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# Heritage Areas: Background, Proposals, and Current Issues

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# Summary

Over more than 30 years, Congress has established 55 national heritage areas (NHAs) to commemorate, conserve, and promote important natural, scenic, historic, cultural, and recreational resources. NHAs are partnerships among the National Park Service (NPS), states, and local communities, in which the NPS supports state and local conservation through federal recognition, seed money, and technical assistance. Unlike lands within the National Park System, which are federally owned and managed, lands within heritage areas typically remain in state, local, or private ownership or a combination thereof. Supporters of heritage areas argue that NHAs protect lands and traditions and promote tourism and community revitalization. Opponents, however, contend that NHAs may be burdensome or costly and may lead to federal control over nonfederal lands.

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 the area's 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.

NHAs might receive funding from a wide variety of sources. Congress typically determines federal funding for NHAs in annual appropriations laws for Interior, Environment, and Related Agencies. NHAs can use federal funds for many purposes, including staffing, planning, and executing projects. The FY2019 appropriation for NPS for assistance to heritage areas was $20.3 million.

The Trump Administration has expressed interest in having NHAs become financially self-sufficient. Some appropriators and other Members have emphasized self-sufficiency for these areas as well. One role of the NPS is to evaluate heritage areas at least three years before the expiration of the authorization for federal funds. The NPS has completed evaluations of 17 NHAs designated since 1994 and continues to evaluate others.

Each Congress typically considers bills to establish new heritage areas, study areas for possible heritage designation, and amend existing heritage areas. Bills with similar purposes are pending in the 116th Congress. Other 116th Congress measures seek to extend the authorizations for NHAs to receive financial assistance.

Some Members of Congress have introduced legislation (H.R. 1049) to establish a system of NHAs and to provide criteria for their designation, standards for their management, and limits on federal funding support. Proponents cite the large number of existing NHAs and the growing number of proposals to study and designate new ones as a rationale for establishing such a system. Some opponents believe that NHAs present numerous problems and challenges and that Congress should oppose efforts to designate new areas or create a system of NHAs.

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# Background

Since 1984, Congress has designated 55 national heritage areas (NHAs) to recognize and assist efforts to protect, commemorate, and promote natural, cultural, historic, and recreational resources that form distinctive landscapes.[1] Congress regards lands as distinctive because of their resources; their built environment; and their culture, history, and residents. A principal distinction of NHAs is an emphasis on the interaction of people and their environment. Heritage area designations seek to highlight the story of people, over time, in areas where the landscape helped shape tradition. In a majority of cases, NHAs have, or previously had, as their foundation a fundamental economic activity such as agriculture, water transportation, or industrial development.

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

**Table 1. National Heritage Areas (NHAs), 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)[a] | PA | Nov. 19, 1988 | P.L. 100-698 |
| Cane River NHA | LA | Nov. 2, 1994 | P.L. 103-449 |
| The Last Green Valley National Heritage Corridor[b] | CT/MA | Nov. 2, 1994 | P.L. 103-449 |
| 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 & Erie Canal National Heritage Canalway | 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 NHA[c] | 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 |

[1] In addition to the federal heritage areas, other heritage areas have been designated by local governments or announced by local preservation groups. A number of states also have developed their own heritage area programs.

| National Heritage Area | State | Date of Authorization | Enabling Legislation |
|---|---|---|---|
| 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[d] | 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 |
| Atchafalaya NHA | LA | Oct. 12, 2006 | P.L. 109-338 |
| Champlain Valley National Heritage Partnership | NY/VT | Oct. 12, 2006 | P.L. 109-338 |
| Crossroads of the American Revolution NHA | NJ | Oct. 12, 2006 | P.L. 109-338 |
| Freedom's Frontier NHA | KS/MO | Oct. 12, 2006 | P.L. 109-338 |
| Great Basin National Heritage Route | NV/UT | Oct. 12, 2006 | P.L. 109-338 |
| Gullah/Geechee Heritage Corridor | FL/GA/NC/SC | Oct. 12, 2006 | P.L. 109-338 |
| Mormon Pioneer NHA | UT | Oct. 12, 2006 | P.L. 109-338 |
| Northern Rio Grande NHA | NM | Oct. 12, 2006 | P.L. 109-338 |
| Upper Housatonic Valley NHA | CT/MA | Oct. 12, 2006 | P.L. 109-338 |
| Abraham Lincoln NHA | IL | May 8, 2008 | P.L. 110-229 |
| Journey Through Hallowed Ground NHA | MD/PA/VA/WV | May 8, 2008 | P.L. 110-229 |
| Niagara Falls NHA | NY | May 8, 2008 | P.L. 110-229 |
| Baltimore NHA | MD | March 30, 2009 | P.L. 111-11 |
| Cache La Poudre River NHA[e] | CO | March 30, 2009 | P.L. 111-11 |
| Freedom's Way NHA | MA/NH | March 30, 2009 | P.L. 111-11 |
| Kenai Mountains-Turnagain Arm NHA | AK | March 30, 2009 | P.L. 111-11 |
| Mississippi Delta NHA | MS | March 30, 2009 | P.L. 111-11 |
| Mississippi Hills NHA | MS | March 30, 2009 | P.L. 111-11 |
| Muscle Shoals NHA | AL | March 30, 2009 | P.L. 111-11 |
| Northern Plains NHA | ND | March 30, 2009 | P.L. 111-11 |
| Sangre de Cristo NHA | CO | March 30, 2009 | P.L. 111-11 |
| South Park NHA | CO | March 30, 2009 | P.L. 111-11 |
| Appalachian Forest NHA | WV/MD | March 12, 2019 | P.L. 116-9 |
| Maritime Washington NHA | WA | March 12, 2019 | P.L. 116-9 |
| Mountains to Sound Greenway NHA | WA | March 12, 2019 | P.L. 116-9 |
| Sacramento-San Joaquin Delta NHA | CA | March 12, 2019 | P.L. 116-9 |
| Santa Cruz Valley NHA | AZ | March 12, 2019 | P.L. 116-9 |
| Susquehanna NHA | PA | March 12, 2019 | P.L. 116-9 |

**Sources:** National Park Service (NPS) and Congressional Research Service (CRS).

**Notes:**

a. Authorization and funding for the commission expired in 2008. The commission is currently inactive, according to the NPS (email communication from NPS to CRS on January 21, 2016).

b. The heritage corridor was originally established as the Quinebaug and Shetucket Rivers Valley National Heritage Corridor; in 2014, it was redesignated as The Last Green Valley National Heritage Corridor (P.L. 113-291).

c. The heritage area was originally established as the Automobile National Heritage Area; in 2014, it was redesignated as the MotorCities National Heritage Area (P.L. 113-291).

d. P.L. 108-447 established the area in the states of Ohio and Indiana. However, the boundaries in the law and the associated map (referenced in the law) contain only areas in Ohio. The NHA as constituted does not include areas in Indiana, according to the staff of the National Aviation Heritage Alliance.

e. In establishing this NHA, Section 8002 of P.L. 111-11 repealed P.L. 104-323, which had authorized the Cache La Poudre River Corridor on October 19, 1996.

## Origin and Evolution

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 range of land uses, management programs, and historical themes. A goal was to facilitate grassroots preservation of natural resources and economic development in communities and regions containing industries and historic structures. The federal government would assist the effort (e.g., through technical assistance) but would not lead it. The ideas of linking and maintaining a balance between nature and industry and encouraging economic regeneration resonated with many states and communities, especially in the eastern United States. Interest in establishing heritage areas was commensurate with growing public interest in cultural heritage tourism.

Since the creation of the first NHA in 1984, interest in additional NHA designations has grown considerably. For example, from 2004 to 2009 (108th-111th Congresses), the number of heritage areas more than doubled. Further, during this period, dozens of proposals to designate heritage areas, study lands for heritage status, or amend laws establishing heritage areas were introduced, and Congress held many hearings on heritage bills and issues. Congress did not designate any new heritage areas from 2009 to 2018. In 2019, Congress passed the John D. Dingell, Jr. Conservation, Management, and Recreation Act (P.L. 116-9) designating six new heritage areas. One factor accounting for the decline prior to 2019 might be the establishment of a relatively large number of NHAs in the 108th-111th Congresses. Another factor could be changes in House and Senate rules and protocols regarding introduction and consideration of legislation containing earmarks. In the 112th Congress, the House and Senate began observing what has been referred to as an *earmark moratorium* or *earmark ban*, limiting congressionally directed spending.[2]

The sizeable number of existing NHAs, along with proposals to study and designate new ones, fostered interest among some Members and Administrations in establishing a standardized process and standardized criteria for designating NHAs. (See "Legislation to Establish Systemic NHA Procedures," below.) Although proponents favor such an approach, other stakeholders have raised arguments against a standardized process. For example, they contend that the absence of such a systemic law has provided legislative flexibility in the creation of new NHAs and the modification of existing ones. Further, some opponents of NHAs believe that heritage areas threaten private property rights, are burdensome, or present other problems and challenges, so

[2] For a more detailed discussion of the earmark moratorium, see CRS Report R45429, *Lifting the Earmark Moratorium: Frequently Asked Questions*, by Megan S. Lynch.

Congress should oppose any efforts to designate new areas and/or to create a "system" of NHAs. (See "Support, Opposition, and Challenges," below.)

## Ownership

NHAs reflect an evolution in roles and responsibilities in protecting lands. The traditional form of land protection for the National Park Service (NPS) has been through government ownership, management, and funding of lands set aside for protection and enjoyment. By contrast, NHAs typically are non-federally owned, managed by local people with many partners and NPS advice, funded from many sources, and intended to promote local economic development as well as to protect natural and cultural heritage resources and values. The NPS provides technical and financial aid to NHAs, but these areas are *not* part of the National Park System.[3] Congressional designation of heritage areas is commonly viewed as a less expensive alternative to creating and operating new units of the National Park System.

Heritage areas consist mainly of private properties, although some include publicly owned lands. In most cases, the laws establishing NHAs do not provide for federal acquisition of land; 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 the creation of the Cane River Creole National Historical Park (LA) within the Cane River NHA and the creation of the Blackstone River Valley National Historical Park within the John H. Chafee Blackstone River Valley National Heritage Corridor.

Many laws establishing national heritage areas contain provisions intended to address concerns about potential loss of, or restrictions on use of, private property as a result of NHA designation. For example, P.L. 116-9, which established the six newest NHAs, stated for each area that the law does not abridge the right of any property owner; require any property owner to permit public access to the property; alter any land use regulation; or diminish the authority of the state to manage fish and wildlife, including the regulation of fishing and hunting within the NHA.[4]

## Designation

There is no comprehensive statute that establishes criteria for designating NHAs or provides standards for their funding and management. NHA designation is often a two-step process, involving an initial study of the suitability and feasibility of designating an area and then enactment of legislation to designate the NHA. However, although legislation authorizing an NHA might follow a positive study recommendation, an area study is not a requirement for enacting legislation to designate an NHA.

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[3] That system now has 419 diverse units: national parks, national monuments, national historic sites, national battlefields, national preserves, and other designations. For information on establishing and managing units of the National Park System, see CRS Report RS20158, *National Park System: Establishing New Units*, by Laura B. Comay; CRS Report R41816, *National Park System: What Do the Different Park Titles Signify?*, by Laura B. Comay; and CRS Report R42125, *National Park System: Units Managed Through Partnerships*, by Laura B. Comay.

[4] In 2004 written testimony for the Senate Committee on Energy and Natural Resources, the Government Accountability Office (GAO; at that time known as the General Accounting Office) stated that "national heritage areas do not appear to have directly affected the rights of property owners." The GAO research was based on the 24 national heritage areas (NHAs) in existence at that time. 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, March 30, 2004, p. 3. Hereinafter referred to as GAO, 2004.

When directed by Congress, the NPS prepares studies as to the suitability and feasibility of designating an area as an NHA.[5] Such studies typically address a variety of topics, including whether an area has resources reflecting aspects of American heritage that are worthy of recognition, conservation, interpretation, and continued use. The studies 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. They also often identify a potential management entity and the extent of financial resources for the area.

In other cases, a study is undertaken by another entity, such as a local nonprofit organization, community members, or state or local government. The NPS does not fund these studies but provides guidance to these efforts. For instance, the agency recommends that these studies evaluate the importance of the resources, opportunities to increase public access to and understanding of the resources, capacity of an organization to coordinate activities in the area, and support in the region for a heritage designation.[6] The NPS often assists communities interested in attaining the NHA designation by reviewing studies and helping them craft a regional vision for heritage preservation and development.

The particulars for establishment and management of a heritage area typically are provided in the NHA's enabling legislation. Whereas there tended to be more variety in the creation and operation of earlier heritage areas, the establishment and management of NHAs have become somewhat more standardized in recent years through the inclusion of some similar provisions in different areas' enabling legislation. Common understandings and characteristics are discussed below.

## Administration

NHAs usually involve partnerships among the NPS, states, and local interests. In establishing heritage areas, Congress typically designates a management entity to coordinate the partners' work. 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. Although the plans' components 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 partners' roles and responsibilities. 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.[7]

The NPS may provide various types of assistance to areas once designated by Congress—administrative, financial, policy, technical, and public information. Following an area designation,

[5] For instance, P.L. 116-9, §6003, directed the National Park Service (NPS) to study the Finger Lakes Area in New York for designation as a national heritage area.

[6] NPS guidance for community members and organizations interested in conducting area studies is on the agency's website. See NPS, "Feasibility Studies," accessed June 27, 2019, at https://www.nps.gov/subjects/heritageareas/feasibility-studies.htm.

[7] Guidance on how to develop a management plan, as well as examples of existing management plans, is on the NPS website. See NPS, "Management Plans," accessed June 29, 2019, at https://www.nps.gov/subjects/heritageareas/management-plans.htm.

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

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 ordinarily do not want to provide NHAs with full and permanent federal funding; rather, they encourage NHAs to develop alternative sources of funding. Any federal appropriations for the area typically are provided to the management entity. 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.

The NPS seeks to evaluate heritage areas before the expiration of the authorization for federal funds. At least three years before this expiration, the NPS evaluates a heritage area to make recommendations on the future NPS role (if any). For example, P.L. 110-229 required the NPS to evaluate nine heritage areas designated in 1996.[8] The law required an evaluation of the "accomplishments" of the areas; an assessment of the management entity in achieving the purposes of the law designating the area and the goals and objectives of the management plan for the area; an analysis of the impact of investments in the area; and a review of the management structure, partnership arrangements, and funding for the area so as to identify components required for sustainability. The law also required the NPS to report its results and recommendations to Congress.

Between 2013 and 2015, NPS completed and submitted to Congress its evaluations for the nine areas listed in P.L. 110-229: America's Agricultural Heritage Partnership, also known as Silos and Smokestacks; Augusta Canal NHA; Essex NHA; Hudson River Valley NHA; National Coal Heritage Area, also known as West Virginia National Coal Heritage Area; Ohio and Erie National Heritage Canalway; Rivers of Steel NHA; South Carolina National Heritage Corridor; and Tennessee Civil War Heritage Area.[9] Based on the statute's evaluation requirements, NPS developed a program policy to evaluate all heritage areas prior to termination of federal funding. Since 2015, NPS has conducted eight additional evaluations for heritage areas.[10]

# Legislative Activity

In recent years, there have been several bills that would impact existing or proposed NHAs. In February 2019, the John D. Dingell, Jr. Conservation, Management, and Recreation Act was signed into law; among various other provisions, the omnibus public lands bill created six new NHAs. This section summarizes the NHA-related sections in that act. It also provides an overview of other bills introduced in recent Congresses that exclusively or mainly focus on NHAs and provisions related to NHAs that are contained in selected, broader measures, such as appropriations bills.

[8] P.L. 110-229, §462.

[9] See NPS, "Evaluations," accessed July 1, 2019, at http://www.nps.gov/heritageareas/toolbox/evalresource.html.

[10] These heritage areas are Blue Ridge NHA, National Aviation NHA, Oil Region NHA, Schuylkill River NHA, MotorCities NHA, Lackawanna Valley NHA, The Last Green Valley National Heritage Corridor, and Yuma Crossing NHA.

## John D. Dingell, Jr. Conservation, Management, and Recreation Act

On March 12, 2019, President Trump signed into law the John D. Dingell, Jr. Conservation, Management, and Recreation Act (P.L. 116-9), the first law to establish new national heritage areas since the Omnibus Public Land Management Act of 2009 (P.L. 111-11). Title VI of P.L. 116-9 contained sections for new designations, authorizations of feasibility studies for prospective areas, adjustments to existing heritage area boundaries, and other amendments to existing heritage area authorizations.

Section 6001 of the act designated six new national heritage areas, bringing the total number of heritage areas nationwide from 49 to 55. **Table 2** shows each new heritage area along with the local coordinating entity identified in the statute and any stand-alone bills to designate the heritage area that were introduced in the 116th Congress prior to the passage of P.L. 116-9.

Congress authorized appropriations of $10 million for each of these national heritage areas, of which not more than $1 million is to be made available for any fiscal year.[11] Congress established a sunset date of 2034—or 15 years after the date of enactment—for the funding authorizations.[12]

**Table 2. National Heritage Areas Designated in P.L. 116-9**

| National Heritage Area | State(s) | Local Coordinating Entity | Introduced Bill No. (Congress) |
|---|---|---|---|
| Appalachian Forest NHA | MD, WV | Appalachian Forest Heritage Area, Inc. | H.R. 1147 (116th) |
| Maritime Washington NHA | WA | Washington Trust for Historic Preservation | H.R. 975 (116th) |
| Mountains to Sound Greenway NHA | WA | Mountains to Sound Greenway Trust | H.R. 1791 (115th)<br>S. 3100 (115th) |
| Sacramento-Joaquin Delta NHA | CA | Delta Protection Commission | S. 316 (116th)<br>H.R. 357 (116th) |
| Santa Cruz Valley NHA | AZ | Santa Cruz Valley Heritage Alliance, Inc. | H.R. 6522 (115th) |
| Susquehanna NHA | PA | Susquehanna Heritage Corporation | H.R. 262 (116th) |

**Source:** Compiled by CRS from the Legislative Information System (LIS) of the U.S. Congress on May 21, 2019.

Section 6002 adjusted the boundaries of the existing Lincoln National Heritage Area to include Livingston County, the city of Jonesboro in Union County, and the city of Freeport in Stephenson County.[13] Section 6003 of the act directed the Secretary of the Interior to conduct a study of the Finger Lakes area for potential designation as a national heritage area, based on the region's natural, historic, and cultural resources. The study is to include Cayuga, Chemung, Cortland, Livingston, Monroe, Onondaga, Ontario, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne and Yates counties.[14] Other sections made changes related to existing heritage areas. Section 6004

[11] P.L. 116-9, title VI, §6001(g)(1).

[12] P.L. 116-9, title VI, §6001(g)(4).

[13] The Lincoln NHA in Illinois was established in the Consolidated Natural Resources Act of 2008 (P.L. 110-229). The newly expanded area now includes the sites of the historic Lincoln-Douglas debates and the area where President Lincoln began his legal career within the Eighth Judicial District "(U.S. Senate Approves Expansion of Lincoln Heritage Area," *The State Journal-Register*, February 12, 2019).

[14] Thomas Pudney, "Gillibrand Announces Study of Finger Lakes as a National Heritage Area," *Ithaca Journal*, February 13, 2019.

made various types of changes to existing NHAs. **Table 3** provides a complete list of changes enacted.

**Table 3. NHA Amendments in §6004 of P.L. 116-9**

| Section | National Heritage Area | Amendment Action |
|---|---|---|
| §6004(a) | Rivers of Steel NHA | Increases authorized funding from $17m to $20m |
| §6004(b) | Essex NHA | Increases authorized funding from $17m to $20m |
| §6004(c) | Ohio & Erie National Heritage Canalway | Increases authorized funding from $17m to $20m |
| §6004(d) | Blue Ridge NHA | Increases authorized funding from $12m to $14m<br>Extends authorization to 2021 |
| §6004(e) | MotorCities NHA | Increases authorized funding from $10m to $12m |
| §6004(f) | Wheeling NHA | Increases authorized funding from $13m to $15m |
| §6004(g) | Tennessee Civil War Heritage Area | Extends authorization to 2021 |
| §6004(h) | Augusta Canal NHA | Extends authorization to 2021 |
| §6004(i) | South Carolina National Heritage Corridor | Extends authorization to 2021 |
| §6004(j) | Oil Region NHA | Designates Oil Regional Alliance of Business, Industry, and Tourism as local coordinating entity |
| §6004(k) | Hudson River Valley NHA | Redesignates NHA as Maurice D. Hinchey Hudson River Valley NHA |

**Source:** P.L. 116-9, §6004.

**Notes:** m = millions.

## Legislation to Establish Systemic NHA Procedures

H.R. 1049 in the 116th Congress would establish a national heritage areas system governing the designation, management, and funding of NHAs. The system would be composed of existing NHAs and future NHAs designated by Congress. The bill would 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 National Park System or subject to the authorities applicable to that system. The NHA system would expire 20 years after enactment of H.R. 1049.[15]

For areas under consideration for NHA designation, H.R. 1049 would require the Secretary of the Interior to conduct feasibility studies, when directed by Congress, or to review and comment on such studies prepared by others. The bill sets out criteria by which areas would be evaluated, such as inclusion of resources associated with nationally significant themes and events; selection of a local managing entity;[16] and demonstration of support by local governments, residents, businesses, and nonprofit organizations.

The bill provides a procedure for developing NHA management plans and specifies components of such plans. Under the bill, the planning process would provide opportunities for stakeholders

[15] Prior versions of this bill had various sunset authorization dates. H.R. 581 in the 114th Congress had a sunset of 10 years after the enactment of the bill, whereas H.R. 445 (113th) and H.R. 4099 (112th) had a 25-year sunset authorization date.

[16] The legislation refers to this entity as the *local coordinating entity*.

to be involved in developing, reviewing, and commenting on the draft plan. A management plan would include an inventory of the resources related to the nationally significant themes and events that should be "protected, enhanced, interpreted, managed, or developed"; identify goals, strategies, policies, and recommendations; outline a strategy for the local managing entity to achieve financial sustainability; and contain an implementation plan, among other components.[17] Designation of an NHA by Congress would be contingent on the prior completion of a management plan, as well as a determination by the Secretary of the Interior that the area meets the criteria established under the act.

The bill outlines the responsibilities of the local managing entity, such as developing and submitting the management plan to the Secretary of the Interior for approval, as well as submitting an annual report. It also lists the purposes for which the entity could use federal funds, with the prior approval of the Secretary of the Interior, such as for making grants, entering into cooperative agreements, hiring staff, and supporting activities of partners.[18]

The bill seeks to protect private property owners—for instance, by not requiring their participation in NHA plans and activities. 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.[19]

For each NHA, the bill would authorize appropriations for various purposes. Authorizations include up to $300,000 per year for all NPS feasibility studies, of which not more than $100,000 could be used for any one study, and up to $750,000 per year for the development of management plans for NHAs, of which not more than $250,000 could be used for any one plan. The bill also would authorize up to $700,000 per year for the activities of each local managing entity. The provision of federal funds would be contingent on specified matching requirements.[20]

Under the bill, the Secretary of the Interior would be required to evaluate and report to Congress on NHAs. The evaluation would assess the progress in achieving the purposes of the establishing law and the goals and objectives in the management plan, determine the leverage and impact of investments in the area, and identify the components for sustaining the area. The report would include recommendations on the future role of the NPS, including whether federal funding should be continued or eliminated.[21]

The development of systemic heritage area legislation has been advocated in the past by an independent commission,[22] the Obama Administration,[23] and the George W. Bush Administration, among others.[24] The Trump Administration also has expressed support for developing systemic

[17] H.R. 1049, §6.

[18] H.R. 1049, §9.

[19] H.R. 1049, §11.

[20] H.R. 1049, §12.

[21] H.R. 1049, §8.

[22] National Parks Second Century Commission, *Advancing the National Park Idea*, 2009, p. 23.

[23] Testimony of Stephanie Toothman of the National Park Service, in U.S. Congress, Subcommittee on Public Lands and Environmental Regulation of the House Committee on Natural Resources, *Legislative Hearing*, 113th Cong., 2nd sess., July 29, 2014, H.Hrg. 113-84 (Washington: GPO, 2015), p. 47.

[24] According to testimony from NPS, in July 2006, the George W. Bush Administration presented to Congress a draft of systemic NHA legislation based on the findings and recommendations of the National Park System Advisory Board. See testimony of Daniel Wenk of the National Park Service, in U.S. Congress, Subcommittee on National Parks of the Senate Committee on Energy and Natural Resources, Miscellaneous National Parks Bills, hearings, 110th Cong., 1st sess., March 20, 2007, S.Hrg. 110-73 (Washington, DC: GPO, 2007).

NHA program legislation that would establish criteria for evaluating areas for heritage designation and set out processes for designating and administering heritage areas. However, in an April 2019 hearing regarding H.R. 1049, NPS Deputy Director P. Daniel Smith testified in favor of deferring action on the bill, "to work with the sponsor and the committee on revisions that would more fully address the issues with the program."[25] In particular, the Administration does not support the extension of funding authority for national heritage areas outlined in H.R. 1049 and several other individual heritage area bills introduced. Both in testimony and in annual NPS budget requests, the Administration has expressed a desire to focus resources on reducing the National Park Service's $11.9 billion deferred maintenance backlog and on other park and program operations as opposed to increasing or extending heritage area funding.[26]

Opposition to an NHA system, as with opposition to individual NHAs, has come primarily from advocates of private property rights.[27] These opponents have expressed concerns that, even with legislative provisions to safeguard property rights, NHA system legislation would lead to restrictive regulations and loss of private land ownership.[28] For example, they have stated that heritage area management entities—though themselves lacking power to make regulatory changes—could influence local legislators to change zoning laws and other regulations. A different concern is the expanded federal funding commitment that could accompany a system of NHAs.[29]

## Additional NHA Legislation in the 116th Congress

In addition to P.L. 116-9, numerous other bills pertaining to existing NHAs or the designation of new heritage areas have been introduced in the 116th Congress. Some of these bills were enacted as part of P.L. 116-9 (see **Table 2**). In some cases, portions of an introduced bill were enacted and other provisions were excluded from P.L. 116-9. For example, S. 337 would increase the total authorized funding amount of MotorCities NHA from $10 million to $12 million and extend the funding authorization date to 2025. P.L. 116-9 provided for the increase in funding but did not address the expiration of the funding authorization. Other bills—such as H.R. 2525, which would

[25] Testimony of P. Daniel Smith of the National Park Service, in U.S. Congress, Subcommittee on National Parks, Forests, and Public Lands of the House Committee on Natural Resources, hearings, 116th Cong., 1st sess., April 30, 2019, accessed at https://www.doi.gov/ocl/pending-legislation. Hereinafter referred to as P. Daniel Smith, 2019.

[26] Ibid. See also U.S. Congress, House Committee on Natural Resources, Subcommittee on Oversight and Investigations, *Examining the Department of the Interior's Spending Priorities and the President's Fiscal Year 2018 Budget Proposal*, 115th Cong., 1st sess., June 22, 2017, H.Hrg. 115-11 (Washington: GPO, 2017), pp. 26-27; and, NPS, *Budget Justifications and Performance Information Fiscal Year 2018*, p. Overview-30, at https://www.nps.gov/aboutus/upload/FY-2018-NPS-Greenbook.pdf.

[27] For additional discussion on private property issues, see the sections of this report entitled "Ownership" and "Support, Opposition, and Challenges."

[28] See, for example, American Policy Center, "National Heritage Areas: The Land Grabs Continue," by Tom DeWeese, October 11, 2012, at http://americanpolicy.org/2012/10/11/national-heritage-areas-the-land-grabs-continue/; and Testimony of Robert J. Smith, Competitive Enterprise Institute and Center for Private Conservation, in U.S. Congress, Subcommittee on National Parks of the Senate Committee on Energy and Natural Resources, National Heritage Areas, hearings, 108th Cong., 2nd sess., June 24, 2004, S.Hrg. 108-692 (Washington, DC: GPO, 1004), p. 23. These commentators were considering earlier versions of NHA system legislation in the 112th and 108th Congresses, respectively.

[29] For example, testimony on H.R. 445 in the 113th Congress, which would have authorized appropriations for NHAs for a period of 25 years, addressed such concerns. U.S. Congress, Subcommittee on Public Lands and Environmental Regulation of the House Committee on Natural Resources, Legislative Hearing, 113th Cong., 2nd sess., July 29, 2014, H.Hrg. 113-84 (Washington: GPO, 2015). In testimony, the sponsor of the bill referred to concerns of some Members about the bill's extension of NHA funding for 25 years.

designate the Steel Valley NHA in Pennsylvania and Ohio—were not included in the omnibus legislation; in May 2019, the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands held a hearing on H.R. 2525 and other bills, wherein some Members expressed concern that no feasibility study had been conducted to determine the suitability of establishing the proposed heritage area prior to the introduction of the bill.[30]

## Funding

As part of its annual budget justification, the Administration submits to Congress its desired funding level for the NPS Heritage Partnership Program. Appropriations for heritage areas typically have been provided in the annual Interior, Environment, and Related Agencies Appropriations laws. In general, the laws establishing NHAs require a 1:1 match in funding by the managing entities. NHAs can use funds for varied purposes, including staffing, planning, and implementing projects. In recent years, Congress has provided direction to the NPS as to how the total appropriation should be allocated among NHAs.

The NPS has indicated that since FY2009, funds have been allocated to heritage areas using formula-based criteria. For example, in the explanatory statement accompanying the FY2017 appropriations law for Interior, Environment, and Related Agencies, Congress allocated funding to NHAs under a three-tier system. This system included $150,000 for each authorized area that was developing its management plan, known as Tier I areas; $300,000 for Tier II areas, which were those with recently approved management plans; and FY2016 funding levels for "longstanding areas."[31]

For both FY2018 and FY2019, Congress directed this formula to remain constant with FY2017 levels, but "with the increase above the enacted level [of FY2017] to be equally distributed to Tier I areas or Tier II areas."[32] Since the total appropriation for heritage areas for both fiscal years was larger than the FY2017 amount, the total amount appropriated to each NHA was slightly higher than the Tier I and Tier II baseline levels. This may change, however, given that the FY2019 Interior appropriations bill was enacted prior to P.L. 116-9, which designated six new heritage areas.

The Administration seeks a reduction of roughly $20 million for the NPS for heritage areas for FY2020. The FY2020 budget request provides $374,000 in funding for administrative support but no funding for commissions and grants to existing heritage areas. In an overview of the major savings and reforms outlined in the FY2020 budget, the Administration stated that this reduction in funding was justified due to the heritage area program being "secondary to the primary mission of the National Park Service (NPS)."[33] Instead, the Administration encourages existing heritage

[30] U.S. Congress, House Committee on Natural Resources, Subcommittee on National Parks, Forests, and Public Lands, *Legislative Hearing*, 116th Cong., 1st sess., May 22, 2019.

[31] P.L. 115-31, Division G, Explanatory Statement, Congressional Record, May 3, 2017, p. H3878. Per communication with NPS in June 2016, NPS considers "longstanding areas" to be those established prior to 2004, with the exception of the National Coal NHA, the Cache Le Poudre River NHA, and the Illinois and Michigan Canal National Heritage Corridor, none of which had a management plan in place at the time. Once a management plan was established, NPS treated these NHAs as Tier II areas.

[32] H.Rept. 116-9 for H.J.Res. 31, p. 721. Similar language was included in the FY2018 Committee Print, see U.S. Congress, House Committee on Appropriations, *Consolidated Appropriations Act, 2018*, committee print, 115th Cong., 2nd sess., H. Comm. Prnt. 115-66 (Washington: GPO, 2018), p. 1139.

[33] Office of the President, *Major Savings and Reforms*, Budget of the United States Government, FY2020, March 18, 2029, p. 57. ("National Heritage Areas are not part of the National Park System, and the lands are not federally owned and managed. The lands within heritage areas tend to remain in State, local, or private ownership. Thus, these grants to

areas to use the federal designation to facilitate sustainable funding opportunities from local and private sources. Prior budget requests in FY2019 and FY2018 also proposed funding only NHA administrative costs, with no funding provided to individual heritage areas.[34]

Another issue of perennial interest to Congress regarding heritage areas is the expiration of funding authorizations for existing NHAs. The laws establishing heritage areas typically contain provisions explicitly authorizing the Secretary of the Interior to provide financial assistance to the areas for certain years. Were the authorization for federal funding to expire, the NHA itself would not necessarily cease to exist. For example, the area could continue to be managed with funding from other sources (unless the authority for the managing entity also expired). Congress sometimes chooses to increase the maximum lifetime funding for specific NHAs and to extend the authorization period for federal funding. However, Congress also has expressed interest in reducing or eliminating the federal funding role for individual heritage areas over time. In its conference report on FY2019 Interior appropriations, for example, Congress directed the NPS to continue to encourage individual heritage areas to develop plans for long-term sufficiency.[35]

# Support, Opposition, and Challenges

Some believe that the benefits of NHAs 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.[36] Advocates see NHAs as unifying forces that increase people's pride in their traditions, foster a spirit of cooperation and unity, and promote a stewardship ethic among the general public.[37]

Advocates of NHAs assert that they foster cultural tourism, community revitalization, and regional economic development.[38] Heritage areas are advertised as entertaining and educational places for tourists, and they 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.[39] In some cases, increased heritage tourism, together with an

State and local entities are not a Federal responsibility. National Heritage Area managers should use the national designation to facilitate more sustainable funding opportunities from local and private beneficiaries... The proposed funding elimination would also allow NPS to focus resources on core park and program operations, such as visitor services.")

[34] NPS, *Budget Justifications and Performance Information Fiscal Year 2018* and *2019*, on the DOI website at https://www.nps.gov/aboutus/budget.htm.

[35] H.Rept. 116-9 for H.J.Res. 31, p. 721.

[36] Testimony of Sara Capen, Chair of the Alliance of National Heritage Areas, in U.S. Congress, Subcommittee on National Parks, Forests, and Public Lands of the House Committee on Natural Resources, hearings, 116th Cong., 1st sess., April 30, 2019, accessed at https://naturalresources.house.gov/imo/media/doc/Capen,%20Sara%20-%20Written%20Testimony.pdf.

[37] National Parks Conservation Association (NPCA), "National Heritage Areas Preserve America's Landscapes and History," web page accessed July 1, 2019, at https://www.npca.org/advocacy/59-national-heritage-areas-preserve-america-s-landscapes-and-history. Hereinafter referred to as NPCA, "National Heritage Areas."

[38] Alliance of National Heritage Areas (ANHA), "Economic Impact," accessed July 1, 2019, at https://www.nationalheritageareas.us/issues/#econ. Hereinafter referred to as ANHA, "Economic Impact."

[39] For examples of community benefits from NHAs, see NPS, "National Heritage Areas – Economic Impact Studies," web page accessed July 1, 2019, at https://www.nps.gov/subjects/heritageareas/economic_impact_studies.htm

emphasis on adaptive reuse of historic resources, has attracted broader business growth and development.[40]

Some supporters see NHAs as generally more desirable than other types of land conservation. They often prefer the designation of NHAs over other federally established designations, because the lands typically remain in nonfederal ownership, to be administered locally.[41] 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.[42] 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; others favor a standardized program and process.[43]

Property rights advocates take the lead in opposing heritage areas. They contend that some national heritage areas lack significant local support.[44] These opponents promote routine notification of private property owners when their lands fall within proposed heritage areas, on the grounds that the NPS could exert a degree of federal control over nonfederal lands by influencing zoning and land-use planning.[45] Some fear that the federal government would not routinely adhere to any private property protections in legislation. 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.[46] Another concern of opponents is that NHA lands may one day be targeted for purchase and direct management by the federal government.[47]

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.[48] Some see a need to establish and define the criteria for creating NHAs, specify what NHAs are and do, and to clarify the federal role in supporting these areas. There are concerns that the enactment of additional heritage bills could substantially increase the NPS's administrative and financial

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[40] ANHA, "Economic Impact."

[41] Alan W. Barton, "From Parks to Partnerships: National Heritage Areas and the Path to Collaborative Participation in the National Park Service's First 100 Years," *Natural Resources Journal* 56 (Winter 2016), at https://digitalrepository.unm.edu/nrj/vol56/iss1/5.

[42] NPCA, "National Heritage Areas."

[43] For examples of proponents in support of the current regulatory structure for NHAs, see Susan Martin-Williams and Steven Selin, "National Heritage Areas: Examining Organizational Development and the Role of the National Park Service as a Federal Partner," proceedings of the 2006 Northeastern Recreation Research Symposium, Bolton Landing, NY, April 9-11, 2006, pp. 367-376. For examples of advocates in support of systemic legislation, see ANHA, "Program Legislation," accessed July 1, 2009, at https://www.nationalheritageareas.us/issues/#program. Hereinafter referred to as ANHA, "Program Legislation."

[44] Peyton Knight, Director of Environmental and Regulatory Affairs, National Center for Public Policy Research, "National Heritage Areas—An Appearance of Innocence," speech presented at Tenth Annual National Conference on Property Rights, Property Rights Foundation of America, Albany, New York, October 14, 2006, accessed at https://prfamerica.org/speeches/10th/NatlHeritageAreas-AppearInnocent.html.

[45] Cheryl Chumley and Ronald D. Utt, "National Heritage Areas: Costly Economic Development Schemes That Threaten Property Rights," *Heritage Foundation Backgrounder* No. 2080, October 23, 2007.

[46] Testimony of Robert J. Smith, Director of the Center for Private Conservation, (108th Congress), June 24, 2004, before the Subcommittee on National Parks of the House Committee on Natural Resources, at https://www.govinfo.gov/content/pkg/CHRG-108shrg96736/pdf/CHRG-108shrg96736.pdf.

[47] Testimony of Carol W. LeGrasse, President of the Property Rights Foundation of America, Inc., (111th Congress), January 21, 2010, before the House Committee on Natural Resources, at https://prfamerica.org/testimony/Testimony1-21-10HudsonRiverStudyAct.html.

[48] ANHA, "Program Legislation."

obligations. Some detractors assert that federal funds would be more appropriately spent on NPS park units and other existing protected areas rather than on the creation of new heritage areas.[49] 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.[50]

Some observers recommend caution in creating NHAs because in practice NHAs may face various challenges to success.[51] For instance, heritage areas may have difficulty providing the infrastructure that increased tourism requires, such as additional parking, lodging, and restaurants. Some 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 not universally accepted as a sustainable approach to resource preservation or economic development.[52] 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. In addition, achieving and maintaining appropriate levels of public commitment to implementation may be challenging.[53]

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[49] P. Daniel Smith, 2019.

[50] GAO, 2004, p. 11.

[51] 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.

[52] Brenda Barrett, "Why is Funding Large Landscape Work So Darn Hard?," *Living Landscape Observer*, July 1, 2015, at https://livinglandscapeobserver.net/why-is-funding-large-landscape-work-so-darn-hard/.

[53] For additional information on challenges to NHA success, see Brenda Barrett, "NHA@30, New National Parks for the 1990s: Thinning the Blood or a Much Needed Transfusion?," *Living Landscape Observer*, January 30, 2014, at http://livinglandscape.observer.net/nha30-new-national-parks-in-the-1990s-thinning-of-the-blood-or-a-much-needed-transfusion/. See also Alan W. Barton, "From Parks to Partnerships: National Heritage Areas and the Path to Collaborative Participation in the National Park Service's First 100 Years," *Natural Resources Journal*, vol. 56 (Winter 2016), pp. 23–54, at https://digitalrepository.unm.edu/nrj/vol56/iss1/5.

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