

Review" (58 FR 51735, October 4, 1993), this action was submitted to the Office of Management and Budget (OMB) for review. Any changes to the document that were made in response to comments received by EPA during that review have been documented in the docket as required by the Executive Order.

Since this document does not impose or propose any requirements, and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various other review requirements that apply when an agency imposes requirements do not apply to this action. Nevertheless, as part of your comments on this document, you may include any comments or information that you have regarding the various other review requirements.

In particular, EPA is interested in any information that would help the Agency to assess the potential impact of a rule on small entities pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*); to consider voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note); to consider environmental health or safety effects on children pursuant to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997); or to consider human health or environmental effects on minority or low-income populations pursuant to Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

EPA specifically requests information and data to facilitate its analyses in the following two areas:

a. Small Entities. EPA is particularly interested in receiving comments and information about the various characteristics of potentially impacted small entities that would facilitate the Agency's evaluation of the number of firms that might experience an impact from a rulemaking in this area, as well as an assessment of the potential size of that impact on small entities. In commenting or providing information about small entities that might be impacted by a rulemaking in this area, please note that the phrase "small entities" encompasses small businesses, small governmental jurisdictions, and small organizations. In the analysis the Agency expects to perform under the RFA, these entities are specifically defined in sections 601(3)-(5) of the RFA. The definitions for "small business" are codified in the Small

Business Administration's (SBA) regulations at 13 CFR 121.201. SBA defines small business by category of business using the NAICS Codes. (<http://www.sba.gov/regulations/121/201.htm>) Small business default definitions can be found on SBA's internet site at <http://www.sba.gov/size/indextableofsize.html>. A "small governmental jurisdiction" is "a government of a city, county, town, school district or special district with a population of less than 50,000." A "small organization" is any "not-for-profit enterprise which is independently owned and operated and is not dominant in its field."

b. Environmental Justice. EPA is particularly interested in receiving comment and information about potential impacts—both benefits and costs—on the human health or environmental conditions in minority or low-income populations. Such information would facilitate the Agency's consideration of environmental justice during the development of the proposed rule.

This information will be used in the identification and evaluation of options for the proposed rule, and will inform the analyses that the Agency intends to prepare for the proposed rule. Any comments on this topic should be submitted to the Agency in the manner specified under **ADDRESSES**. The Agency will consider such comments during the development of any subsequent proposed rule as it takes appropriate steps to address any applicable requirements.

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substance, Lead poisoning, Reporting and recordkeeping requirements.

Dated: April 22, 2010.

Lisa P. Jackson,

Administrator.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 83

[Docket No. FWS-R9-WSR-2010-0009]
[91400-5110-POLI-7B; 91400-9410-POLI-7B]

RIN 1018-AX00

Removing Regulations Implementing the Fish and Wildlife Conservation Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove our regulations implementing the Fish and Wildlife Conservation Act

of 1980. The Act authorized financial and technical assistance to States to design conservation plans and programs to benefit nongame species; however, funds never became available to carry out the Act, and we do not expect funds to become available in the future.

DATES: We will consider comments received or postmarked on or before July 6, 2010.

ADDRESSES: You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R9-WSR-2010-0009.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R9-WSR-2010-0009; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all public comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Joyce Johnson, Wildlife and Sport Fish Restoration Program, Division of Policy and Programs, U.S. Fish and Wildlife Service, 703-358-2156.

SUPPLEMENTARY INFORMATION:

Background

The Service manages or comanages 54 financial assistance programs. Our Wildlife and Sport Fish Restoration Program manages, in whole or in part, 19 of these programs. We implement some of these programs via regulations in title 50 of the Code of Federal Regulations (CFR), particularly in subchapter F "Financial Assistance—Wildlife and Sport Fish Restoration Program," which currently includes parts 80 through 86.

The regulations at part 83 implement the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901-2911). This act authorized the Service to give financial and technical assistance to States and other eligible jurisdictions to design conservation plans and programs to benefit nongame species. The regulations tell the fish and wildlife agencies of the 50 States, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa how they can take part in this grant program. However, neither the Fish and Wildlife Conservation Act nor any subsequent legislation established a continuing source of funds for this grant

program, nor have annual Appropriations Acts provided any funds for it. In 1984, the Service's Western Energy and Land Use Team prepared a document identifying potential funding sources, but none of these options were adopted.

Congress has appropriated funds in recent years for State conservation planning and programs to benefit nongame species, but none of these grant programs have been under the authority of the Fish and Wildlife Conservation Act. Instead, Congress made funds available through the Wildlife Conservation and Restoration grant program in 2001 and—during each year since 2002—the State Wildlife Grants program. Based on this 30-year record, we do not expect that the grant program authorized by the Fish and Wildlife Conservation Act of 1980 will receive any funding, so we propose to remove its implementing regulations.

Public Comments

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Required Determinations

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one

of the methods listed in the **“ADDRESSES”** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs with unclear writing, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this rule under E.O. 12866. OMB bases its determination on the following four criteria:

- (a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.
- (b) Whether the rule will create inconsistencies with other Federal agencies' actions.
- (c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.
- (d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires an agency to consider the impact of proposed rules on small entities, i.e., small businesses, small organizations, and small government jurisdictions. If there is a significant economic impact on a substantial number of small entities, the agency must perform a Regulatory Flexibility Analysis. This is not required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) amended the Regulatory Flexibility Act to require Federal agencies to state the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

We are removing a rule governing an unfunded grant program. Consequently, we certify that the removal would not have a significant economic effect on a substantial number of small entities; a Regulatory Flexibility Analysis is not required.

In addition, this proposed rule is not a major rule under SBREFA and would not have a significant impact on a substantial number of small entities because it does not:

- a. Have an annual effect on the economy of \$100 million or more.

b. Cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. The Act requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of a proposed rule with Federal mandates that may result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any 1 year. We have determined the following under the Unfunded Mandates Reform Act:

a. As discussed in the determination for the Regulatory Flexibility Act, this proposed rule would not have a significant economic effect on a substantial number of small entities.

b. The regulation does not require a small government agency plan or any other requirement for expenditure of local funds.

c. There are no mandated costs associated with the proposed rule.

d. This proposed rule would not produce a Federal mandate of \$100 million or greater in any year; i.e., it is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

Takings

This proposed rule would not have significant takings implications under E.O. 12630 because it would not have a provision for taking private property. Therefore, a takings implication assessment is not required.

Federalism

This proposed rule would not have sufficient Federalism effects to warrant preparation of a Federalism assessment under E.O. 13132. It would not interfere with the States' ability to manage themselves or their funds.

Civil Justice Reform

The Office of the Solicitor has determined under E.O. 12988 that the rule would not unduly burden the judicial system and that it meets the

requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act

This proposed rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have analyzed this rule under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and part 516 of the Departmental Manual (DM). This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/

assessment is not required because this proposed action qualifies for the categorical exclusion for administrative changes provided in 516 DM 2, Appendix 1, section 1.10.

Government-to-Government Relationship with Tribes

We have evaluated potential effects on federally recognized Indian tribes under the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and 512 DM 2. We have determined that there are no potential effects. This proposed rule would not interfere with the tribes' ability to manage themselves or their funds.

Energy Supply, Distribution, or Use

E.O. 13211 addresses regulations that significantly affect energy supply, distribution, and use and requires agencies to prepare Statements of Energy Effects when undertaking certain

actions. This rule is not a significant regulatory action under E.O. 12866 and would not affect energy supplies, distribution, or use. Therefore, no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 83

Fish, Grant programs—natural resources, Reporting and recordkeeping requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons discussed in the preamble, under the authority of 16 U.S.C. 2901, we propose to amend subchapter F of chapter I, title 50 of the Code of Federal Regulations, as follows:

Part 83—[Removed and Reserved]

Remove and reserve part 83, consisting of §§ 83.1 through 83.21.

Dated: April 6, 2010.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2010-10604 Filed 5-5-10; 8:45 am]

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