

117TH CONGRESS  
2D SESSION

# H. R. 9119

To provide for a program within the Forest Service to remediate the environmental damages caused by trespass cannabis cultivation, amend the Federal Insecticide, Fungicide, and Rodenticide Act to include criminal penalties for illegal pesticide application on Government property, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2022

Mr. PETERS (for himself and Mr. LAMALFA) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on Natural Resources, and the Budget, 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

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## A BILL

To provide for a program within the Forest Service to remediate the environmental damages caused by trespass cannabis cultivation, amend the Federal Insecticide, Fungicide, and Rodenticide Act to include criminal penalties for illegal pesticide application on Government property, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Targeting and Offset-  
3 ting Existing Illegal Contaminants Act”.

4 **SEC. 2. TRESPASS CANNABIS CULTIVATION SITE RESTORA-  
5 TION PROGRAM ESTABLISHED.**

6 (a) TRESPASS CANNABIS CULTIVATION SITE RES-  
7 TINATION PROGRAM.—

8 (1) IN GENERAL.—The Secretary of the Agri-  
9 culture shall carry out a program of environmental  
10 restoration on land under the jurisdiction of the  
11 Forest Service. The program shall be known as the  
12 “Trespass Cannabis Cultivation Site Restoration  
13 Program”.

14 (2) APPLICATION OF SECTION 120 OF  
15 CERCLA.—Activities of the program described in  
16 subsection (b) shall be carried out subject to, and in  
17 a manner consistent with, section 120 (relating to  
18 Federal facilities) of CERCLA (42 U.S.C. 9620).

19 (3) CONSULTATION WITH EPA.—The program  
20 shall be carried out in consultation with the Admin-  
21 istrator of the Environmental Protection Agency.

22 (4) ADMINISTRATIVE OFFICE WITHIN THE DE-  
23 PARTMENT OF AGRICULTURE.—The Secretary shall  
24 identify an office within the Forest Service which  
25 shall have responsibility for carrying out the pro-  
26 gram.

1 (b) PROGRAM GOALS.—The goals of the program  
2 shall include the identification, investigation, research,  
3 and development of solutions to, and remediation of, con-  
4 tamination resulting from the cultivation of cannabis on  
5 land under the jurisdiction of the Forest Service.

6 (c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

7 (1) BASIC RESPONSIBILITY.—The Secretary  
8 shall, with respect to releases or threats of releases  
9 of hazardous substances, pollutants, contaminants,  
10 improper pesticides or other wastes resulting from  
11 the cultivation of cannabis, carry out (in accordance  
12 with the provisions of this Act and CERCLA) all re-  
13 sponse actions at each facility or site which is under  
14 the jurisdiction of the Forest Service or any site  
15 which was under the jurisdiction of the Forest Serv-  
16 ice at the time of such cultivation.

17 (2) OTHER RESPONSIBLE PARTIES.—Paragraph  
18 (1) shall not apply to a removal or remedial action  
19 if the Administrator has provided for response action  
20 by a potentially responsible person in accordance  
21 with section 122 (relating to settlements) of  
22 CERCLA (42 U.S.C. 9622).

23 (3) STATE FEES AND CHARGES.—The Sec-  
24 retary shall pay fees and charges imposed by State  
25 authorities for permit services for the disposal of

1 hazardous substances, pollutants, contaminants, im-  
2 proper pesticides or other wastes on lands described  
3 in paragraph (1) to the same extent that nongovern-  
4 mental entities are required to pay fees and charges  
5 imposed by State authorities for permit services.  
6 The preceding sentence shall not apply with respect  
7 to a payment that is the responsibility of a lessee,  
8 contractor, or other private person.

9 (d) SERVICES OF OTHER ENTITIES.—

10 (1) IN GENERAL.—Subject to paragraph (3),  
11 the Secretary may enter into agreements on a reim-  
12 bursable or other basis with any other Federal agen-  
13 cy, any State or local government agency, any In-  
14 dian tribe, any owner of covenant property, or any  
15 nonprofit conservation organization to obtain the  
16 services of the agency, Indian tribe, owner, or orga-  
17 nization to assist the Secretary in carrying out any  
18 of the Secretary's responsibilities under this section.  
19 Services which may be obtained under this sub-  
20 section include the identification, investigation, and  
21 cleanup of any hazardous substances, pollutants,  
22 contaminants, improper pesticides or other wastes  
23 resulting from the cultivation of cannabis on land  
24 described subsection (c)(1).

1           (2) CROSS-FISCAL YEAR AGREEMENTS.—An  
2 agreement with an agency under paragraph (1) may  
3 be for a period that begins in one fiscal year and  
4 ends in another fiscal year so long as the period of  
5 the agreement does not exceed two years.

6           (3) LIMITATION ON REIMBURSABLE AGREE-  
7 MENTS.—An agreement with an agency under para-  
8 graph (1) may not provide for reimbursement of the  
9 agency for regulatory enforcement activities. An  
10 agreement under such paragraph with respect to a  
11 site also may not change the cleanup standards se-  
12 lected for the site pursuant to law.

13           (4) DEFINITIONS.—In this subsection:

14           (A) The term “Indian tribe” has the  
15 meaning given such term in section 101 of  
16 CERCLA (42 U.S.C. 9601).

17           (B) The term “nonprofit conservation or-  
18 ganization” means any non-governmental non-  
19 profit organization whose primary purpose is  
20 conservation of open space or natural resources.

21           (C) The term “owner of covenant prop-  
22 erty” means an owner of property subject to a  
23 covenant provided by the United States in ac-  
24 cordance with the requirements of paragraphs  
25 (3) and (4) of section 120(h) of CERCLA (42

1 U.S.C. 9620(h)), so long as the covenant prop-  
2 erty is the site at which the services procured  
3 under paragraph (1) are to be performed.

4 (5) SAVINGS CLAUSE.—Nothing in this sub-  
5 section affects the applicability of section 120 of  
6 CERCLA (42 U.S.C. 9620) to the Department of  
7 Agriculture or the obligations and responsibilities of  
8 the Department of Agriculture under subsection (h)  
9 of such section.

10 (e) RESPONSE ACTION CONTRACTORS.—The provi-  
11 sions of section 119 of CERCLA (42 U.S.C. 9619) apply  
12 to response action contractors (as defined in that section)  
13 who carry out response actions under this section.

14 (f) USE OF APPROPRIATED FUNDS AT FORMER DE-  
15 PARTMENT OF AGRICULTURE SITES.—Appropriations  
16 available to the Department of Agriculture may be used  
17 on land described in subsection (c)(1) for remediation of  
18 damages described in such subsection.

19 (g) SURETY-CONTRACTOR RELATIONSHIP.—Any sur-  
20 ety which provides a bid, performance, or payment bond  
21 in connection with any direct Federal procurement for a  
22 response action contract under the Trespass Cannabis  
23 Cultivation Site Restoration Program and begins activities  
24 to meet its obligations under such bond, shall, in connec-  
25 tion with such activities or obligations, be entitled to any

1 indemnification and the same standard of liability to  
2 which its principal was entitled under the contract or  
3 under any applicable law or regulation.

4 (h) SURETY BONDS.—

5 (1) APPLICABILITY OF SECTIONS 3131 AND 3133  
6 OF TITLE 40.—If under sections 3131 and 3133 of  
7 title 40, United States Code, surety bonds are re-  
8 quired for any direct Federal procurement of any re-  
9 sponse action contract under the Trespass Cannabis  
10 Cultivation Site Restoration Program and are not  
11 waived pursuant to section 3134 of title 40, the sur-  
12 ety bonds shall be issued in accordance with sections  
13 3131 and 3133.

14 (2) LIMITATION OF ACCRUAL OF RIGHTS OF AC-  
15 TION UNDER BONDS.—If, under applicable Federal  
16 law, surety bonds are required for any direct Federal  
17 procurement of any response action contract under  
18 the Trespass Cannabis Cultivation Site Restoration  
19 Program, no right of action shall accrue on the per-  
20 formance bond issued on such contract to or for the  
21 use of any person other than an obligee named in  
22 the bond.

23 (3) LIABILITY OF SURETIES UNDER BONDS.—  
24 If, under applicable Federal law, surety bonds are  
25 required for any direct Federal procurement of any

1 response action contract under the Trespass Can-  
2 nabis Cultivation Site Restoration Program, unless  
3 otherwise provided for by the Secretary in the bond,  
4 in the event of a default, the surety's liability on a  
5 performance bond shall be only for the cost of com-  
6 pletion of the contract work in accordance with the  
7 plans and specifications of the contract less the bal-  
8 ance of funds remaining to be paid under the con-  
9 tract, up to the penal sum of the bond. The surety  
10 shall in no event be liable on bonds to indemnify or  
11 compensate the obligee for loss or liability arising  
12 from personal injury or property damage whether or  
13 not caused by a breach of the bonded contract.

14 (4) NONPREEMPTION.—Nothing in this section  
15 shall be construed as—

16 (A) preempting, limiting, superseding, af-  
17 fecting, applying to, or modifying any State  
18 laws, regulations, requirements, rules, practices,  
19 or procedures; or

20 (B) affecting, applying to, modifying, lim-  
21 iting, superseding, or preempting any rights,  
22 authorities, liabilities, demands, actions, causes  
23 of action, losses, judgment, claims, statutes of  
24 limitation, or obligations under Federal or State  
25 law, which do not arise on or under the bond.



1 (i) APPLICABILITY.—

2 (1) BONDS EXECUTED BEFORE DECEMBER 5,  
3 1991.—Subsections (g) and (h) shall not apply to  
4 bonds executed before December 5, 1991.

5 (2) OTHER BONDS.—Subsections (g) and (h)  
6 shall not apply to bonds to which section 119(g) of  
7 CERCLA (42 U.S.C. 9619(g)) applies.

8 (j) ESTABLISHMENT OF ACCOUNTS.—

9 (1) IN GENERAL.—

10 (A) TRESPASS CANNABIS CULTIVATION  
11 SITE RESTORATION ACCOUNT, AGRICULTURE.—

12 There is hereby established in the Treasury of  
13 the United States an account to be known as  
14 the “Trespass Cannabis Cultivation Site Res-  
15 toration Account, Agriculture” which shall con-  
16 sist of, with respect to land under the jurisdic-  
17 tion of the Forest Service—

18 (i) amounts appropriated with respect  
19 to such land under subsection (m);

20 (ii) amounts recovered from tres-  
21 passers for response actions on such land  
22 under CERCLA; and

23 (iii) any other amounts recovered  
24 from a contractor, insurer, surety, or other  
25 person to reimburse the Department of

1 Agriculture for environmental response ac-  
2 tivities on such land.

3 (B) TRESPASS CANNABIS CULTIVATION  
4 SITE RESTORATION ACCOUNT, FORMERLY USED  
5 AGRICULTURE SITES.—An account to be known  
6 as the “Trespass Cannabis Cultivation Site  
7 Restoration Account, Formerly Used Agri-  
8 culture Sites” which shall consist of, with re-  
9 spect to land formerly under the jurisdiction of  
10 the Secretary of Agriculture—

11 (i) amounts appropriated with respect  
12 to such land under subsection (m);

13 (ii) amounts recovered from tres-  
14 passers for response actions on such land  
15 under CERCLA; and

16 (iii) any other amounts recovered  
17 from a contractor, insurer, surety, or other  
18 person to reimburse the Department of  
19 Agriculture for environmental response ac-  
20 tivities on such land.

21 (2) OBLIGATION OF AUTHORIZED AMOUNTS.—  
22 Funds authorized for deposit in an account under  
23 paragraph (1)—

24 (A) may be obligated or expended from the  
25 account only to carry out the environmental

1 restoration functions of the Secretary of Agri-  
2 culture; and

3 (B) shall remain available until expended.

4 (3) PAYMENTS OF FINES AND PENALTIES.—

5 None of the funds appropriated to the Trespass  
6 Cannabis Cultivation Site Restoration Account, Ag-  
7 riculture, or to the Trespass Cannabis Cultivation  
8 Site Restoration Account, Formerly Used Agri-  
9 culture Sites, may be used for the payment of a fine  
10 or penalty (including any supplemental environ-  
11 mental project carried out as part of such penalty)  
12 imposed against the Department of Agriculture un-  
13 less the act or omission for which the fine or penalty  
14 is imposed arises out of an activity funded by the  
15 environmental restoration account concerned and the  
16 payment of the fine or penalty has been specifically  
17 authorized by law.

18 (4) SOLE SOURCE OF FUNDS FOR OPERATION

19 AND MONITORING OF ENVIRONMENTAL REMEDIES.—

20 The sole source of funds for all phases of an envi-  
21 ronmental remedy on land under the jurisdiction of  
22 the Forest Service or land formerly under the juris-  
23 diction of the Forest Service shall be the applicable  
24 environmental restoration accounts established under  
25 paragraph (1).

1           (5) ENVIRONMENTAL REMEDY DEFINED.—In  
2           this subsection, the term “environmental remedy”  
3           has the meaning given the term “remedy” in section  
4           101 of CERCLA (42 U.S.C. 9601).

5           (k) BUDGET REPORTS.—In proposing the budget for  
6           any fiscal year pursuant to section 1105 of title 31, United  
7           States Code, the President shall set forth separately the  
8           amounts requested for environmental restoration pro-  
9           grams of the Forest Service.

10          (l) DEFINITIONS.—In this section:

11           (1) CERCLA.—The term “CERCLA” means  
12           the Comprehensive Environmental Response, Com-  
13           pensation, and Liability Act of 1980 (42 U.S.C.  
14           9601 et seq.).

15           (2) IMPROPER PESTICIDE.—The term “im-  
16           proper pesticide” means a pesticide that is—

17                   (A) at the time of application, cancelled by  
18                   the Secretary of Agriculture under the Federal  
19                   Insecticide, Fungicide, and Rodenticide Act (7  
20                   U.S.C. 136 et seq.); or

21                   (B) improperly applied.

22          (m) AUTHORIZATION OF APPROPRIATIONS.—To  
23           carry out this section, there is authorized to be appro-  
24           priated \$250,000,000 for the period of fiscal years 2023  
25           through 2027.

1 **SEC. 3. CRIMINAL PENALTIES FOR ILLEGAL PESTICIDE AP-**  
2 **PLICATION.**

3 Section 14(b)(2) of the Federal Insecticide, Fun-  
4 gicide, and Rodenticide Act (7 U.S.C. 1361(b)(2)) is  
5 amended to read as follows:

6 “(2) PRIVATE APPLICATOR.—

7 “(A) IN GENERAL.—Any private applicator  
8 or other person not included in paragraph (1)  
9 who knowingly violates any provision of this Act  
10 shall be guilty of a misdemeanor and shall on  
11 conviction be fined not more than \$1,000, or  
12 imprisoned for not more than 30 days, or both.

13 “(B) DURING THE COMMISSION OF A FED-  
14 ERAL OFFENSE.—Any private applicator or  
15 other person not included in paragraph (1) who  
16 knowingly violates any provision of this Act  
17 during the commission of a Federal offense  
18 under section 1361 of title 18, United States  
19 Code, shall, in addition to the punishment pro-  
20 vided under such section, on conviction be im-  
21 prisoned for not more than 10 years.”.

22 **SEC. 4. PROTECTION OF NATIONAL FORESTS; RULES AND**  
23 **REGULATIONS.**

24 The Act of June 4, 1897 (16 U.S.C. 551; 30 Stat.  
25 35) is amended by inserting “Any violation of the provi-  
26 sions of this section, the sections referenced in the pre-

1 ceding sentence, or such rules and regulations, which in-  
2 volves the illegal cultivation of cannabis on public lands  
3 using pesticides which are not in compliance with the Fed-  
4 eral Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.  
5 136 et seq.) shall be punished by a fine of not more than  
6 \$250,000 or imprisoned for not more than 20 years, or  
7 both.” before “Any person charged”.

○