



S. 1223 Frequently Asked Questions

1. What does the First Response Broadcasters Act do?

The bill secures the last link of our national emergency communications chain by:

- Establishing a Primary Entry Point (PEP) radio station in each state and territory currently without one, ensuring that emergency alerts reach every community where disaster may strike.
- Protecting access to fuel, food, water and other supplies essential to staying on the air through a disaster by preventing those supplies from being confiscated by the federal government.
- Providing federal matching grants to protect and upgrade critical-to-air broadcast facilities and infrastructure or to enhance disaster-related public information programming.
- Expediting access to disaster zones in order to repair, refuel or maintain critical broadcast facilities and infrastructure.
- Ensuring that access to the disaster area by local journalists (print, broadcast and online) is determined by the local officials that know them best — not by out-of-town federal bureaucrats.

2. Who is supporting the First Response Broadcasters Act?

The bipartisan bill, sponsored by Senators Mary L. Landrieu, D-La., and Ted Stevens, R-Alaska, is cosponsored by Senators Tom Carper, D-Del., Mark Pryor, D-Ark., Gordon Smith, R-Ore., Pete Domenici, R-N.M., Thad Cochran, R-Miss., John McCain, R-Ariz., and Olympia Snowe, R-Maine.

The bill has been endorsed by the National Association of Broadcasters, the Radio-Television News Directors Association, the Association of Public Television Stations, state broadcasting associations representing all 50 states and the District of Columbia, and individual television and radio stations and groups across the country.

3. Is there a companion bill in the House of Representatives?

Yes, H.R. 2331, introduced by Representatives Charlie Melancon, D-La., Chip Pickering, R-Miss., and Dan Boren, R-Okla.

4. How much will the bill cost?

It is still too early in the process to have been scored by the Congressional Budget Office, but we expect the score to be little more than \$6.5 million.

5. Why single out just broadcasters and not newspapers?

First, a clarification: **As far as newsgathering personnel are concerned, this bill provides the same benefits to all journalists – print, broadcast and online.** It says that after a disaster, whichever local agency was in charge of press credentialing and access before the disaster is still in charge after. FEMA, the military and all other federal responding agencies have to defer to them.

The main purpose for targeting the additional benefits of the bill exclusively to broadcasters is one of legal precedent. Regulation of the broadcast industry is longstanding, as is its role as part of the federal disaster response plan. Newspapers and web sites are, in general, are completely free of these regulations and requirements.

Under laws going back to 1951, radio and television stations are already required to participate in the national Emergency Alert System (EAS), and many stations – called Primary Entry Points (PEP) – have protected, government-funded circuits connecting them to emergency command centers in Washington and in their states. The bill would increase the number of PEP stations nationwide to better facilitate getting emergency warnings to the communities that need them.

This network is a core part of the federal government’s disaster communications plan, and the government has invested heavily in it. If broadcasters do not comply with the EAS rules, they face stringent penalties. However, this whole plan crumbles if the signals don’t get out on the air – and right there we find the government’s significant interest in keeping these stations broadcasting through any disaster. This is why **both the Federal Communications Commission and an independent presidential review panel recommended steps like those included in the bill.**

This historical foundation doesn’t exist for newspapers, even though they too provide a valuable public service in times of disaster – a service commended in the findings section of the legislation.

Incorporating newspapers would also raise other concerns. For example, how do you determine eligibility? Broadcasters are easy – they either have a federal license or they don’t. But how do you define a “newspaper?” If you make it too narrow, you risk leaving out the weeklies and other community staples. If you make it too broad, you may open up benefits to individual bloggers and others which the industry has in the past argued against accreditation for. And should the government even be drawing this line?

Also, would addressing these questions and granting these benefits to newspapers run the risk of opening the door to additional regulation of the newspaper industry, such as that which broadcasters already face?

6. What about other important industries, like public utilities?

Many of these industries are already designated as Essential Service Providers under the SAFE Port Act, Public Law 109-347, which was passed into law last year. The law prevents the federal government from unreasonably impeding the disaster area access and disaster recovery efforts of providers of telecommunications services, electrical power, natural gas, water and sewer services and other essential services. The First Response Broadcasters Act would essentially add to this list broadcasters of essential disaster-related information.

7. Should media organizations even accept partnership or assistance from the federal government? Does this impact their editorial credibility?

This is a very legitimate question, and one that every news organization must consider individually. It is certainly a respectable journalistic view to decide “no.” Senator Landrieu wholeheartedly believes that editorial independence must be preserved. Indeed, after the hurricanes, the local media were often at their best when exposing the failures of government. That’s one reason the bill gets the federal government out of the business of controlling local media access.

It is also why Senator Landrieu has cosponsored both a journalists’ shield law and the OPEN Government Act, a bill to streamline the Freedom of Information Act (FOIA) to make it easier for journalists to get information from the federal government.

Nothing in the First Response Broadcasters Act grants the federal government any editorial control over content whatsoever. These journalistic sensitivities do, however, reinforce why the bill at this time only includes broadcasters. This is not a new partnership. The bill simply protects the intended benefits of a partnership that has been around for more than five decades, based on a core duty to the public that comes with the right to use public airwaves.

8. Does the bill only benefit small stations?

No. The bill applies to all stations, large and small, independently owned and those that are part of large corporate families. It does, however, seek to promote a diverse distribution of federal matching grants to protect and upgrade critical broadcast facilities and infrastructure. Applications for these grants will be considered principally on merit, but the bill allows the FEMA Administrator to increase the prioritization of specific station types to ensure a more equitable distribution.

Other recent grant programs that have provided similar latitude without additional guidance have often resulted in less-than-fair allocations of the available funds. To avoid this, the First Response

Broadcasters Act identifies specific criteria the Administrator may use, including increasing the prioritization of stations that:

- submit their proposal in partnership with other stations or state or local authorities;
- are themselves small businesses of 50 employees or less;
- or are principally owned and operated from within the same state or locality.

None of these criteria are required to be employed, nor do they prohibit other criteria from being applied. They are provided as guidance for what type of tools the Administrator may use to ensure that the grant program doesn't disproportionately benefit a single station type or owner.