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United States General Accounting Office  
Washington, DC 20548

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B-291399

October 3, 2002

The Honorable Daniel K. Inouye  
Chairman  
The Honorable Ben Nighthorse Campbell  
Ranking Minority Member  
Committee on Indian Affairs  
United States Senate

The Honorable James V. Hansen  
Chairman  
The Honorable Nick J. Rahall II  
Ranking Minority Member  
Committee on Resources  
House of Representatives

Subject: Department of the Interior, Fish and Wildlife Service: Migratory Bird  
Hunting; Regulations on Certain Federal Indian Reservations and Ceded  
Lands for the 2002-03 Late 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; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2002-03 Late Season" (RIN: 1018-AI30). We received the rule on September 17, 2002. It was published in the Federal Register as a final rule on September 20, 2002. 67 Fed. Reg. 59386.

The final rule prescribes special late season migratory bird hunting regulations for certain tribes on federal Indian reservations, off-reservation trust lands, and ceded lands.

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 Robert Robinson,

Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Craig Manson  
Assistant Secretary for Fish and  
Wildlife and Parks  
Department of the Interior

ENCLOSURE

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; REGULATIONS ON  
CERTAIN FEDERAL INDIAN RESERVATIONS  
AND CEDED LANDS FOR THE 2002-03 LATE SEASON"  
(RIN: 1018-AI30)

(i) Cost-benefit analysis

According to the Fish and Wildlife Service, the migratory bird hunting regulations (of which this final rule is a part) collectively have an economic impact in excess of \$1.2 billion.

(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" based on the 1996 National Hunting and Fishing Survey issued in 1998. The survey is updated on a 5-year basis. It appears that the analysis was limited because the regulation's impact is primarily beneficial to a very substantial number of small entities. The Service believes that migratory bird hunters would spend between \$429 million and \$1.084 billion at small entities.

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

As defined in title II, the final rule will not impose either an intergovernmental or a private sector mandate, as defined in title II, of more than \$100 million in any one year.

(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 July 29, 2002, the Service published a Notice of Proposed Rulemaking in the Federal Register. 67 Fed. Reg. 49176. In the preamble to the final rule, the Service responds to the comments it received.

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 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 October 31, 2004. OMB has also approved the Sandhill Crane Harvest Questionnaire, Control No. 1018-0023, with an 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 742a-j.

Executive Order No. 12866

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

Executive Order No. 13132 (Federalism)

According to the Service, the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.