



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: June 01, 2026

TIME: 7:47 AM

WSR 26-12-056

Agency: Department of Ecology AO #24-10

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: This rulemaking adopts amendments to Chapters 173-425 WAC Outdoor burning, and Chapter 173-430 WAC Agricultural burning to include flame cap kilns as an allowed burning device. Flame cap kilns are outdoor containers that are used for burning natural vegetation from forestry or agricultural activities. This rulemaking ensures flame cap kilns are only used for burning that is already legal in Washington. This rulemaking also makes changes to WAC 173-400-050, Emission standards for combustion and incineration units, to modify language for air curtain incinerators (ACI). ACIs are portable containers that can be used for burning woody debris (slash) from forestry operations. Currently, only one ACI has been permitted by the Department of Ecology. This rulemaking makes the ACI permitting process easier for applicants and Ecology staff.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: Chapters 173-425, 173-430, and 173-400 WAC
- Suspended:

Statutory authority for adoption: Chapter 70A.15 RCW, Washington Clean Air Act

Other authority: Ecology has completed an Environmental Justice Assessment in accordance with RCW 70A.02.060 as a part of this rulemaking.

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 25-23-033 on 11/13/2025 (date).
Describe any changes other than editing from proposed to adopted version: In WAC 173-400-050, Section 1, "open burning" was changed to "outdoor burning" to improve clarity and match definitions already in WAC 173-400-030(62).

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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 Web site: <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-425-430-400>
 Other: N/A

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|----------------------------------|-----|-----|---------|----------|----------|-----|
| Federal statute: | New | ___ | Amended | ___ | Repealed | ___ |
| Federal rules or standards: | New | ___ | Amended | ___ | Repealed | ___ |
| Recently enacted state statutes: | New | ___ | Amended | <u>2</u> | Repealed | ___ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

The number of sections adopted on the agency's own initiative:

| | | | | | |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>1</u> | Repealed | ___ |
|-----|-----|---------|----------|----------|-----|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>1</u> | Repealed | ___ |
|-----|-----|---------|----------|----------|-----|

The number of sections adopted using:

| | | | | | | |
|--------------------------------|-----|-----|---------|-----|----------|-----|
| Negotiated rule making: | New | ___ | Amended | ___ | Repealed | ___ |
| Pilot rule making: | New | ___ | Amended | ___ | Repealed | ___ |
| Other alternative rule making: | New | ___ | Amended | ___ | Repealed | ___ |

Date Adopted: June 1, 2026

Name: Casey D. Sixkiller

Title: Director

Signature:

