfederal lands by influencing zoning and land-use planning. Some fear that any private property protections in legislation would not be routinely adhered to by the federal government. They are concerned that localities have to obtain the approval of the Secretary of the Interior for heritage area management plans and believe that some plans are overly prescriptive in regulating details of private property use (e.g., the species of trees that landowners can plant). Another concern of opponents is that NHA lands may one day be targeted for purchase and direct management by the federal government.

The lack of a general statute providing a framework for heritage area establishment, management, and funding has prompted criticism that the process is inconsistent and fragmented. Some see a need to establish and define the criteria for creating NHAs, specify what NHAs are and do, and clarify the federal role in supporting these areas. They are concerned that the enactment of additional heritage bills could substantially increase the administrative and financial obligations of the NPS. Some detractors assert that federal funds would be more appropriately spent on NPS park units and other existing protected areas rather than on creating new heritage areas. Still others cite a need for a mechanism to hold the management entities accountable for the federal funds they receive and the decisions they make.

Some observers recommend caution in creating NHAs, because in practice NHAs may face an array of challenges to success. For instance, heritage areas may have difficulty providing the infrastructure that increased tourism requires, such as additional parking, lodging, restaurants, and well-coordinated attractions. Other areas may need additional protective measures to ensure that increased tourism and development do not degrade the resources and landscapes. Still other NHAs may require improvements in leadership and organization of the management entities, including explaining their message and accomplishments. Some NHAs may experience difficulty attracting funds because the concept is relatively recent and not universally accepted as a sustainable approach to resource preservation or economic development. Some conservationists think the protective measures are not strong enough and some economic development professionals think the heritage idea

does not fit the traditional framework for development. Also, achieving and maintaining appropriate levels of public commitment to implementation may be challenging.⁵

Administrative Actions

The NPS assists communities interested in attaining the federal NHA designation by helping them craft a regional vision for heritage preservation and development. The agency also provides a variety of types of assistance to areas once designated — administrative, financial, policy, technical, and public information. The NPS seeks to serve as a catalyst by offering assistance to designated heritage areas only for a limited number of years. Specifically, the NPS has sought to limit each heritage area to no more than \$1 million per year, not to exceed \$10 million per area over 15 years. In 2004, the Administration presented a draft National Heritage Partnership Act that sought, in part, to codify these funding parameters and require each heritage area management plan to include a business plan demonstrating financial capability to carry out the plan. This business plan was intended to foster self-sufficiency of NHAs.⁶ Similar provisions are included in S. 243, which passed the Senate, and H.R. 760, which has been introduced. (See “Legislative Activity,” below.)

As part of its annual budget justification to Congress for the National Park Service, the Administration submits its desired overall funding level for the NPS Heritage Partnership Program. Congress generally determines a total funding level and the distribution of the funds for specified NHAs. NHAs can use such funds for varied purposes including staffing, planning, and implementing projects. For FY2006, the Administration requested \$5.0 million for NHAs, a significant decrease from the FY2005 level of \$14.6 million. Historically, the Bush Administration’s requests for NHA funding have been significantly lower than the previous year’s appropriation; however, Congress typically has restored or increased NHA funds. In a May 19, 2005, Statement of Administration Policy, the Administration urged the House to approve its proposed reduction in funding for NHAs. Nevertheless, P.L. 109-54, the FY2006 Interior appropriations law, contained \$13.5 million, excluding a rescission of 0.476%.

Once a heritage area is designated by Congress, the NPS typically enters into a cooperative agreement, or *compact*, with the designated management entity, often comprised of local activists, to help plan and organize the area. The compact outlines the goals for the heritage area and defines the roles and contributions of the NPS and other partners, typically setting out the parameters of the NPS’s technical assistance. It also serves as the legal vehicle for channeling federal funds to non-governmental management entities.

At congressional direction, the NPS also prepares studies as to whether areas are suitable for designating as NHAs. The NPS often testifies before Congress on the results of these studies. The studies typically address a variety of topics, including whether an area has

⁵ Information on challenges to NHA success is found in Jane Daly, “Heritage Areas: Connecting People to their Place and History,” *Forum Journal (Journal of the National Trust for Historic Preservation)*, vol. 17, no. 4 (summer 2003), pp. 5-12.

⁶ Testimony of A. Durand Jones, National Park Service, U.S. Dept. of the Interior, before the Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, March 30, 2004, at [<http://energy.senate.gov/hearings/witnesslist.cfm?id=1128>].

resources reflecting aspects of American heritage that are worthy of recognition, conservation, and continued use. They usually discuss whether an area would benefit from being managed through a public-private partnership, and if there is a community of residents, businesses, nonprofit organizations, and state and local agencies that would work to support a heritage area.

Administration representatives have testified in support of developing systemic NHA legislation to list the qualities a prospective area must possess and the parameters under which designation could occur. At a March 30, 2004 hearing of a Senate Energy and Natural Resources Subcommittee, a DOI witness⁷ outlined the Administration's draft legislation to create a National Heritage Areas Program. At an earlier subcommittee hearing, the Deputy Director of the NPS expressed "strong support" for legislation to establish a national heritage program, while suggesting modifications to S. 2543 on behalf of DOI.⁸

The NPS Advisory Board was created in 1935 to advise the Director of the NPS and the Secretary of the Interior on issues relating to the National Park Service. The Partnership Committee of the NPS Advisory Board conducted a review of NHAs, the Heritage Partnership Program, and future NPS involvement with NHAs. The DOI accepted the committee's findings and recommendations and recommended their transmittal to Congress. An interim report contains the committee's findings and recommendations.⁹ A key recommendation is to establish a legislative foundation for a system of NHAs in the Park Service, based on specified concepts. A final report is expected in late 2005.

Legislative Activity

109th Congress Overview. The 109th Congress continues a high level of interest in heritage area bills and issues. On July 26, 2005, the Senate passed S. 203, to establish 10 new heritage areas as follows: Northern Rio Grande NHA, Atchafalaya NHA, Arabia Mountain NHA, Mormon Pioneer NHA, Bleeding Kansas NHA, Upper Housatonic Valley NHA, Champlain Valley National Heritage Partnership, Great Basin National Heritage Route, Gullah/Geechee Heritage Corridor, and Crossroads of the American Revolution NHA. The bill also would authorize studies of the suitability and feasibility of establishing three other areas: the Western Reserve NHA, St. Croix NHA, and Southern Campaign of the Revolution NHA. Further, it would amend the Illinois and Michigan Canal National Heritage Corridor regarding transition of the management entity from a federal commission to a nonprofit organization; such provisions were incorporated into H.R. 938 as passed by the House.

Three bills to designate heritage areas and/or study areas for possible heritage designation have passed the House. H.R. 412 would authorize a study of whether to establish the Western Reserve NHA, while H.R. 694 would designate the Gullah/Geechee

⁷ Ibid.

⁸ Testimony of A. Durand Jones, National Park Service, U.S. Dept. of the Interior, before the Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, June 24, 2004, at [http://energy.senate.gov/hearings/testimony.cfm?id=1243&wit_id=169].

⁹ A copy of the interim report is available on the NPS website at [<http://www.cr.nps.gov/heritageareas/>].

Cultural Heritage Area. H.R. 938 would authorize a study of whether to establish the St. Croix NHA and designate the Northern Rio Grande and Upper Housatonic Valley NHAs. Other bills to designate heritage areas or study specific areas for possible heritage status have been introduced. Some of them would create heritage “corridors,” “routes,” or “partnerships.” A number of existing heritage areas have similar titles, and the NPS considers all of them to be NHAs. These bills are shown in **Table 2**, below. General heritage area legislation (in contrast to area designations or studies) is discussed following the table and is identified in the “Legislation” section, below.

Other pending legislation would amend existing heritage areas. H.R. 3843 would amend the boundary of the South Carolina National Heritage Corridor to include three counties, with related changes to the area’s management plan. As introduced, H.R. 326 and S. 505 would amend the boundary of the Yuma Crossing NHA, and the House bill also would extend the authority of the Secretary of the Interior to provide assistance until 2020. H.R. 326 has been ordered reported (October 19, 2005) by the House Committee on Resources, reportedly with an amendment to strike the extension for the Secretary to provide assistance. H.R. 1205 and S. 574 seek to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act to increase the authorization of appropriations and extend the authorization for the heritage corridors. For the John H. Chafee Blackstone River Valley National Heritage Corridor, S. 1387, S. 1721, and H.R. 3775 would provide for an update of the management plan, extend the authority of the commission, and authorize additional appropriations.

For each of nine heritage areas, H.R. 888 and S. 1721 would extend the authorization from September 30, 2012, to September 30, 2027, and increase the total authorization of appropriations from \$10 million to \$20 million. They also would rename the Ohio and Erie Canal National Heritage Corridor as the Ohio and Erie National Heritage Canalway, and make other changes regarding that area, the National Coal Heritage Area, and the South Carolina National Heritage Corridor. S. 1721 has additional provisions as discussed above and shown in the table below.

On March 15, 2005, a Senate subcommittee held a hearing on establishing three heritage areas that feasibility studies determined to be appropriate for designation. They are in the “Bleeding Kansas” area (KS, MO; S. 175), Champlain Valley (NY, VT; S. 322), and Upper Housatonic Valley (CT, MA; S. 429). Several witnesses testified in favor of establishing one or more of the areas as NHAs, while one witness testified against NHAs generally. The Administration recommended deferring action on the bills until the enactment of systemic NHA legislation that would set guidelines and a process for designating NHAs. The Administration also recommended deferring action due to current fiscal constraints and for consistency with the Administration’s FY2006 budget.

While the Administration’s FY2006 budget proposed a sizeable decrease in funding for the NPS for NHAs, the Administration asserted that through several efforts and programs the budget “will go a long way toward supporting local efforts to preserve” heritage resources.¹⁰ At a March 1, 2005, Senate committee hearing on the DOI budget, Secretary of the Interior

¹⁰ Testimony of Janet Snyder Matthews, National Park Service, U.S. Dept. of the Interior, before the Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, March 15, 2005, at [<http://energy.senate.gov/hearings/witnesslist.cfm?id=1412>], visited March 22, 2005.

Gale Norton stated that the NPS is seeking money for heritage areas from sources including one proposed program — Preserve America. Through P.L. 109-54, which provided \$13.5 for NPS assistance to heritage areas, Congress rejected the Administration’s request for a large program decrease. More recently, the House Republican Study Committee, in a September 21, 2005 document, proposed eliminating funding for NHAs as part of a wide array of options to offset spending for relief from Hurricane Katrina.

On August 10, 2005, the President signed H.R. 3, the Transportation Equity Act: A Legacy for Users (P.L. 109-59). The law would authorize funds for federal-aid highways, highway safety programs, and transit programs, among other purposes. The omnibus bill authorized appropriations for several years for congressional “high priority projects” under Title I, Federal-Aid Highways. Title I included authorizations for projects at the Erie Canalway National Heritage Corridor and the John H. Chafee Blackstone River Valley National Heritage Corridor. Title III, Federal Transit Administration Programs, included project authorizations for new fixed guideway capital projects. Among the projects authorized by H.R. 3 for alternatives analysis and preliminary engineering is the Aviation Heritage Corridor Streetcar Project in Dayton, Ohio. (For more information on the operation of federal highway and transit programs, see CRS Issue Brief IB10138, *Surface Transportation: SAFETEA-LU*, by John W. Fischer.)

Table 2. Bills to Establish Heritage Areas or Authorize Studies, 109th Congress
(as of October 28, 2005)

| Bill Number | State | Type | Title | Status |
|---|-------------------|--------|---|---|
| H.R. 61 H.R. 938 S. 203 | VI | Study | St. Croix NHA Study Act | Introduced; Passed House; Passed Senate |
| H.R. 73 | VA | Study | Northern Neck NHA Study Act | Introduced |
| H.R. 87/S. 825 S. 203 | NJ | Desig. | Crossroads of the American Revolution NHA Act | Introduced; Passed Senate |
| H.R. 412 S. 203 | OH | Study | Western Reserve Heritage Area Study Act | Passed House; Passed Senate |
| H.R. 413 S. 175 S. 203 | KS/MO | Desig. | Bleeding Kansas NHA Act | Introduced; Hearing Held; Passed Senate |
| H.R. 522 S. 204 S. 203 | LA | Desig. | Atchafalaya NHA Act | Introduced; Comm. Reported (S.Rept. 109-5); Passed Senate |
| H.R. 694 S. 203 | FL, GA, NC, SC | Desig. | Gullah/Geechee Cultural Heritage Act | Passed House; Passed Senate |
| H.R. 732 H.R. 938 S. 63 S. 203 | NM | Desig. | Northern Rio Grande NHA Act | Introduced; Passed House; Comm. Reported (S.Rept. 109-1); Passed Senate |

| Bill Number | State | Type | Title | Status |
|---|-------------------|--------|---|--|
| H.R. 938 S. 429 S. 203 | CT/MA | Desig. | Upper Housatonic Valley NHA Act | Passed House; Hearing Held; Passed Senate |
| H.R. 956/S. 1898 | MA/NH | Desig. | Freedom's Way NHA Act | Introduced |
| H.R. 1087 | NC | Study | Northeastern North Carolina Heritage Area Study Act | Introduced |
| H.R. 1192/S. 973 | IL | Desig. | Abraham Lincoln NHA Act | Introduced |
| H.R. 1289/S. 1121 S. 203 | SC | Study | Southern Campaign of the Revolution Heritage Area Study Act | Introduced; Passed Senate |
| H.R. 2099/H.R. 2297 S. 200 S. 203 | GA | Desig. | Arabia Mountain NHA Act | Introduced; Comm. Reported (S.Rept. 109-3); Passed Senate |
| H.R. 3158 | TN | Desig. | Cherokee Overhill Territory NHA | Introduced |
| S. 163 S. 203 | UT | Desig. | Mormon Pioneer NHA Act | Comm. Reported (S.Rept. 109-2); Passed Senate |
| S. 249 S. 203 | NV, UT | Desig. | Great Basin National Heritage Route Act | Comm. Reported (S.Rept. 109-6); Passed Senate |
| S. 322 S. 203 | NY, VT | Desig. | Champlain Valley National Heritage Partnership Act | Hearing Held; Passed Senate |
| S. 1414 | AZ, CO, NM, UT | Study | Trail of the Ancients NHA Study Act | Introduced |
| S. 1544 | ND | Desig. | Northern Plains NHA Act | Introduced |
| S. 1721 | MS | Desig. | Mississippi River NHA Act | Introduced |

Source: Compiled by CRS from the Legislative Information System (LIS) of the U.S. Congress, 109th Congress data file.

109th Congress Proposals to Establish Systemic Procedures. Under consideration are House and Senate companion bills — H.R. 760 and S. 243 — to establish a unified process for creating, operating, and funding NHAs and a heritage area program (House bill) or system (Senate bill). The Senate passed S. 243 on July 26, 2005, with an amendment in the nature of a substitute. The House bill is essentially identical to legislation (S. 2543) passed by the Senate but not enacted in the 108th Congress, while S. 243 contains additional provisions. Both 109th Congress bills would require the Secretary of the Interior to conduct suitability-feasibility studies, or review and comment on such studies prepared by others, for areas under consideration for NHA designation. They set out criteria by which such areas would be evaluated, including identification of a local coordinating entity, demonstration of support by local governments and communities, development of a conceptual financial plan outlining the responsibilities of participants, and concurrence of

managers of any federal lands within the proposed NHA. The criteria include evidence of resources and traditional uses that are of “national importance,” a term used to avoid confusion with the “national significance” needed for designating units of the National Park System.

The measures would provide for the local coordinating entity for an NHA to develop a management plan for the area within three years of the availability of funds, and a process and time frame for action by the Secretary of the Interior to approve/disapprove the plan. The management plan is to include a business plan demonstrating that the local coordinating entity has sufficient partnerships and financial resources to carry out the plan, to encourage self-sufficiency of heritage areas. For each NHA, the bills would authorize funding of not more than \$1 million per year, with a total of not more than \$10 million over 15 years. The House bill would cap funding for all NHAs at \$15 million per year, while the Senate-passed bill includes \$25 million. The Senate-passed bill also includes provisions on partnership support, authorizing the Secretary of the Interior to award competitive grants to local coordinating entities whose financial assistance has ended. The grants could be used for individual projects at NHAs that further the purposes of the management plan.

The bills seek to protect private property owners, for instance, by not requiring their participation in NHA plans and activities. They also seek to protect existing regulatory authorities — for example, by not altering “any duly adopted land use regulation, approved land use plan, or other regulatory authority.” They set out the responsibilities of local coordinating entities and the authorities of the Secretary of the Interior (through the NPS). The Senate-passed bill also sets out the relationship between the NHA system and the National Park System, stating explicitly that NHAs are not to be considered units of the Park System.

108th Congress Overview. The 108th Congress considered measures to designate and study heritage areas, as well as to extend the authorization of existing NHAs, establish uniform criteria and procedures for designating and managing heritage areas, and appropriate funds for heritage areas. The 108th Congress also held legislative and oversight hearings on heritage bills and issues.

In addition to enacting several measures (see below), the 108th Congress considered, but did not enact, about 60 bills for more than 20 different areas, to establish other NHAs or to study the suitability and feasibility of areas for heritage status. Some of these bills passed the House and/or Senate. Other legislation sought to extend the authorization for certain NHAs from September 30, 2012, until September 30, 2027, and increase the total funding authorized for each area from \$10 million to \$20 million. Still other measures proposed changes to existing NHAs to add explicit property rights protections, revise boundaries, or amend management authorities.

108th Congress Measures Enacted. The Consolidated Appropriations Act of FY2005 (P.L. 108-447) established three new NHAs: the National Aviation Heritage Area (OH/IN), the Oil Region NHA (PA), and the Mississippi Gulf Coast NHA (MS). The language for all three heritage areas seeks to protect private property rights, although the Mississippi Gulf Coast provisions do not include property owner notification and consent language. Such language for the other two areas provides that private property shall not be “preserved, conserved, or promoted by the management plan for the Heritage Area” until the

owner receives written notification and gives written consent. Owners of land within the boundary of the heritage area “shall have their property immediately removed” upon written request. Further, private property owners cannot be compelled to allow public access to their property or to participate in, or be associated with, the NHA. Private property provisions have been advocated as necessary to prevent federally influenced restrictive zoning, to protect land-use options of property owners, and to prevent possible future federal ownership of heritage lands. Opponents have criticized such provisions as impractical, expensive, and burdensome for the local management entities. In earlier action, provisions of P.L. 108-108 established the Blue Ridge NHA (NC) with specified private property protections.

As in previous Congresses, the 108th Congress enacted appropriations for the NPS to partially fund heritage areas. The FY2005 request for NHA funding was \$2.5 million, an \$11.8 million decrease from the FY2004 enacted level. P.L. 108-447 provided \$14.6 million for 25 of the 27 existing heritage areas for FY2005, including \$500,000 for three NHAs established in the law. For FY2004, Congress enacted \$14.3 million for the NPS for heritage areas (P.L. 108-108).

108th Congress Proposals to Establish Systemic Procedures. Legislation governing the evaluation, designation, and management of new NHAs was considered but not enacted during the 108th Congress. S. 2543, which passed the Senate on September 15, 2004, sought to establish a unified process for creating, operating, and funding NHAs. It was similar to draft legislation prepared by the Administration. This legislation was reintroduced in the 109th Congress (H.R. 760) and is discussed above.

H.R. 1427, to establish procedures for designating, managing, and funding heritage areas, also was introduced in the 108th Congress but no further action was taken. The bill would have authorized the Secretary of the Interior to recommend to Congress that an area be granted heritage designation if, within five years of Congress authorizing a feasibility study, the Secretary has completed the study, determined the area to be suitable, and approved a management plan for the area. Prior to the Secretary’s recommendation, private property owners would have been notified and given an opportunity to decide whether to include their property in heritage area activities. The bill outlined requirements for conducting and approving feasibility studies. It would have required the local coordinating entity for the proposed area to prepare a management plan and would have provided for action by the Secretary to approve/disapprove the plan.

H.R. 1427 would have authorized the Secretary to make grants during the five-year period following authorization of a feasibility study for a “proposed” NHA. For established heritage areas, the bill would have authorized the Secretary to make grants during a 10-year period, and would have authorized appropriations of not more than \$1 million yearly per area with not more than \$10 million total per NHA. Grant recipients would have been required to provide matching funds, while the Secretary would have been authorized to provide technical assistance on a nonreimbursable basis. The bill also contained provisions seeking to protect private property, and outlined circumstances and procedures under which the Secretary would terminate funding for an NHA.

Government Accountability Office (GAO) Report. A GAO report on NHAs, released March 30, 2004, concluded that because there is no systematic process for designating NHAs, or well-defined NPS criteria for assessing the qualifications of areas, it

is not possible to ensure that future areas will have the resources and support to be viable or that federal funds are well spent. The agency also concluded that the NPS does not employ key management controls in overseeing heritage areas; for instance, the NPS does not consistently review areas' financial audit reports or use results-oriented goals and measures. Further, the agency asserted that existing heritage areas do not appear to have affected property owners' rights. The GAO recommends that in the absence of congressional action to establish a formal heritage program, the NPS take the following actions: develop standards and processes for the agency's regional staff to use in approving heritage area management plans; require regular and consistent review of audit reports of NHAs; and develop results-oriented goals and measures for heritage area activities.

LEGISLATION

Measures to establish individual heritage areas or authorize studies of individual areas, as of October 28, 2005, are listed in **Table 2**, above. This section includes general heritage area legislation introduced in the 109th Congress.

H.R. 760 (Hefley); S. 243 (Thomas)

The National Heritage Partnership Act would establish a program and criteria for NHAs. H.R. 760 introduced Feb. 10, 2005; referred to Committee on Resources. S. 243 passed Senate July 26, 2005; referred to House Committee on Resources July 27, 2005.

H.R. 888 (Regula)

For several existing NHAs, seeks to extend the authority of the Secretary of the Interior and to increase total authorization of appropriations, among other changes. Introduced Feb. 17, 2005; referred to Committee on Resources.

S. 203 (Thomas)

This measure seeks to create 10 new heritage areas, authorize three area studies, and amend the Illinois and Michigan Canal National Heritage Corridor regarding transition of the management entity. Passed Senate July 26, 2005; referred to House Committee on Resources July 27, 2005.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress, Senate Committee on Energy and Natural Resources, *Arabia Mountain National Heritage Area Act*, S.Rept. 109-3, 109th Cong., 1st Sess., Feb. 16, 2005, available on the Web in LIS under S. 200 at [[http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1\(sr003\)](http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1(sr003))].

—*Atchafalaya National Heritage Area Act*, S.Rept. 109-5, 109th Cong., 1st Sess., Feb. 16, 2005, available on the Web in LIS under S. 204 at [[http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1\(sr005\)](http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1(sr005))].

—*Great Basin National Heritage Route Act*, S.Rept. 109-6, 109th Cong., 1st Sess., Feb. 16, 2005, available on the Web in LIS under S. 249 at [[http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1\(sr006\)](http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1(sr006))].

- Mormon Pioneer National Heritage Area Act*, S.Rept. 109-2, 109th Cong., 1st Sess., Feb. 16, 2005, available on the Web in LIS under S. 163 at [[http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1\(sr002\)](http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1(sr002))].
- National Heritage Partnership Act*, S.Rept. 109-26, 109th Cong., 1st Sess., March 9, 2005, available on the Web in LIS under S. 243, at [[http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1\(sr026\)](http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1(sr026))].
- Northern Rio Grande National Heritage Area Act*, S.Rept. 109-1, 109th Cong., 1st Sess., Feb. 16, 2005, available on the Web in LIS under S. 63 at [[http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1\(sr001\)](http://www.congress.gov/cgi-lis/cpquery/R?cp109:FLD010:@1(sr001))].

FOR ADDITIONAL READING

- CRS Report RS20158, *National Park System: Establishing New Units*, by Carol Hardy Vincent.
- CRS Issue Brief IB10141, *Recreation on Federal Lands*, coordinated by Kori Calvert and Carol Hardy Vincent.
- Alliance of National Heritage Areas, *Best Practices*, at [<http://www.nationalheritageareas.com/>] and *Telling America's Story: Annual Report 2004*, at [<http://www.nationalheritageareas.org/reports.htm>], visited March 24, 2005.
- American Policy Center, *Property Rights*, at [<http://www.americanpolicy.org/prop/main.htm>], visited on January 19, 2005.
- Americans for Tax Reform. Statement of Daniel M. Clifton, House Committee on Resources, Subcommittee on National Parks, Recreation, and Public Lands, September 16, 2003, Washington, DC, at [<http://resourcescommittee.house.gov/108cong/parks/2003sep16/agenda.htm>], visited on January 19, 2005.
- Barrett, Brenda, and Suzanne Copping. *National Heritage Areas: Developing a Model for Measuring Success*, at [<http://www.cr.nps.gov/heritageareas/REP/research.htm>], visited on January 19, 2005.
- Bray, Paul M. *The Heritage Area Phenomenon: Where Is It Coming From*, at [<http://www.cr.nps.gov/heritageareas/REP/research.htm>], visited on January 19, 2005.
- The George Wright Society, “Stewardship of Heritage Areas,” *The George Wright Forum*, v. 20, no. 2 (June 2003).
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- Knight, Peyton, “The Great National Land Grab,” *Capitalism Magazine* (June 13, 2003), at [<http://www.capmag.com/article.asp?ID=2850>], visited on March 19, 2004.

Means, Mary, "Happy Trails," *Planning* (Journal of the American Planning Association), v. 65, no. 8 (August 1, 1999).

National Trust for Historic Preservation, *Heritage Areas*, at [<http://www.ruralheritage.org/workarea.html>], visited on January 19, 2005.

—National Trust Forum, "Regional Heritage Areas: Connecting People to Places and History," *Forum Journal*, vol. 17, no. 4 (summer 2003).

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U.S. Dept. of the Interior, National Park Service, *Heritage Areas*, at [<http://www.cr.nps.gov/heritageareas/>], visited on January 19, 2005. The 2003 Annual Report on National Heritage Areas is on the NPS website at [<http://www.cr.nps.gov/heritageareas/REP/annrep2003.pdf>], visited on January 19, 2005.

—*Budget Justifications and Performance Information, Fiscal Year 2005*, Washington, D.C. 2004, pages NR&P 57-74.

U.S. General Accounting Office. *National Park Service: A More Systematic Process for Establishing National Heritage Areas and Actions to Improve Their Accountability Are Needed*. Statement of Barry T. Hill, Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, March 30, 2004, Washington, DC (GAO-04-593T), at [<http://www.gao.gov/>], visited on January 19, 2005.