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Heritage Areas: Background, Proposals, and Current Issues

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Heritage Areas: Background, Proposals, and Current Issues

SUMMARY

Over the past 20 years, Congress has established 24 National Heritage Areas (NHAs) to commemorate, conserve, and promote important areas that include natural, scenic, historic, cultural, and recreational resources. NHAs are partnerships between the National Park Service (NPS), states, and local communities, where the NPS supports state and local conservation through federal recognition, seed money, and technical assistance. NHAs are not part of the National Park System, where lands are federally owned and managed. Rather, lands within heritage areas typically remain in state, local, or private ownership. Heritage areas have been supported as protecting lands and traditions and promoting tourism and community revitalization, but opposed as potentially costly and an initial step that may lead to federal control over nonfederal lands.

Today, more than 45 million people live in NHAs (16% of the U.S. population), and NHAs encompass roughly 160,000 square miles (about 5% of the contiguous U.S. land area). In addition, other heritage areas have been designated by states and local governments and announcements. This issue brief focuses on heritage areas designated by Congress, and related issues and legislation.

There is no generic statute that establishes criteria for designating NHAs or provides standards for their funding and management. Rather, particulars for an area are provided in its enabling legislation. Congress designates a management entity, usually nonfederal, to coordinate the work of the partners. The management 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 essentially becomes the

blueprint for managing the heritage area.

NHAs might receive funding from a wide variety of sources, and Congress and the NPS do not ordinarily expect to provide NHAs with permanent federal funding. Congress determines which areas will receive funding under annual appropriations bills and specifies the amount of funds for each area. NHAs can use federal funds for purposes including staffing, planning, and projects.

More than 35 measures to establish individual heritage areas or study the suitability and feasibility of areas for heritage status are currently pending. H.R. 280, the only one of these bills approved by a chamber, would establish four new heritage areas and authorize a study of the suitability of designating another. Debate on private property rights provisions was contentious during committee consideration. Three bills to establish heritage areas have been reported in the Senate.

The sizeable number of existing NHAs, together with the number of measures to designate new ones, has renewed interest in enacting a law providing criteria for designating NHAs, standards for their management, and limits on federal funding support. Two such measures have been introduced — H.R. 1427 and S. 2543 — with the Senate bill based on an Administration draft.

The FY2004 Interior and Related Agencies Appropriations Act (P.L. 108-108) provided \$14.3 million for NHA assistance, established the Blue Ridge NHA (NC), and directed the NPS to study Muscle Shoals (AL) as a possible NHA. The President's FY2005 budget request for Heritage Partnership Programs is \$2.5 million, but the House passed a level of \$15.1 million in H.R. 4568.



MOST RECENT DEVELOPMENTS

More than 35 bills have been introduced to establish NHAs or to study areas for possible heritage designation. Three of these bills to designate NHAs were reported by the Senate Committee on Energy and Natural Resources on July 7, 2004 (S. 180, S. 211, S. 323). Five other bills were reported by the House Committee on Resources on November 17, 2003, and were then included in H.R. 280 as passed by the House on November 18, 2003. H.R. 280 was referred to the Senate Committee on Energy and Natural Resources on November 19, 2003. In addition, two bills have been introduced to establish criteria and mechanisms for designating NHAs: H.R. 1427, introduced March 25, 2003, and S. 2543, introduced June 17, 2004. On June 24, 2004, a Senate subcommittee held hearings on S. 2543. The 108th Congress has held other hearings on general heritage area issues, as well as hearings on heritage bills to designate or study particular areas.

The President's budget request for FY2005 was \$2.5 million for the Heritage Partnership Program, a decrease of \$11.8 million from the \$14.3 million for heritage area assistance during FY2004 (P.L. 108-108). The House approved an appropriation of \$15.1 million for heritage areas in H.R. 4568 on June 17, 2004.

BACKGROUND AND ANALYSIS

Background

Over the last two decades, Congress has designated 24 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 of 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 in the eastern United States. Interest in establishing heritage areas was commensurate with growing public interest in cultural heritage tourism.

Since 1984, Congress has designated a total of 24 NHAs in 18 states, primarily in the East. An omnibus park and recreation law in 1996 created 10 NHAs, more than doubling the number of NHAs at that time. NHAs have been created during both Republican and Democratic control of the White House and Congress, indicating a degree of bipartisan support. Today more than 45 million people live in designated heritage areas (16% of the U.S. population), and heritage areas encompass roughly 160,000 square miles (about 5% of the contiguous U.S. land area). 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 (24), by Date of Authorization

National Heritage Area	State	Date of Authorization	Establishing Legislation
Illinois and Michigan Canal National Heritage Corridor	IL	August 24, 1984	P.L. 98-398
John H. Chafee Blackstone River Valley National Heritage Corridor	MA/RI	November 10, 1986	P.L. 99-647
Delaware and Lehigh National Heritage Corridor	PA	November 18, 1988	P.L. 100-692
Southwestern Pennsylvania Heritage Preservation Commission (Path of Progress)	PA	November 19, 1988	P.L. 100-698
Cane River National Heritage Area	LA	November 2, 1994	P.L. 103-449
Quinebaug and Shetucket Rivers Valley National Heritage Corridor	CT/MA	November 2, 1994	P.L. 103-449
Cache La Poudre River Corridor	CO	October 19, 1996	P.L. 104-323
America's Agricultural Heritage Partnership (Silos and Smokestacks)	IA	November 12, 1996	P.L. 104-333
Augusta Canal National Heritage Area	GA	November 12, 1996	P.L. 104-333
Essex National Heritage Area	MA	November 12, 1996	P.L. 104-333
Hudson River Valley National Heritage Area	NY	November 12, 1996	P.L. 104-333
National Coal Heritage Area	WV	November 12, 1996	P.L. 104-333
Ohio and Erie Canal National Heritage Corridor	OH	November 12, 1996	P.L. 104-333
Rivers of Steel National Heritage Area	PA	November 12, 1996	P.L. 104-333
Shenandoah Valley Battlefields National Historic District	VA	November 12, 1996	P.L. 104-333
South Carolina National Heritage Corridor	SC	November 12, 1996	P.L. 104-333
Tennessee Civil War Heritage Area	TN	November 12, 1996	P.L. 104-333
(MotorCities-)Automobile National Heritage Area	MI	November 6, 1998	P.L. 105-355
Lackawanna Valley National Heritage Area	PA	October 6, 2000	P.L. 106-278

National Heritage Area	State	Date of Authorization	Establishing Legislation
Schuylkill River Valley National Heritage Area	PA	October 6, 2000	P.L. 106-278
Wheeling National Heritage Area	WV	October 11, 2000	P.L. 106-291
Yuma Crossing National Heritage Area	AZ	October 19, 2000	P.L. 106-319
Erie Canalway National Heritage Corridor	NY	December 21, 2000	P.L. 106-554
Blue Ridge National Heritage Area	NC	November 10, 2003	P.L. 108-108

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

Note: For information on heritage areas, see the website of the Alliance of National Heritage Areas (ANHA) at [<http://www.nationalheritageareas.com/>], or the National Park Service at [<http://www.cr.nps.gov/heritageareas/>], which includes a monthly bulletin board that tracks NHA-related activity at [<http://www.cr.nps.gov/heritageareas/rep>].

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

Heritage areas are among the types of entities that utilize 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 acquiring and operating new units of the National Park System. That system now has 388 diverse units, including national parks, national monuments, national historic sites, national battlefields, and national preserves. (For information on establishing units of the National Park System, see CRS Report RS20158.)

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

Since the creation of the first NHA, interest in additional NHA designations has grown considerably. There has been significant interest from communities seeking tourism and economic revitalization, and within the conservation community. The Bush Administration generally supports NHAs because they embody partnerships between communities and the federal government, locally driven resource preservation, and local control of land. Further, 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. The more than 30 proposals pending in the 108th Congress to designate heritage areas or study lands for heritage status suggest a continued high level of congressional interest in NHAs. The sizeable number of existing NHAs, together with the substantial number of proposals to designate new ones, has renewed interest by some Members of the Congress and the Administration in establishing a standardized process and criteria for designating NHAs (see below under “Legislative Activity”). However, some opponents believe that NHAs present such numerous problems and challenges that Congress should oppose efforts to designate new areas and create a “system” of NHAs (see below under “Support, Opposition, and Challenges”).

In addition to the federal heritage areas, other heritage areas have been designated by local governments or announcements by local preservation groups, and a number of states have developed their own heritage area programs. A White House initiative, *Preserve America* (E.O. 13287, Mar. 3, 2003), directs federal agencies to improve management of historic properties through adaptive reuse initiatives and to promote heritage tourism through partnerships with communities. Also, the Alliance of National Heritage Areas (ANHA), a collaboration of the management entities for the federally designated NHAs, working through its Heritage Development Institute initiative, provides training to practitioners of heritage development. 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 generic statute that establishes criteria for designating NHAs or provides standards for their funding and management. Rather, particulars for an area are provided in its enabling legislation. While there tended to be greater variety in the creation and operation of earlier heritage areas, over the past several years the establishment and management of heritage areas have become somewhat more standardized. Common understandings and characteristics are discussed below.

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

area and is implemented as funding and resources are available. Implementation of management plans is accomplished primarily through voluntary actions.

NHAs might receive funding to prepare and implement their plans from a wide array of sources, including philanthropic organizations, endowments, individuals, businesses, and governments. Congress and the NPS do not ordinarily expect to provide NHAs with permanent federal funding, but rather encourage NHAs to develop alternative sources of funding to become financially self-sufficient. A March 30, 2004, report of the General Accounting Office states that during the six-year period from FY1997 to FY2002, heritage areas received \$310 million in total funding. About half the funds (\$154 million) were derived from state and local governments and private sources, with the other half (\$156 million) provided by the federal government. Of the federal funding, about \$50 million came from the NPS heritage program and \$44 million came from other NPS programs, with the balance (about \$61 million) provided by 11 other federal sources.¹

Congress determines the total level of federal funding for NHAs and typically specifies in appropriations documents the appropriation level 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 hold festivals to showcase an area's natural and cultural heritage. In testimony presented in March 2003, an official from the Department of the Interior (DOI) testified to the success of NHAs in using funds provided by the NPS to leverage additional funding from other sources. Specifically, since 1985, Congress has appropriated \$107.2 million to the NPS to support heritage projects and programs, and this sum has leveraged \$929.1 million in funding from other sources — a 1 to 8.7 match.²

Support, Opposition, and Challenges³

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

¹ The data reflect funding for 22 of the 24 heritage areas. See U.S. General Accounting Office. *National Park Service: A More Systematic Process for Establishing National Heritage Areas and Actions to Improve Their Accountability Are Needed*, GAO-04-593T, Summary, March 30, 2004, Washington, DC, at [<http://www.gao.gov/>], visited April 20, 2004.

² Testimony of Paul Hoffman, Department of the Interior, Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, March 13, 2003, at [http://energy.senate.gov/hearings/testimony.cfm?id=627&wit_id=1714].

³ For sources generally supportive of NHAs, see, for example, the websites of the National Park Service at [<http://www.cr.nps.gov/heritageareas/>], Alliance of National Heritage Areas at [<http://www.nationalheritageareas.com/>], and the National Trust for Historic Preservation at [<http://www.ruralheritage.org/workarea.html>], all visited March 19, 2004. For information generally opposed to NHAs, see, for example, the websites of the Property Rights Foundation of America, Inc., at [<http://prfamerica.org/HeritageRiversAreasIndex.html>] and the American Policy Center at [<http://www.americanpolicy.org/prop/main.htm>], and congressional testimony by Daniel M. Clifton of Americans for Tax Reform at [<http://resourcescommittee.house.gov/108cong/parks/2003sep16/agenda.htm>], all visited March 19, 2004.

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 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. 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.

Property rights advocates take the lead in opposing heritage areas. They contend that some national heritage areas lack significant local support, unlike state or local heritage areas. 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. 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 will 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 specify what NHAs are and do, and to 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 park units and other existing protected areas rather than on creating new heritage areas. Still others cite a need for a mechanism to hold accountable the management entities receiving federal funds and making decisions for heritage areas.

Some observers recommend caution in creating NHAs because in practice they may face an array of challenges to success. For instance, heritage areas may have difficulty providing the infrastructure that increased tourism requires, such as additional parking, lodging, restaurants, and well-coordinated attractions. Other areas may need additional protective measures to ensure that increased tourism and development do not degrade the resources and landscapes. Still other NHAs may require improvements in leadership and organization of

the management entities, including explaining their message and accomplishments. Some NHAs may experience difficulty attracting funds because the concept is relatively recent and not universally accepted as a sustainable approach to resource preservation or economic development. Some conservationists think the protective measures are not strong enough and some economic development professionals think the heritage idea does not fit the traditional framework for development. Also, achieving and maintaining appropriate levels of public commitment to implementation may be challenging.⁴

Administrative Actions

The NPS assists communities interested in attaining the federal NHA designation by helping them craft a regional vision for heritage preservation and development. The agency also provides a variety of types of assistance to areas once designated — administrative, financial, policy, technical, and public information. The NPS seeks to serve as a catalyst by offering assistance to designated heritage areas only for a limited number of years. Specifically, the NPS seeks to limit each heritage area to no more than \$1 million per year, not to exceed \$10 million per area over 15 years. The Administration's draft National Heritage Partnership Act sought, in part, to codify these funding parameters and require each heritage area management plan to include a business plan demonstrating financial capability to carry out the plan. This business plan was intended to foster self-sufficiency of NHAs.⁵ Similar provisions are included in S. 2543, recently introduced in the Senate (see the section below on "Legislative Activity.") As part of its annual budget justification to Congress for the National Park Service, the Administration submits its desired overall funding level for the NPS Heritage Partnership Program. Congress generally determines a total funding level and the distribution of the funds for specified NHAs. NHAs can use such funds for varied purposes including staffing, planning, and projects.

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,

⁴ 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.

⁵ Testimony of A. Durand Jones, National Park Service, Department of the Interior, Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, March 30, 2004, at [<http://energy.senate.gov/hearings/witnesslist.cfm?id=1128>], visited May 28, 2004.

businesses, nonprofit organizations, and state and local agencies that would work to support a heritage area.

Administration representatives have testified in support of developing systemic NHA legislation to list the qualities a prospective area must possess and the parameters under which designation could occur. At a March 30, 2004, hearing of a Senate Energy and Natural Resources Subcommittee, a DOI witness⁶ outlined the Administration's draft legislation creating a National Heritage Areas Program. S. 2543, which was based upon the Administration's draft, was the subject of a June 24, 2004, Senate subcommittee hearing. At this hearing, the Deputy Director of the NPS expressed "strong support" for legislation to establish a national heritage program, while suggesting modifications to the bill on behalf of DOI.⁷

The NPS Advisory Board was created in 1935 to advise the Director of the NPS and the Secretary of the Interior on issues relating to the National Park Service. The Partnership Committee of the NPS Advisory Board has begun a review of NHAs and the Heritage Partnership Program and will report recommendations regarding future NPS involvement with NHAs. The report is scheduled to be completed in mid-2005.

Legislative Activity

The 107th Congress considered many heritage proposals and held many related hearings; ultimately it enacted three measures to study areas for potential heritage status. The 108th Congress continues a high level of interest in heritage area bills and issues. It is considering proposals to designate heritage areas, study areas for possible heritage status, extend the authorization of existing NHAs, establish uniform criteria and procedures for designating and managing heritage areas, and appropriate funds for heritage areas. Congress also has held legislative and oversight hearings on heritage bills and issues.

Bills to Establish NHAs or Authorize Studies. In the 108th Congress, more than 35 bills have been introduced, for more than 20 different areas, to establish NHAs or study the suitability and feasibility of areas for heritage status. Some of the pending measures would create heritage "corridors," "routes," and "partnerships." A number of existing heritage areas have similar titles, and the NPS considers all of them to be NHAs.

Of the pending bills, five were reported by the House Committee on Resources on November 17, 2003. Provisions pertaining to private property were contentious during subcommittee and committee consideration, and were amended during both stages of consideration. However, all five bills were ordered reported by unanimous consent, indicating a compromise was reached in committee on the private property language (see below) as well as other provisions. As reported, the five measures sought to establish the National Aviation Heritage Area (OH/IN; H.R. 280, H.Rept. 108-370); the Arabia Mountain NHA; (GA; H.R. 1618, H.Rept. 108-362); the Upper Housatonic Valley NHA (MA/CT; H.R.

⁶ Jones testimony; see footnote 5.

⁷ Testimony of A. Durand Jones, National Park Service, Department of the Interior, Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, June 24, 2004, at [http://energy.senate.gov/hearings/testimony.cfm?id=1243&wit_id=169], visited July 12, 2004.

1798, H.Rept. 108-365); and the Oil Region NHA (PA; H.R. 1862, H.Rept. 108-366); and to authorize a study regarding the suitability and feasibility of designating the Island of St. Croix as the St. Croix NHA (H.R. 1594, H.Rept. 108-361).

On November 18, 2003, the House considered and passed H.R. 280, amended to include the provisions of the four other heritage area bills that had been reported by the Resources Committee. The measure passed the House by voice vote under suspension of the rules indicating substantial support, and the leaders of the floor debate described the measure as supported by both parties. The Democratic floor leader described the property rights provisions as representing a compromise between the parties and acceptable overall as a way to move the legislation forward.⁸ H.R. 280 was subsequently referred to the Senate Committee on Energy and Natural Resources.

As passed by the House, H.R. 280 contains provisions to address private property rights. For the four NHAs that would be established, it 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 that has been included within the boundary of the heritage area “shall have their property immediately removed” upon written request. The bill also provides that private property owners cannot be compelled to allow public access to their property or to participate in, or be associated with, the NHA. Further, the bill states that the establishment of a heritage area is not to be construed as providing new regulatory authority on land use within the NHA or its viewshed. For the area that would be studied for possible heritage status (the Island of St. Croix), the bill states that the Secretary of the Interior is to analyze the potential impact of heritage area designation on private property within or bordering on the area.

Such private property provisions were 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.

As passed by the House, H.R. 280 also included provisions of H.R. 521, to establish the Steel Industry National Historic Site, as a unit of the National Park System, within the Rivers of Steel NHA. The House Resources Committee had amended H.R. 521 in an effort to address private property concerns and to require that any land acquired for a historical site be done by donation. The bill was reported unanimously from committee before being included in H.R. 280 for floor consideration. A Senate companion bill — S. 1787 — has been introduced, but no further action has been taken.

On July 7, 2004, the Senate Committee on Energy and Natural Resources reported three bills to establish heritage areas. S. 180 would establish a National Aviation Heritage Area in Ohio and Indiana to promote and protect the cultural and industrial legacy of the aviation and aerospace industry. The companion bill that passed the House — H.R. 280 — was amended to include provisions of four other NHA bills. S. 211 would establish the Northern

⁸ Delegate Eni F. H. Faleomavaega, remarks in the House, *Congressional Record*, daily edition, vol. 149, Nov. 18, 2003, p. H.11456-H11457. See also remarks of Representative Mark E. Souder, p. H11456.

Rio Grande NHA in New Mexico to preserve cultural, historical, and natural resources associated with Spanish colonization of the area. S. 323 would establish the Atchafalaya National Heritage Area in the Atchafalaya Basin swamp area of Louisiana, which is associated with Cajun culture. Similar legislation was considered for all three areas in the 107th Congress.

H.R. 4492 would extend the authorization for nine NHAs from September 30, 2012, until September 30, 2027, by amending P.L. 104-333. The bill also would increase the total funding authorized for each area from \$10 million to \$20 million. It was referred to the Committee on Resources.

Current bills to designate heritage areas or study specific areas for potential heritage status are shown in **Table 2** below. More general heritage area legislation is identified in the “Legislation” section below. Another pending bill, S. 1105, would study the feasibility of designating an existing state heritage area as a National Historic Site within the National Park System.

Table 2. Bills to Establish Heritage Areas or Authorize Studies, 108th Congress

Bill Number	State	Type	Title	Status
H.R. 280 (Title I) S. 180	OH/IN	Desig.	National Aviation Heritage Area Act	Passed House S. Comm. Reported
H.R. 505 S. 211	NM	Desig.	Northern Rio Grande NHA Act	Introduced S. Comm. Reported
H.R. 524/S. 230	NJ	Desig.	Crossroads of the American Revolution NHA Act	Introduced
H.R. 567/S.472	VA	Study	Northern Neck NHA Study Act	Introduced
H.R. 744/S. 276	SC	Study	Southern Campaign of the Revolution Heritage Area Study Act	Introduced
H.R. 907	CA	Study	Highway 49, “Golden Chain Highway” National Heritage Corridor Study Act	Introduced
H.R. 1069/S. 577	MA/NH	Desig.	Freedom’s Way NHA Act	Introduced
H.R. 1594	VI	Study	St. Croix NHA Study Act	See H.R. 280 as passed House
H.R. 1618 S. 1752	GA	Desig.	Arabia Mountain NHA Act	See H.R. 280 as passed House; Introduced
H.R. 1759/S. 941 H.R. 2691, §140	NC	Desig.	Blue Ridge NHA Act	Introduced P.L. 108-108
H.R. 1798 S. 1056	CT/MA	Desig.	Upper Housatonic Valley NHA Act	See H.R. 280 as passed House; Introduced
H.R. 1862 S. 912	PA	Desig.	Oil Region NHA Act	See H.R. 280 as passed House; Introduced

H.R. 2278/S. 1330	AK	Desig.	Kenai Mountains-Turnagain Arm Nat. Heritage Corridor Act/Heritage Area Act	Introduced
H.R. 2689/S. 1137	MS	Desig.	Mississippi Gulf Coast NHA Act	Introduced
H.R. 2925	NC	Study	Northeastern N. Carolina Heritage Area Study Act	Introduced
H.R. 3257	OH	Study	Western Reserve Heritage Area	Introduced
H.R. 3553/S. 1941	IL	Desig.	Abraham Lincoln NHA Act	Introduced
H.R. 3909/S. 2224	KS/MO	Desig.	Bleeding Kansas NHA Act	Introduced
H.R. 4683	SC/GA	Desig.	Gullah/Geechee Cultural Heritage Act [Corridor]	Introduced
S. 323	LA	Desig.	Atchafalaya NHA Act	S. Comm. Reported
S. 840	NV/UT	Desig.	Great Basin National Heritage Route Act	Introduced
S. 916	UT	Desig.	National Mormon Pioneer Heritage Area Act	Introduced
S. 1118	VT/NY	Desig.	Champlain Valley Nat. Heritage Partnership Act	Introduced

Source: Compiled by CRS from the Legislative Information System (LIS) of the U.S. Congress, 108th Congress data file.

Proposals to Establish Systemic Procedures. The growing number of NHAs, together with the substantial number of proposals to designate or study new ones, has renewed interest in systemic legislation governing the evaluation, designation, and management of new NHAs. The National Heritage Areas Policy Act legislation — H.R. 1427 — would establish procedures for designating, managing, and funding heritage areas. The bill has been referred to the House Committee on Resources. It would authorize 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. It would not limit the number of areas that the Secretary could recommend or that Congress could designate as NHAs. H.R. 1427 would provide that prior to the Secretary’s recommendation, private property owners be notified and given an opportunity to decide whether to include their property in heritage area activities. The bill outlines requirements for feasibility studies. They would be conducted by the Secretary or another interested party, completed or approved by the Secretary, and submitted to the House Committee on Resources and the Senate Committee on Energy and Natural Resources. Congress could use the studies as part of its assessment of areas for NHA designation. H.R. 1427 would require the local coordinating entity for the proposed area to prepare a management plan and would provide for action by the Secretary to approve/disapprove the plan.

H.R. 1427 would authorize the Secretary to make grants during the five-year period following authorization of a feasibility study for a “proposed” NHA. It would authorize appropriations of not more than \$250,000 per year for initial studies and plans for each such proposed area, with not more than \$1.5 million total per area. The bill would authorize additional appropriations of not more than \$250,000 for each feasibility study. For established heritage areas, the bill would authorize the Secretary to make grants during a 10-year period, and would authorize appropriations of not more than \$1 million yearly per area with not more than \$10 million total per NHA. Grant recipients would be required to

provide matching funds, while the Secretary would be authorized to provide technical assistance on a nonreimbursable basis. The bill also contains provisions seeking to protect private property, and outlines circumstances and procedures under which the Secretary would terminate funding for an NHA.

Under S. 2543, the National Heritage Partnership Act, the Secretary of the Interior would establish a National Heritage Areas program, and provide technical and financial assistance to local coordinating entities to help establish NHAs, subject to the availability of funds. The bill seeks to establish a unified process for creating, operating, and funding NHAs. It is similar to draft legislation prepared by the Administration. The bill 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. It sets out criteria against which such areas will be evaluated. For instance, the criteria include evidence of resources and traditional uses that have a national significance, to focus the creation of NHAs on areas that are determined to be nationally significant. Other criteria include 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.

S. 2543 provides 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, in an effort to encourage self-sufficiency of heritage areas. For each NHA, the bill authorizes funding of not more than \$1 million per year, with a total of not more than \$10 million over 15 years. The bill caps funding for all NHAs at \$15 million per year. There is an additional \$0.75 million for conducting and reviewing suitability-feasibility studies, with a maximum of \$0.25 million per study. It seeks to protect private property owners, for instance by not requiring their participation in NHA plans and activities. The bill does not include the “notification and consent” requirements contained in H.R. 280. (See the section above on “Bills to Establish NHAs or Authorize Studies.”) It also seeks to protect existing regulatory authorities — for example, by not altering “any duly adopted land use regulation, approved land use plan, or other regulatory authority.” It sets out the responsibilities of local coordinating entities and the authorities of the Secretary of the Interior (through the NPS).

S. 2543 was referred to the Senate Committee on Energy and Natural Resources, and the Parks Subcommittee held hearings on the measure on June 24, 2004. Witnesses at this hearing, and at another held by the subcommittee on March 30, 2004 on the Administration’s draft, supported the creation of systemic NHA legislation but presented different criteria and procedures for designating and operating NHAs. Some witnesses advocated less emphasis on national importance of areas to foster creation of NHAs, while others promoted flexible procedures to meet regional needs. Still others asserted that defining key terms, such as “heritage” itself, was essential to the creation of any heritage area program. Witnesses also presented alternatives for securing funding for NHAs and organizing federal activities. A witness representing private property rights recommended reducing the emphasis of NHAs on landscape protection. Private property rights advocates and others have opposed creation

of a national system of NHAs with uniform standards.⁹ (See the section above on “Support, Opposition, and Challenges.”)

General Accounting Office (GAO) Report. The GAO released a report on NHAs at the March 30, 2004, Senate subcommittee hearing. The GAO 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.

Funding. As in previous Congresses, the 108th Congress enacted appropriations legislation to fund heritage areas. While the Administration sought to reduce funding to \$7.7 million for FY2004, Congress appropriated \$14.3 million (P.L. 108-108). The FY2004 law provided funds for 23 of the 24 heritage areas. Historically, the Bush Administration’s requests for NHA funding has been significantly lower than the previous year’s appropriation; however, Congress typically has restored or increased NHA funds. The FY2005 request for NHA funding is \$2.5 million, an \$11.8 million decrease from the FY2004 enacted level. On June 17, 2004, the House approved \$15.1 million in NHA funding for FY2005, in H.R. 4568.

The conference report on the FY2004 Interior appropriations law (H.Rept. 108-330) directed the NPS to use available funds to conduct a heritage area study of Muscle Shoals (AL). Study legislation for Muscle Shoals also was enacted in the 107th Congress (P.L. 107-348), but no money was appropriated for the study. Still another provision of the appropriations law established the Blue Ridge NHA (NC). This provision includes private property protections, stating that the bill does not abridge an individual’s rights regarding private property, affect the authority of state or local governments regarding private property, or impose “any additional burden” on private property owners. It does not contain the specific notification and consent provisions contained in H.R. 280 as passed by the House. Further, a provision of the Consolidated Appropriations Act (CAA) for FY2004 (P.L. 108-199) sets a termination date for the Delaware and Lehigh National Heritage Corridor Commission of November 18, 2007.

Other pending bills have provisions impacting heritage area funding. Section 522 of H.R. 4100, the “Get Outdoors Act of 2004,” would allow state use of historic preservation assistance (under the National Historic Preservation Act) for national heritage areas and corridors. Provisions of H.R. 3550, “The Transportation Equity Act: A Legacy for Users,”

⁹ Testimony of witnesses at the March 30, 2004 hearing is available on the website of the Senate Committee on Energy and Natural Resources at [<http://energy.senate.gov/hearings/hearings.cfm>].

authorizes federal-aid highway funds for high-priority projects, including enhancements at specified heritage corridors.

LEGISLATION

Measures to establish individual heritage areas or authorize studies of individual areas are listed in **Table 2**, above. This section includes more general heritage area legislation.

P.L. 108-108, H.R. 2691

Contains provisions appropriating \$14.4 million for heritage area management. Also establishes the Blue Ridge NHA (NC) and directs the NPS to conduct a heritage area study of Muscle Shoals (AL) using available funds. Signed into law November 10, 2003 (P.L. 108-108).

H.R. 280 (Hobson)

As passed by the House, establishes the National Aviation Heritage Area (OH/IN), the Arabia Mountain NHA (GA), the Upper Housatonic Valley NHA (MA/CT), and the Oil Region NHA (PA), and authorizes a study of the suitability and feasibility of designating the St. Croix NHA. Passed House, amended, November 18, 2003; referred to Senate Committee on Energy and Natural Resources on November 19, 2003.

H.R. 1427 (Hefley)

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

H.R. 4492 (Regula)

Amends P.L. 104-333 to extend the authorization for nine NHAs from September 30, 2012 until September 30, 2027, and to increase the total authorized funding for each area from \$10 million to \$20 million. Introduced June 2, 2004; referred to Committee on Resources.

S. 2543 (Craig)

The National Heritage Partnership Act would establish a program and criteria for NHAs. Introduced June 17, 2004; referred to Committee on Energy and Natural Resources. Subcommittee hearing held June 24, 2004.

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—*Oil Region National Heritage Area Act*, H.Rept. 108-366, 108th Cong., 1st Sess., Nov. 17, 2003 (Washington, DC, 2003).

—*St. Croix National Heritage Area Act*, H.Rept. 108-361, 108th Cong., 1st Sess., Nov. 17, 2003 (Washington, DC, 2003).

—*To Establish the National Aviation Heritage Area, and for Other Purposes*, H.Rept. 108-370, 108th Cong., 1st Sess., Nov. 17, 2003 (Washington, DC, 2003).

—*Upper Housatonic Valley National Heritage Area Act*, H.Rept. 108-365, 108th Cong., 1st Sess., Nov. 17, 2003 (Washington, DC, 2003).

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