

# CRS Report for Congress

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

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# Heritage Areas: Background, Proposals, and Current Issues

## Summary

Over the past two decades, Congress has established 37 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 costly and possibly leading to federal control over nonfederal lands. Other heritage areas have been designated by states and local governments and announcements. This report focuses on heritage areas designated by Congress, 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 determines the total level of federal funding for NHAs in annual Interior appropriations laws and typically specifies the funds for each area. NHAs can use federal funds for many purposes, including staffing, planning, and projects. The FY2006 appropriation for the NPS for assistance to heritage areas was \$13.3 million. For FY2007, the Administration requested \$7.4 million; the House approved \$13.9 million, and the Senate Appropriations Committee recommended \$14.1 million.

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 109<sup>th</sup> Congress enacted S. 203 (P.L. 109-338) to create 10 new heritage areas and authorize studies of 3 other areas. In total, nearly 50 measures to designate NHAs or study the suitability and feasibility of areas for heritage status have been introduced. The sizeable number of existing NHAs, together with the number of proposals to study and designate new ones, has intensified interest by the Administration and some Members in enacting a law providing criteria for designating NHAs, standards for their management, and limits on federal funding support. Three such measures have been introduced in the 109<sup>th</sup> Congress — H.R. 760, H.R. 6287, and S. 243 — and the Senate bill has passed the Senate. In July 2006, the Administration presented to Congress related draft legislation, which reflects the recommendations of the National Park System Advisory Board. This report replaces CRS Issue Brief IB10126, *Heritage Areas: Background, Proposals, and Current Issues*.

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# Heritage Areas: Background, Proposals, and Current Issues

## Background

Over the last two decades, Congress has designated 37 National Heritage Areas (NHAs) to recognize and assist efforts to protect, commemorate, and promote natural, cultural, historic, and recreational resources that form distinctive landscapes. Congress has established heritage areas for lands that are regarded as distinctive because of their resources, their built environment, and the culture and history associated with these areas and their residents. A principal distinction of these areas is an emphasis on the interaction of people and their environment. Heritage areas seek to tell the story of the people, over time, where the landscape helped shape the traditions of the residents. In a majority of cases, NHAs now have, or have had, a fundamental economic activity as their foundation, such as agriculture, water transportation, or industrial development. Congress also has enacted measures authorizing the study of areas to determine their suitability and feasibility for heritage designation.

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

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

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

National Heritage Area	State	Date of Authorization	Enabling Legislation
Illinois and Michigan Canal National Heritage Corridor	IL	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

**Sources:** P.L. 109-338, P.L. 108-447, and U.S. Dept. of the Interior, National Park Service, *Heritage Areas: Legislative Citations*, at [<http://www.cr.nps.gov/heritageareas/INFO/legisindex.HTM>], visited March 8, 2006; and U.S. Dept. of the Interior, National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2004* (Washington, DC: 2003), page NR&P 83.

Heritage areas are not federally owned, and a designation generally is not intended to lead to federal acquisition of lands. They consist mainly of private properties, although some include publicly owned lands. In most cases, the laws establishing NHAs do not provide for acquisition of land, and once designated, heritage areas generally remain in private, state, or local government ownership 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 390 diverse units: national parks, national monuments, national historic sites, national battlefields, national preserves, and other designations. (For information on establishing units of the National Park System, see CRS Report RS20158, *National Park System: Establishing New Units*, by Carol Hardy Vincent.)

While the concept of heritage areas is more than two decades old, NHAs are 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. The Bush Administration generally has supported NHAs because they embody partnerships between communities and the federal government, locally-driven resource preservation, and local (rather than federal) control of land. At hearings in the 109<sup>th</sup> Congress, however, the Administration recommended deferring action on certain bills seeking to establish heritage areas, despite favorable studies of the areas, until systemic NHA legislation is enacted.

In the past few Congresses, many proposals to designate heritage areas or study lands for heritage status have been introduced, and Congress has held many hearings on heritage bills and issues. Nearly 50 bills introduced in the 109<sup>th</sup> Congress, and the approximately 60 proposals introduced in the 108<sup>th</sup> Congress, to designate heritage areas or study lands for heritage status indicate a continued high level of congressional interest in NHAs. The sizeable number of existing NHAs, together with the substantial number of proposals to study and designate new ones, has fostered interest by some Members and the Administration in establishing a standardized process and criteria for designating NHAs. (See “Legislative Activity,” below.) However, some opponents believe NHAs present such numerous problems and challenges that Congress should oppose 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 announcements 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. The first Preserve America grants, awarded on March 9, 2006, included grants for nine projects within NHAs.<sup>1</sup> These grants were provided on a matching basis to assist 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>], visited on March 8, 2006.) The ANHA also operates a resource center for heritage areas, organizes educational workshops and programs, and promotes heritage tourism.

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<sup>1</sup> For information on the Preserve America initiative, see [<http://www.preserveamerica.gov/>].

## 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, over the past several years the establishment and management of heritage areas have become somewhat more standardized. Common understandings and characteristics are discussed below.

NHAs 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 permanent federal funding, but rather encourage NHAs to develop alternative sources of funding to become financially self-sufficient. A March 30, 2004 report of the 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>2</sup> A report of the Alliance of National Heritage Areas with data over a longer period shows the federal contribution at about one-third (34%) of total funding from 1985 through 2005.<sup>3</sup> State and local governments also contributed about one-third (36%) of NHA funds, with private funding sources providing 26% and the remaining 4% from other sources. For 2005, the report indicates that the combined state and local (42%)

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<sup>2</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/>] on June 5, 2006.

<sup>3</sup> See Alliance of National Heritage Areas, *Telling America's Story: Annual Report 2005*, p. 10, at [<http://www.nationalheritageareas.org/reports.htm>] on June 5, 2006.

shares of NHA funding were higher than federal (33%) and private contributions (24%).

Congress determines the total level of federal funding for NHAs and typically specifies 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>4</sup>

## **Support, Opposition, and Challenges<sup>5</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.

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

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<sup>4</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://energy.senate.gov/hearings/testimony.cfm?id=627&wit\\_id=1714](http://energy.senate.gov/hearings/testimony.cfm?id=627&wit_id=1714)] on June 5, 2006.

<sup>5</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/HeritageRiversAreasIndex.html>] and the American Policy Center at [<http://www.americanpolicy.org/prop/main.htm>], and congressional testimony by Daniel M. Clifton of Americans for Tax Reform at [<http://resourcescommittee.house.gov/archives/108/testimony/danielclifton.htm>].

view establishing and managing federal areas, such as units of the National Park System, as too costly, and observe that small federal investments in heritage areas have been successful in attracting funds from other sources. Some proponents also see NHAs as flexible enough to encompass a diverse array of initiatives and areas, because the heritage concept lacks systemic laws or regulations, while other proponents favor a standardized program and process.

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

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

Some observers recommend caution in creating NHAs, because in practice NHAs may face an array of challenges to success. For instance, heritage areas may have difficulty providing the infrastructure that increased tourism requires, such as additional parking, lodging, 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>6</sup>

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<sup>6</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* (continued...)

## 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 also provides a variety of types of assistance to areas once designated — administrative, financial, policy, technical, and public information. The NPS seeks to serve as a catalyst by offering assistance to designated heritage areas only for a limited number of years. Specifically, the NPS has sought to limit each heritage area to no more than \$1 million per year, not to exceed \$10 million per area over 15 years.

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

At congressional direction, the NPS also prepares studies as to whether areas are suitable for designating as NHAs. The NPS often testifies before Congress on the results of these studies. The studies typically address a variety of topics, including whether an area has resources reflecting aspects of American heritage that are worthy of recognition, conservation, and continued use. They usually discuss whether an area would benefit from being managed through a public-private partnership, and if there is a community of residents, businesses, nonprofit organizations, and state and local agencies that would work to support a heritage area.

Administration representatives have testified in the 108<sup>th</sup> and 109<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. At a March 30, 2004 hearing of a Senate Energy and Natural Resources Subcommittee, a DOI witness<sup>7</sup> outlined the Administration's draft legislation to create a National Heritage Areas Program. At another subcommittee hearing, the Deputy Director of the NPS expressed "strong support" for legislation to establish a national heritage program, while suggesting modifications to S. 2543 (108<sup>th</sup> Congress) on behalf of DOI.<sup>8</sup> At a 109<sup>th</sup> Congress hearing, the Administration expressed similar views. The Administration testified against establishing and expanding several NHAs under examination, until systemic NHA legislation is established. However, other

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<sup>6</sup> (...continued)

*Trust for Historic Preservation*), vol. 17, no. 4 (summer 2003), pp. 5-12.

<sup>7</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>] on June 5, 2006.

<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, 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)] on June 5, 2006.

witnesses supported the extension or establishment of the NHAs being addressed at the hearing.<sup>9</sup>

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.<sup>10</sup> 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 seeks to establish 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 aims 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 non-federal match would be required. Legislation to create a process for designating, managing, and funding NHAs also has been introduced in both chambers, and one bill has passed the Senate. (See "Legislative Activity," below.)

## Legislative Activity

Congress has considered measures to designate and study heritage areas, as well as to extend the authorization of existing NHAs, establish uniform criteria and procedures for designating and managing heritage areas, and appropriate funds for heritage areas. Legislative and oversight hearings also have been held on heritage bills and issues.

### Area-Specific Legislation

The Consolidated Appropriations Act of FY2005 (P.L. 108-447) established three new NHAs: the National Aviation Heritage Area (OH/IN), the Oil Region

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<sup>9</sup> Testimony of Donald Murphy, National Park Service, U.S. Dept. of the Interior, 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)] on August 29, 2006.

<sup>10</sup> A copy of the report was available at the NPS website on August 29, 2006, at [<http://www.cr.nps.gov/heritageareas/>].

NHA (PA), and the Mississippi Gulf Coast NHA (MS). The language for all three heritage areas seeks to protect private property rights, although the Mississippi Gulf Coast provisions do not include property owner notification and consent language. Such language for the other two areas provides that private property shall not be “preserved, conserved, or promoted by the management plan for the Heritage Area” until the owner receives written notification and gives written consent. Owners of land within the boundary of the heritage area “shall have their property immediately removed” upon written request. Further, private property owners cannot be compelled to allow public access to their property or to participate in, or be associated with, the NHA. Private property provisions have been advocated as necessary to prevent federally influenced restrictive zoning, to protect land-use options of property owners, and to prevent possible future federal ownership of heritage lands. Opponents have criticized such provisions as impractical, expensive, and burdensome for the local management entities. In earlier action, provisions of P.L. 108-108 established the Blue Ridge NHA (NC) with specified private property protections.

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

The 109<sup>th</sup> Congress continued a high level of interest in heritage area bills and issues. As shown in Table 2, nearly 50 bills were introduced to designate or study 30 areas in 31 states and territories. 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.

One omnibus bill to designate and study numerous heritage areas was enacted (S. 203, P.L. 109-338). The law established 10 new heritage areas: Arabia Mountain NHA, Atchafalaya NHA, Champlain Valley National Heritage Partnership, Crossroads of the American Revolution NHA, Freedom’s Frontier NHA, Great Basin National Heritage Route, Gullah/Geechee Heritage Corridor, Mormon Pioneer NHA, Northern Rio Grande NHA, and Upper Housatonic Valley NHA. 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, St. Croix NHA, and Southern Campaign of the Revolution NHA. Further, it amended the Illinois and Michigan Canal National Heritage Corridor 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, 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.

The 109<sup>th</sup> Congress considered legislation to amend existing heritage areas, and enacted H.R. 326 (P.L. 109-318) to amend the boundary of the Yuma Crossing NHA.

H.R. 3843 would amend the boundary of the South Carolina National Heritage Corridor to include three counties, with related changes to the area's management plan. H.R. 6103 seeks to amend the boundary of the Rivers of Steel NHA to include an additional county. H.R. 1205 and S. 574 seek to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act to increase the authorization of appropriations and extend the authorization for the heritage corridors. H.R. 4539 and S. 2102 seek to make changes to the Cache La Poudre River Corridor NHA, including to designate a new management entity and enhance private property protections. H.R. 6263 would reauthorize the Delaware and Lehigh National Heritage Corridor through 2019, designate a new local management entity, and provide for a special resource study.

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

On August 10, 2005, the President signed H.R. 3, the Transportation Equity Act: A Legacy for Users (P.L. 109-59). The law would authorize funds for federal-aid highways, highway safety programs, and transit programs, among other purposes. The omnibus bill authorized appropriations for several years for congressional "high priority projects" under Title I, Federal-Aid Highways. Title I included authorizations for projects at the Erie Canalway National Heritage Corridor and the John H. Chafee Blackstone River Valley National Heritage Corridor. Title III, Federal Transit Administration Programs, included project authorizations for new fixed guideway capital projects. Among the projects authorized by H.R. 3 for alternatives analysis and preliminary engineering is the Aviation Heritage Corridor Streetcar Project in Dayton, OH. (For more information on the operation of federal highway and transit programs, see CRS Report RL33119, *Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU or SAFETEA): Selected Major Provisions*, by John W. Fischer.)

**Table 2. Bills in the 109<sup>th</sup> Congress to Establish Heritage Areas  
or Authorize Studies**  
(as of November 29, 2006)

Title	State	Type	Bill Number	Status
Abraham Lincoln NHA Act	IL	Desig.	H.R. 1192/S. 973	Introduced
Arabia Mountain NHA Act	GA	Desig.	H.R. 2099 H.R. 2297 S. 200 S. 203	Passed House; Introduced; Comm. Reported (S.Rept. 109-3); P.L. 109-338
Atchafalaya NHA Act	LA	Desig.	H.R. 522 S. 203 S. 204	Introduced; P.L. 109-338; Comm. Reported (S.Rept. 109-5)
Bleeding Kansas NHA Act/Freedom's Frontier NHA Act	KS, MO	Desig.	H.R. 413 S. 175 S. 203	Comm. Reported; Hearing Held; P.L. 109-338
Champlain Valley National Heritage Partnership Act	NY, VT	Desig.	S. 203 S. 322	P.L. 109-338; Hearing Held
Chattahoochee Trace National Heritage Corridor Study Act	AL, GA	Study	H.R. 4864/S. 2148	Introduced
Cherokee Overhill Territory NHA	TN	Desig.	H.R. 3158	Introduced
Columbia-Pacific NHA Study Act	OR, WA	Study	H.R. 5485 S. 3035	Hearing Held; Introduced
Confluence National Heritage Corridor Act	IL, MO	Desig.	S. 2114	Introduced
Crossroads of the American Revolution NHA Act	NJ	Desig.	H.R. 87/S. 825 S. 203	Introduced; P.L. 109-338
Freedom's Way NHA Act	MA, NH	Desig.	H.R. 956/S. 1898	Introduced
Great Basin National Heritage Route Act	NV, UT	Desig.	S. 203 S. 249 S. 3772	P.L. 109-338; Comm. Reported (S.Rept. 109-6); Hearing Held
Gullah/Geechee Cultural Heritage Act	FL, GA, NC, SC	Desig.	H.R. 694 S. 203	Passed House; P.L. 109-338
Journey Through Hallowed Ground NHA Act	MD, PA, VA, WV	Desig.	H.R. 5195/S. 2645	Hearing Held
Land Between the Rivers Southern Illinois NHA Act	IL	Desig.	H.R. 5724/S. 2985	Introduced
Mississippi River NHA Act	MS	Desig.	S. 1721	Hearing Held
Mormon Pioneer NHA Act	UT	Desig.	S. 163 S. 203	Comm. Reported (S.Rept. 109-2); P.L. 109-338
Muscle Shoals NHA Act	AL	Desig.	H.R. 5930	Introduced
Niagara Falls NHA Act	NY	Desig.	H.R. 6019/S. 3755	Introduced
Northeastern North Carolina Heritage Area Study Act	NC	Study	H.R. 1087	Introduced
Northern Neck NHA Study Act	VA	Study	H.R. 73	Introduced

Title	State	Type	Bill Number	Status
Northern Plains NHA Act	ND	Desig.	S. 1544	Hearing Held
Northern Rio Grande NHA Act	NM	Desig.	H.R. 732 H.R. 938 S. 63  S. 203	Introduced; Passed House; Comm. Reported (S.Rept. 109-1); P.L. 109-338
Sangre de Cristo NHA Act	CO	Desig.	H.R. 4383 S. 2037	Introduced; Hearing Held
South Park NHA Act	CO	Desig.	H.R. 4818/S. 2336	Introduced
Southern Campaign of the Revolution Heritage Area Study Act	SC	Study	H.R. 1289/S. 1121 S. 203	Introduced; P.L. 109-338
St. Croix NHA Study Act	VI	Study	H.R. 61 H.R. 938 S. 203	Introduced; Passed House; P.L. 109-338
Trail of the Ancients NHA Study Act	AZ, CO, NM, UT	Study	S. 1414	Introduced
Upper Housatonic Valley NHA Act	CT, MA	Desig.	H.R. 938 H.R. 5311 S. 203 S. 429	Passed House; Senate Calendar; P.L. 109-338; Hearing Held
Western Reserve Heritage Area Study Act	OH	Study	H.R. 412 S. 203	Passed House; P.L. 109-338

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

## 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> Congress. S. 2543, which passed the Senate on September 15, 2004, sought to establish a unified process for creating, operating, and funding NHAs. It was similar to draft legislation prepared by the Administration. This legislation was reintroduced in the 109<sup>th</sup> Congress; see discussion of H.R. 760 below.

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

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

Three related bills were introduced in the 109<sup>th</sup> Congress to establish a unified process for creating, operating, and funding NHAs and a heritage area program (H.R. 760) or system (S. 243 and H.R. 6287). H.R. 760 is essentially identical to legislation passed by the Senate but not enacted in the 108<sup>th</sup> Congress (S. 2543). The Senate passed S. 243 on July 26, 2005, with an amendment in the nature of a substitute. H.R. 6287 was introduced on September 29, 2006. The three bills are similar but some provisions are different, and S. 243 and H.R. 6287 contain provisions not included in H.R. 760. All three 109<sup>th</sup> Congress bills would require the Secretary of the Interior to conduct suitability-feasibility studies, or review and comment on such studies prepared by others, for areas under consideration for NHA designation. They set out criteria by which such areas would be evaluated, including identification of a local coordinating entity, demonstration of support by local governments and communities, development of a conceptual financial plan outlining the responsibilities of participants, and concurrence of managers of any federal lands within the proposed NHA. The criteria include evidence of resources and traditional uses that are of “national importance” (H.R. 760 and S. 243) or “important” (H.R. 6287), terms used to avoid confusion with the “national significance” needed for designating units of the National Park System.

The measures would provide for the local coordinating entity for an NHA to develop a management plan for the area within three years of the availability of funds, and a process and time frame for action by the Secretary of the Interior to approve/disapprove the plan. The management plan is to include a business plan demonstrating that the local coordinating entity has sufficient partnerships and financial resources to carry out the plan, to encourage self-sufficiency of heritage areas. For each NHA, the bills would authorize funding of not more than \$1 million per year, with a total of not more than \$10 million over 15 years. H.R. 760 would cap funding for all NHAs at \$15 million per year, the Senate-passed bill includes \$25 million, and H.R. 6287 does not contain a total authorization of appropriations for NHAs. The Senate-passed bill and H.R. 6287 include provisions on partnership support. S. 243 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. H.R. 6287 would allow an NHA to receive financial assistance under any existing grant program as long as it meets the eligibility requirements, and regardless of whether it is receiving other financial assistance.

The three bills seek to protect private property owners, for instance, by not requiring their participation in NHA plans and activities. They also seek to protect existing regulatory authorities — for example, by not altering any “duly adopted” land

use regulation, approved land use plan, or other regulatory authority. They set out the responsibilities of local coordinating entities and the authorities of the Secretary of the Interior (through the NPS). The Senate-passed bill and H.R. 6287 also 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.

## Funding

As part of its annual budget justification, the Administration submits its desired funding level for the NPS Heritage Partnership Program. Congress generally determines a total funding level and the distribution of the funds for specified NHAs. NHAs can use such funds for varied purposes including staffing, planning, and implementing projects.

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

For FY2006, Congress appropriated \$13.3 million for NHAs (P.L. 109-54). For FY2007, the Administration requested \$7.4 million, which was \$2.4 million more than requested for FY2006 but a significant decrease (44%) from the FY2006 appropriated level. Historically, the Bush Administration's requests for NHA funding have been significantly lower than the previous year's appropriation; however, Congress has restored or increased NHA funds. For FY2007, the President also proposed combining the Heritage Partnership Program with the Preserve America and Save America's Treasures programs to form the American Heritage and Preservation Partnership Program, under the Historic Preservation Fund. The Administration asserted that the change would allow local communities to determine the best approach, apply to the most appropriate programs, and improve coordination and efficiency in meeting the goals of enhancing and expanding cultural preservation.

In passing the FY2007 Interior appropriations bill (H.R. 5386), the House approved \$13.9 million for the NPS for national heritage areas. The accompanying report (H.Rept. 109-465) recommended levels of funding for 24 of the then existing 27 NHAs, ranging from \$200,000 to \$800,000. The House did not support the President's proposal to combine funding for heritage areas with other programs within the Historic Preservation Fund, but kept the Heritage Partnership Program within the NPS National Recreation and Preservation line item. In reporting its version of H.R. 5386, the Senate Committee on Appropriations recommended \$14.1 million for NHAs. The accompanying report (S.Rept. 109-275) recommended levels of funding for 24 of the then existing 27 NHAs, ranging from \$100,000 to \$800,000. Like the House, the Senate Committee did not support merging heritage area funding within the Historic Preservation Fund. Funding for FY2007 has not been enacted as of November 29, 2006.

## 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.

### 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, *Best Practices*, at [<http://www.nationalheritageareas.com/>] and *Telling America's Story: Annual Report 2004*, at [<http://www.nationalheritageareas.org/reports.htm>], visited on February 6, 2006. Includes a "Bibliography of Heritage Development Sources."

American Policy Center, *Property Rights*, at [<http://www.americanpolicy.org/prop/main.htm>], visited on March 8, 2006.

Americans for Tax Reform. Statement of Daniel M. Clifton, House Committee on Resources, Subcommittee on National Parks, Recreation, and Public Lands, September 16, 2003, Washington, DC, at [<http://resourcescommittee.house.gov/archives/108/testimony/danielclifton.htm>], visited on March 8, 2006.

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 March 8, 2006.

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Hart, Judy, "Planning for and Preserving Cultural Resources through National Heritage Areas," *Cultural Resource Management*, v. 23, no. 7 (2000) pp. 29-32.

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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).

The Property Rights Foundation of America, Inc., *Heritage Rivers and Areas*, at [<http://prfamerica.org/HeritageRiversAreasIndex.html>], visited on March 8, 2006.

U.S. Department of the Interior, National Park Service, *Heritage Areas*, at [<http://www.cr.nps.gov/heritageareas/>], visited on March 8, 2006. Includes a monthly heritage areas bulletin.

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 March 8, 2006.