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Testimony

Before the Subcommittee on National
Parks, Committee on Energy and Natural
Resources, U.S. Senate

For Release on Delivery
Expected at 2:30 p.m. EDT
Thursday, June 24, 2004

NATIONAL PARK SERVICE

**Comments on Provisions of
S. 2543, a Bill to Establish a
Federal Program and
Criteria for National
Heritage Areas**

Statement of Barry T. Hill, Director
Natural Resources and Environment





Highlights of [GAO-04-914T](#), testimony before the Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate

Why GAO Did This Study

The Congress has established, or “designated,” 24 national heritage areas to recognize the value of their local traditions, history, and resources to the nation's heritage. These areas, including public and private lands, receive funds and assistance through cooperative agreements with the National Park Service, which has no formal program for them. They also receive funds from other agencies and nonfederal sources, and are managed by local entities. Growing interest in new areas has raised concerns about rising federal costs and the risk of limits on private land use.

GAO was asked to comment on how provisions of S. 2543 might affect issues identified in GAO's March 2004 testimony addressing the process for (1) designating heritage areas, (2) determining the amount of federal funding to these areas, (3) overseeing areas' activities and use of federal funds, and (4) determining the effects, if any, they have on private property rights.

What GAO Recommends

The Congress may wish to consider amending S. 2543 to direct the Secretary of the Interior to (1) review areas' financial audit reports and (2) develop results-oriented goals and measures for the Park Service's overall heritage area program.

www.gao.gov/cgi-bin/getrpt?GAO-04-914T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Barry T. Hill at (202) 512-3841 or hillbt@gao.gov.

NATIONAL PARK SERVICE

Comments on Provisions of S. 2543, a Bill to Establish a Federal Program and Criteria for National Heritage Areas

What GAO Found

Provisions of S. 2543 would establish a systematic process for identifying and designating national heritage areas, addressing many of the concerns identified in GAO's March 2004 testimony. At that time, GAO reported that no such systematic process exists, noting that the Congress has, in some instances, designated heritage areas before the Park Service has fully evaluated them. S. 2543 contains provisions that would require that a suitability study be completed and the Park Service determine the area meets certain criteria before the Congress designates a heritage area. While the bill defines heritage areas more specifically in terms of their national significance, the criteria outlined in S. 2543 will benefit from guidance that the Park Service has recently developed to guide the application of the criteria. This guidance will improve the designation process.

Provisions of S. 2543 would limit the amount of federal funds that can be provided to heritage areas through the Park Service's budget. In March 2004, GAO testified that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. Specifically, for 22 of the 24 heritage areas where data were available, \$156 million of the areas' \$310 million in total funding came from the federal government. Of this, over \$50 million came from Park Service funds dedicated for this purpose, \$44 million from other Park Service programs, and about \$61 million from 11 other federal sources. S. 2543 would restrict annual dedicated Park Service funding for heritage areas to \$15 million. Individual areas may not receive more than \$1 million in a given fiscal year and \$10 million over 15 years.

Furthermore, S. 2543 includes provisions that could enhance the Park Service's ability to hold heritage areas accountable for their use of federal funds. In this regard, S. 2543 (1) establishes a program that would provide the Park Service with the direction and funding needed to manage the agency's and the heritage areas' activities; (2) establishes a schedule and criteria for reviewing and approving heritage areas' management plans; (3) identifies criteria for use in reviewing areas' plans; (4) requires that the plans include information on, among other things, performance goals and the roles and functions of partners; and (5) requires areas to submit annual reports specifying, among other things, performance goals and accomplishments, expenses and income, and amounts and sources of funds. GAO has identified potential amendments to S. 2543 that would further enhance areas' accountability.

S. 2543 includes provisions that address some of the concerns GAO identified in March with regard to heritage areas' potential restrictions on property owners' rights and land use. For example, S. 2543 allows property owners to refrain from participating in any planned project or activity within the heritage area. Furthermore, the bill does not require any owner to permit public access to property and does not alter any existing land use regulation, approved land use plan, or other regulatory authority.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss provisions of S. 2543, the National Heritage Partnership Act, which proposes, among other things, to establish a federal program and criteria for designating national heritage areas. Over the past two decades, the Congress has established, or “designated,” 24 national heritage areas and provided them with millions of dollars in financial assistance through the National Park Service. Furthermore, the number of bills introduced to study or designate new areas has grown considerably in recent years. In the 108th Congress alone, as of early March 2004, over 30 bills had been introduced to either study or designate new areas. This growing interest in creating new heritage areas has raised concerns that their numbers may expand rapidly and significantly increase the amount of federal funds supporting them. In addition, private property rights advocates are concerned that heritage area designations could increase the risk that federal controls or other limits will be placed on private land use.

Currently, heritage areas receive funding through the National Park Service’s budget, although the agency has no formal heritage area program. The Park Service provides technical assistance to the areas through cooperative agreements, and the Congress appropriates to the agency limited funds for these activities.¹ Funds provided to heritage areas are considered to be “seed” money to assist them in becoming sufficiently established to develop partnerships with state and local governments, businesses, and other nonfederal organizations as their principal funding sources. Heritage areas also receive funds from other federal agencies through a variety of programs, primarily the Department of Transportation for road and infrastructure improvements. On March 30, 2004, my testimony before this Subcommittee identified a number of issues that need to be addressed to improve the effectiveness of the heritage area initiative.²

¹Although no heritage area program exists within the Park Service, the Congress has provided the Park Service an annual appropriation for administering its heritage area activities. The agency has allocated these amounts to fund a national coordinator position in the Park Service’s headquarters, which directs and monitors the agency’s heritage area activities.

²U.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, (Washington, D.C.: March 30, 2004).

Through several provisions of S. 2543, the Congress is now considering whether it should establish a permanent program that would provide direction and funding for the Park Service's heritage area activities. Central to the debate is the absence of a systematic process and specific criteria for identifying and designating national heritage areas that would ensure that only the most qualified sites become heritage areas and the implications for the federal budget. In this regard, my testimony today focuses on how S. 2543's provisions may affect the process for (1) designating heritage areas, (2) determining the amount of federal funding to these areas, (3) overseeing areas' activities and use of federal funds, and (4) determining the effects, if any, they have on private property rights.

My testimony today is based on the work conducted for our March testimony, which was performed in accordance with generally accepted government auditing standards.

In summary:

- S. 2543 contains provisions that would establish a systematic process for determining the suitability of proposed sites as national heritage areas and for designating those areas found to be qualified. In our March 2004 testimony, we stated that no such systematic process currently exists. In this regard, we noted that, while the Congress generally has made designation decisions with the advice of the Park Service, it has, in some instances, designated heritage areas before the agency has fully evaluated them. S. 2543, however, would require that a suitability-feasibility study be completed and that the Secretary determine the area meets certain criteria before the Congress designates a heritage area. While the bill defines heritage areas more specifically in terms of their national significance, the criteria outlined in S. 2543 for determining an area's qualifications as a heritage area are similar to those currently used by the Park Service and would benefit from supplementary implementing guidance. The Park Service has recently developed guidance for applying its criteria, which will supplement the criteria identified in S. 2543 and improve the process for identifying and designating heritage areas.
- Provisions of S. 2543 would limit the amount of federal funds that can be provided to national heritage areas through the National Park Service's budget. In our March 2004 testimony, we stated that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. According to data from 22 of the 24 heritage areas, the areas received about \$310 million in total funding. Of this total, about \$154 million came from state and local governments and private sources and another \$156 million came from the federal government. Over \$50 million

was dedicated heritage area funds provided through the Park Service, with another \$44 million coming from other Park Service programs and about \$61 million from 11 other federal sources. S. 2543 would restrict the funding for heritage areas that is allocated through the Park Service's budget to \$15 million for each fiscal year. Of this amount, an individual area could receive not more than \$1 million in a given fiscal year and not more than \$10 million over 15 years. While this provision would restrict the amount of federal funds passing from the Park Service—the largest provider of federal funds—to the heritage areas, these areas can obtain funding from other federal agencies as well.

- S. 2543 includes a number of provisions that could enhance the Park Service's ability to hold national heritage areas accountable for their use of federal funds. In March, we stated that the agency had not always reviewed areas' financial audit reports, developed consistent standards for reviewing areas' management plans, and developed results-oriented goals and measures for the agency's heritage area activities, or required the areas to adopt a similar approach. Park Service officials said that the agency has not taken these actions because, without a program, it lacks adequate direction and funding. In this regard, provisions of S. 2543 (1) establish a program that would provide the Park Service with the direction and funding agency officials believe they need to more effectively manage their own and the heritage areas' activities; (2) establish a schedule and criteria for reviewing and approving or disapproving heritage areas' management plans; (3) identify criteria for determining whether to approve an area's plan; (4) require that the plans include information on, among other things, performance goals, the roles and functions of partners, and specific commitments by the partners to accomplish the activities outlined in the plan; and (5) require each area to submit an annual report specifying, among other things, performance goals and accomplishments, expenses and income, amounts and sources of matching funds and leveraged federal funds, and grants made to any other entity. The Congress may wish to consider specific amendments to S. 2543 that would further enhance the Park Service's ability to hold areas accountable.
- S. 2543 includes provisions that address some of the concerns we identified in March with regard to potential restrictions that the national heritage areas may place on property owners' rights and land use. Among other assurances, S. 2543 provides property owners the right to refrain from participating in any planned project or activity conducted within the national heritage area. Furthermore, it does not require any property owner to permit public access or modify public access under any other federal, state, or local law. It also does not alter any adopted land use

regulation, approved land use plan, or other regulatory authority of any federal, state, or local authority.

We believe that several of the provisions of S. 2543 would represent positive steps towards addressing the concerns we raised in March, in particular with regard to the need for a more systematic approach for establishing heritage areas and greater accountability.

Background

To date, the Congress has designated 24 national heritage areas, primarily in the eastern half of the country. Generally, national heritage areas focus on local efforts to preserve and interpret the role that certain sites, events, and resources have played in local history and their significance in the broader national context. Heritage areas share many similarities—such as recreational resources and historic sites—with national parks and other park system units but lack the stature and national significance to qualify them as these units.

The process of becoming a national heritage area usually begins when local residents, businesses, and governments ask the Park Service, within the Department of the Interior, or the Congress for help in preserving their local heritage and resources. In response, although the Park Service currently has no program governing these activities, the agency provides technical assistance, such as conducting or reviewing studies to determine an area's eligibility for heritage area status. The Congress then may designate the site as a national heritage area and set up a management entity for it. This entity could be a state or local governmental agency, an independent federal commission, or a private nonprofit corporation. Usually within 3 years of designation, the area is required to develop a management plan, which is to detail, among other things, the area's goals and its plans for achieving those goals. The Park Service then reviews these plans, which must be approved by the Secretary of the Interior.

After the Congress designates a heritage area, the Park Service enters into a cooperative agreement with the area's management entity to assist the local community in organizing and planning the area. Each area can receive funding—generally limited to not more than \$1 million a year for 10 or 15 years—through the Park Service's budget. The agency allocates the funds to the area through the cooperative agreement.

S. 2543 Would Establish a Systematic Process for Identifying and Designating Proposed National Heritage Areas

As proposed, S. 2543 would establish a systematic process for determining the suitability of proposed sites as national heritage areas and for designating those areas found to be qualified. In our March 2004 testimony, we stated that no systematic process exists for identifying qualified candidate sites and designating them as national heritage areas. We noted that, while the Congress generally has made designation decisions with the advice of the Park Service, it has, in some instances, designated heritage areas before the agency has fully evaluated them. Specifically, the Congress designated 10 of the 24 existing heritage areas without a thorough Park Service review of their qualifications and, in 6 of the 10 cases, the agency had recommended deferring action. S. 2543, however, would create a more systematic process that would make the Congress' designation of a heritage area contingent on the prior completion of a suitability-feasibility study and the Secretary's determination that the area meets certain criteria. In addition, under S. 2543, the Secretary could recommend against designation of a proposed heritage area based on the potential budgetary impact of the designation or other factors.

Provisions in S. 2543 identify a number of criteria for the Secretary to use in determining a site's suitability and feasibility as a national heritage area, including its national significance to the nation's heritage and whether it provides outstanding recreational or educational opportunities. S. 2543 defines a heritage area as an area designated by the Congress that is nationally significant to the heritage of the United States and meets the other criteria specified in the bill. Further, S. 2543 defines national significance as possessing unique natural, historical, and other resources of exceptional value or quality and a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States. Despite these very specific definitions, however, the criteria outlined in S. 2543 for determining an area's suitability are very similar to those currently used by the Park Service. Our March 2004 testimony pointed out that these criteria are not specific enough to determine areas' suitability. For example, one criterion states that a proposed area should reflect "traditions, customs, beliefs, and folk life that are a valuable part of the national story." These criteria are open to interpretation and, using them, the agency has eliminated few sites as prospective heritage areas. As we stated in March, officials in the Park Service's Northeast region, for example, believe the criteria are inadequate for screening purposes. The Park Service's heritage area national coordinator believes, however, that the criteria are valuable but that the regions need additional guidance to apply them more consistently. The Park Service has recently developed guidance for applying these criteria, which will help to clarify how both

the existing criteria and the criteria proposed in S. 2543 could be applied to better determine the suitability of a prospective heritage area.

Provisions in S. 2543 Would Limit the Amount of Federal Funds Dedicated to National Heritage Areas

S. 2543 would impose some limits on the amount of federal funds that can be provided to national heritage areas through the National Park Service's budget. In our March 2004 testimony, we stated that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. According to data from 22 of the 24 heritage areas, the areas received about \$310 million in total funding. Of this total, about \$154 million came from state and local governments and private sources and another \$156 million came from the federal government. Over \$50 million was dedicated heritage area funds provided through the Park Service, with another \$44 million coming from other Park Service programs and about \$61 million from 11 other federal sources. We also pointed out that the federal government's total funding to these heritage areas increased from about \$14 million in fiscal year 1997 to about \$28 million in fiscal year 2002, peaking at over \$34 million in fiscal year 2000. Table 1 shows the areas' funding sources from fiscal years 1997 through 2002.

Table 1: National Heritage Area Funding from All Sources, Fiscal Years 1997-2002.

Source	Amount	Percentage
Total Park Service funds	\$95,393,506	30.8
Dedicated heritage area funds ^a	50,922,562	16.5
Other Park Service support funds ^b	44,470,944	14.3
Total other federal funds	\$60,545,816	19.5
Department of Transportation	55,852,269	18.0
Department of Education	2,000,000	0.6
Department of Agriculture	547,009	0.2
Department of Housing and Urban Development	420,183	0.1
Environmental Protection Agency	400,000	0.1
Army Corps of Engineers	266,000	0.1
Department of Commerce	96,555	0.0
National Railroad Passenger Corporation	23,800	0.0
National Endowment for the Arts	5,000	0.0
Federal earmarks and awards ^c	935,000	0.3
Total nonfederal funds	\$154,078,203	49.7
State governments	61,404,323	19.8
Local governments	46,612,624	15.0
Nonprofit organizations	7,255,416	2.3
Private foundations	14,515,996	4.7
Corporate sponsors	2,126,870	0.7
Other nonfederal funding sources	22,163,473	7.2
Total	\$310,017,525	100.0

Source: GAO analysis of data obtained from 22 of the 24 heritage areas.

^aThese funds were provided through the Park Service's Heritage Partnership Program and Statutory and Contractual Aid budget line items. The Heritage Partnership Program promotes the conservation of natural, historic, scenic, and cultural resources. Statutory and Contractual Aid provides financial assistance in the planning, development, or operation of natural, historical, cultural, or recreation areas that are not managed by the Park Service.

^bThese funds are from other Park Service budget line items—including the Land and Water Conservation Fund, Operation of the National Park Service and the Construction Fund—that are not typically reported as part of heritage area funding but include funding for specific projects undertaken by heritage areas.

^cThese funds earmarked for Federal Government Pass-Through Awards (\$610,000) and Hugh Moore Historical Park & Museums, Inc. (\$325,000).

S. 2543 restricts the funding for heritage areas that is allocated through the Park Service's budget to \$15 million for each fiscal year. Of this amount, not more than \$1 million may be provided to an individual area in a given fiscal year and not more than \$10 million over 15 years. For any fiscal year,

the costs for oversight and administrative purposes cannot exceed more than 5 percent of the total funds. While this provision restricts the amount of federal funds passing from the Park Service—the largest provider of federal funds—to the heritage areas, these areas can obtain funding from other federal agencies as well.

In March, we also pointed out that, generally, each area’s designating legislation imposes sunset provisions to limit the amount of federal funds provided to each heritage area. However, since 1984, five areas that reached their sunset dates had their funding extended. S. 2543 establishes a fixed time frame after which no additional funding, except for technical assistance and administrative oversight, will be provided. Specifically, it states that the Secretary of the Interior can no longer provide financial assistance after 15 years from the date that the local coordinating, or management, entity first received assistance.

S. 2543 Includes a Number of Provisions to Enhance the Park Service’s Ability to Hold National Heritage Areas Accountable for Their Use of Federal Funds

S. 2543 includes a number of provisions that could enhance the Park Service’s ability to hold national heritage areas accountable for their use of federal funds. In March, we stated that the Park Service oversees heritage areas’ activities by monitoring their implementation of the terms set forth in cooperative agreements. These terms, however, did not include several key management controls. That is, the agency had not (1) always reviewed areas’ financial audit reports, (2) developed consistent standards for reviewing areas’ management plans, and (3) developed results-oriented goals and measures for the agency’s heritage area activities, or required the areas to adopt a similar approach. Park Service officials said that the agency has not taken these actions because, without a program, it lacks adequate direction and funding. We recommended that, in the absence of a formal heritage area program within the Park Service, the Secretary of the Interior direct the Park Service to develop well-defined, consistent standards and processes for regional staff to use in reviewing and approving heritage areas’ management plans; require regional heritage area managers to regularly and consistently review heritage areas’ annual financial reports to ensure that the agency has a full accounting of their use of funds from all federal sources; develop results-oriented performance goals and measures for the agency’s heritage area activities, and require, in the cooperative agreements, that heritage areas adopt such a results-oriented management approach as well.

S. 2543 takes several steps that will enhance accountability. In this regard, S. 2543 establishes a formal program for national heritage areas to be administered by the Secretary of the Interior. By establishing this program,

the bill would provide the Park Service with the direction and funding that agency officials believe they need to impose management controls on their own and heritage areas' activities. Furthermore, S. 2543 includes a number of provisions that address the concerns we raised in March. First, the bill establishes a schedule and criteria for reviewing and approving or disapproving heritage areas' management plans. The Secretary must approve or disapprove the management plan within 180 days of receiving it. If disapproved, the Secretary must advise the local coordinating entity in writing of the reason for disapproval and may make recommendations for revision. After receiving a revised management plan, the Secretary must approve or disapprove the revised plan within 180 days. In addition, the bill identifies criteria that the Secretary is to use in determining whether to approve an area's plan. This is a positive step towards establishing the well-defined, consistent standards and processes for reviewing and approving areas' management plans that we recommended in March.

S. 2543 also requires that the management plans include information on, among others, performance goals, the roles and functions of partners, and specific commitments by the partners to accomplish the activities outlined in the management plan. Furthermore, to ensure better accountability, the local coordinating entity must submit an annual report to the Secretary for each fiscal year for which the entity receives federal funds. This report must specify, among other things, the local coordinating entity's performance goals and accomplishments, expenses and income, amount and sources of matching funds, amounts and sources of leveraged federal funds, and grants made to any other entity during the fiscal year.

While provisions contained in S. 2543 address some of the issues we raised in our March testimony, they do not require that the Park Service consistently review areas' financial audit reports or develop results-oriented goals and measures for the agency's heritage area activities as we recommended in March. We continue to believe that these are important management controls that are necessary to ensure effective oversight and accountability.

S. 2543 Provides Some Measures for Ensuring That Owners' Use of Their Property Is Not Restricted by the Establishment of Heritage Areas

S. 2543 includes provisions to ensure that property owners' rights and land use are not restricted by the establishment of national heritage areas. In our March testimony, we stated that national heritage areas do not appear to have affected property owners' rights. In fact, the designating legislation of 13 areas and the management plans of at least 6 provide assurances that such rights will be protected. However, property rights advocates are concerned about the effects of provisions in some management plans that encourage local governments to implement land use policies that are consistent with the heritage areas' plans. Some advocates are concerned that these provisions may allow the heritage areas to indirectly influence zoning and land use planning in ways that could restrict owners' use of their property.

S. 2543 provides property owners the right to refrain from participating in any planned project or activity conducted within the national heritage area. Furthermore, it does not require any property owner to permit public access, nor does it modify public access under any other federal, state, or local law. It also does not alter any adopted land use regulation, approved land use plan, or other regulatory authority of any federal, state, or local authority.

Conclusions

The growing interest in creating new heritage areas has raised concerns that their numbers may expand rapidly and significantly increase the amount of federal funds supporting them. A significant increase in new areas would put increasing pressure on the Park Service's resources. Therefore, it is important to ensure that only those sites that are most qualified are designated as heritage areas. However, as we noted in March, no systematic process for designating these areas exists, and the Park Service does not have well-defined criteria for assessing sites' qualifications or provide effective oversight of the areas' use of federal funds and adherence to their management plans. As a result, the Congress and the public cannot be assured that future sites will have the necessary resources and local support needed to be viable or that federal funds supporting them will be well spent. Park Service officials pointed to the absence of a formal program as a significant obstacle to effective management of the agency's heritage area efforts and oversight of the areas' activities. As a result, the Park Service is constrained in its ability to determine both the agency's and areas' accomplishments, whether the agency's resources are being employed efficiently and effectively, and if federal funds could be better utilized to accomplish its goals.

Several of the provisions in S. 2543 represent positive steps towards addressing the concerns we raised in March. In particular, by establishing a formal program, the bill would remove the obstacle to effective management and oversight identified by agency officials. Furthermore, by establishing a more systematic process for designating heritage areas, S. 2543's provisions can help to ensure that only the most qualified sites become heritage areas. In addition, by placing a \$15 million per year cap on funding to the heritage areas through the Park Service, the bill limits the federal government's funding commitment to these areas. Finally, provisions in S. 2543 would enhance the Park Service's ability to oversee and hold areas accountable for their use of federal funds by establishing criteria for reviewing and approving areas' management plans and by requiring heritage areas to annually report on performance goals and accomplishments.

Matters for Congressional Consideration

To ensure greater accountability for the use of federal funds, the Congress may wish to consider amending S. 2543 by adding provisions directing the Secretary to (1) review heritage areas' annual financial reports to ensure that the agency has a full accounting of heritage area funds from all federal sources, and (2) develop results-oriented performance goals and measures for the Park Service's overall heritage area program.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you or other Members of the Subcommittee may have.

Contacts and Acknowledgements

For more information on this testimony, please contact Barry T. Hill at (202) 512-3841. Individuals making key contributions to this testimony included Preston S. Heard, Roy K. Judy, and Vincent P. Price.

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