

State Implementation Plans/Clean Air Act: Missouri Amendments Addressing Open Burning



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The United States Environmental Protection Agency ("EPA") in a September 8th Federal Register Notice proposed to approve revisions to the State Implementation Plan ("SIP") for the State of Missouri related to open burning. See 81 Fed. Reg. 62066.

The Missouri Department of Natural Resources ("MDNR") had requested on November 24, 2009 to amend its SIP to replace four areas of specific open burning rules into one rule that is area specific and applicable state-wide.

States are primarily responsible for ensuring attainment and maintenance of the National Ambient Air Quality Standards ("NAAQS") once the EPA has established them. Each state is therefore required to formulate, subject to EPA approval, an implementation plan ("SIP") designed to achieve each NAAQS. The SIPs will contain the measures and actions the states proposes to undertake to attain each NAAQS. These measures or actions must be enforceable through state regulations and typically include emission limits applicable to certain types of stationary sources.

The SIP and subsequent revisions must be reviewed and approved by the EPA if the criteria set forth in Section 110 are met. A change in a NAAQS may require a revision in the SIP. The SIPs and/or revisions must be adopted pursuant to public notice and hearing.

MDNR had requested to amend the SIP that rescinds Missouri Open Burning Restrictions 10 CSR 10-2, 10 CSR 10-3.030, 10 CSR 10-4.090, 10 CSR 10-5.070 and consolidate these four rules into a new rule, 10-CSR 10-6.045. The rule was stated to add language that allows burning of "trade waste" by permit:

1. In areas for situations where open burning is in the best interest of the general public
2. When it can be shown that open burning is the safest and most feasible method of disposal

The MDNR rules reserves the right for the agency staff director to deny, revoke or suspend an open burn permit. Further, it changes the general provision section by not limiting liability to an individual who is directly responsible for a violation and extends the regulatory liability to any person, such as a property owner who hires an individual to start the fire. Also, it adds the definition of "untreated wood" for clarification to aid compliance purposes.

[A copy of the Federal Register Notice can be downloaded here.](#)