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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

# H. R.

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To provide for a program within the Forest Service to detect, document, monitor, and remediate the environmental damages caused by trespass cultivation on National Forest Lands, and 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

Mr. PETERS introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To provide for a program within the Forest Service to detect, document, monitor, and remediate the environmental damages caused by trespass cultivation on National Forest Lands, and 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 REMEDI-**  
5 **ATION PROGRAM ESTABLISHED.**

6 (a) TRESPASS CANNABIS CULTIVATION SITE REME-  
7 DIATION PROGRAM.—

8 (1) IN GENERAL.—The Secretary of the Agri-  
9 culture shall carry out a program of environmental  
10 remediation on land under the jurisdiction of the  
11 Forest Service. The program shall be known as the  
12 “Trespass Cannabis Cultivation Site Remediation  
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) ADMINISTRATIVE OFFICE WITHIN THE DE-  
20 PARTMENT OF AGRICULTURE.—The Secretary shall  
21 identify a branch within the Forest Service which  
22 shall have the experience, expertise, and responsi-  
23 bility for carrying out the program successfully.

24 (b) PROGRAM GOALS.—The goals of the program  
25 shall include the detection, identification, assessment, in-  
26 vestigation, monitoring, and development of solutions to,

1 and remediation of, contamination resulting from the cul-  
2 tivation of cannabis on under the jurisdiction of the Forest  
3 Service.

4 (c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

5 (1) BASIC RESPONSIBILITY.—The Secretary  
6 shall, with respect to releases or threats of releases  
7 of hazardous substances, pollutants, contaminants,  
8 improper pesticides or other wastes, or refuse result-  
9 ing from the cultivation of cannabis, carry out (in  
10 accordance with the provisions of this Act and  
11 CERCLA) all necessary response actions at each lo-  
12 cation which is under the jurisdiction of the Forest  
13 Service.

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

20 (3) STATE FEES AND CHARGES.—The Sec-  
21 retary shall pay fees and charges imposed by State  
22 authorities for permit services for the disposal of  
23 hazardous substances, pollutants, contaminants, im-  
24 proper pesticides or other wastes on lands described  
25 in paragraph (1) to the same extent that nongovern-

1       mental entities are required to pay fees and charges  
2       imposed by State authorities for permit services.  
3       The preceding sentence shall not apply with respect  
4       to a payment that is the responsibility of a lessee,  
5       contractor, or other private person.

6       (d) SERVICES OF OTHER ENTITIES.—

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

23           (2) DATA AND SAFETY.—Agreements with an  
24      agency under paragraph (1) may require approval  
25      and adherence to agency program safety, data collec-

1       tion, monitoring, assessment, and reporting param-  
2       eters set forth by the Secretary.

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

8           (4) LIMITATION ON REIMBURSABLE AGREE-  
9       MENTS.—An agreement with an agency under para-  
10      graph (1) may not provide for reimbursement of the  
11      agency for regulatory enforcement activities. An  
12      agreement under such paragraph with respect to a  
13      site also may not change the cleanup standards se-  
14      lected for the site pursuant to law or establish a  
15      cleanup level inconsistent with the Forest Service’s  
16      future intended land use.

17           (5) DEFINITIONS.—In this subsection:

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

21           (B) The term “nonprofit conservation or-  
22      ganization” means any 501(c)(3) non-govern-  
23      mental nonprofit organization whose primary  
24      purpose is conservation of open space or nat-  
25      ural resources.

1           (C) The term “owner of covenant prop-  
2           erty” means an owner of property subject to a  
3           covenant provided by the United States in ac-  
4           cordance with the requirements of paragraphs  
5           (3) and (4) of section 120(h) of CERCLA (42  
6           U.S.C. 9620(h)), so long as the covenant prop-  
7           erty is the site at which the services procured  
8           under paragraph (1) are to be performed.

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

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

19          (f) 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 Remediation Program and begins activi-  
24          ties to meet its obligations under such bond, shall, in con-  
25          nection with such activities or obligations, be entitled to

1 any 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 (g) 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 Remediation 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 Remediation  
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 Remediation 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 (h) APPLICABILITY.—

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

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

8 (i) ESTABLISHMENT OF ACCOUNTS.—

9 (1) TRESPASS CANNABIS CULTIVATION SITE RE-  
10 MEDIATION ACCOUNT, AGRICULTURE.—There is  
11 hereby established in the Treasury of the United  
12 States an account to be known as the “Trespass  
13 Cannabis Cultivation Site Remediation Account, Ag-  
14 riculture” which shall consist of, with respect to land  
15 under the jurisdiction of the Forest Service—

16 (A) amounts appropriated with respect to  
17 such land under subsection (l);

18 (B) amounts recovered from trespassers  
19 for response actions on such land under  
20 CERCLA; and

21 (C) any other amounts recovered from a  
22 contractor, insurer, surety, or other person to  
23 reimburse the Department of Agriculture for  
24 environmental response activities on such land.

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

4           (A) may be obligated or expended from the  
5 account only to carry out the environmental re-  
6 mediation functions of the Secretary of Agri-  
7 culture; and

8           (B) shall remain available until expended.

9           (3) PAYMENTS OF FINES AND PENALTIES.—  
10 None of the funds appropriated to the Trespass  
11 Cannabis Cultivation Site Remediation Account, Ag-  
12 riculture may be used for the payment of a fine or  
13 penalty (including any supplemental environmental  
14 project carried out as part of such penalty) imposed  
15 against the Department of Agriculture unless the act  
16 or omission for which the fine or penalty is imposed  
17 arises out of an activity funded by the environmental  
18 remediation account concerned and the payment of  
19 the fine or penalty has been specifically authorized  
20 by law.

21           (4) ENVIRONMENTAL REMEDY DEFINED.—In  
22 this subsection, the term “environmental remedy”  
23 has the meaning given the term “remedy” in section  
24 101 of CERCLA (42 U.S.C. 9601).

1 (j) BUDGET REPORTS.—In proposing the budget for  
2 any fiscal year pursuant to section 1105 of title 31, United  
3 States Code, the President shall set forth separately the  
4 amounts requested for environmental remediation pro-  
5 grams of the Forest Service.

6 (k) DEFINITIONS.—In this section:

7 (1) CERCLA.—The term “CERCLA” means  
8 the Comprehensive Environmental Response, Com-  
9 pensation, and Liability Act of 1980 (42 U.S.C.  
10 9601 et seq.).

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

13 (A) at the time of application, cancelled by  
14 the Environmental Protection Agency under the  
15 Federal Insecticide, Fungicide, and Rodenticide  
16 Act (7 U.S.C. 136 et seq.);

17 (B) improperly applied; or

18 (C) intentionally misused.

19 (3) IMPROPERLY APPLIED.—The term “improp-  
20 erly applied” means, with respect to a pesticide  
21 using a pesticide product in conflict with the product  
22 labeling or applying a pesticide in a manner that  
23 could pose a risk to environmental or human health.

24 (4) INTENTIONALLY MISUSED.—The term “in-  
25 tentionally misused” means, with respect to a pes-



1 Code, shall, in addition to the punishment pro-  
2 vided under such section, on conviction be im-  
3 prisoned for not more than 10 years.”.

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

6 The Act of June 4, 1897 (16 U.S.C. 551; 30 Stat.  
7 35) is amended by inserting “Any violation of the provi-  
8 sions of this section, the sections referenced in the pre-  
9 ceding sentence, or such rules and regulations, which in-  
10 volves the illegal cultivation of cannabis on public lands  
11 using pesticides which are not in compliance with the Fed-  
12 eral Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.  
13 136 et seq.) shall be punished by a fine of not more than  
14 \$250,000 or imprisoned for not more than 20 years, or  
15 both.” before “Any person charged”.