

# CRS Report for Congress

## Heritage Areas: Background, Proposals, and Current Issues

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# Heritage Areas: Background, Proposals, and Current Issues

## Summary

Over more than two decades, Congress has established 40 National Heritage Areas (NHAs) to commemorate, conserve, and promote areas that include important natural, scenic, historic, cultural, and recreational resources. NHAs are partnerships among 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 or a combination thereof. Heritage areas have been supported as protecting lands and traditions and promoting tourism and community revitalization, but opposed as potentially burdensome, costly, or leading to federal control over nonfederal lands. This report focuses on heritage areas designated by Congress (not other entities) and related issues and legislation.

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 typically determines federal funding for NHAs in annual Interior appropriations laws. NHAs can use federal funds for many purposes, including staffing, planning, and projects. The FY2008 appropriation for the NPS for assistance to heritage areas was \$15.3 million. The Administration requested a decrease to \$7.1 million for FY2009.

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 nonfederal, 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.

The 110<sup>th</sup> Congress has enacted legislation (S. 2739, P.L. 110-229) to establish three new NHAs, study the feasibility of two other areas for heritage status, increase the total authorization of appropriations for several existing NHAs, require an evaluation of several existing NHAs, and amend other heritage areas. Other omnibus legislation is being considered by both chambers. For instance, S. 3213 and H.R. 1483 are on the Senate calendar. The bills would designate new NHAs, require area studies, and expand the boundaries or make other changes to several NHAs. The sizeable number of existing NHAs and proposals to study and designate new ones has generated interest in enacting a law providing criteria for designating NHAs, standards for their management, and limits on federal funding support. Such legislation (S. 278 and S. 3213) is on the Senate calendar. In recent Congresses, the Administration has expressed opposition to the designation of new areas until systemic NHA legislation is enacted. Further, some opponents believe that NHAs present numerous problems and challenges and that Congress should oppose efforts to designate new areas and/or to create a system of NHAs.

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# Heritage Areas: Background, Proposals, and Current Issues

## Background

Over more than two decades, Congress has designated 40 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 the suitability and feasibility of designating the study area as a heritage area.

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.

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**

<b>National Heritage Area</b>	<b>State</b>	<b>Date of Authorization</b>	<b>Enabling Legislation</b>
Illinois and Michigan Canal National Heritage Corridor	IL	Aug. 24, 1984	P.L. 98-398
John H. Chafee Blackstone River Valley National Heritage Corridor	MA/RI	Nov. 10, 1986	P.L. 99-647
Delaware and Lehigh National Heritage Corridor	PA	Nov. 18, 1988	P.L. 100-692
Southwestern Pennsylvania Heritage Preservation Commission (Path of Progress)	PA	Nov. 19, 1988	P.L. 100-698
Cane River NHA	LA	Nov. 2, 1994	P.L. 103-449
Quinebaug and Shetucket Rivers Valley National Heritage Corridor	CT/MA	Nov. 2, 1994	P.L. 103-449
Cache La Poudre River Corridor	CO	Oct. 19, 1996	P.L. 104-323
America's Agricultural Heritage Partnership (Silos and Smokestacks)	IA	Nov. 12, 1996	P.L. 104-333
Augusta Canal NHA	GA	Nov. 12, 1996	P.L. 104-333
Essex NHA	MA	Nov. 12, 1996	P.L. 104-333
Hudson River Valley NHA	NY	Nov. 12, 1996	P.L. 104-333
National Coal Heritage Area	WV	Nov. 12, 1996	P.L. 104-333
Ohio and Erie Canal National Heritage Corridor	OH	Nov. 12, 1996	P.L. 104-333
Rivers of Steel NHA	PA	Nov. 12, 1996	P.L. 104-333
Shenandoah Valley Battlefields National Historic District	VA	Nov. 12, 1996	P.L. 104-333
South Carolina National Heritage Corridor	SC	Nov. 12, 1996	P.L. 104-333
Tennessee Civil War Heritage Area	TN	Nov. 12, 1996	P.L. 104-333
(MotorCities-)Automobile NHA	MI	Nov. 6, 1998	P.L. 105-355
Lackawanna Valley NHA	PA	Oct. 6, 2000	P.L. 106-278
Schuylkill River Valley NHA	PA	Oct. 6, 2000	P.L. 106-278
Wheeling NHA	WV	Oct. 11, 2000	P.L. 106-291
Yuma Crossing NHA	AZ	Oct. 19, 2000	P.L. 106-319
Erie Canalway National Heritage Corridor	NY	Dec. 21, 2000	P.L. 106-554
Blue Ridge NHA	NC	Nov. 10, 2003	P.L. 108-108
Mississippi Gulf Coast NHA	MS	Dec. 8, 2004	P.L. 108-447
National Aviation Heritage Area	OH/IN	Dec. 8, 2004	P.L. 108-447
Oil Region NHA	PA	Dec. 8, 2004	P.L. 108-447
Arabia Mountain NHA	GA	Oct. 12, 2006	P.L. 109-338

National Heritage Area	State	Date of Authorization	Enabling Legislation
Atchafalaya NHA	LA	Oct. 12, 2006	P.L. 109-338
Champlain Valley National Heritage Partnership	NY/VT	Oct. 12, 2006	P.L. 109-338
Crossroads of the American Revolution NHA	NJ	Oct. 12, 2006	P.L. 109-338
Freedom's Frontier NHA	KS/MO	Oct. 12, 2006	P.L. 109-338
Great Basin National Heritage Route	NV/UT	Oct. 12, 2006	P.L. 109-338
Gullah/Geechee Heritage Corridor	FL/GA/ NC/SC	Oct. 12, 2006	P.L. 109-338
Mormon Pioneer NHA	UT	Oct. 12, 2006	P.L. 109-338
Northern Rio Grande NHA	NM	Oct. 12, 2006	P.L. 109-338
Upper Housatonic Valley NHA	CT/MA	Oct. 12, 2006	P.L. 109-338
Abraham Lincoln NHA	IL	May 8, 2008	P.L. 110-229
Journey Through Hallowed Ground NHA	MD/PA/ VA/WV	May 8, 2008	P.L. 110-229
Niagara Falls NHA	NY	May 8, 2008	P.L. 110-229

**Sources:** U.S. Dept. of the Interior, National Park Service, *National Heritage Areas: Legislative History 98<sup>th</sup>-109<sup>th</sup> Congresses*, at [<http://www.cr.nps.gov/heritageareas/LEG/index.htm>], visited May 19, 2008, and P.L. 110-229.

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 or a combination thereof. 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 391 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 oldest heritage area is more than two decades old, NHAs are still viewed by some as an experimental form of protecting lands that reflect 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 nonfederally 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 to 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. In the past, the Bush Administration had supported NHAs because they embody partnerships between communities and the federal government, locally-driven resource preservation, and local (rather than federal) control of land. However, at recent hearings the Administration has recommended deferring action on certain bills seeking to establish additional heritage areas, despite favorable studies of the areas, until systemic NHA legislation is enacted.<sup>1</sup>

In the past few Congresses, dozens of 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. The many bills introduced in the 110<sup>th</sup> Congress to designate heritage areas or study lands for potential 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, the absence over the decades of such a systemic law has provided legislative flexibility in the creation of new NHAs and the modification of existing ones. Further, some opponents of NHAs believe that they threaten private property rights, are burdensome, or present other problems and challenges, so Congress should oppose any efforts to designate new areas and/or to 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 announced by local preservation groups, and a number of states have developed their own heritage area programs. Further, a White House initiative, *Preserve America* (Executive Order 13287, March 3, 2003), directs federal agencies to improve management of historic properties through adaptive reuse initiatives and to promote heritage tourism through partnerships with communities.<sup>2</sup> The first *Preserve America* grants, awarded on March 9, 2006, included grants for nine projects within NHAs. These grants were provided on a matching basis to assist

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<sup>1</sup> See, for example, testimony of Janet Snyder Matthews of the National Park Service on July 12, 2007, before a Subcommittee of the House Committee on Natural Resources, at [[http://resourcescommittee.house.gov/index.php?option=com\\_content&task=view&id=266&Itemid=1](http://resourcescommittee.house.gov/index.php?option=com_content&task=view&id=266&Itemid=1)].

<sup>2</sup> For information on the *Preserve America* initiative, see [<http://www.preserveamerica.gov/>].

communities with protection and use of community heritage. 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>].) 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 typically are provided in its enabling legislation. While there tended to be more variety in the creation and operation of earlier heritage areas, the establishment and management of heritage areas have become somewhat more standardized through the inclusion of some similar provisions in their enabling legislation. Common understandings and characteristics are discussed below.

NHAs usually involve partnerships among 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 full and permanent federal funding, but rather encourage NHAs to develop alternative sources of funding. A March 30, 2004 report of the Government Accountability Office (GAO) states that during the six-year period from FY1997 through 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.<sup>3</sup> A report of the Alliance of National Heritage Areas with data over a longer period shows the federal contribution at about one-third (35%) of total funding from 1985 through 2006.<sup>4</sup> State and local governments also contributed about one-third (36%) of NHA funds, with private funding sources providing 25% and the remaining 4% from other sources. For 2006, the report indicates that the combined state and local (49%) shares of NHA funding were higher than federal (37%) and private contributions (12%).

In the past, Congress has determined the total level of federal funding for NHAs and usually has specified in appropriations documents the allocation for each NHA. 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, a DOI official testified to the success of NHAs in using funds provided by the NPS to leverage additional funding from other sources.<sup>5</sup>

## Support, Opposition, and Challenges<sup>6</sup>

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.

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<sup>3</sup> The data reflect funding for 22 of the then existing 24 heritage areas. See GAO, *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/>].

<sup>4</sup> See Alliance of National Heritage Areas, *2006 Annual Report*, p. 10, at [<http://nationalheritageareas.com/resources.php?recordID=36&code=54>].

<sup>5</sup> Testimony of Paul Hoffman, U.S. Dept. of the Interior, before the Senate Energy and Natural Resources Subcommittee on National Parks, March 13, 2003, available at [<http://www.access.gpo.gov/congress/senate/senate08ch108.html>].

<sup>6</sup> 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.nationaltrust.org/>]. For information generally opposed to NHAs, see, for example, the websites of the Property Rights Foundation of America, Inc., at [<http://prfamerica.org/2007/NatlHeritageAreas-AppealInnocent.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 before the House Resources Subcommittee on National Parks, Recreation, and Public Lands, September 16, 2003.

Advocates of NHAs assert that they foster cultural tourism, community revitalization, and regional economic development. Heritage areas are advertised as entertaining and 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 often 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 others 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, and restaurants. 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.<sup>7</sup>

## Role of the National Park Service

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 may provide 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 Administration/NPS has sought legislation that would limit each heritage area to no more than \$1 million per year, not to exceed \$10 million per area over 15 years. (See below.)

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 nongovernmental 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 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. Legislation authorizing an NHA might follow a positive study recommendation, although such recommendation is not a requirement for enacting legislation to designate an NHA.

Administration representatives have testified in the 108<sup>th</sup>, 109<sup>th</sup>, and 110<sup>th</sup> Congresses in support of developing systemic NHA legislation to list the qualities a prospective area must possess and the parameters under which designation could occur. For instance, at a March 30, 2004, hearing of a Senate Energy and Natural Resources Subcommittee, a DOI witness outlined the Administration's draft

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<sup>7</sup> 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.

legislation to create a National Heritage Areas Program.<sup>8</sup> At another subcommittee hearing, the same witness expressed “strong support” for legislation to establish a national heritage program, while suggesting modifications to S. 2543 (108<sup>th</sup> Congress) on behalf of DOI.<sup>9</sup> Further, in hearings during the last few Congresses, the Administration has testified against establishing and expanding several NHAs under examination, until systemic NHA legislation is established.<sup>10</sup> Other witnesses have supported extending or establishing the NHAs being addressed at the hearings.

The National Park System 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 Advisory Board conducted a review of NHAs, the Heritage Partnership Program, and future NPS involvement with NHAs. A 2006 report contains the Advisory Board’s findings and recommendations. A key recommendation is to establish a legislative foundation for a system of NHAs in the Park Service, based on specified concepts. Concepts include requiring a feasibility study to demonstrate that future proposed heritage areas meet certain criteria; setting standards for management planning that include a business plan; and protecting the rights of private property owners. Another recommendation is to develop performance measures for NHAs.

In July 2006, the Administration presented to Congress a draft National Heritage Areas Partnership Act based on the findings and recommendations of the Advisory Board. The draft proposed a National Heritage Areas System, composed of current and future NHAs. It would provide standards and processes for conducting feasibility studies, designating NHAs, and developing and approving management plans. It aimed to protect the rights of property owners. The draft also would authorize the Secretary of the Interior to provide technical and financial assistance to local coordinating entities. A heritage area could receive up to \$1 million per year, but not more than \$10 million over a 15-year period, and a nonfederal match would be required. Legislation to create a process for designating, managing, and funding NHAs was introduced in both chambers in the 109<sup>th</sup> Congress, and one bill (S. 243) passed the Senate. Such legislation is pending on the Senate calendar in the 110<sup>th</sup> Congress (S. 278 and S. 2180). (See “Legislative Activity,” below.)

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<sup>8</sup> Testimony of A. Durand Jones, National Park Service, U.S. Dept. of the Interior, before the Senate Energy and Natural Resources Subcommittee on National Parks, March 30, 2004, at [<http://energy.senate.gov/hearings/witnesslist.cfm?id=1128>].

<sup>9</sup> Testimony of A. Durand Jones, National Park Service, U.S. Dept. of the Interior, before the Senate Energy and Natural Resources Subcommittee on National Parks, June 24, 2004, at [[http://energy.senate.gov/hearings/testimony.cfm?id=1243&wit\\_id=169](http://energy.senate.gov/hearings/testimony.cfm?id=1243&wit_id=169)].

<sup>10</sup> See, for instance, the testimony of Donald Murphy of the National Park Service before the Senate Energy and Natural Resources Subcommittee on National Parks, June 26, 2006, at [[http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing\\_ID=1566](http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=1566)].

## Legislative Activity

The 110<sup>th</sup> Congress is considering measures to designate and study heritage areas, amend existing heritage areas, and establish uniform criteria and procedures for designating and managing heritage areas.

### Area-Specific Legislation

The 110<sup>th</sup> Congress appears to be continuing a high level of interest in heritage area bills and issues. As shown in **Table 2**, bills to designate or study various areas have been introduced (as of May 15, 2008). 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. Similarly, in each of the 108<sup>th</sup> and 109<sup>th</sup> Congresses, some 50-60 bills to create or designate heritage areas were introduced.

**Table 2. Bills in the 110<sup>th</sup> Congress to Establish Heritage Areas or Authorize Studies**  
(as of September 3, 2008)

Title	State	Type	Bill Number	Status
Abraham Lincoln NHA	IL	Desig.	S. 2739	P.L. 110-229 (Title IV, Subtitle C)
(Abraham Lincoln) Study of Sites Relating to Abraham Lincoln in Kentucky	KY	Study	S. 2739	P.L. 110-229, §482
Baltimore NHA Act	MD	Desig.	H.R. 5279 S. 2604 S. 3213	Introduced Senate Calendar Senate Calendar
Black Metropolis District NHA Study Act	IL	Study	H.R. 5505	Introduced
Cache La Poudre River NHA Act <sup>11</sup>	CO	Desig.	S. 128 S. 3213	Senate Calendar Senate Calendar
Chattahoochee Trace National Heritage Corridor Study Act	AL, GA	Study	H.R. 1408 S. 637 S. 2180 S. 3213	Introduced Senate Calendar Indefinitely Postponed Senate Calendar
Columbia-Pacific NHA Study	OR, WA	Study	S. 2739	P.L. 110-229, §481
Freedom’s Way NHA Act	MA, NH	Desig.	H.R. 1297 S. 827 S. 3213	Hearing Held Senate Calendar Senate Calendar
Journey Through Hallowed Ground NHA	MD, PA, VA, WV	Desig.	S. 2739	P.L. 110-229 (Title IV, Subtitle A)
Kenai Mountains-Turnagain Arm National Forest Heritage Area Act	AK	Desig.	S. 3045	Hearing Held

<sup>11</sup> The legislation would repeal P.L. 104-323, which established an existing heritage area — the Cache La Poudre River Corridor.

Title	State	Type	Bill Number	Status
Kentucky Artisan Heritage Trails NHA Act	KY	Desig.	H.R. 646	Introduced
Land Between the Rivers Southern Illinois NHA Act	IL	Desig.	H.R. 929 S. 956	Hearing Held Hearing Held
Mississippi Delta NHA Act	MS	Desig.	H.R. 4457 S. 2512 S. 3213	Introduced Senate Calendar Senate Calendar
Mississippi Hills NHA Act	MS	Desig.	H.R. 4457 S. 2254 S. 3213	Introduced Senate Calendar Senate Calendar
Muscle Shoals NHA Act	AL	Desig.	H.R. 1145 H.R. 1483 S. 3213	Hearing Held Senate Calendar Senate Calendar
Niagara Falls NHA	NY	Desig.	S. 2739	P.L. 110-229 (Title IV, Subtitle B)
Northeastern North Carolina Heritage Area Study Act	NC	Study	H.R. 4285	Introduced
Northern Neck NHA Study Act	VA	Study	H.R. 105 H.R. 1483 S. 3039 S. 3213	Hearing Held Senate Calendar Introduced Senate Calendar
Northern Plains NHA Act	ND	Desig.	H.R. 6678 S. 2098 S. 3213	Introduced Senate Calendar Senate Calendar
Ocmulgee National Heritage Corridor Act	GA	Desig.	H.R. 2998	Introduced
Sangre de Cristo NHA Act	CO	Desig.	H.R. 859 S. 443 S. 2180 S. 3213	Hearing Held Senate Calendar Indefinitely Postponed Senate Calendar
Santa Cruz Valley NHA Act	AZ	Desig.	H.R. 1483 H.R. 1885 S. 3213	Senate Calendar Hearing Held Senate Calendar
South Park NHA Act	CO	Desig.	H.R. 3335 S. 444 S. 2180 S. 3213	Introduced Senate Calendar Indefinitely Postponed Senate Calendar

**Source:** Compiled by CRS from the Legislative Information System (LIS) of the U.S. Congress, 110<sup>th</sup> Congress data file.

**Note:** This table does not identify bills to designate or study areas that were designated or authorized for study in P.L. 110-229.

## Omnibus and Other Legislation

Omnibus heritage legislation — S. 2739 — was enacted on May 8, 2008, as P.L. 110-229.<sup>12</sup> Other omnibus bills remain pending in the House and Senate; some of them have provisions similar to those enacted in P.L. 110-229, as well as additional provisions.

P.L. 110-229 established three new heritage areas: Abraham Lincoln (IL); Journey Through Hallowed Ground (MD, PA, VA, WV); and Niagara Falls (NY). For each of the new heritage areas, the law contained provisions to address concerns about potential loss of, and restrictions on use of, private property as a result of NHA designation. Among the provisions, for each new area the law stated that it does not abridge the right of any property owner; require any property owner to permit public access to the property; alter any land use regulation; or diminish the authority of the state to manage fish and wildlife, including the regulation of fishing and hunting within an NHA.

The law also provided for the study of the Columbia-Pacific NHA (OR, WA) and the Abraham Lincoln NHA (KY). The Secretary of the Interior is to study the feasibility of designating these new NHAs based on specified criteria. These include whether the area (1) provides outstanding educational opportunities; (2) has a potential management entity to develop an NHA while encouraging local and state economic activity, and (3) has resources representing distinctive aspects of American heritage that are worthy of recognition, conservation, interpretation, and continuing use, and are best managed by private partnerships. The Secretary is to report findings, conclusions, and recommendations to the congressional authorizing committees within three fiscal years after funds for the studies are provided. As part of the study of the Columbia-Pacific, the Secretary is to analyze the potential impact of an NHA designation on private land within or bordering on the area.

For each of nine heritage areas,<sup>13</sup> the law increased the total authorization of appropriations from \$10 million to \$15 million. The law also required the Secretary of the Interior to evaluate each heritage area not later than three years before its authority for federal funding would terminate. The evaluation provided for in the law is to assess the progress of the area's management entity in achieving goals and objectives, determine the impact of investments in the area, and identify the components for sustaining the area. The Secretary is to submit a report on the evaluation to the congressional authorizing committees, and the report is to include recommendations on the future role of the NPS. In lieu of these evaluation and reporting provisions, earlier legislation originally had proposed extending the authorization for the nine areas. However, some Members had opposed extending the funding for NHAs as premature since the original authorization would not expire

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<sup>12</sup> Omnibus measures with similar provisions, S. 2483 and S. 2616, had been introduced previously.

<sup>13</sup> The areas are: America's Agricultural Heritage Partnership (Silos and Smokestacks); Augusta Canal NHA; Essex NHA; Hudson River Valley NHA; National Coal Heritage Area; Ohio and Erie Canal National Heritage Corridor; Rivers of Steel NHA; South Carolina National Heritage Corridor; and Tennessee Civil War Heritage Area.

for several years and because NHAs were intended to be largely self-sufficient after an initial period of NPS assistance.

P.L. 110-229 made technical corrections and/or expanded the boundaries of several heritage areas. It extended the boundary of the South Carolina National Heritage Corridor (SC) and the Rivers of Steel NHA (PA). It renamed the Ohio and Erie Canal National Heritage Corridor (OH) as the Ohio and Erie National Heritage Canalway, added additional counties to the National Coal Heritage Area (WV), and made other changes to those areas.

Several other omnibus heritage area bills remain pending.<sup>14</sup> S. 3213, which is on the Senate calendar, would create ten additional heritage areas: Sangre de Cristo (CO), Cache La Poudre River (CO), South Park (CO), Northern Plains (ND), Baltimore (MD), Freedom's Way (MA, NH), Mississippi Hills (MS), Mississippi Delta (MS), Muscle Shoals (AL), and Santa Cruz Valley (AZ). For each area, the bill contains provisions regarding private property, land use regulations, and state authority regarding fish and wildlife management which are similar to those enacted in P.L. 110-229 for the three new NHAs. The bill requires the Secretary, within three years of the date on which federal funding terminates, to evaluate each new area and report thereon to the congressional authorizing committees. The bill includes provisions to study the Chattahoochee Trace National Heritage Corridor (AL, GA) and the Northern Neck (VA) for possible NHA designation. The Secretary is to report findings, conclusions, and recommendations to the congressional authorizing committees within three fiscal years after funds for the study are provided.

Further, S. 3213, like H.R. 1949 and S. 1182, would amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act to increase the total authorization of appropriations and extend for six years the authority of the Secretary of the Interior to provide assistance. The two Senate bills would require the Secretary of the Interior to evaluate the heritage corridor not later than three years before the authority for federal funding would terminate. The evaluation is to assess the progress of the corridor's management entity in achieving goals and objectives, determine the leverage and impact of investments in the corridor, and identify the components for sustaining the corridor. The report is to include recommendations on the future role of the NPS and is to be submitted to the congressional authorizing committees. S. 3213 also would amend the Delaware and Lehigh National Heritage Corridor (PA), primarily with regard to the local coordinating entity (as would H.R. 3809). It would establish a National Heritage Areas Program, as discussed below under "Bills to Establish Systemic NHA Procedures."

Further, S. 3213, like H.R. 1483, would make changes to the staffing and membership of the management entity of the Erie Canalway National Heritage Corridor and make changes to the John H. Chafee Blackstone River Valley National Heritage Corridor. H.R. 1483 (as reported by a Senate committee) also would establish two NHAs — Santa Cruz Valley (AZ) and Muscle Shoals (AL). The Secretary of the Interior would be authorized to provide financial assistance to these

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<sup>14</sup> In general, this section does not cover omnibus and other heritage bills which have been indefinitely postponed by the Senate.



two areas for 15 years. H.R. 1483 calls for a study of the Northern Neck (like S. 3213), and would require the Secretary of the Interior to study the suitability and feasibility of designating the area as an NHA based on specified criteria.

The 110<sup>th</sup> Congress is considering other legislation to amend existing heritage areas. H.R. 4191 includes a provision to amend the boundary of the National Aviation Heritage Area (OH, IN) (similar provisions are in H.R. 4199). S. 128, like S. 3213, would establish the Cache La Poudre River NHA(CO), and repeal P.L. 104-323, which established the Cache La Poudre River Corridor NHA (CO). H.R. 591 would make changes to the Cache La Poudre River Corridor NHA, including designating a new management entity and enhancing private property protections. S. 3448 would expand the boundary of the Cane River NHA, reauthorize the area's commission and alter its membership, and make other changes.

The 110<sup>th</sup> Congress also is considering legislation to limit the designation of NHAs, and restrict access to private property in NHAs, until certain conditions are met. Specifically, S. 2807 and S. 2808 provide that the Secretary of the Interior shall not approve a management plan for an NHA unless the local coordinating entity provides written notification of the designation to each person residing, or owning property, in the NHA. The bills also provide that no NPS employee or member of the local coordinating entity of an NHA may enter private property in the NHA without the written consent of the property owner. Further, S. 2807, as well as S. 2809, provide that an NHA designation shall not take effect until the President certifies that (1) the designation will not cause specific adverse impacts, for instance, on agriculture or livestock production within the proposed NHA, and (2) the total NPS deferred maintenance backlog in the state in which the NHA is proposed is not greater than \$50.0 million.

## **Bills to Establish Systemic NHA Procedures**

Legislation governing the evaluation, designation, and management of new NHAs was considered but not enacted during the 108<sup>th</sup> and 109<sup>th</sup> Congresses. In both Congresses, legislation passed the Senate but not the House. S. 243, as passed by the Senate in the 109<sup>th</sup> Congress, was reintroduced in the 110<sup>th</sup> Congress as S. 278. S. 278 was placed on the Senate calendar on September 17, 2007. Two other Senate bills with nearly identical provisions on this topic have been subsequently introduced. S. 3213 is on the Senate calendar, while S. 2180 has been indefinitely postponed by the Senate. A companion bill has not been introduced in the House to date (as of September 3, 2008).

The Senate 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.<sup>15</sup>

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 or 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. They would cap funding for all NHAs at \$25 million per year, and include provisions on partnership support. The Senate bills would authorize 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). They further set 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.

The bills require the Secretary of the Interior to evaluate and report to Congress on NHAs. They require the Secretary to evaluate an NHA not later than three years before its authority for federal funding would terminate. The evaluation is to assess the progress of the NHA’s management entity in achieving goals and objectives, determine the leverage and impact of investments in the area, and identify the components for sustaining the area. The report is to include recommendations on the future role of the NPS with regard to the heritage area, and is to be submitted to the congressional authorizing committees. Other heritage measures under consideration, including some bills to establish individual NHAs, include a similar reporting requirement.

**109<sup>th</sup> Congress.** The 109<sup>th</sup> Congress enacted one omnibus bill to designate and study numerous heritage areas (S. 203, P.L. 109-338). The law established 10 new heritage areas: Arabia Mountain NHA (GA), Atchafalaya NHA (LA),

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<sup>15</sup> NPS Management Policies establish criteria for determining national significance. Under the criteria, an area will be regarded as nationally significant if it is an outstanding example of a resource; exceptionally illustrates or interprets natural or cultural themes of our country’s heritage; provides extraordinary opportunities for public enjoyment or scientific study; and contains a true, accurate, and relatively unspoiled resource. S. 278 and S. 2180 define national importance as possession of “unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.”

Champlain Valley National Heritage Partnership (NY/VT), Crossroads of the American Revolution NHA (NJ), Freedom's Frontier NHA (KS/MO), Great Basin National Heritage Route (NV/UT), Gullah/Geechee Heritage Corridor (FL/GA/NC/SC), Mormon Pioneer NHA (UT), Northern Rio Grande NHA (NM), and Upper Housatonic Valley NHA (CT/MA). The language for all 10 areas seeks to protect private property rights. The law authorized studies of the suitability and feasibility of establishing three other areas: the Western Reserve NHA (OH), St. Croix NHA (VI), and Southern Campaign of the Revolution NHA (SC/NC).<sup>16</sup> Further, it amended the Illinois and Michigan Canal National Heritage Corridor (IL) regarding transition of the management entity from a federal commission to a nonprofit organization and protections for private property. For the John H. Chafee Blackstone River Valley National Heritage Corridor (MA/RI), the law provided for an update of the management plan, extended the authority of the commission, and authorized additional appropriations. The law also amended the National Coal Heritage Area (WV). The 109<sup>th</sup> Congress considered many other bills to designate or study areas.

The 109<sup>th</sup> Congress addressed legislation to amend existing heritage areas, and enacted one such measure (H.R. 326, P.L. 109-318), to amend the boundary of the Yuma Crossing NHA (AZ). Other legislation (H.R. 888 and S. 1721) would have extended the authorization for each of nine heritage areas from September 30, 2012, to September 30, 2027, and increased the total authorization of appropriations from \$10 million to \$20 million.

## Funding

As part of its annual budget justification, the Administration submits its desired funding level for the NPS Heritage Partnership Program. In the past, Congress generally has determined 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.

Over the past five fiscal years (FY2004-FY2008), funding for the NPS for national heritage areas has fluctuated between \$13.3 million and \$15.3 million. During this period, 14 new NHAs were created.<sup>17</sup> Specifically, the appropriation for FY2004 was \$14.3 million; for FY2005, \$14.6 million; for FY2006 and FY2007, \$13.3 million; and for FY2008, \$15.3 million.

For FY2009, the Administration requested \$7.1 million for the NPS for NHAs, a 53% reduction from the FY2008 level. In its FY2009 budget justification, the NPS expressed support for reduced funding because of the lack of a law authorizing an overall heritage program, setting out criteria for establishing new areas, and providing a time frame for federal funds to established areas. Historically, the Bush Administration's requests for NHA funding have been significantly lower than the

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<sup>16</sup> Under P.L. 109-338, the study area is to include specified counties in South Carolina and "may include sites and locations in North Carolina as appropriate."

<sup>17</sup> Three additional NHAs were established in P.L. 110-229 after the enactment of appropriations for FY2008 for heritage areas.

previous year's appropriation, but Congress has appropriated higher levels than requested. The NPS anticipates pursuing several efforts with FY2009 funding, including the promotion of legislation to establish a system of NHAs, publication of a handbook on NHA policies, and implementation of a system of evaluation and performance measures for NHAs.

For FY2008, both the House and the Senate Appropriations Committee supported increased funding for NHAs over the FY2007 level and the President's request of \$10.0 million for FY2008. Specifically, the House approved \$20.0 million for NHAs, while the Senate Appropriations Committee recommended \$15.0 million. The Consolidated Appropriations Act for FY2008 (P.L. 110-161) included \$15.3 million for NHAs. The explanatory statement contained guidance as to how the funds were to be distributed. It stated the agreement of the Appropriations Committees that \$13.0 million would be allocated in identical amounts to each area that received funding under the NPS competitive process for FY2007, \$150,000 would be allocated to each of the 10 new NHAs created in the 109<sup>th</sup> Congress, and \$1.0 million would be used for administrative costs of the program.<sup>18</sup>

## **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.

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<sup>18</sup> These funding levels do not reflect a 1.56% across-the-board cut in funding for Interior, Environment, and Related Agencies.

## For Additional Reading

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

CRS Report RL33525, *Recreation on Federal Lands*, coordinated by Kori Calvert and Carol Hardy Vincent.

Alliance of National Heritage Areas, *Partnership Best Practices*, at [<http://nationalheritageareas.com/resources.php?recordID=35&code=52>] and *2006 Annual Report*, at [<http://nationalheritageareas.com/resources.php?recordID=36&code=54>], visited on December 27, 2007.

American Policy Center, *Property Rights*, at [<http://www.americanpolicy.org/prop/main.htm>], visited on December 27, 2007.

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.

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 December 27, 2007.

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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 December 27, 2007.

— *National Heritage Areas — An Appearance of Innocence*, Property Rights Foundation of America, Inc., at [<http://prfamerica.org/speeches/10th/NatlHeritageAreas-AppearInnocent.html>], visited on December 27, 2007.

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

— 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. Government Accountability 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 December 27, 2007.

Utt, Ronald D. and Cheryl Chumley, “National Heritage Areas: Costly Economic Development Schemes That Threaten Property Rights,” *The Heritage Foundation*, at [<http://www.heritage.org/Research/Budget/wm1671.cfm>], visited on December 27, 2007.