SUBCHAPTER II—ADMINISTRATIVE

§ 14521. Required level of expenditure

A State or political subdivision of a State is not eligible to receive benefits under this subtitle unless the aggregate expenditure of state amounts, except expenditures for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and local and federal amounts, for the benefit of the area within the State located in the Appalachian region is maintained at a level which does not fall below the average level of those expenditures for the State's last two full fiscal years prior to March 9, 1965. In computing the level, a State's past expenditure for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and expenditures of local and federal amounts shall not be included. The Commission shall recommend to the President a lesser requirement when it finds that a substantial population decrease in that part of a State which lies within the region would not justify a state expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure in an individual program has been disproportionate to the present need for that part of the State.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
14521	40 App.:221.	Pub. L. 89–4, title II, § 221, Mar. 9, 1965, 79 Stat. 18; Pub. L. 90–103, title I, § 117, Oct. 11, 1967, 81 Stat. 263; Pub. L. 101–427, Oct. 15, 1990, 104 Stat. 927.

The words ''or such Federal officer or officers as the President may designate'' are omitted because of 3:301.

§ 14522. Consent of States

This subtitle does not require a State to engage in or accept a program under this subtitle without its consent.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
14522	40 App.:222.	Pub. L. 89–4, title II, § 222, Mar. 9, 1965, 79 Stat. 18.

§ 14523. Program implementation

(a) REQUIREMENTS.—A program or project authorized under this chapter shall not be implemented until—

(1) the responsible federal official has decided that applications and plans relating to the program or project are not incompatible with the provisions and objectives of federal laws that the official administers that are not inconsistent with this subtitle; and

(2) the Appalachian Regional Commission has approved the program or project and has determined that it—

(A) meets the applicable criteria under section 14524 of this title and the requirements of the development planning process under section 14525 of this title; and

(B) will contribute to the development of the Appalachian region.

(b) DECISION IS CONTROLLING.—A decision under subsection (a)(2) is controlling and shall be accepted by the federal agencies.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
14523	40 App.:223.	Pub. L. 89–4, title II, § 223, Mar. 9, 1965, 79 Stat. 18; Pub. L. 90–103, title I, § 118, Oct. 11, 1967, 81 Stat. 264; Pub. L. 94–188, title I, § 116, Dec. 31, 1975, 89 Stat. 1083.

§ 14524. Program development criteria

(a) FACTORS TO BE CONSIDERED.—In considering programs and projects to be given assistance under this subtitle, and in establishing a priority ranking of the requests for assistance presented to the Appalachian Regional Commission, the Commission shall follow procedures that will ensure consideration of—

(1) the relationship of the project or class of projects to overall regional development, including its location in a severely and persistently distressed county or area;

(2) the population and area to be served by the project or class of projects, including the per capita market income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities of the State that seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same amounts;

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project; and

(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures may be evaluated.

(b) LIMITATION ON USE.—Financial assistance made available under this subtitle shall not be used to assist establishments relocating from one area to another.

(c) DETERMINATION REQUIRED BEFORE AMOUNTS MAY BE PROVIDED.—Amounts may be provided for programs and projects in a State under this subtitle only if the Commission determines that the level of federal and state financial assistance under other laws for the same type of programs or projects in that part of the State within the Appalachian region will not be diminished in order to substitute amounts authorized by this subtitle.

(d) MINIMUM AMOUNT OF ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—For each fiscal year, not less than 50 percent of the amount of grant expenditures the Commission approves shall support activities or projects that benefit

severely and persistently distressed counties and areas.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
14524(a)	40 App.:224(a).	Pub. L. 89–4, title II, § 224(a), Mar. 9, 1965, 79 Stat. 18; Pub. L. 90–103, title I, § 119(a), Oct. 11, 1967, 81 Stat. 264; Pub. L. 105–393, title II, § 218(a), (b), Nov. 13, 1998, 112 Stat. 3622; Pub. L. 107–149, §§ 8(a), 13(g), Mar. 12, 2002, 116 Stat. 70, 72.
14524(b)	40 App.:224(b).	Pub. L. 89–4, title II, § 224(b), Mar. 9, 1965, 79 Stat. 19; Pub. L. 90–103, title I, § 119(b), Oct. 11, 1967, 81 Stat. 264; Pub. L. 105–393, title II, § 218(c), Nov. 13, 1998, 112 Stat. 3623.
14524(c)	40 App.:224(c).	Pub. L. 89–4, title II, § 224(c), as added Pub. L. 94–188, title I, § 117, Dec. 31, 1975, 89 Stat. 1084.
14524(d)	40 App.:224(d).	Pub. L. 89–4, title II, § 224(d), as added Pub. L. 107–149, § 8(b), Mar. 12, 2002, 116 Stat. 70.

§ 14525. State development planning process

(a) STATE DEVELOPMENT PLAN.—Pursuant to policies the Appalachian Regional Commission establishes, each state member shall submit a development plan for the area of the State within the Appalachian region. The plan shall—

(1) be submitted according to a schedule the Commission prescribes;

(2) reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan that may be approved for the subregion of which the State is a part;

(3) describe the state organization and continuous process for Appalachian development planning, including—

(A) the procedures established by the State for the participation of local development districts in the process;

(B) how the process is related to overall statewide planning and budgeting processes; and

(C) the method of coordinating planning and projects in the region under this subtitle, the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), and other federal, state, and local programs;

(4) set forth the goals, objectives, and priorities of the State for the region, as established by the Governor, and identify the needs on which the goals, objectives, and priorities are based; and

(5) describe the development strategies for achieving the goals, objectives, and priorities, including funding sources, and recommendations for specific projects to receive assistance under this subtitle.

(b) AREAWIDE ACTION PROGRAMS.—The Commission shall encourage the preparation and execution of areawide action programs that specify interrelated projects and schedules of actions, the necessary agency funding, and other commitments to implement the programs. The programs shall make appropriate use of existing plans affecting the area.

(c) LOCAL DEVELOPMENT DISTRICTS.—Local development districts certified by the State as described in section 14102(a)(2) of this title provide the linkage between state and substate planning and development. The districts shall assist the States in the coordination of areawide programs and projects and may prepare and adopt areawide plans or action programs. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local development districts, local units of government, and citizen groups and shall consider the goals, objectives, priorities, and recommendations of those bodies.

(d) FEDERAL RESPONSIBILITIES.—To the maximum extent practicable, federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs or projects in the region shall—

(1) take into account the policies, goals, and objectives the Commission and its member States establish pursuant to this subtitle;

(2) recognize Appalachian state development strategies approved by the Commission as satisfying requirements for overall economic development planning under the programs or projects; and

(3) accept the boundaries and organization of any local development district certified under this subtitle that the Governor may designate as the areawide agency required under any of those programs undertaken or assisted by those federal departments, agencies, and instrumentalities.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
14525(a)	40 App.:225(a).	Pub. L. 89–4, title II, § 225, as added Pub. L. 94–188, title I, § 118, Dec. 31, 1975, 89 Stat. 1084; Pub. L. 107–149, § 13(h), Mar. 12, 2002, 116 Stat. 72.
14525(b)	40 App.:225(b)(2).	
14525(c)	40 App.:225(b)(1).	
14525(d)	40 App.:225(c).	

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in subsec. (a)(3)(C), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified principally to chapter 38 (§ 3121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

§ 14526. Distressed, at-risk, and economically strong counties

(a) DESIGNATIONS.—

(1) IN GENERAL.—The Appalachian Regional Commission, in accordance with criteria the Commission may establish, each year shall—

(A) designate as ''distressed counties'' those counties in the Appalachian region that are the most severely and persistently distressed;

(B) designate as ''at-risk counties'' those counties in the Appalachian region that are most at risk of becoming economically distressed; and