

AGENCY

Department of Interior (DOI)

Rule title

Migratory Bird Hunting; 2013–2014 Migratory Game Bird Hunting Regulations

RIN	1080-AY87
Publication Date	4/9/2013
Comment Period Closing Date	6/22/2013
Stage	Proposed rule

REGULATORY SCORING

	SCORE
1. Systemic Problem: How well does the analysis identify and demonstrate the existence of a market failure or other systemic problem the regulation is supposed to solve?	3/5
2. Alternatives: How well does the analysis assess the effectiveness of alternative approaches?	2/5
3. Benefits (or Other Outcomes): How well does the analysis identify the benefits or other desired outcomes and demonstrate that the regulation will achieve them?	3/5
4. Costs: How well does the analysis assess costs?	1/5
5. Use of Analysis: Does the proposed rule or the RIA present evidence that the agency used the Regulatory Impact Analysis in any decisions?	1/5
6. Cognizance of Net Benefits: Did the agency maximize net benefits or explain why it chose another alternative?	2/5
Total Score	12/30

SUMMARY

The US Fish and Wildlife Service (Department of Interior) annually promulgates hunting regulations for certain migratory game birds. This proposed rule covers the 2013–2014 hunting season. The Fish and Wildlife Service used a regulatory impact analysis created in 2008 to support its proposed rulemaking.

The proposed rule and its accompanying RIA insufficiently meet the standards set forth by Executive Order 12866 for many reasons. The analysis focuses on benefits and ignores costs. In fact, there is no discussion of costs, no discussion of the impact the proposed rulemaking will have on the prices of goods and services, and little discussion of the parties that will incur costs. Since costs are not analyzed, neither net benefits nor the cost-effectiveness of alternatives was considered.

<p>1. Systemic Problem: How well does the analysis identify and demonstrate the existence of a market failure or other systemic problem the regulation is supposed to solve?</p>	<p>3/5</p>	
<p>Does the analysis identify a market failure or other systemic problem?</p>	<p>4/5</p>	<p>RIA describes “tragedy of the commons.” Market failure stems from a common property resource problem whereby no one individual or group “owns” migratory birds. A bird not taken today may be taken by another hunter tomorrow. Therefore, each consumer has an incentive to take as much of the resource as they can capture, so all consumers together can overexploit the resource. This type of market failure is termed an externality in that the actions of one party impose costs on others that cannot be captured by a market transaction.</p>
<p>Does the analysis outline a coherent and testable theory that explains why the problem (associated with the outcome above) is systemic rather than anecdotal?</p>	<p>3/5</p>	<p>Government policies generate economic effects by changing the use of common property resources in the economy. Alternative resource allocations may increase the efficiency of the national economy and generate greater welfare for its citizens, or policies may redistribute resources from one region or industry to another. There is very little solid discussion of why regulation is needed.</p>
<p>Does the analysis present credible empirical support for the theory?</p>	<p>2/5</p>	<p>It discusses how bird populations have experienced dramatic declines from overhunting, but there is little hard evidence on the matter presented. Very little current empirical support is provided for the theory.</p>
<p>Does the analysis adequately address the baseline? That is, what the state of the world is likely to be in the absence of federal intervention not just now but in the future?</p>	<p>3/5</p>	<p>Baseline for the analysis is the most restrictive alternative, but it is probably of limited use given that the empirical analysis is dated and simply drawn from previous years.</p>
<p>Does the analysis adequately assess uncertainty about the existence or size of the problem?</p>	<p>1/5</p>	<p>DOI admits analysis for all migratory bird hunting is not possible because of data limitations, but analysis can be inferred from the results of the duck hunting analysis presented here. Data to estimate producer surplus are not available, making it impossible to estimate how far from an efficient resource allocation the current “problem” is, given that maximization of total net benefit arises at the maximum sum of consumer and producer surpluses. It does recognize that some activities would continue with fully closed seasons.</p>
<p>2. Alternatives: How well does the analysis assess alternative approaches?</p>	<p>2/5</p>	
<p>Does the analysis enumerate other alternatives to address the problem?</p>	<p>4/5</p>	<p>Analysis considers the same regulatory alternatives that were considered in previous years. Alternatives are specified for each flyway and are designated as “RES” for the restrictive, “MOD” for the moderate, and “LIB” for the liberal alternative. However, these are used year after year, making them less effective.</p>
<p>Is the range of alternatives considered narrow (e.g., some exemptions to a regulation) or broad (e.g., performance-based regulation vs. command and control, market mechanisms, nonbinding guidance, information disclosure, addressing any government failures that caused the original problem)?</p>	<p>2/5</p>	<p>Relatively little difference is provided between the three alternatives on outcome, suggesting little thought was put into examining a broad range of options.</p>

Does the analysis evaluate how alternative approaches would affect the amount of benefits or other outcomes achieved?	3/5	Consumer surpluses from each of three alternatives are examined, but no estimation of producer surplus.
Does the analysis identify and quantify incremental costs of all alternatives considered?	1/5	Very little quantification of costs is provided. RIA does not quantify administrative and enforcement costs on states but argues they are nominal.
Does the analysis identify the alternative that maximizes net benefits?	2/5	Analysis identifies which of three alternatives has the largest rise in consumer surplus but not really a net benefit analysis. Only qualitative analysis of net benefits is given.
Does the analysis identify the cost-effectiveness of each alternative considered?	0/5	No quantification.
3. Benefits (or Other Outcomes): How well does the analysis identify the benefits or other desired outcomes and demonstrate that the regulation will achieve them?	3/5	
Does the analysis clearly identify ultimate outcomes that affect citizens' quality of life?	3/5	Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid federal, state, and tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population. More days hunting means higher consumer surplus.
Does the analysis identify how these outcomes are to be measured?	3/5	Analysis suffers from conflating costs and benefits because of focus on expenditures of hunters. No clear idea of measurement as aimed at season lengths. Analysis centers on changing daily bag limits, numbers of hunters, and season lengths. RIA estimates consumer surplus but not producer surplus.
Does the analysis provide a coherent and testable theory showing how the regulation will produce the desired outcomes?	3/5	The analysis estimates differences in bag limits and season lengths as changing number of hunters, how often they hunt, and the amount of consumer surplus. The analysis attempts to estimate changes in consumer surplus and expenditures by hunters.
Does the analysis present credible empirical support for the theory?	2/5	There is relatively little attempt to justify beyond assuming that too much hunting arises without limits. No analysis of what is the optimal amount of hunting from maximizing the sum of producer and consumer surpluses.
Does the analysis adequately assess uncertainty about the outcomes?	1/5	Not much, more like recognition that data are not always available. Analysis follows those of recent previous years and thus retains data from the 2006 National Survey of Fishing, Hunting, and Wildlife Associated Recreation and the Waterfowl Harvest and Hunter Activity Administrative Reports for the 1979 through 2006 seasons. This does not lend itself to much understanding of how the "problem" has changed over time.
Does the analysis identify all parties who would receive benefits and assess the incidence of benefits?	3/5	There were an estimated 979 thousand active duck hunters in the United States in 2006. Over 960 thousand small businesses will share in associated sales. DOI believes the rule will have a significant beneficial economic effect on a substantial number of small entities, mostly in regions with high migratory bird hunting activity.

4. Costs: How well does the analysis assess costs of the regulation?	1/5	
Does the analysis identify all expenditures likely to arise as a result of the regulation?	3/5	Hunter expenditures and related expenditures are identified.
Does the analysis identify how the regulation would likely affect the prices of goods and services?	0/5	No mention of how prices might change.
Does the analysis examine costs that stem from changes in human behavior as consumers and producers respond to the regulation?	0/5	Analysis focuses on benefits and ignores costs.
If costs are uncertain, does the analysis present a range of estimates and/or perform a sensitivity analysis?	0/5	No discussion of costs.
Does the analysis identify all parties who would bear costs and assess the incidence of costs?	1/5	Administrative costs are assumed to be trivial, but little analysis backs up this claim. Some identification of impacts on hunters, hotels, and other related costs.
5. Use of Analysis: Does the proposed rule or the RIA present evidence that the agency used the analysis in any decisions?	1/5	RIA appears to have little effect on decision making. Repeated use of an aging RIA is odd (though the department says it does this because the data used in the RIA are only updated occasionally). NPRM tentatively proposed to adopt the same liberal alternative chosen in previous years but says the final decision will depend on availability of population data later in the year.
6. Cognizance of Net Benefits: Did the agency maximize net benefits or explain why it chose another alternative?	2/5	Alternative with the largest consumer surplus is chosen, but without producer surplus or cost information, it is unclear whether this is the alternative with the greatest net benefit.