

communities are lacking in at least some of the basic access and infrastructure necessary for reasonable services, economic stability, and growth that almost all other communities in the United States have had the opportunity to develop.

The roadless rule permits the construction of Federal Aid Highways only if the Secretary of Agriculture determines that the project is in the public interest and that no other reasonable and prudent alternative exists (36 CFR 294.12). Such a finding may not always be possible for otherwise desirable road projects.

Similarly, although some utility corridors can be constructed and maintained without a road, others may require a road. Even where a utility corridor without a road may be physically possible, it may be more expensive or otherwise less desirable than a utility accompanied by a service road. If the road construction is inexpensive or needed for other reasons, then utility corridors may often adjoin the road because of the ease of access for maintenance and repairs of utility systems. Indeed, most utility corridors in the United States were developed next to a pre-existing road.

The history of road development in Southeast Alaska since statehood is that most State highway additions have been upgraded from roads built to harvest timber. In the last 20 years, this has occurred predominantly on Prince of Wales Island, better connecting the communities of Hollis, Hydaburg, Craig, Klawock, Thorne Bay, Whale Pass, Naukati, Kaasan, and Coffman Cove with all-weather highways. Without the pioneering work done by the Forest Service in building roads to harvest timber, it is unclear whether the State would have undertaken the construction of those road connections. By precluding the construction of roads for timber harvest, the roadless rule reduces future options for similar upgrades, which may be critical to economic survival of many of the smaller communities in Southeast Alaska. Moreover, roads initially developed for timber or other resource management purposes often have value to local communities and sometimes become important access links between communities, even if they are never upgraded as Federal Aid Highways. By exempting the Tongass from the prohibitions in the roadless rule, each utility or transportation proposal can be evaluated on its own merit.

Tongass Roads and Fiscal Considerations. Some people said that because the Tongass has a backlog of road maintenance and fish passage

problems, primarily inadequate culverts, it makes no sense to spend money on new roads until these problems are corrected. Others said that the funds the Tongass receives from Congress to prepare timber sales and do roadwork could be better spent on other needs.

Response. The Tongass is currently spending about \$2 million per year to correct fish passage barriers and continues to seek funding and opportunities to clear the maintenance backlog. Forest Service roads in Alaska are vital to neighboring communities because most areas have at most an underdeveloped road system. Permanent Forest Service roads (known as classified roads) are often the only roads available to communities and for recreation opportunities. The Alaska Region, with only 3,600 miles of classified Forest Service roads, has the fewest miles of roads of all the regions of the Forest Service, and about one-third of these are closed to motorized use. New roads will be necessary to access sufficient timber to support existing small sawmills. Over the years, standards for construction and maintenance of roads have changed significantly. Roads and stream crossings built today adhere to very high standards designed to protect fisheries, important wetlands, unstable soils, wildlife use and habitats, and other resource values.

Roads on the Tongass are used by the public for a variety of reasons, including recreation, subsistence access, and other personal uses. The roads are also used by the Forest Service in accomplishing work for various resource programs. None of these programs is sufficient to provide for all the road maintenance needs. In the 2003 Tongass Forest-Level Roads Analysis, fish passage and sedimentation maintenance needs were identified as the critical categories of the deferred maintenance cost schedule.

Transportation planning is an integral part of the interdisciplinary process used to develop site-specific projects on the Tongass. The transportation planning process includes collaboration between the agency and local communities to identify the minimum road system that is safe and responsive to public needs while minimizing maintenance costs.

Relationship of This Rule to Other Rulemaking. One commenter read 40 CFR 1506.1 as requiring an EIS for the temporary exemption of the Tongass. The commenter reasoned that because the agency was considering whether to adopt a permanent exemption for the Tongass, the agency may not take any action that tends to prejudice the choice

of alternatives on that decision unless reviewed in a separately sufficient, stand-alone EIS. One commenter suggested that the effort the agency might put into preparing site-specific EISs for timber sales in roadless areas under this final rule might prejudice the decision on the advance notice of proposed rulemaking. Others viewed the proposed rule as an emergency rule that has not been adequately justified by the Forest Service, and recommended action be delayed until the permanent exemption is resolved.

Response: The decision to adopt the proposed rule as final is supported by the environmental analysis presented in the roadless rule FEIS, which considered in detail the alternative of exempting the Tongass from the prohibitions of the roadless rule, as well as the analysis and disclosure of alternative management regimes for roadless lands presented in the 1997 Tongass Forest Plan EIS and the 2003 Supplemental EIS. The Department has determined that no additional environmental analysis is warranted. The Supplemental Information Report documenting that decision is available on the World Wide Web/Internet at <http://www.roadless.fs.fed.us>. In any event, the temporary rules on the Tongass and the proposal set forth in the advance notice of proposed rulemaking are separate and have separate utility. The July 15, 2003, advance notice of proposed rulemaking sought comment on whether both forests in Alaska should be exempted permanently from the prohibitions of the roadless rule. This final rule has separate utility in temporarily preventing socioeconomic dislocation in Southeast Alaska while protecting forest resources, regardless of whether the agency ultimately decides to exempt both national forests from the prohibitions of the roadless rule on a permanent basis.

Promulgating this final rule would not prejudice the ultimate decision on the advance notice of proposed rulemaking. An action prejudices the ultimate decision on a proposal when it tends to determine subsequent development or limit alternatives. The preparation of EISs does neither.

Finally, this final rule is not an emergency rule. All the requirements and procedures for public notice and comment established by the Administrative Procedure Act for Federal rulemaking have been met with the publication of the proposed rule with request for comment and with the subsequent publication of this final rule. Emergency rulemaking involves the promulgation of a rule without