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United States General Accounting Office
Washington, DC 20548

B-288979

October 11, 2001

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; Late Seasons and Bag and Possession Limits for Certain Migratory
Game Birds

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; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds" (RIN: 1018-AH79). We received the rule on September 24, 2001. It was published in the Federal Register as a final rule on September 28, 2001. 66 Fed. Reg. 49748.

The final rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits for general waterfowl seasons and those early seasons for which states previously deferred selection.

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: Mr. Joseph E. Doddridge
Acting 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; LATE SEASONS AND BAG
AND POSSESSION LIMITS FOR CERTAIN MIGRATORY GAME BIRDS"
(RIN: 1018-AH79)

(i) Cost-benefit analysis

According to the cost-benefit analysis contained in the filing with our Office, 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 as many as 738,000 small businesses will share in sales of between \$429 and \$1,084 million.

(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 28, 2001, the Service published in the Federal Register a Notice of Proposed Rulemaking. 66 Fed. Reg. 45516.

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 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 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.