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January 16, 2026

Washington Dept of Ecology  
Attn: Caitlyn Roehmholdt, Rulemaking Lead  
P.O. Box 47600  
Olympia, WA 98504-7600

Re: Rulemaking for flame cap kilns and air curtain incinerators, Chapters 173-425, -430, -400 WAC

Greetings,

The Olympic Region Clean Air Agency (ORCAA) is an important stakeholder in Ecology's efforts to update Chapters 173-425, 173-430 and 173-400 of the Washington Administrative Codes (WAC) regarding flame cap kilns and air curtain incinerators. ORCAA is one of seven local clean air agencies in Washington, with regulatory authority in Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Thurston Counties.

Outdoor burning is an important source of air pollution in ORCAA's jurisdiction. As such, ORCAA has a keen interest in working with Ecology to ensure the rule updates meet the intent of the 2024 changes to the Washington Clean Air Act (RCW 70A.15) brought about by SSB 6121. This rulemaking is an opportunity for Ecology to provide additional clarity to regulatory agencies, stakeholders, and the public. ORCAA offers the following comments:

**WAC 173-400-050 (1)(b)**

The proposed changes use the term "*open burning*" which is not defined in -400 or -425. The defined term in Chapter 173-400 WAC and Chapter 173-425 WAC is "***outdoor burning***."

**WAC 173-425-050 (5) Burning in outdoor containers**

The addition of the statement, "*Any use of flame cap kilns is required under Chapter 173-430 WAC,*" could foster confusion, as was evident during the January 6 public hearing. Some people may believe it legal to burn in a flame cap kiln wherever outdoor burning is otherwise allowed. That is not ORCAA's read of the statute and regulations. This needs to be clarified in the regulations. For those who do not go to 173-430 WAC, we suggest adding language that states something along the lines of: "***Any use of flame cap kilns is regulated under Chapter 173-430 WAC, their use is prohibited for use in any burning that is not permitted as agricultural burning.***"

In summary, our request focuses on sticking with existing defined terms and clarifying that the legal use flame cap kilns for agricultural burning only.

Thank you for considering ORCAA's comments in this important rulemaking effort.

Sincerely,

Jeff Johnston