

## Appendix B

### Legislation and Directives

Numerous Federal laws require all Federal land management agencies to consider scenery and aesthetic resources in land management planning, resource planning, and project design, implementation, and monitoring. These Federal laws include the following:

- Wilderness Act of 1964.
- Wild and Scenic Rivers Act of 1968.
- National Trails System Act of 1968.
- National Environmental Policy Act of 1969.
- Environmental Quality Act of 1970.
- Forest and Rangeland Renewable Resources Planning Act of 1974.
- National Forest Management Act of 1976.
- Surface Mining Control and Reclamation Act of 1977.
- Public Rangelands Improvement Act of 1978.

In addition, the Forest Service has routinely included both scenery and recreation as part of the 1960 Multiple Use-Sustained Yield Act. The following are summaries of these Federal statutes referring to aesthetic, scenic, and visual resources.

#### Wilderness Act

The Wilderness Act of 1964 established a National Wilderness Preservation System of federally owned lands: “[These lands] shall be administered for the use and enjoyment of the American people... so as to provide for the protection of these areas, the preservation of their **wilderness character**...” (*Emphasis added.*)

“...wilderness, in contrast with those areas where **man and his own works dominate the landscape**, is hereby recognized as a area where the earth and its community of life are **untrammled by man**, where man himself is a visitor who does not remain. (*Emphasis added.*)

“Wilderness... is an area of Federal land retaining its **primeval character and influence**, without permanent improvement or human habitation, which is protected and managed so as to preserve its **natural condition** and which generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable...” (*Emphasis added.*)

## Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act of 1968 declared: "...certain selected rivers of the Nation which, with their immediate environments, possess **outstandingly remarkable scenic**, recreation, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition." A river within the system may be classified, designated, and administered as one of the following: wild river, scenic river, or recreational river. **Scenic rivers** are "...those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads." *(Emphasis added.)*

## National Trails System Act

The National Trails System Act of 1968 provides "for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established (1) primarily, near the urban areas of the Nation, and (2) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located." *(Emphasis added.)*

## National Environmental Policy Act (NEPA)

NEPA is the National Environmental Policy Act of 1969. NEPA covers procedures for considering all resources and values and documenting Federal land management decisions. It gives general direction for management of scenic and aesthetic resources.

NEPA states that it is the "continuing responsibility of the Federal Government to use all **practicable** means to... assure for all Americans safe, healthy, productive, and **aesthetically and culturally pleasing surroundings**." *(Emphasis added.)*

There is a difference between the words practicable and practical. **Practicable** deals with methodologies that are possible to practice or perform. **Practicable** concentrates on methods that are workable, feasible, or capable of being put into practice. Practicable methods may not be in practice currently, even though they are technically possible to put into practice.

Conversely, **practical** deals with methodologies that are actually being used, or are commonly engaged in practice or actual use. Therefore, NEPA mandates agencies to develop methodologies for scenery management of "**aesthetically and culturally pleasing surroundings**" that are capable of being put into practice, even if they are not currently in use.

NEPA also requires “a systematic and interdisciplinary approach which will insure the integrated use of the natural and social sciences and the **environmental design arts** in planning and decision-making which may have an impact on man’s environment.” *(Emphasis added.)*

NEPA requires federal land management agencies to “identify and develop methods and procedures... which will insure that presently unquantified **environmental amenities and values** may be given appropriate consideration in decisionmaking along with economic and technical considerations.” *(Emphasis added.)*

## Environmental Quality Act

The Environmental Quality Act of 1970 “declares that there is a national policy for the environment which provides for the **enhancement of environmental quality**. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.” *(Emphasis added.)*

## Resources Planning Act (RPA)

RPA is the Forest and Rangeland Renewable Resources Planning Act of 1974. RPA states that “the **Forest Service**, by virtue of its statutory authority for management of the National Forest System, research and cooperative programs, and its role as an agency in the Department of Agriculture, has both a responsibility and an **opportunity to be a leader** in assuring that the Nation maintains a **natural resource conservation posture** that will meet the requirements of our people in perpetuity...” *(Emphasis added.)*

Regarding timber harvesting and scenery management, RPA states the following: “cuts designed to regenerate an even-aged stand of timber will be used as a cutting method on National Forest System lands only where... the interdisciplinary review has been completed and the potential... **aesthetic... impacts** have been assessed; [and where] cut blocks, patches, or strips are shaped to the extent practicable with the natural terrain; [and where] such cuts are carried out in a manner consistent with the protection of... recreation and **aesthetic resources...**” *(Emphasis added.)*

RPA requires that “Program benefits shall include, but not be limited to, **environmental quality factors** such as **aesthetics**, public access, wildlife habitat, recreational and wilderness use, and economic factors such as the excess of cost savings over the value of foregone benefits and the rate of return on renewable resources.” *(Emphasis added.)*

## National Forest Management Act (NFMA)

NFMA is the National Forest Management Act of 1976. Identical language to all of the above language in RPA concerning regeneration timber cutting is found also in NFMA. In addition, the following excerpts are taken from the most recent Code of Federal Regulations (CFR) dated Sept. 30, 1982. 36CFR Part 219 concerns implementation of NFMA.

36CFR Part 219.5 directs the Forest Service to use an “Interdisciplinary approach... Through interactions among its members, the team shall integrate knowledge of the physical, biological, economic and social sciences, and **the environmental design arts in the planning process.** (*Emphasis added.*)

Regarding “Estimated effects of alternatives. The physical, biological, economic, and social effects of implementing each alternative... shall be estimated...

(1) The expected outputs for the planning periods, including appropriate marketable goods and services, as well as nonmarket items, such as recreation and wilderness use, wildlife and fish, protection and enhancement of soil, water, and air, and **preservation of aesthetic and cultural resource values;** (*Emphasis added.*)

“During formulations and evaluation of each alternative... combinations of resource management prescriptions shall be defined to meet management objectives for the various multiple uses including outdoor recreation, timber, watershed, range, wildlife and fish, and wilderness.

“Forest planning shall identify,

- (1) The physical and biological characteristics that make land suitable for recreation opportunities;
- (2) The recreational **preferences of user groups** and the **settings needed** to provide quality recreation opportunities; and
- (3) Recreation opportunities on the National Forest System lands. (*Emphasis added.*)

Part 219.21(f) requires: “**The visual resource shall be inventoried and evaluated as an integrated part of evaluating alternatives in the forest planning (sic) process, addressing both the landscape’s visual attractiveness and the public’s visual expectation. Management prescriptions for definitive land areas of the forest shall include visual quality objectives.** (*Emphasis added.*)

“All management prescriptions shall...

- (7) Be assessed prior to project implementation for potential physical, biological, **aesthetic**, cultural, engineering, and economic impacts and for consistency with multiple uses planned for the general area; (*Emphasis added.*)

Regarding vegetative manipulation, Part 219.27 states:

“(b) Vegetative manipulation.

Management prescriptions that involve vegetative manipulation of tree cover for any purpose shall,

- (1) Be best suited to the multiple-use goals established for the area with potential environmental, biological, cultural resource, **aesthetic**, engineering, and economic impacts, as stated in the regional guides and forest plans, being considered in this determination;

(2) Assure that lands can be adequately restocked as provided in paragraph (c)(3) of this section, except where permanent openings are created for wildlife habitat improvement, **vistas, recreation uses** and similar practices;...

(6) Provide the desired effects on water quantity and quality, wildlife and fish habitat, **regeneration of desired tree species**, forage production, recreation uses, **aesthetic values**, and other resource yields;... *(Emphasis added.)*

“(6) Timber harvest cuts designed to regenerate an even-aged stand of timber shall be carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, **recreation, and aesthetic resources**, and the regeneration of the timber resource. *(Emphasis added.)*

Regarding even-aged management of timber: “When openings are created in the forest... (1) Openings shall be located to achieve the desired combination of multiple-use objectives. **The blocks or strips cut shall be shaped and blended with the natural terrain, to the extent practicable, to achieve aesthetic**, wildlife habitat, or other objectives established in the plan... As a minimum, openings in forest stands are no longer considered openings once a new forest is established... Regional guides shall provide guidance for determining variations to this minimum in the forest plan, based on requirements for watershed, wildlife habitat, **scenery** or other resource protection needs, or other factors. *(Emphasis added.)*

“The following factors shall be considered in evaluating harvest cuts of various sizes and shapes to determine size limits by geographic areas and forest types: Topography; relationship of units to other natural or artificial openings and proximity of units; coordination and consistency with adjacent forests and regions; effect on water quality; **visual absorption capability**... *(Emphasis added.)*

## Surface Mining Control and Reclamation Act

The Surface Mining Control and Reclamation Act of 1977 “establishes a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations...” *(Emphasis added.)*

The act states that “a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will... result in significant damage to important... **aesthetic values** and natural systems...” *(Emphasis added.)*

## Public Rangelands Improvement Act

The Public Rangelands Improvement Act of 1978 declares that “unsatisfactory conditions on public rangelands... reduce the value of such lands for recreational and **aesthetic purposes**...” *(Emphasis added.)*

