

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.

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

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 Toration 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. 136l(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”.

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