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September 13, 2005

The Honorable James M. Inhofe
Chairman
The Honorable James M. Jeffords
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Richard W. Pombo
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; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2005-06 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 2005-06 Early Season” (RIN: 1018-AT76). We received the rule on August 26, 2005. It was published in the Federal Register as a final rule on August 31, 2005. 70 Fed. Reg. 51984.

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.

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: Paul Hoffman
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 2005-06 EARLY SEASON"
(RIN: 1018-AT76)

(i) Cost-benefit analysis

The migratory bird hunting regulations (of which this final rule is a part) collectively have an expected welfare benefit of \$734 million to \$1.064 billion with a mid-point estimate of \$899 million.

(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 2001 National Hunting and Fishing Survey. 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 survey estimated that bird hunters would spend between \$481 million and \$1.2 billion at small businesses in 2004.

(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 does 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 published using the notice and comment procedures contained at 5 U.S.C. 553. On April 6, 2005, through August 22, 2005, the Service published four Notices of Proposed Rulemaking covering the various aspects of the migratory bird hunting regulations. The Service responds to the comments received 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 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, with an expiration date of February 29, 2008.

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.