

117TH CONGRESS  
1ST SESSION

# H. R. 4504

To establish a biochar demonstration project for federally recognized Indian Tribes and Alaska Native corporations to support the development and commercialization of biochar.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2021

Mr. LAMALFA (for himself, Mr. WESTERMAN, Mr. NEWHOUSE, Mr. BENTZ, Mr. OBERNOLTE, and Mr. ROSENDALE) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on 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

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## A BILL

To establish a biochar demonstration project for federally recognized Indian Tribes and Alaska Native corporations to support the development and commercialization of biochar.

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 “Tribal Biochar Pro-  
5 motion Act of 2021”.

1 **SEC. 2. TRIBAL AND ALASKA NATIVE BIOCHAR DEM-**  
2 **ONSTRATION PROJECT.**

3 The Tribal Forest Protection Act of 2004 (25 U.S.C.  
4 3115a et seq.) is amended as follows:

5 (1) In section 2—

6 (A) by striking subsection (a);

7 (B) by redesignating subsections (b)  
8 through (g) as subsections (a) through (f), re-  
9 spectively,

10 (C) by striking “subsection (b)” each place  
11 it appears and inserting “subsection (a)”; and

12 (D) by striking “subsection (c)” each place  
13 it appears and inserting “subsection (b)”.

14 (2) By adding at the end the following:

15 **“SEC. 3. TRIBAL AND ALASKA NATIVE BIOCHAR DEM-**  
16 **ONSTRATION PROJECT.**

17 “(a) STEWARDSHIP CONTRACTS OR SIMILAR AGREE-  
18 MENTS.—For each of fiscal years 2021 through 2030, the  
19 Secretary shall enter into stewardship contracts or similar  
20 agreements (excluding direct service contracts) with In-  
21 dian Tribes or Tribal organizations to carry out dem-  
22 onstration projects to support the development and com-  
23 mercialization of biochar on Indian forest land or range-  
24 land and in nearby communities by providing reliable sup-  
25 plies of feedstock from Federal land.

1       “(b) DEMONSTRATION PROJECTS.—In each fiscal  
2 year for which demonstration projects are authorized  
3 under this section, not less than 4 new demonstration  
4 projects that meet the eligibility criteria described in sub-  
5 section (c) shall be carried out under contracts or agree-  
6 ments described in subsection (a).

7       “(c) ELIGIBILITY CRITERIA.—To be eligible to enter  
8 into a contract or agreement under this section, an Indian  
9 Tribe shall submit to the Secretary an application that  
10 includes—

11               “(1) a description of—

12                       “(A) the Indian forest land or rangeland  
13                       under the jurisdiction of the Indian Tribe; and

14                       “(B) the demonstration project proposed  
15                       to be carried out by the Indian Tribe; and

16               “(2) such other information as the Secretary  
17               may require.

18       “(d) SELECTION.—In evaluating the applications  
19 submitted under subsection (c), the Secretary shall—

20               “(1) take into consideration whether a proposed  
21               project—

22                       “(A) creates new jobs and enhances the  
23                       economic development of the Indian Tribe;

24                       “(B) demonstrates new and innovative  
25                       uses of biochar, viable markets for cost effective

1 biochar-based products, or ecosystem services of  
2 biochar;

3 “(C) improves the forest health or water-  
4 sheds of Federal land or Indian forest land or  
5 rangeland;

6 “(D) demonstrates new investments in  
7 biochar infrastructure or otherwise promotes  
8 the development and commercialization of  
9 biochar;

10 “(E) is located in an area with—

11 “(i) nearby lands identified as having  
12 a high, very high, or extreme risk of wild-  
13 fire;

14 “(ii) availability of sufficient quan-  
15 tities of feedstock; or

16 “(iii) a high level of demand for  
17 biochar or other commercial byproducts of  
18 biochar; or

19 “(F) any combination of purposes specified  
20 in subparagraphs (A) through (E); and

21 “(2) exclude from consideration any merchant-  
22 able logs that have been identified by the Secretary  
23 for commercial sale.

24 “(e) IMPLEMENTATION.—The Secretary shall—

1           “(1) ensure that the criteria described in sub-  
2           section (c) are publicly available by not later than  
3           120 days after the date of the enactment of this sec-  
4           tion; and

5           “(2) to the maximum extent practicable, consult  
6           with Indian Tribes and appropriate intertribal orga-  
7           nizations likely to be affected in developing the ap-  
8           plication and otherwise carrying out this section.

9           “(f) REPORT.—Not later than 2 years after the date  
10          of the enactment of this section and every year thereafter,  
11          the Secretary shall submit to Congress a report that de-  
12          scribes, with respect to the reporting period—

13           “(1) each individual Tribal application received  
14          under this section; and

15           “(2) each contract and agreement entered into  
16          pursuant to this section.

17          “(g) INCORPORATION OF MANAGEMENT PLANS.—To  
18          the maximum extent practicable, on receipt of a request  
19          from an Indian Tribe, the Secretary shall incorporate into  
20          a contract or agreement with that Indian Tribe entered  
21          into pursuant to this section, management plans (includ-  
22          ing forest management and integrated resource manage-  
23          ment plans and Indian Trust Asset Management Plans)  
24          in effect on the Indian forest land or rangeland of that  
25          Indian Tribe.

1       “(h) TERM.—A contract or agreement entered into  
2 under this section—

3               “(1) shall be for a term of not more than 20  
4 years; and

5               “(2) may be renewed in accordance with this  
6 section for not more than an additional 10 years.

7 **“SEC. 4. DEFINITIONS.**

8       “In this Act:

9               “(1) BIOCHAR.—The term ‘biochar’ means car-  
10 bonized biomass produced by converting feedstock  
11 through reductive thermal processing for non-fuel  
12 uses.

13               “(2) FEDERAL LAND.—The term ‘Federal land’  
14 means—

15                       “(A) land of the National Forest System  
16 (as defined in section 11(a) of the Forest and  
17 Rangeland Renewable Resources Planning Act  
18 of 1974 (16 U.S.C. 1609(a)) administered by  
19 the Secretary of Agriculture, acting through the  
20 Chief of the Forest Service; and

21                       “(B) public lands (as defined in section  
22 103 of the Federal Land Policy and Manage-  
23 ment Act of 1976 (43 U.S.C. 1702)), the sur-  
24 face of which is administered by the Secretary

1 of the Interior, acting through the Director of  
2 the Bureau of Land Management.

3 “(3) FEEDSTOCK.—The term ‘feedstock’ means  
4 excess biomass in the form of plant matter or mate-  
5 rials that serves as the raw material for the produc-  
6 tion of biochar.

7 “(4) INDIAN FOREST LAND OR RANGELAND.—  
8 The term ‘Indian forest land or rangeland’ means  
9 land that—

10 “(A) is held in trust by, or with a restric-  
11 tion against alienation by, the United States for  
12 an Indian Tribe or a member of an Indian  
13 Tribe; and

14 “(B)(i)(I) is Indian forest land (as defined  
15 in section 304 of the National Indian Forest  
16 Resources Management Act (25 U.S.C. 3103));  
17 or

18 “(II) has a cover of grasses, brush, or any  
19 similar vegetation; or

20 “(ii) formerly had a forest cover or vegeta-  
21 tive cover that is capable of restoration.

22 “(5) INDIAN TRIBE.—The term ‘Indian Tribe’  
23 has the meaning given that term in section 4 of the  
24 Indian Self-Determination and Education Assistance  
25 Act (25 U.S.C. 5304).

1           “(6) SECRETARY.—The term ‘Secretary’  
2 means—

3           “(A) the Secretary of Agriculture, with re-  
4 spect to land under the jurisdiction of the For-  
5 est Service; and

6           “(B) the Secretary of the Interior, with re-  
7 spect to land under the jurisdiction of the Bu-  
8 reau of Land Management.

9           “(7) TRIBAL ORGANIZATION.—The term ‘Tribal  
10 organization’ has the meaning given that term in  
11 section 4 of the Indian Self-Determination and Edu-  
12 cation Assistance Act (25 U.S.C. 5304).”.

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