



GAO

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

B-291214

September 13, 2002

The Honorable James M. Jeffords
Chairman
The Honorable Bob Smith
Ranking Minority Member
Committee on Environment and Public Works
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; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

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; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands" (RIN: 1018-AI30). We received the rule on August 27, 2002. It was published in the Federal Register as a final rule on August 29, 2002. 67 Fed. Reg. 55624.

The final rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of various migratory game birds in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands and some extended falconry seasons.

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

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; EARLY SEASONS AND BAG AND
POSSESSION LIMITS FOR CERTAIN MIGRATORY GAME BIRDS
IN THE CONTIGUOUS UNITED STATES, ALASKA, HAWAII,
PUERTO RICO, AND THE VIRGIN ISLANDS"
(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 the analysis was limited because the regulation's impact is primarily beneficial to a very substantial number of small entities. The Service believes that between \$429 and \$1,084 million will be spent in sales 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

The final rule will not impose either an intergovernmental or 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. From March 19, 2002, through August 16, 2002, the Service published four Notices of Proposed Rulemaking covering the various aspects of the migratory bird hunting regulations.

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, 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 economically significant.

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.