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Essential Air Service (EAS)

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September 3, 2015

Congressional Research Service
7-....
www.crs.gov
R44176

Summary

The Airline Deregulation Act of 1978 gave airlines almost total freedom to determine which domestic markets to serve and what airfares to charge. This raised the concern that communities with relatively low passenger levels would lose service as carriers shifted their operations to serve larger and often more profitable markets. To address this concern, Congress established the Essential Air Service (EAS) program to ensure that small communities that were served by certificated air carriers before deregulation would continue to receive scheduled passenger service, with subsidies if necessary.

The EAS program is administered by the Office of the Secretary of the U.S. Department of Transportation (DOT), which enforces the eligibility requirements and determines the level of service required at eligible communities. As of June 1, 2015, 159 communities in the United States received subsidized service under EAS.

Over the years, Congress has limited the scope of the program, mostly by eliminating subsidy support for communities within a specified driving distance of a major hub airport and capping subsidies under certain criteria. The FAA Modernization and Reform Act of 2012 (P.L. 112-95) included additional EAS reform measures, including the requirement that a community have a minimum number of daily enplanements to remain eligible for subsidy. Further, the Consolidated Appropriations Act, 2014 (P.L. 113-76), and the Continuing Appropriations Resolution, 2015 (P.L. 113-164), introduced additional measures to shrink the program. As of yet, some of these measures have not been fully enforced.

Despite these efforts to limit spending for EAS subsidies, program expenditures have risen 123% since 2008, after adjusting for inflation, and are projected to continue rising through FY2016. Some factors contributing to the rising program costs are external, such as unusually high aviation fuel prices from 2008 through 2014 and the prospect of higher pilot wage costs due to changes in federal regulations. However, certain features of the EAS program itself may have contributed to the rising costs. The statute governing EAS does not list cost among the four factors DOT must consider when evaluating air carriers' bids to provide subsidized EAS service, and neither the carriers nor the communities receiving subsidized service are obliged to select service options that minimize the government's costs.

EAS traditionally has been authorized in laws reauthorizing the Federal Aviation Administration (FAA) and other civil aviation programs. The current authorization act expires September 30, 2015. EAS is likely to be among the subjects of debate as Congress considers extending the current law or writing a new authorization act.

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Introduction

The Airline Deregulation Act of 1978 (P.L. 95-504) granted U.S. passenger airlines almost total freedom to determine which domestic markets to serve and what airfares to charge. With the advent of deregulation, there were concerns that small communities would lose air service because airlines would shift their operations to serve larger and often more profitable markets. To address these concerns, Congress established the Essential Air Service (EAS) program in the Airline Deregulation Act to ensure continuous air service to small communities.

Initially, approximately 746 communities were eligible. However, not all eligible communities required EAS subsidies. Some communities have been receiving unsubsidized service because air carriers have been willing to offer service without subsidy; some have been receiving subsidized service under EAS from the very beginning; others initially supported unsubsidized service, but later sought subsidies, or vice versa; some were subsidized but later lost their eligible status and are no longer in the program.

Over time, Congress has tightened the conditions under which communities can receive subsidized air service. Nonetheless, program expenditures have increased sharply, more than doubling in inflation-adjusted terms between 2008 and 2014. As of June 1, 2015, a total of 159 communities received subsidized EAS service.

Legislative History

Section 419 of the Federal Aviation Act,[1] as amended by the Airline Deregulation Act (P.L. 95-504) in 1978, established a program to continue airline service to small communities. The program was initially seen as transitional, and was set to expire after 10 years. This program was originally administered by the Civil Aeronautics Board, whose duties were later transferred to the U.S. Department of Transportation (DOT). The Airline Deregulation Act authorized the Civil Aeronautics Board to require carriers to continue providing scheduled service at eligible communities after deregulation,[2] with subsidies if necessary.

The Airline Deregulation Act made communities receiving scheduled air service from a certificated carrier on October 24, 1978, eligible for EAS benefits. At that time, there were 746 eligible communities, including 237 in Alaska and 9 in Hawaii. According to a DOT estimate, fewer than 300 of these 746 communities received subsidized service under EAS at any time between 1979 and 2015.

As the 10-year expiration date approached in 1988, Congress extended EAS for another 10 years. In the Federal Aviation Reauthorization Act of 1996 (P.L. 104-264), Congress removed the 10-year time limit, extending the program indefinitely.[3]

For the first 12 years of the program, the sole criterion for EAS eligibility was whether the community was receiving scheduled air service on October 24, 1978, the date that the Airline

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[1] Effective June 1994, the Federal Aviation Act was recodified as subtitles II, III, and V-X of 49 U.S.C., "Transportation." The former Section 419 of the Federal Aviation Act is now 49 U.S.C. §§41731-41742.

[2] Before deregulation, air carriers' operating certificates for most of these communities required carriers to provide two daily round trips. The prospect of allowing carriers to terminate scheduled service without federal approval raised concern in Congress that communities with relatively low traffic levels would lose air service entirely as airlines shifted their operations to larger and potentially more profitable markets.

[3] P.L. 104-264 §278 amended 49 U.S.C. §41742, eliminating the EAS program expiration date of September 30, 1998.

Deregulation Act was signed into law. Over the following years, Congress and DOT have worked to limit the scope of the program, mostly by eliminating subsidy support for communities within a specified driving distance of a major hub airport.

The Department of Transportation and Related Agencies Appropriations Act, 2000 (P.L. 106-69, §332), enacted two EAS eligibility requirements, prohibiting subsidies to carriers for service provided to (1) communities in the 48 contiguous states that are located fewer than 70 highway miles from the nearest large or medium hub airport, or (2) communities that require a per-passenger subsidy rate in excess of $200, unless such point is greater than 210 miles from the nearest large or medium hub airport.

In 2003, the Vision 100—Century of Aviation Reauthorization Act (P.L. 108-176, §405) directed DOT to establish Community and Regional Choice Programs as alternatives to the traditional EAS service. In the following year, DOT established two pilot programs designed to allow communities to explore options that better suit their transportation needs while keeping costs under control. EAS eligibility requirements were not changed. For more on these two pilot programs, see the section "Measures to Shrink the Program."

The Airport and Airway Extension Act of 2011, Part IV (P.L. 112-27) prohibited DOT from providing EAS to communities with annual per-passenger subsidies of over $1,000, regardless of their distance from the nearest hub airport. Also in 2011, the Consolidated and Further Continuing Appropriations Act, 2012 (P.L. 112-55), waived the requirement that carriers provide EAS flights using aircraft with 15 or more seats, allowing the use of smaller planes where passenger counts are low.

The FAA Modernization and Reform Act of 2012 (P.L. 112-95) adopted additional EAS reform measures, including Section 421, which amended the definition of an "EAS eligible place"[4] to require a minimum number of daily enplanements. The 2012 act also provided that for locations outside of Alaska and Hawaii to remain EAS-eligible, they must have participated in the EAS program at some time between September 30, 2010, and September 30, 2011. This officially overrode the original list of eligible communities (except for those in Alaska and Hawaii) and capped the number of communities that are eligible for EAS.

Current Eligibility Requirements

Except in Alaska and Hawaii, an EAS-eligible place is now defined as a community that, between September 30, 2010, and September 30, 2011, either received EAS for which compensation was paid or received from the incumbent carrier a 90-day notice of intent to terminate EAS, following which DOT required it to continue providing service to the community (known as "holding in" the carrier). Starting October 1, 2012, no new communities can enter the program should they lose their unsubsidized service. Airports that were formerly eligible but did not receive subsidized service during the specified year are no longer eligible for subsidized service, and may not reenter the program.

A community receiving subsidy during FY2011 remains eligible for EAS subsidy if

- it is located more than 70 miles from the nearest large or medium hub airport;
- it requires a rate of subsidy per passenger of $200 or less, unless the community is more than 210 miles from the nearest hub airport;

[4] 49 U.S.C. §41731.

- the average rate of subsidy per passenger was less than $1,000 during the most recent fiscal year at the end of each EAS contract, regardless of the distance from a hub airport; and
- it had an average of 10 or more enplanements per service day during the most recent fiscal year, unless it is more than 175 driving miles from the nearest medium or large hub airport, or unless DOT is satisfied that any decline below 10 enplanements is temporary.

EAS Communities in Alaska and Hawaii

Communities in Alaska and Hawaii are generally exempt from almost all EAS eligibility requirements, except one measure established by the Consolidated Appropriations Act, 2014 (P.L. 113-76), and the Continued Appropriations Resolution, 2015 (P.L. 113-164). Both laws directed that no EAS funds "shall be used to enter into a new contract with a community located less than 40 miles from the nearest small hub airport before the Secretary has negotiated with the community over a local cost share."

This requirement does not affect any Alaska EAS communities, since none is within 40 miles of the nearest small hub airport. However, one community in Hawaii, Kamuela, may be affected when its current service agreement expires in 2017, if the cost-sharing requirement for communities within 40 miles of a small hub is adopted in future legislation.

Alaska

There were 237 Alaska communities on the original list of EAS-eligible communities. As of June 1, 2015, 44 communities in Alaska received subsidized service (see **Appendix B**), leaving 194 unsubsidized communities eligible for EAS subsidies. Diomede, a community in Alaska that was not on the original list, is receiving service from EAS funds via Air Transportation to Noneligible Places (ATNEP, 49 U.S.C. §41736), a program under which a state or local government may propose to the Secretary of Transportation that DOT provide compensation to an air carrier to serve a place that is not EAS-eligible, with a 50% local share.[5] The number of passengers served by EAS flights in Alaska is not readily available; the EAS program office does not compile this information as there are no requirements regarding minimum enplanement figures or per-passenger subsidies in Alaska.

Hawaii

As of July 1, 2015, there are two communities in Hawaii, Kalaupapa and Kamuela, receiving subsidized service under EAS (see **Appendix A**). There were nine on the original list of EAS communities, not counting Kalaupapa, that came into the EAS program via ATNEP and later became a permanent EAS community with the 2012 Federal Aviation Administration (FAA) reauthorization.[6]

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[5] http://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/pdf/USCODE-2011-title49-subtitleVII-partA-subpartii-chap417-subchapII-sec41736.pdf. Absent from the original list of EAS communities in Alaska, Diomede is not considered an EAS community, but it is receiving subsidized air service via ATNEP, which is administered by the EAS program office and DOT finance office. The federal share for Diomede comes out of the EAS program budget.

[6] DOT Order 91-4-6, OST-00-6773-3. Kalaupapa became an eligible community because it received a termination notice between September 30, 2010, and September 30, 2011, and DOT held the incumbent carrier in while it selected a replacement carrier.

Program Administration

The EAS program is administered by the Office of the Secretary of Transportation, which determines the minimum level of service required at each eligible community by specifying

- a hub through which the community is linked to the national passenger airline network;
- a minimum number of round trips and available seats that must be provided to that hub;
- certain characteristics of the aircraft to be used; and
- the maximum permissible number of intermediate stops to the hub.

In general, DOT subsidizes two to four round trips a day with small aircraft from an EAS community to a large or medium hub airport.

Selection of EAS Carriers

DOT issues a request for proposals (RFP) to all scheduled carriers to provide service to an eligible community, and institutes a carrier selection proceeding using a bid system. The department is required by law to use the following four key criteria when considering carriers' proposals to provide subsidized service to EAS communities:[7]

- service reliability;
- contractual and marketing arrangements with a larger carrier at the hub;
- interline arrangements with a larger carrier at the hub; and
- community views.

The RFPs advise air carriers that their proposals for subsidy should be submitted on a sealed bid, "best and final" basis, and set forth the level of service (frequency, aircraft size, and potential hubs) that would be appropriate for the community given its location and traffic history. DOT typically receives one to three proposals per RFP. Once the carrier proposals are received, DOT formally solicits the views of the community as to which carrier and option it prefers.

After receiving the community's input, DOT issues a decision designating the selected air carrier and specifying the service pattern (routing, frequency, and type of aircraft), annual subsidy rate, and effective period of the rate. DOT generally establishes two-year EAS service contracts, which allow for regular bidding and give communities and DOT flexibility to switch carriers.

Payment Procedures

DOT pays the air carriers in arrears at the end of every month. Carriers submit invoices based on the number of flights actually completed in conformance with the contract. They are paid according to the per-flight rate established in the contract, not according to passenger numbers.

[7] 49 U.S.C. §41733(c)(1). Language in the Consolidated Appropriations Act, 2014 (P.L. 113-76), retained in the Continuing Appropriations Resolution, 2015 (P.L. 113-164), provides that when "determining between or among carriers competing to provide service to a community, the Secretary may consider the relative subsidy requirements of the carriers."

If ad hoc service adjustments are made because of operational exigencies, the carrier reports those deviations on its invoice, and DOT makes appropriate adjustments in payment to the carrier.

EAS Hold-In Authority

By statute, if the air carrier serving an EAS community wants to discontinue service, it must first file a 90-day notice of its intent to suspend service. Hold-in authority prevents the incumbent carrier from suspending service until a replacement carrier begins service. On average, DOT issues 25 to 50 hold-in notices per year.

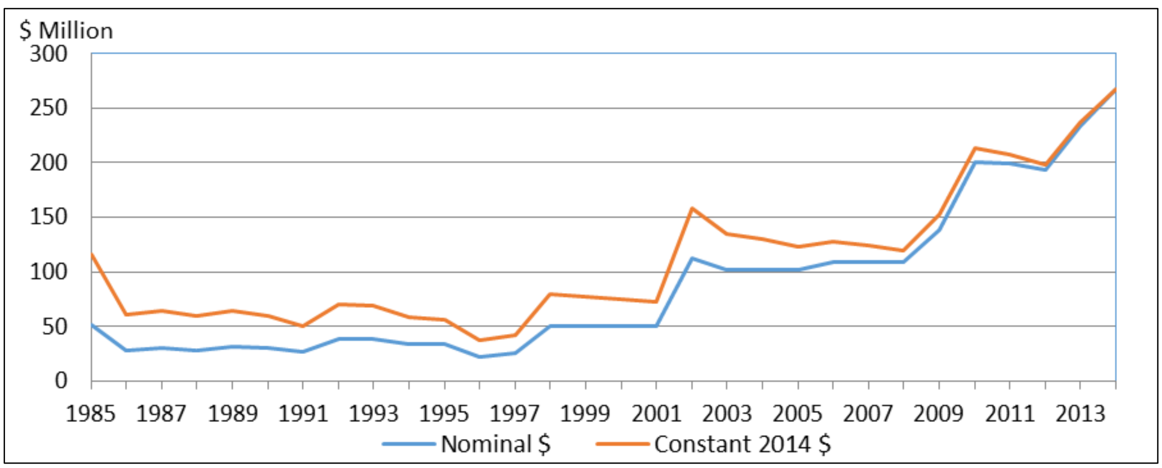
During the 90-day period, DOT will try to find a carrier willing to enter the market on a subsidy-free basis. If unsuccessful, DOT issues an order prohibiting the suspension and requesting proposals for replacement service, either with or without subsidy.

If it was serving an EAS-eligible community without subsidy, the incumbent carrier is eligible for compensation for being held in after the end of its original 90-day notice period. If the held-in carrier was already serving a community with EAS subsidy, it would continue to receive the same subsidy rate for six months, at which time it would be eligible for a rate increase.[8]

Program Costs

The EAS program is funded from overflight fees paid to FAA by foreign aircraft that transit U.S. airspace without landing in or taking off from the United States.[9] Since FY2002, Congress has supplemented the overflight fees with discretionary annual appropriations of varying size.

Figure 1. Annual EAS Expenditures, 1985-2014



Source: U.S. Department of Transportation.

Note: Inflation adjustment based on Bureau of Economic Analysis Price Index for Government Consumption Expenditures and General Government Gross Output, National Income and Product Accounts Table 3.10.4, Line 12.

[8] The six-month period discourages carriers from deliberately submitting below-cost proposals to get selected, and immediately coming back to DOT hoping to get a higher subsidy rate.

[9] The Federal Aviation Reauthorization Act of 1996 (P.L. 104-264) authorized the collection of overflight fees.

Figure 1 shows that total EAS program expenditures have increased sharply over time. In constant 2014 dollars, spending has increased 600% since 1996, and 123% since 2008. Spending has spiked on two occasions, one after the 2001 terrorist attacks that temporarily disrupted the aviation market and led to an economic downturn, and the other in 2008 and 2009, when oil prices rose sharply during a deep recession.

The FAA Modernization and Reform Act of 2012 sought to reduce discretionary spending on EAS through FY2015. Section 428 authorized appropriations for the discretionary portion of EAS funding of $143 million for FY2012, $118 million for FY2013, $107 million for FY2014, and $93 million for FY2015. However, the law also authorized all overflight fee revenues, rather than just the $50 million provided historically, to be made immediately available to the EAS program. This has had the effect of increasing total funding available for EAS subsidies.

The Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235), provided $263 million in total EAS funding for FY2015, including $108 million in funding from overflight fees and $155 million in discretionary appropriations. DOT requested total funding of $283 million for FY2016. Annual EAS funding from FY2012 to FY2016 is shown in **Table 1**.

Table 1. Essential Air Service Funding, FY2012-FY2016

(in millions)

	FY2012	FY2013	FY2014	FY2015	FY2016 (proposed)
Discretionary Appropriation	$143	$135	$149	$155	$175
Overflight Fee Collections	$50	$98	$119	$108	$108
Total Funding	$193	$233	$268	$263	$283

Source: U.S. Department of Transportation.

Note: EAS funding in nominal dollars. Proposed funding for FY2016 is the amount requested by DOT.

Between FY2012 and FY2015, annual EAS expenditures rose 36%; DOT has proposed a further 7.6% increase for FY2016. These increases have occurred despite the numerous measures Congress has adopted over the years to contain program spending. Certain features of the program may have contributed to the rising costs:

- Few carriers may bid for any particular EAS contract. Although in some instances two or three carriers may offer proposals in response to an RFP, in many cases there is only one proposal with no competing bid, providing little incentive for the carrier to minimize its subsidy request.
- Subsidy cost is not among the four major factors DOT is required by statute to consider when evaluating bids.
- DOT is required by statute to consider the views of the community when selecting a carrier to provide subsidized service. If more than one carrier is proposing to offer service, local officials are under no obligation to favor the proposal that entails the lowest cost to the federal government.

- While the law sets forth minimum requirements for EAS service,[10] typically two daily round trips six days a week to a hub airport with convenient connecting service to a substantial number of destinations, it does not limit subsidized flights to a single route. According to DOT data, approximately 15 of the 159 EAS communities have subsidized flights to more than one hub airport.
- Although eligibility for EAS service, except in Alaska and Hawaii, depends in part on an airport's distance from the nearest large or medium hub airport, the law does not specify that the EAS-subsidized flights must serve that hub. In an unknown number of cases, subsidized flights link EAS communities with more distant airports rather than with the nearest hub, perhaps at greater cost to the government.
- For technical reasons or because of its own operational needs, a carrier may utilize a plane for an EAS flight that is larger than necessary for the traffic on the route, incurring higher per-passenger costs. DOT estimates that 20%-25% of EAS communities are served by aircraft that are larger than passenger numbers might require. According to recent testimony by the Government Accountability Office (GAO), EAS flights, on average, had 49% of their seats filled with paying passengers in 2013, versus an average of 83% for all domestic flights.[11]
- Air carriers may not seek to maximize the number of passengers on a flight. Once a carrier and DOT have signed a contract agreeing on the subsidy amount for a flight, the carrier is free to set fares as it desires. The carrier may find it more profitable to charge higher fares to relatively few passengers than to maximize the passenger load with lower fares. All other things equal, this would result in a higher subsidy cost per passenger.

In 2014, EAS subsidies in the contiguous 48 states plus Puerto Rico ranged from $10 to more than $977 per passenger. DOT does not have readily available data allowing calculation of changes in individual communities' per-passenger subsidy rates over time.

Two tables at the end of this report provide information about subsidies to individual EAS communities as of June 2015. **Appendix A** provides a list of the subsidized communities in the contiguous 48 states, Hawaii, and Puerto Rico. **Appendix B** lists the subsidized EAS communities in Alaska.

Measures to Shrink the Program

Over the years, Congress has sought to limit the scope of the EAS program, mostly by eliminating subsidy support for communities within a reasonable driving distance of a major hub airport and by imposing a cap on the per-passenger subsidy. Although numerous communities have been removed from the program, these efforts generally have not contained overall spending on EAS.

Some provisions in the 2012 FAA reauthorization may counteract the law's attempt to shrink the program. For example, Section 426(c) provides that the Secretary of Transportation, subject to the availability of funds, may grant waivers to communities exceeding the $200 subsidy-per-

[10] 49 U.S.C. §41732.

[11] GAO-14-454T, *Commercial Aviation: Status of Air Service to Small Communities and the Federal Programs Involved,* April 30, 2014, p. 11.

passenger cap on a case-by-case basis; Section 421(e) authorizes an unlimited number of waivers that may be granted, on an annual basis, to communities not meeting the minimum daily enplanement requirement; and Section 425 permits restoration of EAS eligibility to a community determined ineligible for subsidized EAS once these conditions are met.

70-Mile Rule

The Department of Transportation and Related Agencies Appropriations Act, 2000 (P.L. 106-69), prohibited DOT from subsidizing carriers that provide EAS flights to communities in the 48 states plus Puerto Rico that are located fewer than 70 highway miles from the nearest large or medium hub airport. As a result, a few communities lost eligibility to receive EAS subsidy, including Hagerstown, MD, which is within 70 driving miles of Washington Dulles International Airport, and Lancaster, PA, which is within 70 driving miles of Philadelphia International Airport.[12] However, Section 409 of the Vision 100—Century of Aviation Reauthorization Act allowed these two communities to petition DOT to review their mileage determinations. Based on certifications from the governor of each state that these communities were more than 70 miles from the nearest medium or large hub via the "most commonly used route," DOT reinstated both communities' eligibility for EAS subsidy through the end of FY2007.[13]

Since then, the "most commonly used route" standard has been extended, leaving both communities eligible for subsidized flights. The annual per-passenger subsidy in 2014 was approximately $580 for Hagerstown, which has EAS flights to Dulles, and $619 for Lancaster, which has EAS flights to Dulles and to Pittsburgh International Airport.

$200 Subsidy Cap

During the late 1980s and early 1990s, EAS program eligibility requirements were revised by Congress and DOT in response to insufficient program funding. The Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (P.L. 101-45) prohibited DOT from subsidizing air service after September 30, 1989, to and from any EAS point in the contiguous 48 states for which subsidy exceeded $300 per passenger. As a result, six communities became ineligible for subsidized EAS service.[14]

This $300 cap was lowered to $200 for FY1990 in the Department of Transportation and Related Agencies Appropriations Act, 1990 (P.L. 101-164), and that cap was repeated in several later appropriations acts through the 1990s. It was made permanent by the Department of Transportation and Related Agencies Appropriations Act, 2000,[15] which set a maximum subsidy of $200 per passenger, except in Alaska and Hawaii, unless the community is more than 210 miles from the nearest hub airport. DOT has routinely provided notice of this statutory mandate to communities that appeared to be at risk of exceeding the cap, with the expectation that they would work with prospective EAS air carriers to keep the subsidy per passenger below the $200 cap. Between 1990 and 2006, 33 communities lost their eligibility because their per-passenger EAS subsidy exceeded the $200 maximum.

[12] DOT Order 2004-3-26 (Lancaster, PA) and DOT Order 2005-4-17 (Hagerstown, MD).

[13] Docket DOT-OST-2006-25228 and DOT-OST-2002-11450.

[14] DOT Order 89-9-37, effective October 1, 1989.

[15] P.L. 106-69, 113 Stat. 986.

In late 2006, there were no communities whose subsidies were over the $200 cap. For the following eight years, DOT stopped enforcing the $200 cap in response to a number of shocks that affected the EAS program during that time. These included the cessation of operations by four air carriers in 2008, prolonged lapses in scheduled service at more than 35 EAS communities, and higher subsidy requests from carriers resulting from higher fuel prices.[16]

In October 2014, DOT issued a notice announcing it would enforce compliance with the $200-per-passenger subsidy cap based on data for FY2015, which will not be available until January 2016.[17] The policy set September 30, 2015, as the date by which any EAS community with a per-passenger subsidy exceeding or approaching $200 must ensure compliance with the cap. A DOT compliance status report suggests that, based on passenger enplanement data as of March 31, 2015, and program subsidy amounts as of July 2015, 29 communities may lose eligibility for EAS subsidies.[18]

$1,000 Subsidy Cap

A 2011 law, the Airport and Airway Extension Act of 2011, Part IV (P.L. 112-27), further limited EAS subsidies to $1,000 per passenger, regardless of the distance from the nearest hub airport, except for communities in Alaska and Hawaii. Five communities with per-passenger subsidy over $1,000 have become ineligible for program: Alamogordo/Holloman Air Force Base, NM; Ely, NV; Kingman, AZ; Lewistown, MT; and Miles City, MT. Unlike other EAS statutory requirements, the $1,000-per-passenger subsidy limit may not be waived by the Secretary of Transportation.

Minimum Daily Enplanement

The FAA Modernization and Reform Act of 2012 amended 49 U.S.C §41731(a)(1)(B) to change the definition of "eligible place" for EAS, such that a community must maintain an average of 10 or more enplanements per day to be eligible. This requirement, however, does not apply to locations in Alaska and Hawaii or to communities more than 175 driving miles away from the nearest large or medium hub airport.[19] The Secretary of Transportation may also waive, on an annual basis, the 10-enplanement requirement if a community demonstrates to the Secretary's satisfaction that its low daily enplanement level is caused by a temporary decline in enplanements.[20]

On April 24, 2014, DOT issued a tentative order[21] indicating its intention to enforce the 10-passengers-per-day rule. Based on FY2013 EAS data, this would have ended subsidized service to 13 communities: Athens, GA; Bradford, PA; El Centro, CA; Fort Dodge, IA; Franklin/Oil City, PA; Greenville, MS; Hagerstown, MD; Jackson, TN; Lancaster, PA; Kingman, AZ; Macon, GA; Merced, CA; and Muscle Shoals, AL.

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[16] Email correspondence between CRS and DOT.

[17] http://www.transportation.gov/office-policy/aviation-policy/essential-air-service-final-notice-enforcement-policy-200-passenger.

[18] https://www.transportation.gov/sites/dot.gov/files/docs/%24200%20per%20passenger%20compliance%20status%20report-July%202015.pdf.

[19] 49 U.S.C. §41731(c) & (d).

[20] 49 U.S.C. §41731(e).

[21] DOT Order 2014-6-6.

All the communities except Athens, GA, filed petitions for waivers. On September 26, 2014, DOT issued Order 2014-9-21, granting these 12 communities temporary waivers. These communities' compliance with the 10-passengers-per-day requirement will be reassessed based on FY2015 data.

In May 2015, DOT issued a tentative order[22] indicating its intention to enforce the 10-passengers-per-day rule based on FY2014 data. This could affect subsidized service to three communities: Mason City, IA; Show Low, AZ; and Victoria, TX. Petitions from these three communities contesting this tentative order were filed by the deadline of June 18, 2015. A final decision from DOT is pending.

Cost Sharing If Near a Small Hub

The Consolidated Appropriations Act, 2014, and the Continued Appropriations Resolution, 2015, directed that no EAS funds "shall be used to enter into a new contract with a community located less than 40 miles from the nearest small hub airport before the Secretary has negotiated with the community over a local cost share." This requirement does not exempt communities in Alaska and Hawaii. It may affect three communities currently receiving EAS subsidies that are within a 40-mile distance of a small hub airport—Lancaster, PA;[23] Pueblo, CO; and Kamuela, HI.

Community and Regional Choice Pilot Programs

Section 405 of the Vision 100—Century of Aviation Reauthorization Act directed DOT to establish certain Community and Regional Choice Programs to provide communities with alternatives to traditional EAS service. In the following year, 2004, DOT established two pilot programs: the Alternate Essential Air Service Pilot Program (Alternate EAS)[24] and Community Flexibility Pilot Program.[25] All communities receiving subsidized EAS at the time of application can participate.

Alternate EAS allows communities to forgo subsidized EAS for a prescribed amount of time in exchange for a grant to spend on options that may better suit their transportation needs. These options include more frequent air service with smaller aircraft, on-demand air taxi service, scheduled or on-demand surface transportation, or purchasing an aircraft. The maximum grant amount may not exceed the annual EAS subsidy. Currently, Alternate EAS has three participants: Beckley, WV; Manistee/Ludington, MI; and Victoria, TX. All three have been receiving scheduled charter service. Participating communities still need to meet the statutory eligibility criteria for EAS. One of them, Victoria, TX, has been notified that its alternate service is not meeting the 10-passengers-per-day requirement.

The other pilot program, the Community Flexibility Pilot Program, is also known as the "buyout program." It allows as many as 10 communities that are receiving subsidized EAS to forgo EAS for 10 years in exchange for a grant equal to no more than two years' EAS subsidy. The grant can be used for a wide range of airport projects. There has been no participant in this program.

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[22] DOT Order 2015-5-14 finds four communities not compliant with the 10-passengers-per-day requirement: Jamestown, NY; Mason City, IA; Show Low, AZ; and Victoria TX. Later, DOT Order 2015-5-20 confirms that Jamestown, NY, averaged more than 10 enplanements per day in FY2014, and, therefore, remains EAS-eligible.

[23] Driving distance between Lancaster, PA, and its nearest small hub airport, Harrisburg International Airport, is about 28 miles.

[24] Docket OST-2004-18715.

[25] Docket OST-2000-8556.

Issues and Options

The rate of increase in EAS spending remains a central issue of concern to Congress. However, program spending should be examined in conjunction with the number of communities served. According to a GAO report, 95 communities received subsidized EAS service in 1995 and 150 in 2008.[26] In 2014, this number was 159 (see **Appendix A**).

Nevertheless, the growth rate of average subsidy per EAS community over the years has been significant. GAO testimony noted that the average annual EAS subsidy in non-Alaska communities nearly doubled, from $1 million per community in 2002 to $1.9 million in 2013.[27] In 2014, the average EAS subsidy in non-Alaskan communities was more than $2.1 million per community.[28]

In addition to the multiple contributing factors previously discussed, government regulations could also affect the provision of air service to small communities. For example, a 2013 FAA pilot qualification rule[29] increased the qualification requirements for airline pilots. Many pilots working for regional airlines did not meet the new minimum qualifications. According to GAO, 11 of the 12 regional airlines it interviewed reported difficulties finding sufficient numbers of qualified pilots over the previous year, and some limited or canceled service to some smaller communities because of pilot shortages.[30] The rules seem likely to force small carriers to raise salaries in order to attract qualified pilots, potentially raising EAS subsidy costs as well.[31]

In a 2009 report, GAO offered a number of options for modifying the EAS program:[32]

- limiting program eligibility to communities participating as of a specified date;
- allowing carriers more flexibility in type of aircraft and/or service frequency;
- awarding long-term EAS agreements and incorporating financial incentives;
- allowing renegotiation of EAS agreements;
- consolidating EAS flights at regional airports;
- focusing EAS service on the most remote communities.

The first three options were adopted and included in federal laws. GAO also suggested that a multimodal approach to providing connections to hub airports could potentially be more responsive to communities' needs.[33] It reiterated this recommendation in its 2014 report,

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[26] GAO-09-753, *National Transportation System: Options and Analytical Tools to Strengthen DOT's Approach to Supporting Communities' Access to the System*, July 2009, p. 4.

[27] GAO-14-454T, *Commercial Aviation: Status of Air Service to Small Communities and the Federal Programs Involved*, April 30, 2014, p. 9.

[28] Based on DOT data in **Appendix A**, average EAS subsidy in non-Alaskan communities was nearly $2.143 million per community in FY2014.

[29] Required by the Airline Safety and Federal Aviation Administration Extension Act of 2010, P.L. 111-216 §217 (c)(1), 124 Stat. 2348, 2368.

[30] GAO-14-454T, *Commercial Aviation: Status of Air Service to Small Communities and the Federal Programs Involved*, April 30, 2014, p. 18.

[31] Statement of Faye Malarkey Black, Interim President of Regional Airlines Association, before Senate Committee On Commerce, Science, and Transportation, Subcommittee on Aviation Operations, Safety, and Security, hearing on "FAA Reauthorization: Aviation Safety and General Aviation," April 28, 2015.

[32] GAO-09-753, *National Transportation System: Options and Analytical Tools to Strengthen DOT's Approach to Supporting Communities' Access to the System*, July 2009, pp. 25-33.

[33] Ibid, pp. 34-36.

suggesting that multimodal solutions, such as bus service or air taxi service to connect eligible communities to large airports, could be more cost-effective than the current EAS program.[34]

Despite the changes that have been made to limit communities' eligibility for EAS and to permit the use of smaller aircraft, it appears that eligible communities, air carriers, and DOT may lack incentives to minimize program expenditures. It is not clear whether the changes adopted in recent years, including in the FAA Modernization and Reform Act of 2012, will prove effective in controlling program costs.

EAS traditionally has been authorized in laws reauthorizing FAA and other civil aviation programs. The current authorization act expires September 30, 2015. EAS is likely to be among the subjects of debate as Congress considers extending the current law or writing a new authorization act.

[34] GAO-14-454T, *Commercial Aviation: Status of Air Service to Small Communities and the Federal Programs Involved*, April 30, 2014, pp. 18-19.

Appendix A. Subsidized EAS Outside of Alaska

State	Number of EAS Communities	EAS Community	Nearest Medium / Large Hub(s)	Annual Subsidy Rates June 1, 2015	YE 12/31/14 Per-Passenger Subsidy
Alabama	1	Muscle Shoals	BNA	$1,739,308	$629
Arizona	3	Page	LAS	$2,472,028	$318
Arizona		Prescott	PHX	$2,657,002	$344
Arizona		Show Low	PHX	$1,894,384	$512
Arkansas	4	El Dorado/Camden	MEM	$1,977,153	$280
Arkansas		Harrison	MEM	$2,251,207	$259
Arkansas		Hot Springs	MEM	$1,637,012	$330
Arkansas		Jonesboro	MEM	$1,942,890	$205
California	4	Crescent City	SMF	$2,454,084	$92
California		El Centro	SAN	$2,264,008	$482
California		Merced	SJC	$2,779,116	$646
California		Visalia	BUR	$1,990,563	$597
Colorado	3	Alamosa	ABQ	$2,192,179	$285
Colorado		Cortez	ABQ	$2,270,297	$296
Colorado		Pueblo	DEN	$1,737,732	$197
Georgia	1	Macon	ATL	$1,998,696	N/A
Hawaii	2	Kalaupapa	LUP	$751,040	N/A
Hawaii		Kamuela	MUE	$434,411	N/A
Illinois	3	Decatur	STL	$2,667,922	$208
Illinois		Marion/Herrin	STL	$2,104,616	$107
Illinois		Quincy/Hannibal, MO	STL	$1,956,856	$99
Iowa	5	Burlington	STL	$1,917,566	$148
Iowa		Fort Dodge	OMA	$3,715,953	N/A
Iowa		Mason City	MSP	$3,715,953	N/A
Iowa		Sioux City	MSP/OMA	$611,434	$13
Iowa		Waterloo	MSP	$945,546	$21
Kansas	6	Dodge City	OKC	$2,339,131	$374
Kansas		Garden City	DEN	$1,445,172	$28
Kansas		Great Bend	MCI	$1,434,472	N/A
Kansas		Hays	MCI	$2,253,132	$200
Kansas		Liberal/Guymon	OKC	$2,236,180	$329
Kansas		Salina	MCI	$1,490,479	$401
Kentucky	2	Owensboro	BNA	$1,529,913	$204

State	Number of EAS Communities	EAS Community	Nearest Medium / Large Hub(s)	Annual Subsidy Rates June 1, 2015	YE 12/31/14 Per-Passenger Subsidy
Kentucky		Paducah	BNA	$2,034,160	$49
Maine	4	Augusta/Waterville	BOS	$1,818,106	$172
Maine		Bar Harbor	BOS	$1,631,223	$171
Maine		Presque Isle/Houlton	BOS	$4,710,683	$194
Maine		Rockland	BOS	$1,890,918	$141
Maryland	1	Hagerstown	IAD	$1,785,638	$580
Michigan	9	Alpena	DTW	$2,168,995	$87
Michigan		Escanaba	MKE	$3,507,011	$103
Michigan		Hancock/Houghton	MSP/MKE	$690,976	$15
Michigan		Iron Mountain/Kingsford	ORD	$2,970,122	$134
Michigan		Ironwood/Ashland	MSP	$3,563,394	$714
Michigan		Manistee/Ludington	DTW	$2,328,104	$302
Michigan		Muskegon	DTW	$1,389,952	$49
Michigan		Pellston	DTW	$1,077,413	$19
Michigan		Sault Ste. Marie	DTW	$1,765,393	$42
Minnesota	5	Bemidji	MSP	$1,118,050	$25
Minnesota		Brainerd	MSP	$1,671,602	$50
Minnesota		Chisholm/Hibbing	MSP	$2,535,502	$122
Minnesota		International Falls	MSP	$2,197,037	$77
Minnesota		Thief River Falls	MSP	$2,428,750	N/A
Mississippi	4	Greenville	MEM	$1,483,080	$486
Mississippi		Laurel/Hattiesburg	MSY	$3,910,654	$453
Mississippi		Meridian	MSY	$3,910,654	$299
Mississippi		Tupelo	ATL/MEM	$2,506,436	$267
Missouri	4	Cape Girardeau/Sikeston	STL	$1,627,966	$132
Missouri		Fort Leonard Wood	STL	$2,829,158	$179
Missouri		Joplin	MCI	$519,201	$10
Missouri		Kirksville	MCI	$1,649,248	$150
Montana	7	Butte	SLC	$735,956	$13
Montana		Glasgow	DEN	$2,046,800	$268
Montana		Glendive	DEN	$1,944,467	$394
Montana		Havre	SLC	$2,036,254	$427
Montana		Sidney	MSP	$3,777,579	$168
Montana		West Yellowstone	SLC	$491,205	$43
Montana		Wolf Point	DEN	$2,145,326	$276

State	Number of EAS Communities	EAS Community	Nearest Medium / Large Hub(s)	Annual Subsidy Rates June 1, 2015	YE 12/31/14 Per-Passenger Subsidy
Nebraska	7	Alliance	DEN	$1,499,148	N/A
Nebraska		Chadron	DEN	$1,499,148	$977
Nebraska		Grand Island	OMA	$1,837,021	$39
Nebraska		Kearney	OMA	$1,998,178	$118
Nebraska		McCook	DEN	$2,254,017	N/A
Nebraska		North Platte	DEN	$1,995,396	$240
Nebraska		Scottsbluff	DEN	$1,746,806	$198
New Hampshire	1	Lebanon/White River Jct.	BOS	$2,972,718	$142
New Mexico	3	Carlsbad	ABQ	$2,410,695	$682
New Mexico		Clovis	ABQ	$3,179,857	$830
New Mexico		Silver City/Hurley/Deming	PHX/ABQ	$3,377,495	N/A
New York	6	Jamestown	BUF	$2,045,481	$325
New York		Massena	BUF	$2,608,773	$289
New York		Ogdensburg	BUF	$2,419,820	$225
New York		Plattsburgh	BOS/BUF	$2,714,074	$162
New York		Saranac Lake/Lake Placid	BOS/BUF	$1,832,064	$182
New York		Watertown	BUF	$3,356,349	$87
North Dakota	2	Devils Lake	MSP	$3,224,917	$629
North Dakota		Jamestown	MSP	$3,126,564	$375
Oregon	1	Pendleton	PDX	$1,834,708	$229
Pennsylvania	6	Altoona	PIT	$2,346,168	$360
Pennsylvania		Bradford	BUF	$2,045,826	$561
Pennsylvania		DuBois	PIT	$2,285,539	$268
Pennsylvania		Franklin/Oil City	PIT	$1,442,788	$700
Pennsylvania		Johnstown	PIT	$2,438,254	$261
Pennsylvania		Lancaster	PHL	$2,504,174	$619
Puerto Rico	1	Mayaguez	SJU	$1,198,824	$100
South Dakota	3	Aberdeen	MSP	$1,043,719	$20
South Dakota		Huron	MSP	$2,552,000	N/A
South Dakota		Watertown	MSP	$2,847,284	$738
Tennessee	1	Jackson	MEM	$1,584,275	$474
Texas	1	Victoria	SAT	$2,288,152	$522
Utah	3	Cedar City	LAS	$2,317,439	$89
Utah		Moab	SLC	$2,303,347	$175
Utah		Vernal	SLC	$1,415,696	$175

State	Number of EAS Communities	EAS Community	Nearest Medium / Large Hub(s)	Annual Subsidy Rates June 1, 2015	YE 12/31/14 Per-Passenger Subsidy
Vermont	1	Rutland	BOS	$1,360,481	$126
Virginia	1	Staunton	IAD	$1,980,922	$106
West Virginia	5	Beckley	CLT	$2,696,888	$423
West Virginia		Clarksburg/Fairmont	PIT	$2,310,252	$217
West Virginia		Greenbrier/W. Sulphur Sps	CLT/RDU	$3,582,194	$226
West Virginia		Morgantown	PIT	$2,342,074	$129
West Virginia		Parkersburg/Marietta	CMH	$3,505,876	$326
Wisconsin	2	Eau Claire	MSP	$1,546,536	$42
Wisconsin		Rhinelander	MSP	$2,050,889	$47
Wyoming	3	Cody	DEN	$1,380,779	$22
Wyoming		Laramie	DEN	$2,078,554	$86
Wyoming		Worland	SLC	$2,327,987	N/A
Total:	**115**			**$246,414,594**	

Source: U.S. Department of Transportation.

Notes: Airports marked N/A experienced a change of carrier during the fiscal year or otherwise have insufficient data to determine annual cost per passenger. EAS subsidy rates are subject to change. Airports more than 210 miles from their respective nearest hub airports are exempt from the $200-per-passenger subsidy rate cap.

Appendix B. Subsidized EAS in Alaska

Alaska EAS Community	Hub(s)	Annual Subsidy Rates June 1, 2015
Adak	ANC	$2,057,114
Akutan	DUT	$831,115
Aleknagik	DLG	$118,667
Alitak	ADQ	$11,333
Amook Bay	ADQ	$11,333
Angoon	JNU	$231,794
Atka	DUT	$1,031,793
Central	FAI	$152,902
Chatham	JNU	$5,452
Chisana	TOK	$86,247
Circle	FAI	$152,902
Cordova	ANC/JNU	$2,048,750
Diomede	OME/WAA	$188,760
Elfin Cove	JNU	$118,970
Excursion Inlet	JNU	$28,889
Funter Bay	JNU	$12,309
Gulkana	ANC	$223,298
Gustavus	JNU	$512,187
Healy Lake	FAI	$112,459
Hydaburg	KTN	$151,773
Kake	JNU	$205,232
Kitoi Bay	ADQ	$11,333
Lake Minchumina	FAI	$102,300
Manley	FAI	$47,361
May Creek	GKN	$103,099
McCarthy	GKN	$103,099
Minto	FAI	$47,361
Moser Bay	ADQ	$11,333
Nikolski	DUT	$320,491
Olga Bay	ADQ	$11,333
Pelican	JNU	$293,606
Petersburg	JNU/KTN	$1,621,730
Port Alexander	SIT	$80,647
Port Bailey	ADQ	$11,333
Port Williams	ADQ	$11,333

Alaska EAS Community	Hub(s)	Annual Subsidy Rates June 1, 2015
Rampart	FAI	$60,201
Seal Bay	ADQ	$11,333
Tatitlek	ANC	$93,080
Tenakee	JNU	$133,501
Uganik	ADQ	$11,333
West Point	ADQ	$11,333
Wrangell	JNU/KTN	$1,621,730
Yakutat	ANC/JNU	$2,048,750
Zachar Bay	ADQ	$11,333
Total: 44		**$15,072,232**

Source: U.S. Department of Transportation.

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