



B-286221

September 18, 2000

The Honorable Robert C. Smith
Chairman
The Honorable Max Baucus
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Don Young
Chairman
The Honorable George Miller
Ranking Minority Member
Committee on Resources
House of Representatives

Subject: Department of the Interior, Fish and Wildlife Service: Migratory Bird
Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian
Reservations and Ceded Lands for the 2000-01 Early Season

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Interior, Fish and Wildlife Service (Service), entitled "Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2000-01 Early Season" (RIN: 1018-AG08). We received the rule on August 29, 2000. It was published in the Federal Register as a final rule on September 1, 2000. 65 Fed. Reg. 53190.

This rule is part of a series of regulations dealing with the establishment of seasons, limits, and other regulations for migratory game bird hunting under amendments to 50 C.F.R. part 20.

The final rule prescribes special early season migratory bird hunting regulations for certain tribes on federal Indian reservations, off-reservation trust lands, and ceded lands. The rule responds to tribal requests for recognition of their authority to regulate hunting under established guidelines. The rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

Enclosed is our assessment of the Service's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Service complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Jim Wells, Director, Energy, Resources, and Science Issues. Mr. Wells can be reached at (202) 512-3841.

Anthony H. Gamboa
Acting General Counsel

Enclosure

cc: Mr. Stephen C. Saunders
Acting Assistant Secretary for
Fish and Wildlife and Parks
Department of the Interior

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE
ENTITLED
"MIGRATORY BIRD HUNTING; MIGRATORY BIRD HUNTING REGULATIONS
ON CERTAIN FEDERAL INDIAN RESERVATIONS AND CEDED LANDS
FOR THE 2000-01 EARLY SEASON"
(RIN: 1018-AG08)

(i) Cost-benefit analysis

According to the cost-benefit analysis contained in the filing, the migratory bird hunting regulations (of which these regulations are a part) collectively have an economic impact in excess of an estimated \$600 million in direct expenditures. For example, the analysis indicates that \$293.3 million will be spent by duck hunters on equipment, \$144.3 million on food, \$147.1 million on transportation and lodging, plus \$73.8 million "other" direct expenditures. Without these regulations, the Service opines that the resources spent in game bird hunting would, to some degree, be spent on other recreational activities.

The analysis notes that the rules impose some costs of administration and enforcement on the states, but as the states also derive revenue from licensing, the net cost, if any, is not quantifiable.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Service's compliance with the Regulatory Flexibility Act consisted of a "Small Entity Flexibility Analysis" issued in 1998 using information from the 1996 National Hunting and Fishing Survey. The survey is updated on a 5-year basis. It appears that the analysis was so limited because the regulation's impact is primarily beneficial to a substantial number of small businesses.

The analysis notes that small entities shared in the estimated \$429-\$1,084 million spent by migratory bird hunters during the 1998-1999 season. There are no new compliance requirements for small businesses resulting from the regulations. In addition, since the regulations are largely beneficial to small entities, the Service indicates that no special treatment was considered for them.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule will not impose a federal mandate, as defined in title II, of more than \$100 million in any one year on either state, local, or tribal governments or the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On August 18, 2000, a Notice of Proposed Rulemaking was published in the Federal Register. 65 Fed. Reg. 50483. The comments received as of the date of publication of the final rule are responded to in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The Service states that it uses various information collection requirements to develop future migratory game bird hunting regulations. The information collection requirements of the Migratory Bird Harvest Information Programs have been approved by the Office of Management and Budget (OMB) and assigned Control No. 1018-0015, expiration date of September 30, 2001. OMB has also approved the Sandhill Crane Harvest Questionnaire, Control No. 1018-0023, expiration date of July 31, 2003.

Statutory authorization for the rule

The rules concerning migratory waterfowl hunting are authorized by 16 U.S.C. 703-712 and 742 a-j.

Executive Order No. 12866

Collectively, the rules for migratory bird hunting are reviewed by OMB and are considered to be economically significant.

Executive Order No. 13132 (Federalism)

The final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment, according to the Service.