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Essential Air Service (EAS)

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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. By the end of FY2018, 174 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 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 of 2014 (P.L. 113-76) and the Continuing Appropriations Resolution of 2015 (P.L. 113-164) introduced additional measures to shrink the program. The FAA Reauthorization Act of 2018 (P.L. 115-254) changed certain requirements regarding application of subsidy caps and would discontinue the Air Transportation to Noneligible Places (ATNEP) program in 2020.

Despite these efforts to limit spending for EAS subsidies, inflation-adjusted program expenditures have risen 132% since 2008. Some factors contributing to the rising program costs are external, such as 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 challenge of controlling costs. The statute governing EAS does not list cost among the four factors that 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 and other civil aviation programs. The 2018 FAA reauthorization act reauthorized the program through FY2023.

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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, more than doubling in inflation-adjusted terms between 2008 and 2018. At the end of FY2018, a total of 174 communities received subsidized EAS service.

Legislative History

Section 419 of the Federal Aviation Act,[1] as amended by the Airline Deregulation Act 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 (CAB), whose duties were later transferred to the U.S. Department of Transportation (DOT). The Airline Deregulation Act authorized CAB 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, nearly 300 of these 746 communities received subsidized service under EAS at some point between 1979 and 2016.

As the original 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 Deregulation Act was signed into law. Over the following years, Congress has worked to limit the

[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.

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 of 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, 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."

In 2011, the Airport and Airway Extension Act (P.L. 112-27, Part IV) 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 Federal Aviation Administration 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.

The FAA Extension, Safety, and Security Act of 2016 (P.L. 114-190) reauthorized the program through FY2017 without program modification. The FAA Reauthorization Act of 2018 (P.L. 115-254) reauthorized the program through FY2023 and introduced several legislative measures, including Section 453, which amends 49 U.S.C. §41736 to sunset the Air Transportation to Noneligible Places (ATNEP) program in 2020. The law also requires the Secretary of Transportation to waive application of the subsidy-per-passenger cap under certain conditions. See the section "Measures to Shrink the Program" for details.

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 the carrier 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, except in Alaska and Hawaii. 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.

[4] 49 U.S.C. §41731.

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 large or medium hub airport;
- 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 of 2014 (P.L. 113-76) and the Continued Appropriations Resolution of 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, was affected and entered a cost-sharing arrangement in 2018.

Alaska

There were 237 Alaska communities on the original list of EAS-eligible communities. At the end of FY2018, 63 communities in Alaska received subsidized service (see **Appendix B**), leaving 174 unsubsidized communities eligible for EAS subsidies. This represents a considerable increase from the 44 subsidized communities in 2015. The increase is due to additional Alaskan communities requesting subsidized service, which is permitted by law.

Diomede, a community in Alaska that was not on the original list, is receiving service from EAS funds via 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] Section 453 of the FAA Reauthorization Act of 2018 (P.L. 115-254) would sunset the ATNEP program in two years, within which no more communities will be admitted into the program. Diomede, the only community currently in ATNEP, would become a full EAS community, meaning no local cost share would be required after the current agreement ends June 30, 2020.

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.

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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 the DOT finance office. The federal share for Diomede comes out of the EAS program budget.

Hawaii

At the end of FY2018, two communities in Hawaii, Hana and Kamuela, received subsidized service under EAS (see **Appendix A**). There are 10 EAS-eligible communities in Hawaii—nine on the original list of EAS communities plus Kalaupapa, which came into the EAS program via ATNEP and became a permanent EAS community with the 2012 FAA reauthorization.[6]

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, but in some cases it subsidizes flights to more than one hub.

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. It 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 communities' input, DOT issues a decision designating the selected air carrier and specifying the service pattern (routing, frequency, and type of aircraft), annual subsidy rate,

[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.

[7] 49 U.S.C. §41733(c)(1). In addition, the Consolidated Appropriations Act, 2016 (P.L. 114-113), provided 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."

and effective period of the rate. DOT generally establishes two-year EAS service contracts, which allows for frequent bidding and gives communities as well as 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.

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. DOT uses this authority to avoid service disruptions.

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]

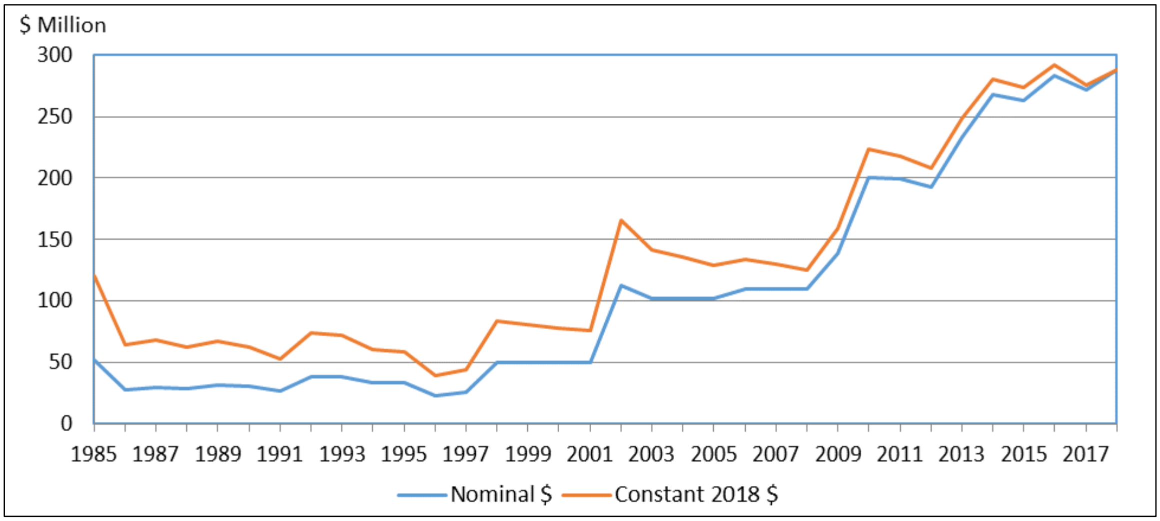
Program Costs

The EAS program is funded from overflight fees paid to the Federal Aviation Administration 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.

[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 Administration Reauthorization Act of 1996 (P.L. 104-264) authorized the collection of overflight fees.

Figure 1. Annual EAS Expenditures, FY1985-FY2018



Source: CRS and U.S. Department of Transportation.

Notes: 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, "Federal consumption expenditures."

Figure 1 shows that total EAS program expenditures have increased sharply over time. In constant 2018 dollars, spending has increased 600% since 1996 and 132% since 2008. Spending has spiked sharply 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, declining to $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 outlays for EAS subsidies, contrary to the expressed intent of at least some Members of Congress.

The Consolidated and Further Continuing Appropriations Act of 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. The FAA Extension, Safety, and Security Act of 2016 (P.L. 114-190) reauthorized the program at the existing level through FY2017. The FAA Reauthorization Act of 2018 (P.L. 115-254) authorized appropriations for the discretionary portion of EAS funding of $155 million for FY2018; $158 million for FY2019; $161 million for FY2020; $165 million for FY2021; $168 million for FY2022; and $172 million for FY2023. The program's total funding, including both appropriations and overflight revenues, was $288 million in FY2018.

Annual EAS funding from FY2012 to FY2018 is shown in **Table 1**.

Table 1. Essential Air Service Funding, FY2012-FY2018
(in millions of nominal dollars)

	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Discretionary Appropriation	$ 143	$ 135	$ 149	$ 155	$175	$150	$155
Overflight Fee Collections	$ 50	$ 98	$ 119	$ 108	$108	$122	$133
Total Funding	$ 193	$ 233	$ 268	$ 263	$283	$272	$288

Source: U.S. Department of Transportation.

Between FY2012 and FY2018, annual EAS expenditures rose more than 49% in nominal dollars. 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 challenge of controlling 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 some 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.
- The law[10] does not limit a community's subsidized flights to a single route. More than 30 of the 174 EAS communities had subsidized flights to more than one hub airport in FY2018.
- 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 high per-passenger costs. DOT estimates that 20% to 25% of EAS communities are served by aircraft that are larger than passenger numbers might require. According to 2014 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]

[10] 49 U.S.C. §41732 sets forth minimum requirements for EAS service, typically two daily round trips six days a week to a hub airport with convenient connecting service to a substantial number of destinations.

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

- Costs per passenger may be high because air carriers may lack an incentive to maximize the number of passengers on a flight. Once a carrier and DOT have agreed 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 high fares to relatively few passengers than to maximize the passenger load with lower fares.

In FY2017, EAS subsidies in the contiguous 48 states plus Puerto Rico ranged from $9 to more than $778 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 September 2018. **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 have generally failed to contain overall spending on EAS.

Some provisions in effect since the passage of the 2012 FAA reauthorization (P.L. 112-95) could delay, if not negate, the law's attempt to shrink the program. For example, Section 426(c) authorizes the Secretary of Transportation, subject to the availability of funds, to grant waivers to communities exceeding the $200 subsidy-per-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.

The FAA Reauthorization Act of 2018 included some provisions requiring the Secretary of Transportation to waive application of the $200 subsidy-per-passenger cap under certain conditions (see section titled "$200 Subsidy Cap" for details).

70-Mile Rule

The Department of Transportation and Related Agencies Appropriations Act of 2000 prohibited DOT from subsidizing carriers that provide EAS service 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 Vision 100 (P.L. 108-176) allowed these two communities to petition DOT to review their mileage determinations. Based on certifications from the governor of each state that their 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. Since then, the "most commonly used route" standard has been extended multiple times, leaving

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

both communities eligible for subsidized flights. The FAA Reauthorization Act of 2018 (P.L. 115-254) extended their eligibility through FY2023.[13] The annual per-passenger subsidy in FY2017 was approximately $344 for Hagerstown and $268 for Lancaster, both of which have EAS flights to both Baltimore-Washington International Airport and Pittsburgh International Airport.

$1,000 Subsidy Cap

A 2011 law, the Airport and Airway Extension Act (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. This resulted in eight communities with per-passenger subsidies over $1,000 becoming ineligible: Alamogordo/Holloman Air Force Base, NM; Ely, NV; Lewistown, MT; Miles City, MT; Kingman, AZ; Great Bend, KS; Huron, SD; and Worland, WY. Unlike other EAS statutory requirements, the $1,000-per-passenger subsidy limit may not be waived by the Secretary of Transportation.

$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 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 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 of 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 large or medium 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.

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]

On May 20, 2016, DOT issued order 2016-5-17, finding 30 communities had exceeded the $200-per-passenger subsidy cap in FY2015. Among these 30 communities, 8 had experienced service hiatus and received waivers from DOT (Order 2016-8-21). The remaining 22 communities all submitted petitions for a waiver and eventually received waivers, per DOT Order 2016-11-8. All

[13] P.L. 115-254 §457.

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

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

[16] Email correspondence between CRS and DOT.

continued to receive subsidized EAS service or remain eligible to participate in the community and regional choice pilot programs.

In September 2017, DOT indicated in Order 2017-9-23 that 27 communities exceeded the subsidy cap in FY2016, among which 6 also failed to meet the daily 10-enplanment requirement.[17] Among these 27 communities, waivers were granted to 8 communities that had experienced service hiatus during FY2016. On December 29, 2017, in its final Order 2017-12-2, DOT granted waivers to 18 of the 19 communities seeking waivers to one or both eligibility requirements. It denied the petition for waiver from Jamestown, NY, which failed to comply with either requirement but has the closest proximity (76 driving miles) to a medium hub airport, Buffalo Niagara International Airport. In FY2016, Jamestown had the second-highest per-passenger subsidy ($460) and the lowest average daily enplanements (seven) among EAS communities.

On May 11, 2018, DOT issued Order 2018-5-14, finding that 25 communities did not meet one or both statutory eligibility requirements during FY2017. Four of these communities had service hiatus in FY2017 and were therefore granted waivers. The remaining 21 communities submitted petitions for a waiver and received waivers in August 2018, per DOT Order 2018-8-2.

The FAA Reauthorization Act of 2018 requires the Secretary of Transportation to waive application of the subsidy-per-passenger cap if the community's subsidy per passenger for a fiscal year is lower than its subsidy per passenger for any of the three previous fiscal years. The law also requires the Secretary to waive application of the subsidy-per-passenger cap if a community's per-passenger subsidy for a fiscal year is less than 10% higher than its highest subsidy per passenger in any of the three previous fiscal years, but this may be waived only once per community. This means the communities that meet the criteria would be exempt from the $200 per-passenger subsidy cap, while the ones that do not meet the criteria may still petition DOT for a waiver.

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.[18] 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 average daily enplanement level is caused by a temporary decline in enplanements.[19]

On April 24, 2014, DOT issued a tentative order[20] 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.

[17] DOT Order 2017-12-2. The list of six communities not meeting the 10-enplanement requirement was later adjusted down to five, after DOT received updated enplanement numbers.

[18] 49 U.S.C. §41731(c) & (d).

[19] 49 U.S.C. §41731(e).

[20] 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. DOT indicated that these communities' compliance with the 10-passengers-per-day requirement would be reassessed based on FY2015 data. EAS service to Athens, GA, ended on September 30, 2014.

In May 2015, DOT issued another tentative order[21] indicating its intention to enforce the 10-passengers-per-day rule based on FY2014 data. This would have affected subsidized service to three communities: Mason City, IA; Show Low, AZ; and Victoria, TX. All three communities filed petitions for a waiver. DOT granted waivers to all three, per order 2015-11-19. In DOT order 2016-5-17, mentioned previously, DOT found that in FY2015, 12 of the 30 communities that had exceeded the $200 subsidy cap also failed to meet the requirement of at least 10 enplanements per day. Four communities were in the group of eight that had experienced service hiatus. DOT Order 2016-8-21 granted waivers to these communities. The remaining eight communities filed for and were granted waivers by DOT Order 2016-11-8. They continue to receive subsidized EAS service or remain eligible to participate in the community and regional choice pilot programs.

In September 2017, DOT's Order 2017-9-23 stated that six communities failed to meet the average daily 10-enplanment requirement. DOT later updated the traffic data and determined that one community, Bradford, PA, met the enplanement requirement. Among the remaining five communities, waivers were granted to all except Jamestown, NY.[22] EAS service to Jamestown, NY, ended on January 16, 2018.

On May 11, 2018, DOT indicated in Order 2018-5-14 that 25 communities did not meet one or both statutory eligibility requirements in FY2017. Four of these communities had service hiatus in FY2017 and were therefore tentatively granted waivers. Among the remaining 21 communities, 4 did not meet the requirement of an average of 10 daily enplanements. They submitted petitions and were granted waivers in August 2018.[23]

Cost Sharing If Near a Small Hub

The Consolidated Appropriations Act, 2014, the Continued Appropriations Resolution, 2015, and the Consolidated Appropriations Act, 2018, 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. This would affect two communities that are within a 40-mile distance of a small hub airport—Lancaster, PA, and Kamuela, HI.[24]

Lancaster's EAS contract was extended for an additional six-month duration three times after it expired on September 30, 2017. This was caused by the uncertainty of Lancaster's eligibility during the multiple short-term extensions of EAS authority before the passage of the FAA Reauthorization Act of 2018, which made DOT unable to go through the regular request-for-proposal process. After Lancaster's eligibility was confirmed in the FAA Reauthorization Act,

[21] 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 confirmed that Jamestown, NY, averaged more than 10 enplanements per day in FY2014 and, therefore, remains EAS-eligible.

[22] DOT Order 2017-12-2.

[23] DOT Order 2018-8-2.

[24] Driving distance between Lancaster, PA, and its nearest small hub airport, Harrisburg International airport, is under 40 miles, as is the distance between Kamuela, HI, and its nearest small hub airport, Kona International Airport.

DOT issued a request for proposals with local cost sharing.[25] A one-year cost-share agreement for Kamuela was reached among DOT, the County of Hawaii, and the selected air carrier, with the County of Hawaii paying 5% of the subsidy cost.[26]

Community and Regional Choice Pilot Programs

Section 405 of 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)[27] and the Community Flexibility Pilot Program.[28] All communities receiving subsidized EAS at the time of application can participate.

Alternate EAS (AEAS) 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 at the time of application to the program. Participating communities still need to meet the statutory eligibility criteria for EAS. Currently, AEAS has seven participants: Beckley, WV; Crescent City, CA; Macon, GA; Manistee/Ludington, MI; Page, AZ; Parkersburg, WV/Marietta, OH; and Tupelo, MS. All are using the proceeds to secure public charter service.[29]

The Community Flexibility Pilot Program 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. Currently, Visalia, CA, which entered the program in March 2017, is the only participating community.[30]

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.[31] In 2018, this number was 174 (see **Appendix A**).

[25] DOT Order 2018-11-1.

[26] DOT Order 2018-4-14.

[27] Docket OST-2004-18715.

[28] Docket OST-2000-8556

[29] https://www.transportation.gov/office-policy/aviation-policy/dot-regulation-14-cfr-380-public-charters.

[30] DOT order 2017-1-2. Visalia will forgo participation in the traditional EAS Program for a 10-year period, beginning March 1, 2017, in exchange for a grant to provide funding for the construction of airport hangers.

[31] 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.

Nevertheless, the growth rate of average subsidy per EAS community over the years has been significant. The average annual EAS subsidy in non-Alaska communities rose from $1 million per community in FY2002[32] to $2.6 million in FY2018.[33]

In addition to multiple contributing factors previously discussed, government regulations may affect the provision of air service to small communities. For example, a 2013 FAA pilot qualification rule[34] increased the qualification requirements for airline pilots. Many pilots working for regional airlines did not meet the new minimum qualifications. The rules appear to have forced small carriers to raise salaries in order to attract qualified pilots, potentially raising EAS subsidy costs as well.[35]

In a 2009 report, GAO offered a number of options for modifying the EAS program:[36]

- limiting program eligibility to communities participating as of a specified date;
- allowing carriers more flexibility on 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; and
- 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 provide financial assistance could potentially be more responsive to communities' needs.[37] It reiterated this recommendation in its 2014 report, suggesting that multimodal solutions, such as bus service to large airports or air taxi service to connect communities, could be more cost-effective than the current EAS program.[38]

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. The changes adopted in recent years, including in the FAA Modernization and Reform Act of 2012, have not proven effective in controlling program costs, in part because communities that fail to meet certain eligibility requirements almost always are granted waivers upon request. The FAA Reauthorization Act of 2018 provides that certain eligibility requirements will not apply to a number of these communities as long as they meet certain criteria.

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

[33] CRS calculations based on DOT data in **Appendix A**.

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

[35] Statement of Russell "Chip" Childs, President and CEO, SkyWest, Inc., before House Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing "Building a 21st Century Infrastructure for America: Air Transportation in the United States in the 21st Century," March 8, 2017.

[36] 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.

[37] Ibid., pp. 34-36.

[38] 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	Hub(s)	Annual Subsidy Rate as of Sept. 1, 2018
Alabama	1	Muscle Shoals	ATL/BNA	$2,778,811
Arkansas	4	El Dorado/Camden	DFW	$2,306,627
Arkansas		Harrison	DFW/MEM	$2,397,188
Arkansas		Hot Springs	DFW	$2,378,312
Arkansas		Jonesboro	STL	$2,040,947
Arizona	3	Page	LAS/PHX	$4,398,924
Arizona		Prescott	DEN/LAX	$3,983,055
Arizona		Show Low	PHX	$1,673,267
California	3	Crescent City	OAX	$3,310,503
California		El Centro	LAX	$2,488,824
California		Merced	LAX/OAK	$3,249,944
Colorado	3	Alamosa	DEN	$2,593,050
Colorado		Cortez	DEN/PHX	$3,580,480
Colorado		Pueblo	DEN	$2,548,067
Georgia	1	Macon	BWI	$4,687,979
Hawaii	2	Hana	OGG	$114,099
Hawaii		Kamuela	OGG	$377,584
Iowa	4	Burlington	ORD/STL	$2,439,963
Iowa		Fort Dodge	MSP/STL	$2,949,904
Iowa		Mason City	MSP/ORD	$2,949,904
Iowa		Waterloo	ORD	$1,727,411
Illinois	3	Decatur	ORD/STL	$2,915,273
Illinois		Marion/Herrin	STL	$2,840,958
Illinois		Quincy/Hannibal, MO	ORD	$2,659,328
Kansas	5	Dodge City	DEN	$3,621,182
Kansas		Garden City	DFW	$873,861
Kansas		Hays	DEN	$3,123,573
Kansas		Liberal/Guymon, OK	DEN	$3,747,998
Kansas		Salina	DEN/ORD	$2,995,087
Kentucky	2	Owensboro	STL	$2,107,191
Kentucky		Paducah	ORD	$2,787,695

State	Number of EAS Communities	EAS Community	Hub(s)	Annual Subsidy Rate as of Sept. 1, 2018
Maryland	1	Hagerstown	BWI/PIT	$1,785,638
Maine	4	Augusta/Waterville	BOS	$2,045,122
Maine		Bar Harbor	BOS	$3,177,651
Maine		Presque Isle/Houlton	EWR	$4,780,955
Maine		Rockland	BOS	$2,127,026
Michigan	9	Alpena	DTW	$2,348,781
Michigan		Escanaba	DTW	$2,832,133
Michigan		Hancock/Houghton	ORD	$2,024,076
Michigan		Iron Mountain/Kingsford	DTW/MSP	$3,924,019
Michigan		Ironwood/Ashland, WI	MSP/ORD	$3,513,814
Michigan		Manistee/Ludington	MDW	$2,990,575
Michigan		Muskegon	ORD	$2,608,523
Michigan		Pellston	DTW	$1,346,679
Michigan		Sault Ste. Marie	DTW/MSP	$1,998,416
Minnesota	5	Bemidji	MSP	$1,309,684
Minnesota		Brainerd	MSP	$1,653,672
Minnesota		Chisholm/Hibbing	MSP	$2,792,813
Minnesota		International Falls	MSP	$3,274,852
Minnesota		Thief River Falls	MSP	$3,350,312
Missouri	4	Cape Girardeau/Sikeston	ORD	$2,984,760
Missouri		Fort Leonard Wood	STL	$3,182,419
Missouri		Joplin	DFW	$839,513
Missouri		Kirksville	STL	$1,989,635
Mississippi	4	Greenville	BNA/DFW	$2,724,153
Mississippi		Laurel/Hattiesburg	DFW/ORD	$3,133,072
Mississippi		Meridian	DFW/ORD	$2,985,821
Mississippi		Tupelo	BNA	$3,932,032
Montana	7	Butte	SLC	$881,665
Montana		Glasgow	BIL	$2,194,011
Montana		Glendive	BIL	$2,132,813
Montana		Havre	BIL	$2,212,162
Montana		Sidney	BIL	$4,124,531
Montana		West Yellowstone	SLC	$580,957

State	Number of EAS Communities	EAS Community	Hub(s)	Annual Subsidy Rate as of Sept. 1, 2018
Montana		Wolf Point	BIL	$2,327,384
North Dakota	3	Devils Lake	DEN	$3,935,087
North Dakota		Dickinson	DEN	$4,162,080
North Dakota		Jamestown (ND)	DEN	$2,688,493
Nebraska	7	Alliance	DEN	$2,273,850
Nebraska		Chadron	DEN	$2,066,589
Nebraska		Grand Island	DFW	$907,348
Nebraska		Kearney	DEN	$3,675,276
Nebraska		McCook	DEN	$2,462,456
Nebraska		North Platte	DEN	$3,575,926
Nebraska		Scottsbluff	DEN	$3,152,294
New Hampshire	1	Lebanon/White River Jct.	BOS/HPN	$3,343,904
New Mexico	3	Carlsbad	ABQ/DFW	$3,041,207
New Mexico		Clovis	DFW	$4,281,129
New Mexico		Silver City/Hurley/Deming	ABQ/PHX	$3,368,032
New York	5	Massena	BOS	$2,870,608
New York		Ogdensburg	ALB/BOS	$2,721,962
New York		Plattsburgh	IAD	$3,371,895
New York		Saranac Lake/Lake Placid	BOS	$2,045,854
New York		Watertown (NY)	PHL	$3,949,646
Oregon	1	Pendleton	PDX	$2,273,823
Pennsylvania	6	Altoona	BWI/PIT	$2,371,942
Pennsylvania		Bradford	PIT	$2,045,826
Pennsylvania		DuBois	BWI/PIT	$2,967,587
Pennsylvania		Franklin/Oil City	PIT	$1,442,788
Pennsylvania		Johnstown	BWI/PIT	$2,912,558
Pennsylvania		Lancaster	BWI/PIT	$2,504,174
Puerto Rico	1	Mayaguez	SJU	$1,550,803
South Dakota	3	Aberdeen	MSP	$1,389,795
South Dakota		Pierre	DEN	$4,651,586
South Dakota		Watertown (SD)	DEN	$2,406,155
Tennessee	1	Jackson	ATL/STL	$1,884,399
Texas	1	Victoria	AUS/IAH	$2,660,000

State	Number of EAS Communities	EAS Community	Hub(s)	Annual Subsidy Rate as of Sept. 1, 2018
Utah	3	Cedar City	SLC	$2,645,932
Utah		Moab	DEN	$3,991,840
Utah		Vernal	DEN	$3,097,656
Virginia	1	Staunton	IAD/ORD	$2,992,903
Vermont	1	Rutland	BOS	$1,360,481
Wisconsin	2	Eau Claire	ORD	$2,464,972
Wisconsin		Rhinelander	MSP	$1,714,307
West Virginia	5	Beckley	CLT	$2,828,034
West Virginia		Clarksburg/Fairmont	IAD/ORD	$2,850,452
West Virginia		Greenbrier/W. Sulphur Sps	IAD/ORD	$3,994,423
West Virginia		Morgantown	BWI/PIT	$2,989,432
West Virginia		Parkersburg/Marietta, OH	CLT	$1,938,219
Wyoming	2	Cody	DEN	$850,000
Wyoming		Laramie	DEN	$2,182,244
Total	**111**			**$293,612,625**

Source: Department of Transportation, Non-Alaska U.S. Carriers Subsidy Reports, September 2018.

https://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports.

Appendix B. Subsidized EAS in Alaska

Alaska EAS Community	Hub(s) Served	Annual Contract Subsidy Rate as of September 1, 2018
Adak	ANC	$2,907,935
Akhiok	AKN	$238,460
Akutan	DUT	$890,001
Alitak	ADQ	$36,655
Amook Bay	ADQ	$36,655
Angoon	JNU	$303,298
Atka	DUT	$990,578
Central	FAI	$162,474
Chatham	JNU	$6,048
Chignik	AKN	$362,099
Chignik Lake	AKN	$362,099
Chisana	TKJ	$96,810
Circle	FAI	$162,474
Clark's Point	DLG	$120,978
Cordova	ANC/JNU	$3,107,161
Diomede*	OME/WAA	$190,476
Egegik	AKN	$386,567
Ekwok	DLG	$102,288
Elfin Cove	JNU	$124,795
Excursion Inlet	JNU	$30,792
False Pass	CDB	$228,927
Funter Bay	JNU	$14,040
Gulkana	ANC	$206,128
Gustavus	JNU	$776,790
Healy Lake	FAI	$113,203
Hydaburg	WFB	$195,319
Igiugig	AKN	$200,933
Kake	JNU	$181,621
King Cove	CDB	$638,087
Kitoi Bay	ADQ	$36,655
Koliganek	DLG	$314,029
Lake Minchumina	FAI	$102,300
Levelock	AKN	$188,636
Manley	FAI	$43,333

Alaska EAS Community	Hub(s) Served	Annual Contract Subsidy Rate as of September 1, 2018
Manokotak	DLG	$308,849
May Creek	GKN	$130,964
McCarthy	GKN	$130,964
McGrath	ANC	$669,103
Minto	FAI	$43,333
Moser Bay	ADQ	$36,655
New Stuyahok	DLG	$103,877
Nikolski	DUT	$331,986
Olga Bay	ADQ	$36,655
Pelican	JNU	$348,103
Perryville	AKN	$647,373
Petersburg	JNU/KTN	$470,525
Pilot Point	AKN	$212,971
Port Alexander	SIT	$99,364
Port Bailey	ADQ	$36,655
Port Heiden	AKN	$491,662
Port Williams	ADQ	$36,655
Seal Bay	ADQ	$36,655
South Naknek	AKN	$143,791
St. George	SNP/ANC	$354,910
Tatitlek	MRI	$102,779
Tenakee	JNU	$152,127
Twin Hills	DLG	$233,103
Uganik	ADQ	$36,655
Ugashik	AKN	$212,971
West Point	ADQ	$36,655
Wrangell	JNU/KTN	$470,525
Yakutat	ANC/JNU	$3,107,161
Zachar Bay	ADQ	$36,655
Total: 63		**$22,918,323**

Source: U.S. Department of Transportation, Alaskan Subsidized EAS Reports, September 2018.

https://www.transportation.gov/office-policy/aviation-policy/essential-air-service-reports.

Note: Diomede is funded under the Air Transportation to Noneligible Places (ATNEP) program.

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