

Relevant information from the Clean Air Act

The regulation of air pollution sources (eg. power plants, manufacturing, vehicles, etc) has clearly been delegated to the Environmental Protection Agency, and as applicable, the States. However, federal land managers have the responsibility to protect particular values of federal lands from the adverse impacts of activities inside and outside the boundary. The most specific direction related to air quality and federal lands is found in the Clean Air Act Amendments (CAAA) of 1977 and 1990 which established the Prevention of Significant Deterioration program and designated certain wildernesses as class I areas. These areas receive special protection from additional pollution. The CAAA states that federal land managers have an “affirmative responsibility” to protect their class I areas from the adverse effects of air pollution. All other wildernesses are considered class II for purposes of air quality regulations.

Plain English Guide to the Clean Air Act

(http://www.epa.gov/oar/oaqps/peg_caa/pegcaain.html)

Prevention of Significant Deterioration (PSD)

The Federal Clean Air Act (as amended) provides both requirements and opportunities to protect wildernesses from air pollution impacts. When Congress amended the Act in 1977 they mandated the opportunity to protect certain national parks and wildernesses (National Parks over 6,000 acres and Wildernesses over 5,000 acres) that were in existence as of August 7, 1977. The Act designated these parks and wildernesses as Class I and, as such, are afforded the highest level of air quality protection. The remaining wilderness and any new wildernesses were designated as Class II and receive lesser mandated protection. However, unless the agency managing wilderness takes advantage of the opportunities provided it is not likely that protection will be given to any wilderness, either Class I or Class II.

An objective of the Prevention of Significant Deterioration (PSD) section of the Clean Air Act is “to preserve, protect, and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national or regional natural, recreational, scenic, or historic value.” Before new air pollution sources can begin construction they must apply for and obtain a PSD permit from the appropriate air regulatory agency. As part of the permit application the applicant must demonstrate that they will not cause or contribute to an adverse impact to *air quality related values* in any Class I area. Air quality related values are basically any resource in wilderness that can be impacted by air pollution such as flora, fauna, soil, water, odor, visibility or cultural resources.

In the Act Congress gave the Federal Land Manager and the Federal official charged with direct responsibility for management of such lands “an affirmative responsibility to protect the air quality related values (including visibility) of any such lands within a class I area and to consider, in consultation with the Administrator [of EPA], whether a proposed major emitting facility will have an adverse impact on such values.” As such, federal land managers have the formal opportunity to review and comment on PSD permit applications. Therefore, if the federal land manager has information on the

resources to be protected in Class I wilderness and has determined how much air quality caused impact to any of those resources is too much, this information can be considered in determining whether or not to grant a PSD permit.

Visibility

In the Clean Air Act Congress declared "...as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution."

All States are required to develop plans (State Implementation Plans) that document how they will remedy existing visibility problems in Class I areas.

Of the current 704 wildernesses only 158 are designated Class I and receive a mandated opportunity for protection under the Clean Air Act. The remaining 546 are designated as Class II and, as such, will only be protected from air pollutant impacts if the wilderness manager makes an effort to protect them.

The designation of a Wilderness as Class I or II does not dictate the management goals for the area. Wilderness management goals are identified in the 1964 Wilderness Act and any specific enabling legislation that designated the wilderness. The air quality designation only determines which regulatory options are available to meet the goals. Class I Wildernesses, for instance, can be protected through air quality related value (AQRV) analysis, whereas the protection of Class II Wildernesses can be achieved using best available control technology (BACT) requirements. While a State may not be able to deny a permit application from a new air pollution source because of potential impacts to a Class II wilderness the State could require sufficient air pollution controls on the source to mitigate any problem.

Q – How do I find out whether the wilderness I manage is class I or II?

A – The National Park Service website has separate maps of class I areas managed NPS, Fish and Wildlife Service and the Forest Service.

(<http://www2.nature.nps.gov/air/maps/docs/fstcl1.pdf>)

Q – What is a class I area and why are some wildernesses designated class I areas and others are not?

A – The 1977 amendments to the Clean Air Act established a program for the prevention of significant deterioration of air quality

(http://a257.g.akamaitech.net/7/257/2422/12feb20041500/edocket.access.gpo.gov/cfr_2004/julqtr/pdf/40cfr51.166.pdf). Wildernesses greater than 5,000 acres (and national parks greater than 6,000 acres) that had been established before August 7, 1977 were designated by the CAA as mandatory class I areas. Wildernesses with smaller acreages were designated class II areas. A class I designation allows only small increments of additional air pollution within the area so long as the national ambient air quality standards are being met, and the Air Quality Related Values (AQRV) of the class I area

are not adversely affected. These class I areas cannot be redesignated to a less protective category.

Q - Do new wildernesses automatically become class I areas?

A – No. Wildernesses established after August 7, 1977 (irrespective of size) are class II areas, as is most of the rest of the land in the nation. Class II areas may receive a larger increment of air pollution than class I areas. However, the National Ambient Air Quality Standards (NAAQS) must be met in both class I and class II areas. States may redesignate these class II wildernesses to class I, and this would be initiated by the Governor. The Forest Service has adopted a policy that the agency will NOT initiate redesignation of class II wildernesses to class I status.

Q – Where can I find more detailed information on the legal framework for managing air quality or air quality effects on federal lands?

A – In Appendix B of FLAG: Federal Land Managers' Air Quality Related Values Workgroup Phase I Report, December 2000 (http://www.fs.fed.us/r6/aq/natarm/Flag_final.pdf).

FLAG is an interagency guidance document prepared to foster a more consistent approach to evaluating air pollution effects on resources. It provides information on policies and processes for identifying air quality related values and for evaluating the effects of air pollution on these values.