



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R10-OAR-2024-0430, FRL-12243-02-R10]**

### **Air Plan Approval; Washington; Olympic Region Clean Air Agency, Recreational Fires**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Washington State Implementation Plan (SIP) that was submitted by the Department of Ecology (Ecology) in coordination with the Olympic Region Clean Air Agency (ORCAA). In 2013, Ecology and ORCAA inadvertently submitted for incorporation into the SIP a ban on small, recreational fires in Thurston County. These fires are defined as having a maximum pile size of three feet in diameter by two feet high using seasoned firewood or charcoal, generally associated with backyard, summer campfires. Ecology and ORCAA provided a review of the historical record to demonstrate that the ban on recreational fires was not relied upon for attainment, maintenance, or reasonable further progress in the Thurston County area. Ecology and ORCAA also provided data to demonstrate that removing the ban on recreational fires would not interfere with maintenance of the national ambient air quality standards. Therefore, we are approving the request by Ecology and ORCAA to remove this provision from the SIP.

**DATES:** This final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2024-0430. All documents in the docket are listed on the

<https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553-0256 or [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever “we” or “our” is used, it means the EPA.

## **I. Background**

On October 24, 2024, the EPA proposed to approve revisions to the Washington SIP to remove a ban on small, recreational fires in Thurston County (89 FR 84842). The reasons for our proposed action are included in the proposal and will not be restated here. The public comment period closed on November 25, 2024. We received two comments from members of the public. The full text of the comments may be found in the docket for this action. We have summarized the comments in the following section II. of this preamble.

## **II. Comments**

The first commenter conveyed overall support for our proposed action. The EPA acknowledges the commenter’s support.

The second commenter expressed concern about air emissions from cannabis plants and stated there is a need to study volatile organic compound (VOC) emissions from the plants and how such emissions may contribute to ozone formation. This comment is outside the scope of this action. The revisions to Washington’s SIP do not

relate to cannabis production in general or VOC emissions from cannabis production in particular. Rather, the revisions to Washington's SIP remove a ban on small, recreational fires using seasoned firewood or charcoal. In addition, the commenter did not indicate that EPA approval of the SIP submissions is inconsistent with the Clean Air Act.

Therefore, for the reasons stated in this preamble and our proposed action on October 24, 2024, we are finalizing our action as proposed (89 FR 84842).

### **III. Final Action**

The EPA is approving ORCAA regulation 6.2.7, State effective March 6, 2023, and incorporating it by reference into the Washington SIP at 40 CFR 52.2470(c) – *Table 6 – Additional Regulations Approved for the Olympic Region Clean Air Agency (ORCAA) Jurisdiction*. This action repeals a ban on recreational fires within the city limits of Lacey, Olympia, and Tumwater, and unincorporated areas of Thurston County lying within or between the municipal boundaries of these cities. Based on the demonstration provided by Ecology and ORCAA, we determined that the revision will not interfere with maintenance of the national ambient air quality standards or other applicable requirements of the Clean Air Act.

### **IV. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of ORCAA regulation 6.2.7, State effective March 6, 2023, as described in section III of this preamble and set forth in the amendments to 40 CFR part 52 in this document. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by

reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air Act as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

## **V. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements Executive Order 12898 and defines EJ as, among other things, the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.

The air agency did not evaluate environmental justice considerations as part of its SIP submission; the Clean Air Act and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of this action, it is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898/14096 of achieving environmental justice for communities with EJ concerns.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and it will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 7, 2025.

**Daniel Opalski,**  
*Acting Regional Administrator, Region 10.*

For the reasons set forth in the preamble, EPA amends 40 CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart WW—Washington**

2. In § 52.2470, amend paragraph (c), table 6 by revising the entry “6.2.7” to read as follows:

**§ 52.2470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**Table 6—Additional Regulations Approved for the Olympic Region Clean Air Agency (ORCAA) Jurisdiction**

[Applicable in Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Thurston counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173-405, 173-410, and 173-415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173-400-700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
<b>Olympic Region Clean Air Agency Regulations</b>				
<b>Rule 6.2 Outdoor Burning</b>				
* * * * *				
6.2.7	Recreational Burning	3/6/23	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FIRST PAGE OF FEDERAL REGISTER]	

			<b>CITATION]</b>				
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[FR Doc. 2025-00559 Filed: 1/16/2025 8:45 am; Publication Date: 1/17/2025]