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National Park System: Establishing New Units

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Summary

The National Park System includes 423 diverse units administered by the National Park Service (NPS) in the Department of the Interior. Units generally are added to the National Park System by acts of Congress, although the President may proclaim national monuments for inclusion in the system on land that is federally managed. An act of Congress creating a National Park System unit may explain the unit's purpose; set its boundaries; provide specific directions for land acquisition, planning, uses, and operations; and authorize appropriations for acquisition and development. Today, there are more than 20 different designations (i.e., titles) for units of the National Park System, reflecting the diversity of the areas.

Before enacting a law to add a unit, Congress often first enacts a law requiring NPS to study an area, typically to assess its national significance, suitability and feasibility, and management options. When Congress directs NPS to prepare a study, the agency must assess whether an area contains natural or cultural resources that are nationally significant, constitutes one of the most important examples of a type of resource, and is a suitable and feasible addition to the park system. The agency also is to consider certain other factors established in law (e.g., threats to resources).

The addition of units to the National Park System sometimes has been controversial. Some discourage adding units, asserting that the system is "mature" or "complete," while others assert that the system should evolve and grow to reflect current events, reinterpretations, and a changing U.S. population. A related issue is how to properly maintain existing and new units given limited fiscal and staffing resources. Differences exist on the relative importance of including areas reflecting the nation's natural, cultural, and social history. The adequacy of standards and procedures for ensuring that the most outstanding areas are included in the park system also has been debated.

It is generally regarded as difficult to meet the criteria and to secure congressional support and funding for expanding the National Park System. Thus, another issue has been whether particular resources are better protected outside the National Park System, and how to secure the best alternative protection. Certain areas that receive technical or financial aid from NPS, but are neither federally owned nor directly administered by NPS, include affiliated areas and national heritage areas. Some programs give places honorary recognition. NPS also supports local and state governments in protecting resources through grants for projects and technical assistance.

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Overview of the System

The National Park System contains 423 units throughout the nation. They are administered by the National Park Service (NPS) in the Department of the Interior (DOI). The system encompasses approximately 85 million acres of land—81 million federally owned acres and 4 million acres of private and other public land (e.g., state land) within NPS unit boundaries.[1] Units range in size from less than one acre to millions of acres. Nearly two-thirds of the total acreage is in Alaska.

In 1872, Congress designated Yellowstone as the world's first national park. Subsequently, the nation slowly developed a system of national parks. While some new areas were administered by DOI, others were managed by different agencies. A 1916 law created NPS within DOI to protect existing and future parks, monuments, and other areas.[2] It charged NPS with promoting and regulating the use of those areas both to conserve them and to provide for their enjoyment by the public. A pair of 1933 executive orders furthered the development of a national system by transferring dozens of sites to NPS from other agencies.[3] The General Authorities Act of 1970 made explicit that all areas managed by NPS are part of a single system, and gave all units of the system equal standing with regard to resource protection.[4] Statutes authorizing particular units sometimes provide additional management direction for those units.

Units of the National Park System generally are managed to preserve resources in their natural or historical conditions for the benefit of future generations. Thus, hunting, mining, and other consumptive resource uses generally are not allowed. However, in the laws creating units, Congress sometimes has specified that some of those uses are allowed.

Today, there are more than 20 different designations (i.e., titles) for units of the National Park System, reflecting the diversity of the areas.[5] There is no statute that sets out and defines all the designations, and Congress has discretion in choosing the type of designation for a unit being established. While some designations are descriptive and possibly self-explanatory, such as "battlefield," others have been used in different ways. For instance, the designation "national monument" has been given to a variety of areas, including natural reservations, historic military forts, prehistoric ruins, fossil sites, and the Statue of Liberty. Some classifications (such as "national park") are unique to NPS, while others (such as "national recreation area") also are used by other land management agencies.

Of the 423 units within the National Park System, 63 are national parks, the so-called crown jewels of the park system. Other commonly used titles include national historic sites (74), national monuments (84), national historical parks (61), national memorials (31), national recreation areas (18), and national preserves (19).[6]

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[1] Park acreage reports are available on the National Park Service (NPS) website at https://www.nps.gov/subjects/lwcf/acreagereports.htm. Figures are current as of December 31, 2021. Of the 81.1 million acres of federally owned land in the National Park System, NPS has full ("fee simple") ownership of 80.0 million acres and manages another 0.4 million acres in less-than-full ownership, for instance, through conservation easements or other partial interests. Other federal agencies own the remaining 0.7 million acres. Of the 4.0 million acres of nonfederal land within the system, 2.6 million acres are privately owned and 1.4 million acres are publicly owned (e.g., by state or local governments).

[2] Act of August 25, 1916; 39 Stat. 535; 54 U.S.C. §§100101 et seq.

[3] Executive Order 6166, June 10, 1933; and Executive Order 6228, July 28, 1933.

[4] 84 Stat. 825; 54 U.S.C. §100101(b).

[5] For further discussion of the different types of park units, see CRS Report R41816, *National Park System: What Do the Different Park Titles Signify?*, by Laura B. Comay.

[6] The numbers of units with each type of designation are on the NPS website at https://www.nps.gov/aboutus/national-

Adding Units by Public Law and Presidential Proclamation

National Park System units are created by acts of Congress, except that national monuments also may be added by presidential proclamation. The Antiquities Act of 1906 authorizes the President to create national monuments on land that is already federally owned or controlled, and that contains historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest.[7]

An act of Congress creating a National Park System unit may explain the unit's purpose; set its boundaries; provide specific directions for land acquisition, planning, uses, and operations; and authorize appropriations for acquisition and development. Bills to create units generally are within the jurisdiction of the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources, with appropriations typically contained in Interior, Environment, and Related Agencies' appropriations acts. Congress sometimes has enacted free-standing legislation to add units to the National Park System. Congress also has authorized units as part of omnibus public land laws containing dozens of measures related to lands and recreation.[8] Legislation creating a new unit often is preceded by legislation to authorize an NPS study of the area, as described below.

Studying Units for Potential Addition to the System

Provisions of law govern Congress's consideration of measures to create units of the National Park System. In 1998, Congress amended existing law pertaining to creating NPS units to standardize procedures, improve the information about potential additions, prioritize areas, focus on outstanding areas, and ensure congressional support for area studies.[9]

Current law does not appear to explicitly require an NPS area study before Congress adds a unit to the National Park System, but any such study requires "specific authorization of an Act of Congress."[10] Before 1998, studies were prepared at the initiative of NPS, individual Members of Congress, and other entities, as well as required by authorization and appropriations laws. The 1998 statutory change sought to eliminate these separate sources for initiating studies, on the grounds that in some years funding was insufficient to cover all studies, and ongoing studies

park-system.htm.

[7] 54 U.S.C. §§320301 et seq. For more information, see CRS Report R41330, *National Monuments and the Antiquities Act*, by Carol Hardy Vincent. Most monuments are managed by NPS, with many newer monuments managed by the Bureau of Land Management or other agencies. Extensions or establishment of monuments in Wyoming require the authorization of Congress (54 U.S.C. §320301(d)), and withdrawals in Alaska exceeding 5,000 acres are subject to congressional approval (16 U.S.C. §3213).

[8] For instance, P.L. 116-9, a public lands omnibus measure enacted in March 2019, authorized the establishment of several new park units.

[9] P.L. 105-391, §303; 54 U.S.C. §100507.

[10] P.L. 105-391, §303; 54 U.S.C. §100507(b)(4). The law also directs the Secretary of the Interior to recommend annually to Congress a list of areas for study for potential inclusion in the National Park System (54 U.S.C. §100507(b)(1)). The list is to be submitted to the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources at the beginning of each year, at the same time as the annual budget submission. Additionally, NPS is to submit to Congress a list of areas *previously* studied that contain primarily historical resources and a list of areas with natural resources (54 U.S.C. §100507(d)). In practice, the lists have not been submitted regularly.

sometimes were not completed because funds were earmarked for other studies. However, NPS has standing authority to take certain actions, provided that they cost less than $25,000. These actions include preliminary activities, such as resource assessments of areas, "reconnaissance surveys" of areas, and updates of previous studies.

After funds are available, NPS must complete a study of an area within three fiscal years.[11] In practice, studies have taken longer to prepare. This is due to the large number of studies authorized by Congress and the extent of available resources.[12] The length of time for completing studies varies, based in part on the complexity of the study, such as the number of stakeholders and whether any environmental issues may be involved.[13] The cost of preparing a study also depends on its complexity, with the average cost estimated at roughly $350,000.[14] Studies must include public involvement, with at least one public meeting held in the local area, and reasonable efforts to notify affected state and local governments and landowners. Studies also must comply with the National Environmental Policy Act (NEPA), which requires an assessment of the potential impact of the proposed action on the human environment.[15]

Criteria for Studies

The NPS studies must consider certain factors established under law to promote the consistency and professionalism of the studies.[16] The law directs NPS to assess whether an area contains natural or cultural resources that are nationally significant, whether it constitutes one of the most important examples of a type of resource, and whether it is a suitable and feasible addition to the system.

NPS has developed criteria for determining national significance, suitability, and feasibility. An area will be regarded as *nationally significant* if it is an outstanding example of a resource; exceptionally illustrates or interprets natural or cultural themes of our country's heritage; provides extraordinary opportunities for public enjoyment or scientific study; and contains a true, accurate, and relatively unspoiled resource.[17]

In evaluating national significance, NPS considers natural and cultural areas, with cultural areas evaluated under the process for national historic landmarks.[18] Examples of nationally significant natural areas might include a refuge that is critical for the survival of a species, a rare landform, or an outstanding scenic area. Cultural areas might include districts, sites, structures, or objects of exceptional quality in interpreting our nation's heritage, such as sites with important associations to the lives of nationally significant Americans, or sites that offer outstanding representations of key themes in U.S. history.

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[11] 54 U.S.C. §100507(c)(1).

[12] For instance, as of January 2022, 23 authorized special resource studies had not yet been completed and transmitted to Congress, according to NPS. These studies pertained to potential park units, national heritage areas, and other designations. CRS communication with NPS Park Planning and Special Studies Division, January 11, 2022.

[13] National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2022*, p. Const-76.

[14] CRS communication with NPS Office of Legislative and Congressional Affairs, January 12, 2022.

[15] 42 U.S.C. §4321. For more information on NEPA evaluations, see CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by Linda Luther.

[16] 54 U.S.C. §100507.

[17] National Park Service, *Management Policies 2006*, pp. 8-9, at https://www.nps.gov/subjects/policy/upload/MP_2006.pdf.

[18] 36 C.F.R. Part 65.

NPS views an area as *suitable* if it portrays a natural or cultural resource insufficiently included in the system, unless a similar area is managed for public use by another agency. An area is *feasible* to add if it is large enough, configured so as to allow long-term protection and public use, and affordable to manage. Other important issues in assessing the feasibility of adding an area to the National Park System include ownership of the land and the cost of acquiring it, access, current and potential land uses, threats to resources, public support, and staff or development requirements. For instance, privately owned land that the owner is unwilling to sell, or that would be expensive to acquire, might not be viewed as feasible. NPS studies of potential new areas also must evaluate a variety of other factors, such as the rarity and integrity of the resources, the socioeconomic effects of addition, and the interpretive and educational uses of the site, among others.[19] Studies also usually discuss boundary possibilities. NPS statistics show that since 2000, about one in three to one in four area studies has concluded that an area is recommended for inclusion.[20]

Other Management Options

In studying an area, NPS must consider whether protection by means other than NPS management is appropriate.[21] Options may include administration by other federal agencies, state or local governments, Native American authorities, and the private sector. Consideration may be given to technical or financial assistance; other designations, including wilderness, national trail, or national historic landmark; and cooperative management between NPS and another agency. NPS generally will not recommend adding an area to the National Park System if another arrangement already provides, or could provide for, sufficient protection and public use. The study must identify the best alternative(s) for protecting resources and allowing public enjoyment. Each study sent to Congress must be accompanied by a letter from the Secretary of the Interior that identifies the preferred management option for the area, to minimize uncertainty about NPS's position.[22]

Issues

The addition of units to the National Park System sometimes has been controversial. Some discourage adding units, asserting that the system is "mature" or "complete," while others assert that the system should evolve and grow to reflect current events, new information, and reinterpretations. A related issue is how to properly maintain existing and new units given limited fiscal and staffing resources. In general, the Trump Administration did not support the creation of new park units and the expansion of existing units, as it sought instead to focus funds on maintaining current units.[23] The Trump Administration supported some expansions on the grounds that they could be accomplished for relatively little cost.[24] Supporters of new units have

[19] 54 U.S.C. §100507(c)(4)(A).

[20] CRS calculations based on data received from NPS Park Planning and Special Studies Division, January 11, 2022. The estimate includes sites studied for potential addition as units of the National Park System but excludes studies of areas for other types of designation, such as national heritage area or national historic trail designation.

[21] 54 U.S.C. §100507(c)(4)(B).

[22] 54 U.S.C. §100507(c)(6).

[23] Among other examples, see NPS testimony on H.R. 139, H.R. 1487, H.R. 4139, H.R. 7098, S. 774, and S. 2340 in the 116th Congress, at https://www.doi.gov/ocl/hearings/116.

[24] Among other examples, see NPS testimony on H.R. 4840 and H.R. 5458 in the 116th Congress, at https://www.doi.gov/ocl/hearings/116. President Trump also used his executive authority under the Antiquities Act to

charged that the older units are the most costly. To date, the Biden Administration has expressed support for some bills to establish or expand national park units (e.g., on the grounds that the proposed sites meet criteria for inclusion and that the additions are supported by local stakeholders) and has expressed reservations about other proposals (e.g., on the grounds that NPS has not studied the sites proposed for addition).[25]

Differences exist as to the relative importance of including areas reflecting U.S. natural, cultural, and social history. The adequacy of standards and procedures for assuring that the most outstanding areas are included in the system also has been debated. Critics contend that the system has been weakened by including inappropriate areas, especially where authoritative information was unavailable, incomplete, or disregarded in favor of political considerations.[26] Others counter that there will always be disagreement over the worth of areas, and that recently added areas have been held to the same high standards as older units.[27] Some contend that the system must evolve to represent a greater diversity of American heritage than was historically reflected in the national parks.[28] Another issue has been whether particular resources are better protected outside the National Park System, and how to secure the best alternative protection.

Alternatives to Inclusion in the National Park System

It is generally regarded as difficult to meet the criteria and to secure congressional support and funding for expanding the National Park System. While there often is considerable interest in establishing new units, usually no more than a handful of units are created in each Congress.

Many areas are preserved outside the National Park System. Some of these are protected with recognition or assistance by NPS. Certain areas that receive technical or financial aid from NPS, but are neither federally owned nor directly administered by NPS, have been classified by NPS as affiliated areas.[29] Affiliated areas are nationally significant but may not meet other criteria for inclusion in the Park System. Under NPS policy, they are worthy of special NPS recognition or assistance beyond existing programs, are managed in accordance with standards applicable to park units, and are to receive sustained resource protection as detailed in an agreement between NPS and the nonfederal manager of the area.[30] In the past, the affiliated areas have included

add one new unit to the National Park System (Camp Nelson National Monument).

[25] For example, see NPS testimony on H.R. 268, H.R. 1117, H.R. 4648, H.R. 4706, S. 270, S. 1284, S. 1317, and S. 1321 in the 117th Congress, at https://www.doi.gov/ocl/hearings/117.

[26] For example, see Senator Tom Coburn, *Parked! How Congress' Misplaced Priorities Are Trashing Our National Treasures*, 2013, at http://www.landrights.org/ActionAlerts/Sen%20Coburn%20Report%20on%20NPS-Parked-1029131a.pdf.

[27] For example, see NPS hearing testimony on bills for recent additions to the National Park System, such as S. 1284, 117th Congress (Amache National Historic Site); S. 2889/H.R. 4895, 115th Congress (Medgar and Myrlie Evers Home National Monument); S. 3176/H.R. 5979, 115th Congress (Mill Springs Battlefield National Monument); H.R. 664, 113th Congress (Harriet Tubman National Historical Park and Harriet Tubman Underground Railroad National Historical Park); and S. 507, 113th Congress (Manhattan Project National Historical Park).

[28] For example, see Center for American Progress, "Better Reflecting Our Country's Growing Diversity: Progress Has Been Made, But Work Remains for National Parks and Monuments," February 19, 2014, at https://www.americanprogress.org/article/better-reflecting-our-countrys-growing-diversity/.

[29] For more information on NPS affiliated areas, see CRS In Focus IF11281, *National Park Service Affiliated Areas: An Overview*, by Mark K. DeSantis.

[30] *NPS Management Policies 2006*, Section 1.3.4, at https://www.nps.gov/subjects/policy/upload/MP_2006.pdf.

properties primarily recognized for cultural or commemorative worth. Affiliated areas have been created by act of Congress and by designation of the Secretary of the Interior. Currently, there are about two dozen affiliated areas.[31]

Congress has established national heritage areas containing land and properties that reflect the history of their people.[32] Typically, heritage areas consist mainly of private properties and may include natural, scenic, historic, cultural, or recreation resources. Conservation, interpretation, and other activities are handled by partnerships among federal, state, and local governments and nonprofit organizations, and for each area Congress has recognized a "management entity" to coordinate efforts. NPS supports these efforts through technical and financial assistance, and such support is not intended to be permanent. Supporters of heritage areas have asserted that they reduce pressure to add new, costly, and possibly inappropriate areas to the National Park System, while opponents have feared that they could be used to extend federal control over nonfederal land. Differences also have existed over whether to create a comprehensive heritage program containing priorities and standards for establishing heritage areas.

Some programs give places honorary recognition. Cultural resources may be listed by NPS in the National Register of Historic Places as meriting preservation and special consideration in planning for federal or federally assisted projects.[33] The Secretary of the Interior may designate natural areas as national natural landmarks, and cultural areas as national historic landmarks. National parks, monuments, and other areas of international worth may, at the request of the United States, be recognized by the United Nations as world heritage sites or biosphere reserves. Congress or the Secretary of the Interior may designate rivers as components of the National Wild and Scenic Rivers System,[34] and trails as part of the National Trails System.[35]

NPS also supports local and state governments in protecting resources. The agency may provide grants for projects (including acquisition and development of recreational facilities) and technical assistance (for conserving rivers, trails, natural areas, and cultural resources). In addition to this range of NPS programs, resources are protected by the private sector, state and local governments, and other federal agencies.

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[31] Brief descriptions of most affiliated areas are included in Part 3 (Related Areas) of *The National Parks: Index 2012-2016*, at https://www.nps.gov/aboutus/upload/NPIndex2012-2016.pdf.

[32] For more information on heritage areas, see CRS Report RL33462, *Heritage Areas: Background, Proposals, and Current Issues*, by Mark K. DeSantis.

[33] For more information, see CRS Report R45800, *The Federal Role in Historic Preservation: An Overview*, by Mark K. DeSantis.

[34] For information on national wild and scenic rivers, including their designation and management, see CRS Report R45890, *Wild and Scenic Rivers: Designation, Management, and Funding*, by Anne A. Riddle.

[35] For information on national trails, see CRS Report R43868, *The National Trails System: A Brief Overview*, by Mark K. DeSantis and Sandra L. Johnson.

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