

# CRS Issue Brief for Congress

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## **National Park Management**

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# CONTENTS

## SUMMARY

## MOST RECENT DEVELOPMENTS

## BACKGROUND AND ANALYSIS

- Introduction

- History

- Overview of Topics

## Current Issues

- Competitive Sourcing

  - Background

  - Administrative Actions

  - Legislative Activity

- Historic Preservation

  - Background

  - Administrative Actions

  - Legislative Activity

- Maintenance Backlog

  - Background

  - Administrative Actions

  - Legislative Activity

- Regional Haze

  - Background

  - Administrative Actions

  - Legislative Activity

- Wild and Scenic Rivers

  - Background

  - Administrative Actions

  - Legislative Activity

- Other Issues

  - Federal Land Acquisition

  - Revision of Policy Changes

  - Security

## LEGISLATION

## CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

## FOR ADDITIONAL READING

## National Park Management

### SUMMARY

The 109<sup>th</sup> Congress is considering legislation and conducting oversight on National Park Service (NPS) related topics. The Administration is addressing park issues through budgetary, regulatory, and other actions. Earlier Congresses and Administrations also have dealt with similar issues. While this report focuses on several key topics, others may be added if circumstances warrant.

**Competitive Sourcing.** The Bush Administration's Competitive Sourcing Initiative subjects federal agency activities determined to be commercial to public-private competition, with a goal of saving money. Through July 2004, the NPS had studied the competitive sourcing of positions totaling 1,663 "full-time equivalents" to determine if they should be subject to competitive bidding, but none were contracted out. The initiative has been controversial. The 109<sup>th</sup> Congress limited spending during FY2006 on competitive sourcing studies by the Department of the Interior (which includes the NPS).

**Historic Preservation.** The NPS administers the Historic Preservation Fund (HPF), which provides grants to states and other entities to protect cultural resources. Congress provides annual appropriations for the HPF, and views differ as to whether to retain the federal role in financing the fund or to rely exclusively on private support. Legislation has been introduced to reauthorize the HPF.

**Maintenance Backlog.** There is debate over the funding level to meet the physical maintenance obligations of the NPS and whether to provide new funds or use funds from existing programs for them. Attention has focused on the NPS's multibillion-dollar maintenance backlog, but views differ as to

whether the backlog has increased or decreased in recent years. The 109<sup>th</sup> Congress included money to address some backlog needs in P.L. 109-54.

**Regional Haze.** National parks and wilderness areas (Class I areas) are protected from future visibility impairment by parts of the Clean Air Act, and remedies for existing impairment from pollution in these areas also are provided in the act. There is discussion of the effects of proposed power plants on these areas, and recently a few agency staff findings that emissions could degrade air quality were overruled by higher administration officials. Best available retrofit technology (BART) rules to reduce haze were issued June 15, 2005. The President's Clear Skies proposal and S. 131 as introduced in the 109<sup>th</sup> Congress seek in part to reduce the role of land managers in power plant permitting decisions.

**Wild and Scenic Rivers.** The Wild and Scenic Rivers System preserves free-flowing rivers, which are designated by Congress or through state nomination with Secretarial approval. The NPS, and other federal agencies with responsibility for managing designated rivers, prepare management plans to protect river values. Management of lands within river corridors is sometimes controversial, because of issues including the possible effects of designation on private lands and of corridor activities on the rivers. Legislation is pending to designate, study, or extend components of the system.

**Other Issues.** Other park management topics of potential interest to the 109<sup>th</sup> Congress include federal land acquisition, an NPS policy review, and park security.

## MOST RECENT DEVELOPMENTS

The 109<sup>th</sup> Congress is examining, through legislation or oversight, a number of National Park Service (NPS) topics that have generated continuing interest. The most recent actions related to these topics are noted below.

- P.L. 109-54, the FY2006 Interior appropriations law, capped funding for DOI competitive sourcing studies during FY2006 without specifying the portion to be allocated to the NPS. It provided \$73.3 million for historic preservation, and \$323.6 million for the NPS maintenance backlog.
- On June 15, 2005, EPA issued new best available retrofit technology (BART) rules to reduce haze in parks and natural areas.
- On September 22, 2005, a Senate subcommittee held a hearing on two National Wild and Scenic Rivers System bills — S. 435 and S. 1096.
- On October 19, 2005, the NPS published draft Management Policies for a 90-day public review.

## BACKGROUND AND ANALYSIS

### Introduction

The National Park System 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 58 units formally entitled *national parks* and a host of other designations.<sup>1</sup> The system has more than 84 million acres.<sup>2</sup> The NPS has an appropriation of about \$2.29 billion for FY2006 (excluding a rescission), employs about 24,000 permanent and seasonal employees, and uses an additional 90,000 volunteers. An estimated 263 million people visited park units in 2004.

The NPS statutory mission is multifaceted: 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 dichotomy of use and preservation can be contradictory and results in management challenges. Attention centers on how to balance the recreational use of parklands with the preservation of park resources, and determine appropriate levels and sources of funding to maintain NPS facilities and to manage NPS programs. In general, activities that harvest or remove resources from units of the system are not allowed. The NPS also supports the preservation of natural and historic places and promotes recreation outside the system through grant and technical assistance programs.

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<sup>1</sup> Descriptions of the different designations are on the NPS website at [<http://www.nps.gov/legacy/>]. Brief information on each unit is contained in U.S. Dept. of the Interior, National Park Service, *The National Parks: Index 2001-2003* (Washington, DC: 2001).

<sup>2</sup> 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 nonfederal *in-holdings* from willing sellers as funds are made available or to create special agreements to encourage landowners to sell.

## 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.

There also were efforts to protect the sites and structures of early Native American cultures and other special sites. The Antiquities Act of 1906 authorized 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, see CRS Report RS20902, *National Monument Issues*, by Carol Hardy Vincent.)

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. That *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). President Franklin D. Roosevelt greatly expanded the system of parks in 1933 by transferring 63 national monuments and historic military sites from the USDA Forest Service and the War Department to the NPS.

## Overview of Topics

The 109<sup>th</sup> Congress is considering legislation or conducting oversight on many NPS-related topics. Several major topics are covered in this report: activities of the NPS under the President's Competitive Sourcing Initiative; historic preservation through the Historic Preservation Fund, which is administered by the NPS; the NPS maintenance backlog; air quality at national park units; and management of wild and scenic rivers, which are administered by the NPS or another land management agency. Other issues addressed in brief are federal land acquisition by the NPS through the Land and Water Conservation Fund, an NPS review of agency policies, and security of NPS units and lands.

While in some cases the topics covered are relevant to other federal lands and agencies, this report does not comprehensively cover topics primarily affecting other lands/agencies. For background on federal land management generally, see CRS Report RL32393, *Federal Land Management Agencies: Background on Land and Resources Management*, coordinated by Carol Hardy Vincent. Overview information on numerous natural resource issues, focused on resource use and protection, is provided in CRS Report RL32699, *Natural Resources: Selected Issues for the 109<sup>th</sup> Congress*, coordinated by Nicole Carter and Carol Hardy Vincent. Information on appropriations for the NPS is included in CRS Report

RL32893, *Interior, Environment, and Related Agencies: FY2006 Appropriations*, coordinated by Carol Hardy Vincent and Susan Boren. Information on BLM and Forest Service lands is contained in CRS Issue Brief IB10076, *Bureau of Land Management (BLM) Lands and National Forests*, coordinated by Ross W. Gorte and Carol Hardy Vincent.

Several other NPS-related topics are not covered in this brief. Some of them, or other topics, may be added to this brief if events warrant. For example, how national park units are created and what qualities make an area eligible to be an NPS unit are of continuing interest. (For more information, see CRS Report RS20158, *National Park System: Establishing New Units*, by Carol Hardy Vincent.) Second, legislation has been considered in recent Congresses to study, designate, and fund particular National Heritage Areas (NHA) as well as to establish a process and criteria for designating and managing NHAs. (For more information, see CRS Issue Brief IB10126, *Heritage Areas: Background, Proposals, and Current Issues*, by Carol Hardy Vincent and David Whiteman.) Third, recent decades have witnessed increased demand for a variety of recreational opportunities on federal lands and waters. New forms of motorized recreation have gained in popularity, and the use of motorized off-highway vehicles (OHV) has been particularly contentious. (For more information, see CRS Issue Brief IB10141, *Recreation on Federal Lands*, coordinated by Kori Calvert and Carol Hardy Vincent.) Fourth, the management of the NPS concessions program, which provides commercial visitor services, continues to receive oversight. Finally, the role of gateway communities in NPS planning and the impact of land uses on gateway communities have received increased attention.

## Current Issues

### Competitive Sourcing (by Carol Hardy Vincent)

**Background.** The Bush Administration's Competitive Sourcing Initiative seeks to expand on earlier programs to subject federal agency activities judged to be commercial in nature to public-private competition. This government-wide effort could affect diverse government activities in agencies, including the NPS. The Administration's goal is to save money through competition, particularly in areas where private business might provide better commercial services. For the NPS, these areas include maintenance, administration, and cultural resource positions. Rangers, fee collectors, and park guides are among those positions classified as either "inherently governmental" or "core to the mission," and thus not subject to competitive review. The general controversy over the initiative extends to the NPS, with concerns as to whether it would save the agency money, whether the private sector could provide the same quality of service, whether it is being used to accomplish policy objectives by outsourcing particular functions, and whether it would weaken the morale and diversity of the NPS workforce. Apart from the current initiative, the NPS has long contracted many jobs to private industry, including concession operation, trash collection, and lifeguard positions. The number of such jobs contracted in 2003 was estimated at 28,000. (For information on competitive sourcing generally, see CRS Report RL32017, *Circular A-76 Revision 2003: Selected Issues*, by L. Elaine Halchin.)

**Administrative Actions.** Through July 2004, the NPS had studied, or was in the process of studying, the competitive sourcing of positions totaling 1,663 "full-time

equivalents” (FTE) to determine whether they should be subject to competitive bidding.<sup>3</sup> That represents about 15% of the agency’s 11,010 FTEs identified as commercial, and about 9% of the total NPS workforce of 19,380 FTEs. Thus far, 74 FTEs were subjected to competitive bidding, but none were contracted out. In addition, prior to May 29, 2003, the NPS had converted 859 FTEs to contract positions; the agency jobs were primarily seasonal, temporary, and vacant.<sup>4</sup> DOI reports that no permanent, full-time employee has been involuntarily separated from federal employment as a result of competitive sourcing, although some permanent employees were moved to other positions or opted for retirement inducements, such as “early outs” or “buyouts.” Also, some seasonal or temporary employees have not been rehired. The cost of the competitive sourcing initiative through July 2004 is estimated at \$2.4 million, with projected savings estimated at \$5.5 million.<sup>5</sup>

The agency’s competitive sourcing “green plan” covers competitive sourcing activities planned for FY2005-FY2008. During FY2005, the NPS conducted preliminary planning efforts at three park units to determine whether to conduct competitive sourcing studies at these sites — the San Juan National Historical Site, Indiana Dunes National Seashore, and Boston National Historical Park. The Coalition of National Park Service Retirees, among others, has opposed competitive sourcing at these three units (and in general). The Coalition contends that the competitive sourcing effort may violate congressional intent, sacrifice effectiveness for efficiency, and emphasize profit and loss over resource protection.

According to the NPS budget justification for FY2006, the NPS has improved its competitive review process by conducting preliminary planning with the help of industry expertise. In FY2006, the NPS plans to conduct a preliminary planning effort for 150 FTE, four standard studies for 549.5 FTE, and six streamlined studies for 255.5 FTE, for a total of 955 FTE during FY2006. (For information on competitive sourcing targets, see CRS Report RL32079, *Federal Contracting of Commercial Activities: Competitive Sourcing Targets*, by L. Elaine Halchin.)

**Legislative Activity.** P.L. 109-54, the FY2006 Interior appropriations law, placed a cap of \$3.45 million on DOI competitive sourcing studies during FY2006, but did not specify the portion to be allocated to the NPS. The law also provided that agencies include, in any reports to the Appropriations Committees on competitive sourcing, information on costs associated with sourcing studies and related activities. The FY2004 and FY2005 Interior appropriations laws also limited spending for competitive sourcing studies of agencies, and contained other provisions on competitive sourcing. These provisions originated out of concern that some agencies were spending significant sums on competitive sourcing where the Administration did not request or receive funds for this purpose, and were not providing Congress with complete information on costs and implications of the initiative.

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<sup>3</sup> A full-time equivalent (FTE) is the “staffing of Federal civilian employee positions, expressed in terms of annual productive work hours” (U.S. Office of Management and Budget, *Circular No. A-76 (Revised)*, p. D-5).

<sup>4</sup> OMB Circular No. A-76, revised May 29, 2003, eliminated direct conversions by not including this option in the revision.

<sup>5</sup> The data on the NPS competitive sourcing initiative are derived from a personal conversation with Donna K. Kalvels, Director, Center for Competitive Sourcing Excellence, U.S. Dept. of the Interior, Washington, DC, on Jan. 10, 2005.

The Senate-passed version of H.R. 3058, providing FY2006 appropriations for Transportation, Treasury, HUD, Judiciary, District of Columbia, and Independent Agencies, contains provisions to restrict competitive sourcing government-wide.

## **Historic Preservation** (by Susan Boren)

**Background.** The National Historic Preservation Act of 1966 (NHPA; P.L. 89-665, 16 U.S.C. §479) created a program of state grants for historic preservation under the Historic Preservation Fund (HPF). The program has been expanded to include Indian tribal grants; grants for Alaska Natives and Native Hawaiians; restoration grants for historically black colleges and universities (HBCU); and Save America's Treasures grants. The major purpose of the HPF program is to protect cultural resources.

Administered by the National Park Service, the HPF provides grants-in-aid to states and territories for activities specified in the NHPA. These grants are funded on a 60% federal/40% state matching share basis. States carry out program purposes directly through State Historic Preservation Offices or through subgrants and contracts with public and private agencies, organizations, institutions of higher education, and private individuals. Under law, 10% of each state's annual allocation distributed by the Secretary of the Interior is to be transferred to local governments that are certified eligible under program regulation.

Some Members of Congress support proposals to eliminate a federal government role in financing the HPF, leaving such programs to be sustained by private support. A case in point is the National Trust for Historic Preservation, for which permanent federal funding was eliminated in FY1998. Others assert that a federal role in supporting historic preservation is necessary and should be maintained. One example of a program receiving bipartisan support is the Save America's Treasures program, currently funded under the HPF (see discussion below). The HPF, authorized by the National Historic Preservation Act Amendments of 2000 (NHPA; P.L. 106-208), expired at the end of FY2005.

**Administrative Actions.** On March 3, 2003, President Bush issued Executive Order 13287, entitled Preserve America and containing a broad declaration of purpose and agency responsibilities regarding historic properties. Subsequent annual budget requests of the President, including for FY2006, recommended funding of a Preserve America program. The program would consist of competitive grants providing one-time assistance to encourage community preservation of cultural, historic, and natural heritage through education and heritage tourism. It would serve as an adjunct to Save America's Treasures. The 109<sup>th</sup> Congress has provided that a portion of Save America's Treasures funds could be allocated to Preserve America's grants. (See "Legislative Activity" below.) The current Save America's Treasures program appears to be relatively popular with Members of Congress and the Administration. It was created in 1998 as former President Clinton's Millennium initiative, to preserve nationally significant intellectual and cultural artifacts and historic structures.<sup>6</sup> Funds for the program were first appropriated in FY1999 and used to restore the Star Spangled Banner, the Declaration of Independence, and the U.S. Constitution, as well

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<sup>6</sup> On February 3, 1998, President Clinton issued Executive Order 13072 in which he established duties for a Millennium Council and recommended that the Secretary of the Interior fund a program, entitled Save America's Treasures, to protect America's threatened historic properties.



as for historic preservation priority millennium projects of federal agencies. Annual appropriations laws have required that project recommendations be subject to approval by the House and Senate Committees on Appropriations prior to distribution of funds. These projects require a 50% cost share, and no single project can receive more than one grant from this program.

**Legislative Activity.** Most of the recent congressional action on historic preservation has been in the appropriations arena, since the authorization typically has been for five-year periods (most recently through FY2005). In the 109<sup>th</sup> Congress, oversight hearings were held (April 21, 2005) on the National Historic Preservation Act by the House Subcommittee on National Parks of the House Committee on Resources. During House debate on H.R. 2361, the FY2006 Interior appropriations bill, the chairman of the House Resources Committee objected to the appropriation for the HPF on the grounds that it was not authorized for FY2006 and that there should be no appropriation without an authorization. His amendment on this issue was ruled out of order as constituting legislation on an appropriations bill. S. 1378, and a similar bill, H.R. 3446, have been introduced to reauthorize the HPF (§108, NHPA) through FY2011, and to amend provisions pertaining to the operation of the Advisory Council on Historic Preservation. The National Parks Subcommittee of the Senate Energy and Natural Resources Committee held a hearing on S. 1378 on September 22, 2005.

Bills entitled the “Louisiana Katrina Reconstruction Act” (H.R. 3958, S. 1765, and S. 1766) have been introduced to provide historic preservation grants for conservation, rehabilitation, and restoration of nationally significant historic properties, historic districts, and national historic landmarks affected by Hurricane Katrina in Louisiana, Mississippi, and other devastated areas. No further action has been taken.

P.L. 109-54, the FY2006 Interior appropriations law, provided \$73.3 million for HPF (not including an across the board cut). The total included \$30.0 million for Save America’s Treasures, \$36.3 million for grants-in-aid to states, \$4.0 million for tribal grants, and \$3.0 million for HBCUs. The FY2006 appropriation for HPF reflected an increase over the FY2006 House-passed bill (\$72.7 million), the FY2006 Administration request (\$66.2 million), and the FY2005 level (\$71.7 million). From the total for Save America’s Treasures for FY2006, \$13.3 million would be for competitive grants, and \$16.8 million are specified by Congress for designated projects. The FY2006 Appropriations law provided funding for Preserve America — not to exceed \$5.0 million to be allocated through Save America’s Treasures. (For more information on funding for historic preservation, see CRS Report 96-123 EPW, *Historic Preservation: Background and Funding*, by Susan Boren.)

## **Maintenance Backlog** (by Carol Hardy Vincent)

**Background.** The NPS has maintenance responsibility for buildings, trails, recreation sites, and other infrastructure. There is debate over the levels of funds to maintain this infrastructure, whether to use funds from other programs, and how to balance the maintenance of the existing infrastructure with the acquisition of new assets. Congress continues to focus on the agency’s *deferred maintenance*, often called the *maintenance backlog* — essentially maintenance that could not be done when scheduled or planned. The estimate of deferred maintenance for the NPS for FY2004 (the most recent year available), based on varying assumptions, is between \$4.52 billion and \$9.69 billion with a mid-range figure of \$7.11 billion. While the other federal land management agencies — the Bureau of

Land Management (BLM), Fish and Wildlife Service (FWS), and Forest Service (FS) — also have maintenance backlogs, congressional and administrative attention has centered on the NPS backlog. For FY2004, the FS backlog is estimated at \$6.54 billion, with the FWS at between \$1.28 billion and \$1.74 billion and the BLM at between \$0.54 billion and \$0.66 billion. The four agencies together have a combined backlog estimated at between \$12.89 billion and \$18.63 billion, with a mid-range figure of \$15.76 billion, according to agency documents. The NPS and other agency backlogs have been attributed to decades of funding shortfalls, and have accrued under both democratic and republican administrations. The agencies assert that continuing to defer maintenance of facilities accelerates their rate of deterioration, increases their repair costs, and decreases their value.

**Administrative Actions.** In FY2002, the Bush Administration proposed to eliminate the NPS backlog (estimated at \$4.9 billion in 2002) over five years, through a combination of transportation fund money, appropriated funds, and revenues from recreation fees. The NPS budget justification for FY2006 states that the Administration's request "fulfills the President's commitment to provide \$4.9 billion over five years for maintenance backlog reduction."<sup>7</sup> The figure reflects total appropriations for line items of which deferred maintenance is only a part. Specifically, according to the NPS, it consists of appropriations for FY2002 through FY2005, and monies requested by the Administration for FY2006, for all NPS facility maintenance, NPS construction, and the NPS park roads and parkway program funded through the Federal Highway Administration. It also includes fees used for maintenance, such as a portion of the recreation fees NPS collects. The National Parks Conservation Association, among others, disagrees with the Administration's assessment regarding its progress on eliminating the backlog. The association claims that the Administration has supported little new money to address park maintenance, and is using "misleading" math to appear to be on track to eliminate the backlog.<sup>8</sup> It further contends that national parks on average have about 2/3 of the funding they need, and that sufficient operating funds are necessary for stemming the growth of the backlog.

It is uncertain if the NPS backlog has decreased, increased, or remained the same in recent years. For instance, while estimates of the NPS backlog increased from an average of \$4.90 billion in FY2000 to \$7.11 billion in FY2004, it is unclear what portion of the change is due to the addition of maintenance work that was not done on time or the availability of more precise estimates of the backlog. Further, it is unclear how much total funding has been provided for backlogged maintenance over this time period. Annual presidential budget requests and appropriations laws do not typically specify the portion of funds for backlogged maintenance, but instead combine funding for all NPS construction, facility operation, and regular and deferred maintenance. According to the DOI Budget Office, the appropriation for NPS deferred maintenance increased from \$228.5 million in FY2000 to \$295.4 million in FY2005, with a peak of \$364.2 million in FY2002. For FY2006, the Administration sought \$330.2 million, including use of \$17.0 million from prior

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<sup>7</sup> U.S. Dept. of the Interior, National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2006*, p. overview-2 (Washington, DC: 2005).

<sup>8</sup> National Parks Conservation Association, *The Burgeoning Backlog: A Report on the Maintenance Backlog in America's National Parks*, May 2004, p. 6, available on the web at [[http://www.npca.org/across\\_the\\_nation/visitor\\_experience/backlog/default.asp](http://www.npca.org/across_the_nation/visitor_experience/backlog/default.asp)].

year funds. P.L. 109-54, the FY2006 Interior appropriations law, provided \$323.6 million, including the use of \$17.0 million from prior year funds (excluding a rescission).

The NPS has been defining and quantifying its maintenance needs. These efforts, like those of other land management agencies, include developing computerized systems for tracking and prioritizing maintenance projects and collecting comprehensive data on the condition of facilities. While initial condition assessments have been done, comprehensive condition assessments are scheduled to be completed on all facilities by the end of FY2006. The Park Service has acknowledged that until the effort is completed, it will not have the necessary data to accurately estimate its entire maintenance backlog and assess the agency's success in eliminating it.

**Legislative Activity.** H.R. 1124 and S. 886 seek to eliminate the annual operating deficit and maintenance backlog in the national park system. The bills would create a special fund in the Treasury — the National Park Centennial Fund — to be comprised of monies designated by taxpayers on their tax returns. If monies from tax returns are insufficient to meet funding levels established in the bill, they are to be supplemented by contributions to the Centennial Fund from the General Fund of the Treasury. For FY2006, there is to be deposited in the Centennial Fund \$150.0 million, and that amount is to increase by 15% for each year through FY2016. The monies in the Centennial Fund would be available to the Secretary of the Interior, without further appropriation, as follows: 60% of the fund is to be used to eliminate the NPS maintenance backlog, 20% of the fund is to be used to protect natural resources within the national park system, and 20% of the fund is to be used to protect cultural resources within the national park system. The Senate bill would terminate the fund on October 1, 2016. Under the House bill, after that date money in the Centennial Fund is to be used to supplement annual appropriations for park operations. The bills also would require that the Government Accountability Office (GAO) submit to Congress biennial reports on the progress of the NPS in eliminating its deficit in operating funds and the funding needs of national parks compared with park appropriations, among other issues.

In addition, on May 10, 2005, a Senate subcommittee held a hearing on NPS funding issues, including the maintenance backlog.

## **Regional Haze** (by Larry Parker and Ross Gorte)

**Background.** In 1977 amendments to the Clean Air Act, Congress established a national goal of protecting Class I areas — most then-existing national parks and wilderness areas — from future visibility impairment and remedying any existing impairment resulting from manmade air pollution. (Newly designated parks and wilderness areas can be classified as Class I only by state actions.) This “regional haze” program has several facets, including the development of state implementation plans and the imposition of Best Available Retrofit Technology (BART) on large sources of air pollution built between 1962 and 1977. (For a general description of the regional haze program, see CRS Report RL32483, *Visibility, Regional Haze, and the Clean Air Act: Status of Implementation*, by Larry Parker and John Blodgett). A related program, Prevention of Significant Deterioration, provides that permits may not be issued to major new facilities within 100 kilometers of a Class I area if federal land managers, such as at the NPS, allege that the facilities' emissions “may cause or contribute to a change in the air quality” in a Class I area (42 U.S.C. §7457).

According to the Natural Resources News Service, since 2000, 280 power plants (33 of them coal-fired) have sought permits within 100 kilometers of Class I areas, quadruple the number in the previous five years. The increase is driven by a desire for new sources of energy to meet demands for electrical power. Some environmental organizations have expressed concerns that if permits are issued for the power plants proposed near Class I areas, they could significantly degrade air quality in those areas.

**Administrative Actions.** In 2002, President Bush proposed the Clear Skies Act to amend the Clean Air Act. The proposal included a provision to reduce the geographic area under the authority of federal land managers for the siting of power plants, by limiting the authority to facilities proposed within 50 kilometers of a Class I park or wilderness area, instead of the current 100 kilometers. Also, since late 2002, there have been at least three incidents (in MT, KY, and ND) where employees of NPS or the Environmental Protection Agency (EPA) identified new facilities as having emissions that could degrade air quality in a Class I area, but were overruled by higher-level officials. In the past, such staff recommendations typically have not been overridden.

On June 15, 2005, EPA issued a final rule — the Clean Air Visibility Rule, also known as the BART (best available retrofit technology) rule — intended to reduce haze-forming emissions from industrial facilities that can affect parks and natural areas. (See 70 *Fed. Reg.* 39103, July 6, 2005; or [<http://www.epa.gov/air/visibility/actions.html#bart1>], visited on June 24, 2005.) Facilities in 28 states covered by the Clean Air Interstate Rule (70 *Fed. Reg.* 25162; May 12, 2005) are exempt from the new BART rule, which requires BART to be phased in from 2014 to 2018.

**Legislative Activity.** The Clear Skies Act of 2005 (S. 131) was reintroduced in the 109<sup>th</sup> Congress with a provision reducing the area over which federal land managers may prevent the permitting of new power plants to within 50 kilometers of a Class I park or wilderness area. In similar 108<sup>th</sup> Congress legislation, which was not acted on, this provision was supported as facilitating the siting of new power plants, while still providing sufficient protection for Class I areas from haze. It has been criticized as potentially damaging to air quality in these areas. The Clear Skies Act also would provide a mechanism for existing facilities to avoid imposition of BART by complying with new statutory standards delineated in the bill. The Senate Committee on Environment and Public Works held a markup on the bill on March 9, 2005. A manager's amendment, which would have established managerial authority at 75 kilometers, was considered. However, the bill was not reported (9-9).

## **Wild and Scenic Rivers** (by Sandra L. Johnson)

**Background.** The NPS manages 28 river units, totaling 2826.3 miles, within the National Wild and Scenic Rivers System. The system was authorized on October 2, 1968, by the Wild and Scenic Rivers Act (P.L. 90-542; 16 U.S.C. §§1271-1287). (See [<http://www.nps.gov/rivers/wsract.html>].) The act established a policy of preserving designated free-flowing rivers for the benefit and enjoyment of present and future generations, to complement the then-current national policy of constructing dams and other structures along many rivers. The act requires that river units be classified and administered as wild, scenic, or recreational rivers, based on the condition of the river, the amount of development in the river or on the shorelines, and the degree of accessibility by road or trail at the time of designation.

Typically rivers are added to the system by an act of Congress, but they also may be added by state nomination with the approval of the Secretary of the Interior. Congress initially designated 789 miles of 8 rivers as part of the system. Today there are 164 river units with 11,357.7 miles in 38 states and Puerto Rico. Congress also enacts legislation to authorize the study of particular rivers for potential inclusion in the system. The NPS maintains a national registry of rivers that may be eligible for inclusion in the system — the Nationwide Rivers Inventory (NRI); see [<http://www.nps.gov/rtca/nri>]. Congress may consider, among other sources, these NRI rivers which are believed to possess “outstandingly remarkable” values. The Secretaries of the Interior and Agriculture are to report to the President as to the suitability of study areas for wild and scenic designation. The President then submits his recommendations regarding designation to Congress.

**Administrative Actions.** Wild and scenic rivers designated by Congress generally are managed by one of the four federal land management agencies — NPS, FWS, BLM, and FS. Management varies with the class of the designated river and the values for which it was included in the system. Components of the system managed by the NPS become a part of the National Park System. An Interagency Coordinating Council, consisting of representatives from the four land management agencies, fosters coordinated administration of wild and scenic rivers. The council addresses various issues, ranging from concerns about rivers in the system to the provision of technical assistance to other governments and non-profit organizations.

The act requires the managing agency of each component of the system to prepare a comprehensive management plan to protect river values. The managing agency also establishes boundaries for each component of the system, within limitations. Management of lands within river corridors has been controversial in some cases, with debates over the effect of designation on private lands within the river corridors, the impact of activities within a corridor on the flow or character of the designated river segment, and the extent of local input in developing management plans. In recent years, several designations to the system have been based on a local-state-federal partnership approach, especially in areas where the majority of corridor lands are nonfederal. Under the Partnership Wild and Scenic Rivers Program, the NPS has helped communities manage their river-related resources, reviewed activities for compliance with the act’s limitations on water projects that affect river flows, offered technical assistance, and provided limited financial assistance.

State-nominated rivers may be added to the National Wild and Scenic Rivers System only if the river is designated for protection under state law, is approved by the Secretary of the Interior, and is permanently administered by a state agency. Management of state-nominated rivers may be complicated because of the diversity of land ownership in these areas. On October 29, 2004, Interior Secretary Gale Norton announced the expansion of the Westfield National Wild and Scenic River and tributaries (MA) as a state-administered component of the national system; 34.8 miles were added to the 43 miles designated in 1993.

**Legislative Activity.** Measures introduced in the 109<sup>th</sup> Congress to designate, study, or extend specific components of the Wild and Scenic Rivers System are shown in the following table. The table includes bills that could involve management by the NPS or other agencies. Bills related to the system more generally will be listed in the “Legislation” section, below.

Bill Number	Type	Title	Status
H.R. 38 S. 74	Desig.	Upper White Salmon Wild and Scenic Rivers Act	P.L. 109-44; Indefinitely Postponed
H.R. 233 S. 128	Desig.	Northern California Coastal Wild Heritage Wilderness Act (for segments of the Black Butte River)	Hearing Held Passed Senate
H.R. 1155	Desig./ Study	Alaska Rainforest Conservation Act (designate and study rivers within the Chugach National Forest and designate rivers within the Tongass National Forest)	Introduced
H.R. 1204	Desig.	Rockies Prosperity Act (Title IV, to designate certain National Forest System watercourses in ID, MT, and WY)	Introduced
H.R. 1307 S. 1096	Desig.	Musconetcong Wild and Scenic Rivers Act	Introduced Hearing Held
H.R. 1344 S. 435	Study	Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005	Introduced Hearing Held
H.R. 3321	Desig.	Taunton Wild and Scenic Rivers Act (MA)	Introduced
H.R. 4105	Study	Perquimans River Wild and Scenic River Study Act of 2005	Introduced

On September 22, 2005, the Senate Subcommittee on National Parks held a hearing on S. 1096 and S. 435. S. 1096, the Musconetcong Wild and Scenic Rivers Act, would designate 24.2 miles of the river in northwestern New Jersey. S. 435 would direct the NPS to study a 40-mile stretch of the Farmington River and Salmon Brook (CT) for possible inclusion in the National Wild and Scenic River System. In testimony, an NPS official told the Senate panel that while the Department supported this study, "it is important that future funding requests go towards completing previously authorized studies. There are currently 25 studies in progress, and we hope to complete and transmit 6 to Congress by the end of 2005. Therefore, the Department will focus the funding provided towards completing these studies." (See testimony of Dr. Janet Snyder Matthews at [[http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing\\_ID=1497](http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=1497)]). As a result of reduced funding for the Rivers and Trails Studies program for FY2006, the NPS requested that the start date for the study in S. 435 be changed from three years following enactment to three years after funds are made available. Some river proponents objected to the delay in the start of the study, and supported the bill in its current form.

In earlier action this Congress, H.R. 38 was enacted into law (P.L. 109-44) to designate a portion of the White Salmon River (WA) as a component of the National Wild and Scenic Rivers System. The Senate also passed S. 128, to designate segments of the Black Butte

River (CA) as a wild or scenic river, and a House subcommittee held a hearing on companion legislation (H.R. 233).

## Other Issues

**Federal Land Acquisition.** (by Carol Hardy Vincent) Federal land acquisition is a perennial focus of Congress and the public, with debates over how much land the federal government should own and which parcels of land it should acquire. The principal source of funding for land acquisition for the NPS, as well as BLM, FWS, and FS, is the Land and Water Conservation Fund (LWCF). LWCF monies are generated from many sources, the largest of which are leases and permits from offshore energy activities. The agencies have used the LWCF to acquire about 4.5 million acres.

While the LWCF is authorized at \$900 million annually, each year Congress determines the level of appropriations. Congress typically has identified most of the appropriations for specific areas administered by each agency. A focus for the NPS has been on acquiring inholdings — private property inside national park boundaries. Total funding for federal land acquisition using the LWCF has declined over the last three years, from \$429 million in FY2002 to \$164 million in FY2005. The portion for land acquisition by the NPS dropped over that period from \$130 million to \$55 million. Possible explanations for overall declines include the change from a federal budget surplus to a deficit, different spending priorities since 9/11, and concern by some about the extent of federal land ownership. These trends continued in FY2006 as total funding for federal land acquisition dropped to \$114.6 million. The NPS was appropriated \$34.9 million of this total. These figures do not include an across the board rescission. For more information, see CRS Report RS21503, *Land and Water Conservation Fund: Current Status and Issues*, by Jeffrey A. Zinn, and CRS Report RL32893, *Interior, Environment, and Related Agencies: FY2006 Appropriations*, coordinated by Carol Hardy Vincent and Susan Boren.)

**Revision of Policy Changes.** (by Carol Hardy Vincent) The NPS currently is revising its service-wide management policies, which govern the way NPS managers make decisions on a wide range of issues (together with laws, regulations, and other authorities). On October 19, 2005, the agency published draft Management Policies for a 90-day public comment period (70 *Fed. Reg.* 60852). The draft has been controversial. Some park groups and environmentalists have been concerned that changes would fundamentally alter park protections and potentially lead to damage of park resources. One much discussed change would require “balance” between conservation and enjoyment of park resources, whereas current policy states that “conservation is to be predominant” in conservation/enjoyment conflicts. This controversy illustrates a continuing tension between the Park Service’s mission to protect park resources while providing for their use and enjoyment by the public.

The NPS Management Policies were last updated in 2001 after a several year internal and external review. (The policies are contained on the NPS website at [<http://data2.itc.nps.gov/npspolicy/index.cfm>]). According to an NPS spokesman, policy revisions are being proposed currently to address recent changes in certain areas, such as recreation and technology. Also, coverage of financial issues is needed, including on recreation fees, concession royalties, and park service donations. Further, there is some support in Congress for a review of NPS management policies, according to the spokesman.

On November 1, 2005, a Senate subcommittee held a hearing on the draft policies. Witnesses expressed differing opinions on issues including the reasons the policies are being revised; the intent of the 1916 Park Service Organic Act regarding preservation and recreation; the extent to which the policies should emphasize recreation; the impact of proposed changes on park protections and the impairment standard; and whether the draft changes would blur or clarify how park employees are to manage resources.

The development of policy changes began outside the Park Service, with the preparation of draft changes by a senior DOI official. That earlier, internal proposal was criticized by some park groups and environmentalists as shifting the NPS focus from preservation to recreation; removing protective limits on activities that might impair park resources, for instance, motorized recreation; eliminating the scientific underpinning of NPS management; giving too much control to local communities in managing park units; weakening protections for air quality, water, and wildlife; and increasing commercial development of park units. Further, some observers criticized DOI for initiating changes to NPS policies without notifying NPS employees and consulting with the public. Upon submission to the Park Service, that initial draft was reported by the press to have been opposed by the Park Service's seven regional directors. The Park Service subsequently convened a working group of 16 of its senior staff, who produced a new draft on the issue. That draft was to have been reviewed by the National Leadership Council—a group of senior park managers who set policy and overall direction for the Park Service—as well as DOI, before its publication in the Federal Register, according to an NPS spokesman.

**Security.** (by Carol Hardy Vincent) In the aftermath of the September 11, 2001 terrorist attacks on the United States, the NPS has sought to enhance the ability of the agency to prepare for and respond to threats from terrorists and others. As part of overall government efforts to increase homeland security, NPS activities have focused on security enhancements at national icons and along the U.S. borders. The United States Park Police (USPP) have sought to expand physical security assessments of monuments, memorials, and other facilities, and increase patrols and security precautions in Washington monumental areas, at the Statue of Liberty, and at other potentially vulnerable icons. Other activities have included implementing additional training in terrorism response for agency personnel, and reducing the backlog of needed specialized equipment and vehicles to respond to terrorism threats and homeland security requirements. NPS law enforcement rangers and special agents have expanded patrols, use of electronic monitoring equipment, intelligence monitoring, and training in preemptive and response measures. The NPS has taken measures to increase security and protection along international borders, where several national parks are located, to curb illegal immigration and drug traffic through park borders.

At a July 9, 2005, House subcommittee hearing, witnesses differed on the extent to which the NPS should be responsible for border security. (See [<http://resourcescommittee.house.gov/archives/109/nprpl/070905.htm>].) An official from the NPS testified that the agency's core mission makes it "imperative" that the NPS help secure international borders of parks and "aggressively" address border issues. He asserted that cross-border, illegal immigration, and smuggling activities threaten the park mission, natural and historic resources, safety of visitors and employees, and the security of the nation. An official from the Border Patrol described cooperative border efforts with the NPS, and stated that the agencies are drafting a memorandum of understanding as to the authorities and responsibilities of each agency. Other witnesses testified that the Border Patrol, not the NPS,



should be handling immigration and other border issues, because the NPS does not have sufficient resources, training, and equipment for such responsibilities. A representative from the National Parks Conservation Association contended that the financial impact of homeland security and border measures has had an adverse impact on the NPS budget, resources, staff, and visitors not only at border and icon parks but at many other park units. He claimed the NPS has been “woefully underfunded” to meet border and homeland security demands. However, in separate Senate testimony, NPS Director Fran Mainella stated that since 2001, overall base funding for NPS law enforcement and security has increased 25%, with additional funds spent improving the most vulnerable park units. (See [[http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Testimony&Hearing\\_ID=1467&Witness\\_ID=1346](http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Testimony&Hearing_ID=1467&Witness_ID=1346)].)

A June 2005 report of the Government Accountability Office (GAO) examined the challenges that DOI faces in protecting national icons and monuments from terrorism, and actions and improvements the department has taken to address these challenges. The agency concluded that since 2001, DOI has improved security at key sites, created a central security office to coordinate security efforts, developed physical security plans, and established a uniform risk management and ranking methodology. GAO recommended that DOI link its rankings to security funding priorities at national icons and monuments and establish guiding principles to balance its core mission with security needs. (See [<http://www.gao.gov/new.items/d05790.pdf>].)

Congress appropriates funds to the NPS for security efforts, and the adequacy and use of funds to protect NPS visitors and units are of continuing interest. Funds for security are appropriated through multiple line items, including those for the USPP and Law Enforcement and Protection. For FY2006, the Administration requested \$80.4 million for the USPP, relatively the same as the FY2005 appropriation of \$80.1 million. For Law Enforcement and Protection during FY2006, the Administration sought \$122.9 million, an increase of 2% over the FY2005 level of \$120.0 million. P.L. 109-54, the FY2006 Interior appropriations law, provided the requested level for Law Enforcement and \$81.4 million for the USPP (not including an across the board rescission).

## LEGISLATION

### **H.R. 1124 (Souder); S. 886 (McCain)**

Establish the National Park Centennial Fund in the Treasury, comprised of monies designated by taxpayers on their tax returns and possibly supplemented by monies from the General Fund of the Treasury. The money is available, without further appropriation, for eliminating the maintenance backlog of the NPS, and for other purposes. H.R. 1124 introduced March 3, 2005; referred to Committee on Resources and also Committee on Ways and Means. S. 886 introduced April 21, 2005; referred to Committee on Finance.

### **H.R. 3446 (Rahall); S. 1378 (Talent)**

The National Historic Preservation Act Amendments Act of 2005 would reauthorize the Historic Preservation Fund through FY2011 and amend the operation of the Advisory Council on Historic Preservation. S. 1376 referred to Committee on Energy and Natural

Resources; hearing held September 22, 2005. H.R. 3446 introduced July 26, 2005; referred to Committee on Resources.

**S. 131 (Inhofe)**

The Clear Skies Act of 2005 would, in part, reduce the area (to a 50-kilometer radius) requiring federal land manager approval for siting new power plants. Committee on Environment and Public Works held a markup on March 9, 2005, but the bill was not reported.

## CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress, House Committee on Resources, *Upper White Salmon Wild and Scenic Rivers Act*, H.Rept. 109-125, 109<sup>th</sup> Cong. 1<sup>st</sup> sess., June 14, 2005, Wash., DC, 2005.

— Subcommittee on National Parks, Recreation, and Public Lands, *Fiscal Year 2005 Budget for the National Park Service and Bureau of Land Management and Ongoing Efforts to Reduce Maintenance Backlogs*, H.Hrg. 108-86, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., Feb. 26, 2004, Wash., DC, 2004.

— *The Impact Land Acquisition Has on the National Park Service Maintenance Backlog, Park Service Management Priorities, and Local Communities*, H.Hrg. 108-61, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., Sept. 27, 2003, Sherman Oaks, CA, 2003.

U.S. Congress, Senate Committee on Energy and Natural Resources, *Northern California Coastal Wild Heritage Wilderness Act* [includes designating segments of the Black Butte River in Mendocino County (CA) as a wild or scenic river], S.Rept. 109-47, 109<sup>th</sup> Cong., 1<sup>st</sup> sess., March 30, 2005, Wash., DC, 2005.

— *Upper White Salmon Wild and Scenic Rivers Act*, S.Rept. 109-8, 109<sup>th</sup> Cong., 1<sup>st</sup> sess., Feb. 23, 2005, Wash., DC, 2005.

— Subcommittee on National Parks, *Competitive Sourcing Effort Within the National Park Service*, S.Hrg. 108-154, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., July 24, 2003, Wash., DC, 2003.

— *National Parks Backlog*, S.Hrg. 108-94, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., July 8, 2003, Wash., DC, 2003.

## FOR ADDITIONAL READING

### **Current and Historical Background**

CRS Issue Brief IB10076, *Bureau of Land Management (BLM) Lands and National Forests*, coordinated by Ross W. Gorte and Carol Hardy Vincent.

CRS Report RL32393, *Federal Land Management Agencies: Background on Land and Resources Management*, coordinated by Carol Hardy Vincent.

CRS Report RL32667, *Federal Management and Protection of Paleontological (Fossil) Resources Located on Federal Lands: Current Status and Legal Issues*, by Douglas Reid Weimer.

CRS Issue Brief IB10126, *Heritage Areas: Background, Proposals, and Current Issues*, by Carol Hardy Vincent and David Whiteman.

CRS Report 96-123 EPW, *Historic Preservation: Background and Funding*, by Susan Boren.

CRS Report RL32893, *Interior, Environment, and Related Agencies: FY2006 Appropriations*, coordinated by Carol Hardy Vincent and Susan Boren.

CRS Report RS21503, *Land and Water Conservation Fund: Current Status and Issues*, by Jeffrey A. Zinn.

CRS Report RS20902, *National Monument Issues*, by Carol Hardy Vincent.

CRS Report RS20158, *National Park System: Establishing New Units*, by Carol Hardy Vincent.

CRS Report RL32699, *Natural Resources: Selected Issues for the 109<sup>th</sup> Congress*, coordinated by Nicole Carter and Carol Hardy Vincent.

CRS Issue Brief IB10141, *Recreation on Federal Lands*, coordinated by Kori Calvert and Carol Hardy Vincent.

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

CRS Report RS20702, *South Florida Ecosystem Restoration and the Comprehensive Everglades Restoration Plan*, by Pervaze A. Sheikh and Nicole T. Carter.

CRS Report RL32483, *Visibility, Regional Haze, and the Clean Air Act: Status of Implementation*, by Larry Parker and John Blodgett.

CRS Report RL31447, *Wilderness: Overview and Statistics*, by Ross W. Gorte.