

# Union Calendar No. 723

118<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1586

[Report No. 118–721, Parts I and II]

To allow the Secretary of the Interior and the Secretary of Agriculture to use a fire retardant, chemical, or water for fire suppression, control, or prevention activities.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2023

Mr. LAMALFA (for himself, Mr. PANETTA, Mr. NEWHOUSE, Mr. FULCHER, Mr. AUSTIN SCOTT of Georgia, Mr. MCCLINTOCK, Mrs. RADEWAGEN, Mr. NEHLS, Mrs. BOEBERT, Mr. CRAWFORD, Mrs. KIM of California, Mr. ZINKE, Mr. GARAMENDI, Mr. MOORE of Utah, Mr. OWENS, Mr. SIMPSON, Mr. KELLY of Mississippi, Mr. CALVERT, Mr. STAUBER, Mr. ISSA, Mrs. MILLER of Illinois, Mr. KILEY, Mr. ROSENDALE, Mr. COSTA, and Ms. HAGEMAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Natural Resources, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 25, 2024

Reported from the Committee on Natural Resources with amendments

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 16, 2024

Additional sponsors: Mr. MOORE of Alabama, Mr. OBERNOLTE, Mr. VALADAO, Mr. DUARTE, Mr. MOYLAN, Mr. STEWART, Mr. BACON, Mr. BENTZ, Mr. ROUZER, Mr. AMODEI, Mr. CARBAJAL, Mr. GOSAR, Ms. MALOY and Mr. LOPEZ

DECEMBER 16, 2024

Reported from the Committee on Transportation and Infrastructure with an amendment

[Strike out all after the enacting clause and insert the part printed in boldface roman]

DECEMBER 16, 2024

Committee on Agriculture discharged; committed to the Committee of the  
Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 14, 2023]

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## **A BILL**

To allow the Secretary of the Interior and the Secretary  
of Agriculture to use a fire retardant, chemical, or water  
for fire suppression, control, or prevention activities.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        *This Act may be cited as the “Forest Protection and*  
5 *Wildland Firefighter Safety Act of 2023”.*

6 **SEC. 2. PERMITTING REQUIREMENTS FOR CERTAIN DIS-**  
7 **CHARGES OF FIRE RETARDANT.**

8        (a) *AUTHORIZED USES.*—*The Secretary of the Interior*  
9 *and the Secretary of Agriculture are each authorized to dis-*  
10 *charge a fire retardant, chemical, or water from aircraft*  
11 *for fire suppression, control, or prevention activities.*

12        (b) *PERMITTING REQUIREMENTS.*—*Notwithstanding*  
13 *any provision of the Federal Water Pollution Control Act*  
14 *(33 U.S.C. 1251 et seq.), a permit under section 402 of such*  
15 *Act (33 U.S.C. 1342) shall not be required for the activities*  
16 *authorized by subsection (a) or for similar activities con-*  
17 *ducted by a covered entity.*

18        (c) *DEFINITION.*—*In this section, the term “covered en-*  
19 *tity” means—*

20            (1) *the Forest Service;*

21            (2) *the National Park Service;*

22            (3) *the Bureau of Land Management;*

23            (4) *the United States Fish and Wildlife Service;*

24            (5) *the Bureau of Indian Affairs;*

25            (6) *the Federal Emergency Management Agency;*

1           (7) a State (as defined in section 502 of the Fed-  
2           eral Water Pollution Control Act (33 U.S.C. 1362)) or  
3           a political subdivision thereof;

4           (8) a Tribal government; and

5           (9) the Department of Defense.

Amend the title so as to read: “A bill to allow the Secretary of the Interior and the Secretary of Agriculture to use a fire retardant, chemical, or water from aircraft for fire suppression, control, or prevention activities.”.

6 **SECTION 1. SHORT TITLE.**

7           **This Act may be cited as the “Forest Pro-**  
8 **tection and Wildland Firefighter Safety Act of**  
9 **2023”.**

10 **SEC. 2. SAFE HARBOR FOR CERTAIN DISCHARGES OF**  
11 **WILDLAND FIRE CHEMICALS.**

12           **(a) IN GENERAL.—Subject to subsection (b),**  
13 **no court may enjoin under the Federal Water**  
14 **Pollution Control Act (33 U.S.C. 1251 et seq.)**  
15 **a covered entity from conducting an aerial**  
16 **application of a covered fire retardant and**  
17 **water enhancer for wildfire suppression, con-**  
18 **trol, or prevention activities that results in a**  
19 **discharge, if such aerial application is con-**  
20 **ducted in accordance with the requirements**  
21 **of the Federal Facility Compliance Agreement**  
22 **between the Environmental Protection Agen-**

1 cy and the U.S. Forest Service, as agreed to  
2 on February 16, 2023.

3 (b) **PERIOD OF APPLICATION.**—Subsection  
4 (a) shall apply to any aerial application de-  
5 scribed in such subsection that is conducted  
6 before the effective date of a permit issued by  
7 the Administrator of the Environmental Pro-  
8 tection Agency or a State, as applicable,  
9 under section 402 of the Federal Water Pollu-  
10 tion Control Act (33 U.S.C. 1342) that author-  
11 izes the discharge, from such aerial applica-  
12 tion, of a covered fire retardant and water  
13 enhancer for wildfire suppression, control, or  
14 prevention activities.

15 (c) **EFFECT.**—Nothing in this section af-  
16 fects the authority of any court under the  
17 Federal Water Pollution Control Act with re-  
18 spect to any discharge resulting from an aer-  
19 ial application not conducted in accordance  
20 with the requirements described in sub-  
21 section (a).

22 (d) **DEFINITIONS.**—In this section:

23 (1) **COVERED ENTITY.**—The term “cov-  
24 ered entity” means—

1           **(A) any Federal agency, agency of**  
2           **a State or political subdivision there-**  
3           **of, or Tribal agency, authorized by**  
4           **law to conduct an aerial application**  
5           **of fire retardants and water**  
6           **enhancers for wildfire suppression,**  
7           **control, or prevention activities; and**

8           **(B) any contractor, subcontractor,**  
9           **or other agent of an agency described**  
10          **in subparagraph (A).**

11          **(2) COVERED FIRE RETARDANT AND**  
12          **WATER ENHANCER.—The term “covered fire**  
13          **retardant and water enhancer” means a**  
14          **fire retardant and water enhancer that—**

15               **(A) has been evaluated, qualified,**  
16               **and approved by the Secretary of Ag-**  
17               **riculture; and**

18               **(B) appears on the most current**  
19               **Forest Service Qualified Products**  
20               **List.**

21          **(3) DISCHARGE; STATE.—The terms**  
22          **“discharge” and “State” have the mean-**  
23          **ings given those terms in section 502 of**  
24          **the Federal Water Pollution Control Act**  
25          **(33 U.S.C. 1362).**

1       **(e) SUNSET.—This section shall cease to be**  
2 **effective on the date that is 5 years after the**  
3 **date of enactment of this section.**

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