

Section 11(d) of the Act, and may give rise to an order by the Administrator with respect to any product that is subject to the exemption, whether the product was distributed before or after the breach. The Administrator may also, upon notice to the manufacturer and with the opportunity for a hearing, withdraw the exemption at any time, if he determines that the public health or welfare is being endangered.

(Sec. 10(b)(1), Pub. L. 92-574, 86 Stat. 1242 (42 U.S.C. 4909(b)(1)))

§ 211.110-5 Submission of exemption request.

Address any requests for exemptions, or any requests for further information concerning exemption or the exemption request review procedure, to: Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460, (703) 557-7470.

(Sec. 10(b)(1), Pub. L. 92-574, 86 Stat. 1242 (42 U.S.C. 4909(b)(1)))

§ 211.111 Testing by the Administrator.

(a)(1) To determine whether products conform to applicable regulations under this Part, the Administrator may require that any product that is to be tested under applicable regulations in this Part, or any other products that are regulated under this Part, be submitted to him, at a place and time that he designates, to conduct tests on them in accordance with the test procedures described in the regulations.

(2) The Administrator may specify that he will conduct the testing at the facility where the manufacturer conducted required testing. The Administrator will conduct the tests with his own equipment.

(b)(1) If, from the tests conducted by the Administrator, or other relevant information, the Administrator determines that the test facility used by the manufacturer(s) does not meet the requirements of this Part for conducting the test required by this Part, he will notify the manufacturer(s) in writing of his determination and the reasons for it.

(2) After the Administrator has notified the manufacturer, EPA will not accept any data from the subject test facility for the purposes of this Part, and the Administrator may issue an order to the manufacturer(s) to cease to distribute in commerce products that come from the product categories in question. However, any such order shall be issued only after an opportunity for a hearing. Notification of this opportunity may be included in a notification under paragraph (b)(1) of this section. A

manufacturer may request that the Administrator grant a hearing. He must make this request no later than fifteen (15) days (or any other period the Administrator allows) after the Administrator has notified the manufacturer that he intends to issue an order to cease to distribute.

(3) A manufacturer may request in writing that the Administrator reconsider his determination in paragraph (b)(1) of this section, if he can provide data or information which indicates that changes have been made to the test facility, and that those changes have remedied the reason for disqualification.

(4) The Administrator will notify a manufacturer of his decision concerning requalifying the test facility within 10 days of the time the manufacturer requested reconsideration under paragraph (b)(3) of this section.

(c)(1) The Administrator will assume all reasonable costs associated with shipment of products to the place designated pursuant to paragraph (a) of this section, except with respect to:

(i) Any label verification testing performed at a place other than the manufacturer's facility as provided for in the Section titled Label Verification of the product-specific Subpart or as a result of the manufacturer's not owning or having access to a test facility;

(ii) Testing of a reasonable number of products for purposes of compliance audit testing under the Section titled Compliance Audit Testing of the product-specific Subpart, or if the manufacturer has failed to establish that there is a correlation between his test facility and the EPA test facility or the Administrator has reason to believe, and provides the manufacturer with a statement or reasons, that the products to be tested would fail to meet their verification level if tested at the EPA test facility, but would meet the level if tested at the manufacturer's test facility;

(iii) Any testing performed during a period when a notice issued under paragraph (b) of this section, is in effect; and

(iv) Any testing performed at place other than the manufacturer's facility as a result of the manufacturer's failure to permit the Administrator to conduct or monitor testing as required by this Part.

(Secs. 11 and 13, Pub. L. 92-574, 86 Stat. 1243 (42 U.S.C. 4910, 4912))

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40 CFR Part 211

[FRL 1270-3]

Approval and Promulgation of Noise Labeling Requirements for Hearing Protectors

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice establishes noise labeling requirements for hearing protectors under the authority of the Noise Control Act of 1972 (42 USC 4901 et seq.). These requirements were proposed in the *Federal Register* on June 22, 1977 (42 FR 31730) and have been modified to reflect the public comment.

These labeling standards require hearing protector manufacturers to state, on a clearly visible label and in a uniform manner, the noise reducing effectiveness of all hearing protectors which are sold in the United States.

The final rule provides a uniform test methodology for determining the noise reducing effectiveness of, and specifies a uniform rating scheme (Noise Reduction Rating in decibels) for stating the effectiveness of, all types of hearing protectors. It requires that information supporting the notice of effectiveness be supplied with the protector. It also provides the procedures for enforcing the labeling requirements.

The intent of this labeling requirement is to ensure that information on the noise reducing effectiveness of hearing protectors is available to prospective users of these devices, so that they will be capable (using this information) of selecting a device which can adequately protect their hearing in a given noise environment.

EFFECTIVE DATE: September 28, 1979.

ADDRESS: Written data, comments or views may be submitted to the: Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Timothy McBride, Standards and Regulations Division (ANR-490), or phone (703) 557-2710.

SUPPLEMENTARY INFORMATION:

I. Introduction

Effective September 27, 1980, this regulation, Subpart B of 40 CFR Part 211, requires manufacturers of hearing protectors sold in the United States to give notice to prospective users of their products, of the effectiveness of their products in reducing noise. This notice shall be given according to the labeling requirements of Subpart A of 40 CFR Part 211 (General Provisions—Product

Noise Labeling) and those additional requirements of Subpart B.

In order to provide this notice, this regulation requires manufacturers to test all categories of protectors in their product line according to the American National Standards Institute Standard (ANSI STD) S3.19-1974. This procedure measures the level of noise reduction developed by a protector or a category of protectors at specific frequencies.

The regulation specifies the method by which a manufacturer will uniformly convert, into a Noise Reduction Rating (NRR) in decibels, the measured levels of noise reduction for each category of protectors in his product line.

Manufacturers must state the NRR specific to a category of protectors on a label affixed or appended to every protector (or its packaging) that comes from that category. The manner in which the label is affixed to the protector or its packaging depends on how the protector is displayed for sale to the ultimate purchaser or for distribution to the prospective user.

The regulation requires that the manufacturer who packages the protector for ultimate distribution in commerce be identified on the label. That manufacturer is held responsible for the accuracy of the information on, and the visibility of, the label at the point of sale to the ultimate purchaser or distribution to the prospective user.

The label must also present information on the range of NRRs for existing protectors against which the ultimate purchaser or user can assess a specific protector's relative effectiveness in reducing noise. The "comparative range" data was determined by using data from the National Institute for Occupational Safety and Health publication (NIOSH 76-120) in the Noise Reduction Rating computation procedure in § 211.207 of the regulation. It is provided by EPA in this rule, and will be updated by EPA, as necessary, through a technical amendment to the regulation published in the Federal Register.

In order to assure that the NRR for a protector or a category of protectors is correct, the manufacturer is required to test each category of protectors in his product line to initially establish their NRRs. He is further required to maintain records to adequately substantiate these NRRs, and to submit reports of these test results to the Agency. The Agency may require that compliance audit testing be performed on specified protectors to assure that these products comply with their initially established label value. The Administrator may also require a manufacturer to relabel his hearing protectors entered into the

distribution chain after the effective date of the regulation, or to take other reasonable steps necessary to remedy a violation of these requirements.

Supplementary to this rule, the Agency published a Regulatory Analysis¹ which includes a detailed study of hearing protectors, the industry, test procedures, analysis of public comments to the docket, and a list of all commenters.

II. Background

In the Noise Control Act of 1972 (The Act) (42 USC 4901 et seq.), "Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare." To further this policy, Section 8(a)(2) of the Act requires the Administrator of the Environmental Protection Agency (EPA) to designate by regulation any product " * * * sold wholly or in part on the basis of its effectiveness in reducing noise." It also requires that "for each such product (or class thereof) the Administrator shall by regulation require that notice be given to the prospective user * * * of [the product's] effectiveness in reducing noise. * * * The regulation must specify "whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner." The regulation must also specify " * * * the form of the notice, and * * * the methods and units of measurement to be used."

Hearing protectors are principally sold on the basis of their ability to attenuate the level of sound entering a person's ear. The amount of sound attenuation provided by the broad range of insert and muff type protectors currently on the market varies widely. There are devices designed primarily to prevent water from entering a swimmer's ears that are frequently misused as hearing protectors. There are devices that can be purchased merely to reduce annoying sounds in a person's environment to levels that may permit sleep, study or relaxation. While these devices may afford a measure of sound reduction, their effectiveness in high noise environments may be marginal. Users of devices which give insufficient hearing protection for a particular noise environment can sustain permanent hearing loss because of exposure to levels of noise from which they believe they are protected.

In some cases, it is impractical to control noise at the source or along the propagation path sufficiently to protect the hearing of a person exposed to the noise. In these circumstances, the use of hearing protectors may be the only practical means of noise control on a short-term basis.

For a prospective user of hearing protective devices to make an informed choice of a protector for use in a particular noise environment, that person should be able to determine the level of hearing protection offered by a given hearing protector, and its effectiveness relative to other hearing protectors. This information is not now readily available to the prospective user.

The Agency announced its intention to consider the labeling of hearing protectors, under the authority of Section 8(a)(2) of the Act, through the publication of an Advanced Notice of Proposed Rulemaking (ANPRM) on December 5, 1974 (39 FR 42380).

The ANPRM established a public comment period for 60 days which closed on February 1, 1975, and solicited comments from all interested parties prior to the Agency undertaking the development of a regulation.

We received a total of 9 written comments to the ANPRM docket from the hearing protector industry and trade associations; laboratories involved in acoustic testing; and government agencies that use protectors or specify protector effectiveness, construction, composition or packaging requirements. These commenters recommended measurement standards and label placement and content, questioned the validity of single number rating schemes, and submitted examples of various protector characteristics and packaging. The Agency also sent letters to selected manufacturers and distributors of hearing protectors requesting information on manufacturing costs, manufacturing processes, marketing processes, extent of the market, numbers and types of protectors manufactured, and each manufacturer's share of the market. This was done because of the limited amount of this type of information obtained from comments to the ANPRM, and the Agency's desire to get this data so it could adequately assess the effect of various methods of hearing protector labeling.

EPA has worked closely with the National Institute for Occupational Safety and Health (NIOSH), the United States Air Force Aerospace Medical Research Laboratory (AMRL), the Federal Aviation Administration Civil Aeromedical Institute, and the Mine Safety and Health Administration to

¹ Regulatory Analysis Supporting the Labeling of Hearing Protectors; EPA 550/9-79-256, August, 1979.

develop test procedures and coordinate labeling requirements.

The EPA published a Notice of Proposed Rulemaking (NPRM) for Noise Labeling Requirements for Hearing Protectors on June 22, 1977 (42 FR 31730), and established a public comment period for 90 days which closed on September 20, 1977; public hearings were deferred pending public response. During this period we received 52 written comments. We also received 3 oral and 7 written comments pertaining to hearing protectors which had been directed to the concurrently established public comment period for the proposed General Provisions (Subpart A) for Product Noise Labeling (40 CFR Part 211). Because of a computerization program undertaken since the promulgation of the proposed rule, it was necessary in the final rule of both Subparts A and B to either replace the second decimal point in each section heading with a zero or delete it entirely.

As a result of written comments to the docket the Agency decided that, to fully understand the problems the hearing protector industry expressed in their comments, and to better clarify certain elements of the proposed rule, a public meeting was in the best public interest.

The Agency published a notice of the public meeting in the *Federal Register* on December 2, 1977 (42 FR 61289). The meeting was held on December 13, 1977 at the Agency's Office of Noise Abatement and Control in Arlington, Virginia. Attendees included manufacturers, the industry trade association, several members of the user industry, and Federal representatives. Oral comments were received from 10 speakers. The transcript of this meeting has been available for public review at the EPA Public Information Center, Washington, D.C.

Comments from industry during the NPRM comment period and from the public meeting were critical of various elements of the proposed regulation, but were not generally opposed to the concept of labeling hearing protectors with respect to their effectiveness. Comments from private citizens and user-industries were for the most part supportive of the proposed labeling rule. The range of issues covered in the comments is extensive, encompassing all aspects of the Federal noise labeling program.

The following discussion addresses only the major issues associated with the labeling of hearing protectors. Issues related to general labeling have been addressed in the General Provisions of this rule.

The Agency carefully reviewed and considered all information received from

industry and the public on the potential impact a Federal labeling requirement might engender: on the cost of hearing protectors; on manufacturers' production processes; and on their packaging procedures. We reassessed the designated test methodology, availability of test facilities, enforcement procedures, and labeling responsibilities.

By making minor changes to the proposed requirements, the Agency has concluded that this regulation will result in the dissemination of adequate information to the prospective user of hearing protectors with minimum adverse impact on the industry.

The detailed comments and information presented to the Agency and the Agency's responses to the comments are contained in the Docket Analysis section of the Regulatory analysis.² A complete list of commenters is presented as an appendix within the document.

III. Discussion of Major Issues

General Issues

Several commenters questioned the Agency's statutory authority. They believed that EPA had exceeded its authority in proposing the labeling of hearing protectors, and that the Agency abused its discretionary authority and was "arbitrary and capricious".

The Act specifically states in Section 8(a)(2) that "the Administrator shall by regulation designate any product (or class thereof) which is sold wholly or in part on the basis of its effectiveness in reducing noise." This is a non-discretionary requirement for the Agency. As directed, the Administrator has designated all hearing protective devices as products which are sold wholly or in part on the basis of their effectiveness in reducing noise.

EPA is clearly authorized to require labeling of such designated products. Section 8(b) of the Act states that "for each product (or class thereof) designated under Subsection (a), the Administrator shall by regulation require that notice be given to the prospective user of the level of [the product's] effectiveness in reducing noise".

To effectively carry out the non-discretionary mandate in Section 8 which requires the Administrator to label noise-reducing products, the Agency conducted an investigation into hearing protective devices to identify both the effectiveness rating technique and the information most useful to the consumer. The Agency requested

detailed data from the protector industry, consulted with other government organizations, analyzed and considered information received in response to the ANPRM on hearing protectors, and assessed the possible economic effects of Federal labeling and compliance requirements on the industry. The Agency has established the basis and background to support this regulatory action.

Several commenters stated that EPA has the authority to require only the effectiveness rating on the label, not such items as the comparative range, the EPA logo and a statement prohibiting removal of the label.

Section 8 of the Act requires that notice be given to a prospective user of the effectiveness of a product in reducing noise. As part of the notice given by the label, the Agency has developed, and will supply to the industry with periodic updating, the comparative range for hearing protectors as a complement to the effectiveness rating on the label. The effectiveness rating, by itself, would not indicate to the prospective user the available range of effectiveness ratings offered by hearing protectors, nor would it show the effectiveness of a specific protector relative to the noise reducing effectiveness available from other protectors. The comparative range information is intended to give support to the use of the NRR as a means of choosing an adequate hearing protector for a given noise environment. We believe that comparative range information on the label is a key element to the total notice of a protector's noise reducing effectiveness that is supplied by the label.

The Agency addressed in detail, within the General Provisions for Product Noise Labeling, the requirement for the EPA logo on the label. In brief, the appearance of the logo on the label is intended to notify an ultimate purchaser or the prospective user that the label is Federally mandated across the industry, its contents are uniform and that the ratings are credible.

The inclusion of a statement prohibiting removal of the label before sale to the ultimate purchaser is based on the prohibition of Section 10(a)(4) of the Act. Removal of the label from a protector before it is sold to the ultimate purchaser is a violation of the Act. The person who removes the label is subject to District Court actions to restrain violations as provided by Section 11(C), as well as to a remedial order that the Administrator may issue under Section 11(d) of the Act. This restriction is important for the public to know.

² *Ibid.*, p. 62 et seq.

Another general issue raised by several commenters was the possibility of conflict between this labeling requirement and the labeling programs or product packaging requirements of other Federal agencies.

Particular concern was expressed over possible conflict between the Agency's labeling program and the certification program being developed by the National Institute for Occupational Safety and Health (NIOSH).

The Agency worked closely with NIOSH in the development of its requirements for the labeling of hearing protectors to ensure that the two programs would be complementary.

We will continue to coordinate activities with NIOSH to assure that the two programs work together, and produce no conflict or redundancy.

The Agency explored the possibility of conflict with Department of Defense Military Specifications (DOD MIL SPEC.) on product and product package labeling. DOD MIL SPEC. experts assured us that there were no apparent conflicts, and that if conflict should develop, the specifications would be changed to incorporate the Agency's regulatory requirements.

Label Content and Information

Several commenters questioned the limits EPA proposed for the comparative range of effectiveness ratings for hearing protectors. They felt that the values picked (i.e., "0" and "31") implied precision in the range that was not supportable by fact. According to information supplied by the industry and various testing laboratories, the upper end of the range of hearing protectors using the designated measurement standard could potentially be as high as 35 or as low as 25. Several commenters suggested that the range be stated as "approximate." They felt that an approximate range would allow for changes in the limits of the range resulting from deletion of protector models from, or addition of protector models to, the market, or from a breakthrough in hearing protector technology; yet the information that EPA wishes the prospective user to have would still be available. Manufacturers also wished to know how the comparative information would be developed. Would they have to perform their own research?

The Agency agrees that the range of Noise Reduction Ratings for hearing protectors may possibly change with time. Consequently, the rule has been changed so that the range information to be stated on the label will read "the range of Noise Reduction Ratings for existing hearing protectors is

approximately 0 to 30." We determined this range by using data from the National Institute for Occupational Safety and Health publication (NIOSH #76-120) in the Agency's method for computing the NRR.

The Agency will examine the NRR values that manufacturers, as part of their compliance requirements, must report in the Labeling Verification Report as Labeled Values.

If analysis of the reported NRR values indicates that the initially specified comparative range information is not representative of available hearing protectors, the Agency will, within eighteen (18) months from the date of promulgation of this rule, publish in the *Federal Register* a technical amendment to this rule stating the revised range information. Manufacturers will have one year from the date the revised range information is published to change their labels.

The Agency will continue to monitor the reported NRR values annually, will publish further revisions to the comparative range as required, and will consider publishing, for public dissemination, a composite list of the NRRs for all hearing protective devices.

Commenters suggested that the Noise Reduction Rating (NRR)—as the acoustic descriptor for the label—could potentially cause purchasers or users of protectors to emphasize the NRR and neglect information concerning the effective use of a protector when making their selections.

The Agency acknowledges that certain information (for example, importance of protector fit, purchase price, durability of the protector's materials and the protector's noise reducing effectiveness at specific frequencies) would not be contained in a single number rating. It is for this reason that supporting information (for example, the presentation of the protector's noise attenuation values at specific test frequencies, and instructions on how to properly fit the protector to realize its maximum noise attenuation potential) is required to be supplied with the protector at the point of sale to the ultimate purchaser or distribution to the prospective user.

Commenters familiar with acoustics expressed concern over possible misinterpretation of NRR, the abbreviation of Noise Reduction Rating, with the abbreviated name of a popular noise related publication; or the possibility of making the value of the NRR proportional to the upper end of the comparative range in order to obtain the percent of cases in which a protector would be effective (e.g. range = 0 to 30,

NRR = 20, the protector is effective in 20/30 or 66% of all cases).

That it is possible to misinterpret a descriptor abbreviation, or to misuse the numbers associated with a descriptor, is a problem that is common to every type of descriptor. However, the Agency believes that the NRR, the descriptor chosen to depict the noise reducing effectiveness of hearing protectors, has uniformity, objectivity, precision, understandability, and the relative familiarity of the user population with the decibel (dB) base of the descriptor.

There is a very close relationship between the NRR and the amount of "A"-weighted noise reduction to be expected from a protector if used in a noise environment that is not dominated by frequencies below about 500 Hz. For example, if a measured "A"-weighted³ noise level is 92 dB (A), and if a protector with a NRR of 20 decibels is being worn properly in that environment, the level of noise entering the ear would be approximately 72 dB (A). This simple procedure offers a first order estimate of potential exposure when wearing a given protector.

In a noise environment dominated by frequencies below approximately 500 Hz, the NRR should be subtracted from the "C"-weighted⁴ environmental noise level.

Considerable comment centered on the identification of the manufacturer of the protector on the label. In many cases, manufacturers stated, they simply produce the protector and do not package it for distribution into commerce.

Other commenters expressed opposition to the possibility that by being identified on the label, they could be held responsible for label verification of protectors that they make, but which are later incorporated into combination units or changed in other ways.

Considering both of these points, the Agency believes that the statutory definition of "manufacturer" adequately identifies the party responsible for: label verification of the protector; labeling the protector or its packaging; assuring the accuracy of the information on the label; and assuring the visibility of the label at the point of sale to the ultimate purchaser or distribution to the prospective user. We have, therefore, simply required that the "manufacturer", as defined in the Act, be identified on the label. The manufacturer packaging

³"A"-weighting is intended to match the response of the ear to sound of low-intensity, and discriminates against low frequency sound (used by Occupational Safety and Health Administration when regulating noise in the workplace).

⁴"C"-weighting is intended to match the response of the ear to sound of high intensity.

the protector for ultimate purchase or use is to be named on the label, is to assure that the information which must accompany the protector as supporting information (and from which the NRR is determined) is provided in the packaging and is to assure the accuracy of the information on the label. The "manufacturer" who packages and/or distributes the product may elect to either use the information provided by the product "manufacturer" who label-verified the protector, or to retest the protector.

Label Size, Placement and Packaging

Major concerns of several commenters were directed to EPA's proposed label size and placement, and to the associated possible need for significant changes to the manufacturing of and/or packaging of their product. Several commenters stated that there should be no minimum limits on the size of the label, for many protectors presently have different packaging requirements. They also commented that there should be a dual system of labeling because of the two very different markets served—industry and individual purchasers. Some of the protectors supplied to industrial customers are packaged in bulk with primary panels (defined in § 211.203 of the regulation) much smaller than the proposed minimum label size.

The Agency's original intent was to label every protector, regardless of market and packaging method, as to its effectiveness in reducing noise, and to have the label visible at the point of sale to purchasers or distribution to users.

We have changed the requirements for the labeling of protectors to allow the continuation of present industry marketing practices and packaging methods. Small protectors are often packaged in bulk quantities for reasons of economy when supplying industrial users. To require that bulk-packaged protectors be individually labeled with a visible minimum-sized label would cause an inappropriately large increase in costs to the industrial user. For sales of protectors to individuals, however, economy-of-scale packaging does not appear to be a factor based on statements from manufacturers and distributors.

While there might be extensive packaging changes resulting from the requirement that protectors be labeled with a minimum sized label, labels of a size smaller than 3.8×5.0 centimeters (cm) (approximately $1\frac{1}{2} \times 2$ inches) with correspondingly smaller print are practically non-informative because of their illegibility. Therefore, the Agency

maintains that the label must be no smaller than 3.8×5.0 cm.

However, in requiring that the minimum label size be 3.8×5.0 cm, the Agency has developed the following labeling criteria based on the means used to display them at the point of ultimate purchase or distribution to the prospective user. In the case of bulk packaging and dispensing, the supporting information must be affixed to the container in the same manner as the label and in a readily visible location.

(1) If the protector is individually packaged and so displayed at the point of ultimate purchase or distribution to users, the package must be labeled as follows:

(a) If the "primary panel," as defined in § 211.203 of the regulation, of the package has dimensions greater than 3.8×5.0 cm, the label must be presented on the primary panel.

(b) If the primary panel of the package is equal to or smaller than 3.8×5.0 cm, a label at least 3.8×5.0 cm must be affixed to the package in the form of a tag.

(2) If the protector is displayed at the point of ultimate sale or distribution to users in a permanent or disposable bulk container or dispenser, even if the protector is individually packaged within the dispenser and labeled as above, the container or dispenser itself must be appropriately labeled. The label must be readily visible to the ultimate purchaser or prospective user.

Labeling of the "Dispenser", as defined in § 211.203 of the regulation, requires that the accompanying protectors *not* be separated from the dispenser before ultimate purchase. Separation is tantamount to removal of the label which is prohibited by Section 10(a)(4) of the Act.

There were several comments concerning the placement of labels and clarification of "affixing" labels. Commenters also suggested that there should be some latitude in how labeling can be accomplished. Section 211.2.4-3 of the NPRM, which dealt with "Label Location and Type", was not meant to exclude "hang tags" as a labeling device, as was apparently feared by one manufacturer. The purpose of the label, as stated in the NPRM and in Section 8 of the Act, is to give notice to the prospective users of hearing protectors concerning the noise reducing effectiveness of the product. This is to be accomplished by making the information available before actual sale or use. It is the element of visibility of the label at the point of purchase or use that is of paramount importance. If the label is not visible to the ultimate

purchaser or prospective user prior to purchase or use, then the information on the label will be of limited practical value.

Manufacturers may use any labeling means available as long as the labeling requirements are met.

Test Methodology

The test methodology, as proposed, was an issue that elicited considerable comment. One area of concern was the cost associated with the proposed use of the American National Standards Institute Standard (ANSI Std) S3.19-1974 as the Agency's test methodology. This standard is a subjective test using ten (10) human subjects tested three (3) separate times with different pairs of the same model hearing protector. The test was seen by several commenters as too costly, not repeatable, and not properly accounting for the effects of the fit of a protector on its noise reducing ability. Manufacturers would also have preferred an "objective test" over the proposed test in the interest of test repeatability and reduced cost.

The Agency tries to use measurement standards from voluntary standard setting organizations that have been developed, validated and in use. We determined, however, after consultation with experts, that there are at present no accepted standards for objective tests suitable for testing all types of hearing protectors. Data from various existing objective tests have not, to date, correlated well with results from other proven and accepted test standards. The Agency determined, however, that objective testing could be used by manufacturers as a production process screening method, but not as a method for labeling verification. If a breakthrough should occur, such that a national or international standard is developed for an objective method that permits reliable testing of all hearing protectors to the accuracy of the present subjective test method, the Agency will consider it as a candidate to replace the present method.

The Agency encourages the development of subjective and objective test methodologies. Procedures that have been demonstrated to correlate with the prescribed procedure should be submitted to the Agency for consideration as alternate methodologies or replacements to the procedure in this regulation.

⁵ A procedure, using microphones inside and outside of an enclosure (e.g. dummy head) to simulate an ear, that measures the differences in a known level of sound (inside and outside of the enclosure) resulting from an obstruction (e.g. hearing protector) in the normal path of the sound to the interior microphone.

The Department of Defense and several major industries that are affected by the Occupational Safety and Health Administration's (OSHA) rules, are already requesting effectiveness data on hearing protectors from manufacturers. Thus, with respect to the costliness of the method, the majority of manufacturers already include in their prices the costs of testing protectors to develop effectiveness ratings. This is addressed in greater detail under the section titled "ECONOMIC EFFECT".

The Agency gave careful consideration to a comment that the test method requires a report of the force that the headband produces, and its effect on the noise reducing effectiveness of protectors that use headbands as their principal means of attachment. The test method does not state how the data is to be derived for hardhat hearing protectors. EPA concluded, after conferring with technical experts, that the "band force", as derived in the standard, was designed to measure only "muff" type protectors that actually employ a band as the means of clamping the protectors to the user's head. Hearing protectors combined with hardhats do not normally depend on a headband for clamping force. However, until another measurement method is devised that adequately measures the clamping procedure used by hardhat hearing protectors and relates this to their Noise Reduction Rating, the mean attenuation levels at the test frequencies and the NRRs for this type of protective device must be derived according to the designated measurement method. When a validated procedure is available, an exception may be requested, and the Agency will review the request.

As labeling was proposed in the NPRM, the NRR reported for "muff" type protectors would have been that of the use position providing the lowest protection. This number alone would neither inform the ultimate purchaser or prospective user which position was labeled, nor would it indicate the NRR values of the other use positions. As a result of comments requesting notice of the NRRs of other use positions, and after conferring with technical experts, the Agency concluded that testing of all possible use positions of "muff" protectors is necessary. The NRR for the worst position will be labeled, and that position noted on the label. The NRRs for other positions will be included in the supporting data.

Commenters stated that there is neither a sufficient availability of laboratories capable of testing hearing protectors in the proposed manner, nor

are the laboratories capable of handling the numbers of tests to be required. We consulted with experts on this subject and were assured that adequate facilities would exist given adequate lead time before the effective date. As a result of this consideration, the effective date has been extended from six months to one (1) year from the date of promulgation, which should assure sufficient availability of laboratory test facilities to accomplish the required testing.

Those laboratories now capable of testing protectors according to the required test method are: the Pennsylvania State University (Environmental Acoustics Laboratory, State College, PA), the Worcester Polytechnic Institute (Worcester, MA), the U.S. Naval Air Station (Pensacola, FL), the U.S. Aviation Center (Ft. Rucker, AL) and the National Institute for Occupational Safety and Health (Morgantown, WV).

Commenters suggested that protector performance variability from test-to-test and between testing laboratories is probable, considering the requirement in the NPRM for "subject fit" of the protector for the test.

The Agency concluded, after conferring with both private and government testing laboratory technical experts, that "experimenter fit", (i.e. the hearing protector is fitted to the test subject by the experimenter) rather than "subject fit" (where the test subjects fit themselves with the protectors), should be required.

While "subject fit" results in a more subjective rating of a protector, it also produces values of noise attenuation that spread much more widely about the "mean" (average) attenuation value for a test frequency. Consequently, enforcement procedures based on a test using "subject fit" would have to allow greater variability in the values derived from the test. This dispersion of values about the "mean" reduces the possibility of reproducing the attenuation values from test-to-test, and thus the test is less strictly enforceable.

"Experimenter fit", however, ensures greater consistency in the "fit" of the protector to all subjects, which tends to reduce the test-to-test variability.

We have examined the potential for variability in the test between facilities, and agree that there may be variations in measured attenuation from facility to facility as a result of slight differences in the physical facilities or in the way the facility implements the test. However, because of the modification of the test procedure to require "experimenter fit", we believe these variations to be small. Furthermore, the procedure of itself will

reduce variations between test facilities because of the 30 tests required during labeling verification to obtain a single NRR for a category of protectors. The consensus of technical experts was that manufacturers will take possible variations between test facilities into account in designating NRRs for their protectors.

Commenters suggested that test result variability between laboratories might possibly cause protectors to be out of compliance merely as a result of Compliance Audit Testing at a laboratory different from that used for testing for labeling verification.

Compliance Audit Testing (CAT) may occur at any laboratory capable of testing according to the Agency's method, but in most cases it will take place at the laboratory used for Labeling Verification (LV). Any variabilities that would exist between two valid laboratories should be readily identifiable and included in the NRR value on the label. Also, the Agency has included a 3 dB(A) variability factor to be used in Compliance Audit Testing. The mean attenuation value at any one of the test frequencies (as measured during Compliance Audit Testing) plus the 3 dB(A) variability factor must be equal to or greater than the mean attenuation value, for the same test frequency, that is reported in the supplementary information which must accompany each protector. We believe that this resolves the potential test variability problem.

Noise Reduction Rating (NRR)

Commenters stated that the computation for the NRR should be understandable to those parties who are required to comply with this regulation; that logarithmic mathematics were not necessary to develop a NRR; and that the computations should be simpler. EPA conferred with technical experts and concluded that, for the sake of simplicity and greater understandability in the calculation of the NRR, we would implement a simplified method. The procedure for NRR calculation is demonstrated in Figure 2 of the regulation.

Special Claims and Exemptions

Several commenters stated that the proposed hearing protector labeling test methodology is not appropriate for non-linear hearing protectors, i.e. hearing protectors that do not begin to attenuate noise until a specific sound pressure level is reached. The low sound pressure levels of the test method are not sufficient to activate the non-linear protector and thus the Noise Reduction Rating determined from this test would

be essentially zero. The commenters claim that this low NRR would be injurious to sales since it would not reflect the claimed unique operating characteristics for these devices. One commenter requested an exception from the regulation for non-linear protectors.

EPA maintains that all hearing protectors must come under the same regulatory requirement, unless an exception is requested and technically supported as required in § 211.205. A request for exception to the prescribed test methodology and NRR must be accompanied by an alternate test procedure and a rating scheme suitable to the purpose of these regulatory requirements. The suggested test methodology, rating scheme, and scientific data conclusively supporting the requested exception must be submitted for consideration and approval to: Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460. If approved, the alternate method and rating scheme would apply to all hearing protectors of like design. Until a requested exception is approved, labeling of the product must adhere to the prescribed requirements.

The Agency will notify the manufacturer within 30 days if the request is approved, or if additional information or time is required for the Agency to properly consider the request.

The recordkeeping and reporting requirements proposed for special claims of acoustic effectiveness have been reduced. The Agency is not requiring manufacturers to obtain Agency approval of their suggested special claims before presenting them to the public; however, manufacturers wishing to make special claims about the noise reducing effectiveness of their devices, other than the Noise Reduction Rating (NRR), must be prepared to demonstrate the validity of those claims. Claims made in advertising are subject to Federal Trade Commission (FTC) regulations.

Several commenters stated that new products (prototypes, unmarketed new designs) should not be required to comply with the regulation for a period of twelve (12) months; otherwise product innovation would be hampered.

The rule applies to new products (the equitable or legal title of which has never been transferred to an ultimate purchaser) manufactured on or after the stated effective date. Exemptions from the requirements can be requested for prototype devices according to § 211.110 of Subpart A. Products that enter commerce before the effective date of this rule are not required to comply with

the labeling requirements of this regulation. The manufacturer may label protectors produced up to 6 months before the effective date of the regulation, as stated in § 211.210-3(f) of the regulation, if the Agency is allowed to monitor the early label verification testing, and the testing is done with production-line protectors.

Label Verification

Several commenters questioned the necessity of yearly testing of every category of protector where no changes have been made which would affect the protector's attenuation characteristics. Based on these comments, the label verification requirement has been revised. It requires that a manufacturer test each category of protector once, and retest only if changes are made to the category which would affect its attenuation. New categories of protectors introduced into commerce must, of course, be tested and labeled according to the regulation.

The Agency decided to drop the annual labeling verification test requirement based, in part, on its plan to conduct tests on protectors selected off-the-shelf to determine whether they are labeled correctly. When the tests show they are not, we would follow up with an enforcement action to remedy the situation.

Some commenters suggested that because of variability inherent in the test procedure, the Agency should not consider a protector mislabeled, and in violation of the labeling requirements, where the results of the compliance audit test show a mean attenuation value at a one-third octave band to be slightly less than its labeled value. We agree with the commenters that small differences may occur.

Responding to these comments, the Agency has included a 3 dB(A) variability factor that it will use to compare the mean attenuation values stated in the supporting information supplied with each protector, with those determined for Compliance Audit Testing (CAT). We will take enforcement action only in those cases where the CAT mean attenuation values are lower than the labeled mean attenuation values by more than 3 dB(A). For example, if at one of the test frequencies the mean attenuation value specified for that frequency in the supporting information is 20 dB(A), we will take action only when the Compliance Audit Testing shows that the attenuation value at that test frequency is less than 17 dB(A), or 20 dB(A) minus the 3 dB(A) variability factor.

Several commenters asked whether the labeled Noise Reduction Rating and one-third octave band attenuation values should be actual test values, average attenuation levels for all protectors of a category, or minimum attenuation levels for that category of protectors.

It is important that the NRR of a category of protectors, derived from data taken under test conditions, equal or exceed the NRR on the label so that prospective users can in fact select a protector which meets their minimum requirements. We are therefore requiring that the one-third octave band mean attenuation levels, made available to the prospective user in the supporting information that accompanies a protector, be no greater than the levels obtained under Compliance Audit Testing plus the 3 dB(A) variability factor. The manufacturer who labels the device must take into account any test and product variability to assure that the NRR of each device determined under Compliance Audit Testing equals or exceeds its labeled NRR value. There is no variability factor for the NRR. The NRR determined from Compliance Audit Testing must equal or exceed the NRR on the label.

Some commenters assumed that any remedial order such as recall, relabel or repurchase, would require traceability to the purchaser or user, and thereby cause major recordkeeping costs. Some manufacturers commented that relabeling of products which have been packaged, or are a part of existing inventory, is unreasonable.

Traceability to the ultimate purchaser or user is not required in this rule. However, the Agency maintains the position that it may be reasonable to require relabeling of protectors in a manufacturer's possession or in the distribution chain, or to take other steps to remedy non-compliance. The reasonableness of a remedy, of course, will depend on the facts of the particular case. The manufacturer subject to a remedial action has the right to a hearing under Section 11(d)(2) of the Act. At the hearing, held according to 5 U.S.C. Section 554, the manufacturer can challenge both the existence of the violation and the appropriateness of the remedy.

Compliance Audit Testing

Several comments were received on the Compliance Audit Testing (CAT) requirements. One was that EPA should not specify the laboratory at which a manufacturer must conduct an audit test, but that EPA should permit a manufacturer to conduct the testing at the same laboratory at which he

conducted the Labeling Verification (LV) test. This suggestion is rooted in a concern for test variability and differences in test results expected between laboratories.

Responding to this comment, we have reduced test variability with the change in the test procedure requiring "experimenter fit" rather than "subject fit" as was proposed. We have also included the 3 dB(A) variability factor to be used when determining the compliance of a protector to its labeled values. These were discussed earlier in the preamble. The Agency is not relinquishing its authority to require testing at any laboratory that meets regulatory requirements.

Several manufacturers stated that EPA should certify laboratories for LV and CAT. The Agency does not intend to become involved in the certification of laboratories across the country and possibly overseas for purposes of testing hearing protectors or other products for noise. It is the responsibility of each manufacturer to conduct testing according to the regulatory requirements.

Several manufacturers felt that EPA should limit orders for a compliance audit to only those cases where the Agency can show probable cause that products are in violation.

The Act does not require that the Agency have probable cause before issuing a test order. This authority will not be limited by regulation. In most cases, the Agency would issue compliance audit test requests where there is reason to believe there is non-compliance, but it reserves the right to issue test requests on a random basis.

Manufacturers took exception to providing EPA with future production schedules for EPA use in selecting categories for testing. There was concern that this information would become public knowledge and put a manufacturer at a competitive disadvantage.

Whenever the EPA requests product information which a manufacturer considers proprietary, the manufacturer may protect that information from a Freedom of Information Act request by following the procedures contained in 40 CFR 2.201 et seq. Those provisions govern the Agency's treatment of confidential business information. In particular, § 2.303 contains special provisions for certain information obtained under the Noise Control Act.

We proposed that the manufacturer date each product to facilitate the identification of mislabeled products in the distribution chain. Several manufacturers objected to placing the date of manufacture on the label. One

manufacturer suggested that a code established by the manufacturer, which identified a lot or batch of protectors, should be sufficient to identify a group of mislabeled products.

We agree with the suggestion that manufacturers be allowed to place their own code in the supporting information which would identify a group of protectors and the time period during which they were produced. We have revised the regulation accordingly.

Manufacturers identified two proposed requirements which in some cases may be conflicting. In selecting protectors for Compliance Audit Testing, manufacturers are required to select the test protectors from the next 30 produced. This could in some cases mean that all those selected would be of the same size. This could conflict with another requirement that the manufacturer test all sizes of protectors in a test audit.

This potential conflict will be taken into account when individual CAT orders are prepared. If it is infeasible for a manufacturer to satisfy both requirements, the EPA will modify the order so that proper selection of test protectors is possible. The test request provision is flexible enough to handle this problem if it ever arises.

One manufacturer asked who warrants or guarantees the hearing protector's performance. The Act does not provide that any manufacturer warrant to a consumer the noise attenuation performance of a protector.

One commenter felt that there was a conflict between the General Provisions for Product Noise Labeling and the Hearing Protector regulation with respect to who will bear the costs of Compliance Audit Testing. The commenter felt that CAT costs should be borne by the Agency.

There is no conflict between the General Provisions and the Hearing Protector regulation with respect to costs for CAT; however, confusion is possible between § 211.111 of the General Provisions (Testing by the Administrator) and § 211.212 of this regulation (Compliance Audit Testing).

Section 211.111, Testing by the Administrator, in Subpart A reserves to the Agency the right to test products as a part of its enforcement strategy, and to order manufacturers to conduct tests and report the results to EPA. When EPA conducts the tests, the manufacturer can be required to submit the test products to EPA. The Administrator may test at any facility or order the manufacturer to test at any facility. When the Agency conducts the test, it will use its own equipment. This will assure the Agency that testing is

being conducted properly. The cost of testing under this section is borne by the Agency. Subject to the exceptions discussed in the preamble to the General Provisions, and in § 211.111(c), EPA will absorb the cost of shipments when EPA conducts tests under § 211.111, Testing by the Administrator. The manufacturer only pays for LV, CAT or other tests that the manufacturer may be ordered to conduct.

Section 211.212, Compliance Audit Testing, details a specific procedure which the Agency will use to assure itself that manufacturers are continuing to produce products complying with their label value that was determined from the label verification test. The manufacturer bears the cost of compliance audit testing. The audit is designed to minimize the number of tests that a manufacturer will have to perform while still providing assurance to EPA that only complying products are being distributed in commerce. The EPA may elect to monitor, with the manufacturer's consent or with a warrant, the actual conducting of the audit tests.

Several manufacturers were concerned about advance approval of labels. There is no requirement for advance approval of compliance labels under this regulation.

Economic Effect

There was considerable comment concerning the costs that the hearing protector industry would incur if the regulation was promulgated as it was proposed. Several commenters stated that the burdens would be impossible for smaller companies to carry, or would make insert devices less competitive with "muff"-type devices because of the disproportionate increase in costs. The bases for these concerns were the anticipated changes in the packaging of some devices to accommodate a label, the costs of labeling individual protectors, and the costs of testing.

The final rule incorporates changes through which the required labeling is compatible with current packaging processes. Therefore, any costs that would have been attributable directly to changes in packaging to accommodate a label have been essentially eliminated.

The hearing protector industry has been less than cooperative in providing the Agency with cost, market size, and market share information. Therefore, the Agency developed the best estimate of the costs of this regulation based, in part, on data received from three manufacturers. These costs are the "worst case" estimates that we believe the industry will experience.

The Agency's estimate for total first year costs to the industry is \$920,000 compared to \$500,000 as stated in the proposed rule. This increase is due primarily to developing cost estimates based on a revised industry size of 70 manufacturers and distributors rather than the previously determined figure of 40, and secondarily because of including label preparation, label verification reporting, and personnel overhead costs in this estimate.

The first year cost estimate includes: testing all models of protectors in each of their use positions (as many as three positions for muff-type protectors)—these costs are not expected to exceed \$350,000 based on 175 tests at \$2,000 per test; and the Agency's best estimate of costs for label development, preparation and label verification reporting for each class of protector—these costs are not expected to exceed a total of \$570,000.

The Agency's "worst case" estimate of annual costs of this regulation to the industry is \$362,000, compared to the estimate of \$300,000 stated in the proposed rule.

The annual cost estimate of this regulation is based on including: costs for Compliance Audit Testing by not more than 15% of the industry in one year; label-verifying new classes of protectors or classes of protectors that in one year have undergone changes which result in decreased noise reducing effectiveness (this is not expected to exceed 10% of the models of protectors in one year); and administrative costs for reporting and recordkeeping.

To develop these estimates the Agency assumed that every manufacturer and wholesale or retail distributor (considered "manufacturers" under the Noise Control Act) identified in the National Institute for Occupational Safety and Health publication #76-120, and through a search of the Thomas Register, would be impacted by the requirements of this regulation equally. However, distributors in this industry are not likely to incur the costs of complying with these requirements to the same extent that manufacturers will. Distributors generally repackage protectors supplied by manufacturers, and put their brand names on the packaging. Therefore, a single device may be marketed under several different private labels.

This regulation states however, that distributors may use a manufacturer's previously developed Noise Reduction Rating and Mean Attenuation data when packaging and labeling protectors. Therefore, in these situations, the only costs incurred for complying with these requirements would be the labeling

costs as a result of repackaging, not the testing, recordkeeping and reporting costs.

It is the practice of this industry to pass 100% of production costs through to the ultimate purchaser. We believe this practice will continue.

While the potential percent price increase per pair of protectors is impossible to determine in the absence of market size information, the Agency estimates, based on limited data, that prices may increase between \$0.03 and \$0.05 per pair of insert devices (if previously bulk-packaged protectors are required to be individually packaged and labeled), and \$0.10 for "muff" devices.

The current prices for typical ear insert devices (plugs) range from approximately ten cents per pair of disposable inserts in bulk industrial quantities to as much as seven dollars per pair for individually packaged plugs typically offered to the consumer. Customized plugs can cost as much as thirty dollars per pair but they are the exception in terms of insert devices. Ear-muff-type protectors range in price from several dollars when purchased in commercial bulk quantities to approximately fifteen dollars per pair when individually packaged for consumers.

The Department of Defense and several major industries that are affected by the Occupational Safety and Health Administration's (OSHA) rules are already requesting effectiveness data on hearing protectors. Therefore, a majority of the manufacturers already include in their prices the costs of testing protectors to develop effectiveness ratings.

While manufacturers have measured the effectiveness of their products, they in general do not convey this information to prospective users. Those few that do, do not relay effectiveness information in a uniform manner for similar categories of protectors; nor is comparative range information available upon which protector selections adequate for a user's needs can be made.

These final hearing protector labeling requirements reflect the Agency's overall sensitivity to the costs that accompany regulation, and our policy, with respect to product labeling, of minimizing the economic impact of a regulation. To this end, the Agency extended the effective date of the regulation by six months, so that it becomes effective one year from date of promulgation. This change is intended to allow manufacturers to minimize the obsolescence of packaging and literature supplies that they may have on-hand

due to the lead-time procurements necessary in this industry. The extension will provide a longer phase-in period for the testing requirements, and also allow extra time for greater availability of testing laboratories thereby reducing a potential supply/demand imbalance that might cause an increase in test cost. We are establishing a method of labeling compatible with current marketing practices, which reduces the probability of packaging changes and associated cost increases.

The Agency has had no indication that this rulemaking would impose appreciable burdens on any manufacturer within the hearing protector industry, nor that the regulation in itself will result in business closure. Also, our economic analysis did not attempt to predict potential market shifts or potential adverse economic effects that might occur as a result of labeling requirements which would identify some protective devices as being low in effectiveness. The Agency believes that any market shifts or other economic effects beyond the direct costs of labeling are solely related to the competitive nature of this industry. We believe that the industry will adjust itself to reflect purchasers' and users' selections made as the result of newly available information from these noise labeling requirements; not as a result of the restrictions of command and control regulations.

This rule will make effectiveness rating and comparative range information available to prospective users in an easily readable, understandable, and uniformly applicable manner.

IV. Revisions to the Proposed Regulation

This final rulemaking incorporates several changes to the regulation as proposed in the Notice of Proposed Rulemaking of June 22, 1977. The significant changes are:

(A) The requirement that a hearing protector manufacturer affix the label to the package has been modified to require that the label be affixed by the manufacturer who packages the protector for ultimate sale or use.

(B) Responsibility for accurate and visible labeling of the protector is also assigned to that manufacturer. To support this change, § 211.2.4-3 (§ 211.204-3) "Label location and type" has been revised to require that labeling be based on the means used to display the protector at the point of sale to the ultimate purchaser or at the point of distribution to the prospective user. This Section also includes a prohibition on separation of the protector from the dispenser (if one is used) prior to sale to

the ultimate purchaser. Separation would be tantamount to removal of the label which is prohibited by Section 10(a)(4) of the Act.

(C) Section 211.2.3 (§ 211.203) "Definitions" now includes entries for "Label", "Manufacturer", "Dispenser," and "Spectral uncertainty."

(D) Section 211.2.4-1(c) (§ 211.204-1(c))—the comparative information on the label now reads "The range of Noise Reduction Ratings for existing hearing protectors is approximately 0 to 30." This eliminates the implied precision of the range as proposed, and also gives the comparative range the flexibility required to accommodate changing protector capabilities and changing protector availability.

(E) Section 211.2.4-1(b) (§ 211.204-1(b))—now states that " * * * in different positions, the worst case NRR must be specified. The top of Area B must state the position(s) associated with that NRR. The other positions and respective NRRs must be included with the supporting information specified in § 211.204-4." This revision takes into account the possible large differences in protection due to the wearing position, and avoids the possible loss of useful information at the point of ultimate sale or use.

(F) Section 211.2.4-4(a) (§ 211.204-4(a))—was changed to include the statement "For 'muff' type protectors with various use positions, the positions providing higher values shall be identified, and their associated NRR values listed in bold type."

(G) Section 211.2.6-1(b)(2) (§ 211.206-1(b)(2))—is replaced with "Section 3.2.1, 3.2.2, 3.3.2 and 3.3.3 shall be accomplished in this order during the same testing session to insure that distortions introduced by a Temporary Threshold Shift (TTS) do not occur. Also, any breaks in testing should not allow the subject to engage in any activities that may cause a TTS."

(H) Section 211.2.6-1(b)(3) (§ 211.206-1(b)(3))—is changed from "subject fit" to "experimenter fit" of the protector to the subject in order to achieve test consistency and repeatability.

(I) Section 211.2.7 (§ 211.207)—computation procedure for the NRR is changed to reflect the new procedure.

(J) Section 211.2.10-7 (§ 211.210-7)—modified to include changes to an existing product.

(K) Section 211.2.10-8—deleted.

(L) The effective date of this regulation is set at one (1) year from promulgation rather than the proposed six months, in order to lessen the cost impact on the industry and to allow for greater availability of testing facilities.

(M) Section 211.2.12 (§ 211.212)—provides a 3 dB(A) variability factor to be used when determining compliance of a protector by comparing the mean attenuation values at one-third octave bands determined from CAT testing with those contained in the supporting information supplied with the protector.

V. Supporting Documentation

Background Document

The Agency has prepared a background document containing a detailed study of hearing protectors, the protector industry, test methodologies, written and oral comments from the Notice of Proposed Rulemaking comment period and the public meeting, the Agency's answers and policy statements on these comments, and a listing of commenters.

The document is sufficiently lengthy that publishing it in the *Federal Register* is not practical. If a copy of the document, titled "Regulatory Analysis Supporting The Labeling of Hearing Protectors"; EPA 550/9-79-256, is desired, it may be obtained by writing to the following address: Public Information Center, PM-215, U.S. Environmental Protection Agency, Washington, D.C. 20460.

VI. Future Public Comment

It is the intent of EPA to monitor and carefully assess, on a continuing basis, improvements in hearing protectors, the economic and other impacts of the regulation, the effects of testing, and any further public response associated with this rulemaking. If regulatory revision is warranted or required we will act accordingly.

Written data, comments or views may be submitted to the: Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

VII. Evaluation Plan

EPA intends to review the effectiveness and the need for continuing the provisions contained in this action no more than five years after initial implementation of the regulation. In particular, EPA will solicit comments from affected parties with regard to cost and other burdens associated with compliance, and will also review data on hearing protectors built after promulgation of the regulation to determine how effective this measure has been.

VIII. Reporting and Recordkeeping Requirements

Under the EPA's new "sunset" policy for reporting requirements in

regulations, the reporting requirements in this regulation will automatically expire five years from the date of promulgation, unless the Administrator takes appropriate steps to extend them. To accomplish this, a provision automatically terminating the reporting requirements is included in the text of the regulation.

IX. Impact Statements

An Environmental Impact Statement and an Economic Impact Statement are not required for this rulemaking according to Agency criteria.

Note.—I have reviewed this regulation and determined that it is not a significant regulation that requires the preparation of regulatory analyses called for in Executive Order 12044. The Agency has, nonetheless, developed documentation, mentioned above, to support this regulation.

This regulation is promulgated under the authority of 42 U.S.C. 4907.

Dated: August 30, 1979.

Douglas M. Costle,
Administrator, Environmental Protection Agency.

PART 211—PRODUCT NOISE LABELING

40 CFR Part 211 is amended by adding a new Subpart B to read as follows:

Subpart B—Hearing Protective Devices

Sec.	
211.201	Applicability.
211.202	Effective date.
211.203	Definitions.
211.204	Hearing protector labeling requirements.
211.204-1	Information content of primary label.
211.204-2	Primary label size, print and color.
211.204-3	Label location and type.
211.204-4	Supporting information.
211.205	Special claims and exceptions.
211.206	Methods for measurement of sound attenuation.
211.206-1	Real ear method.
211.206-2—211.206-10	Alternative test methods [Reserved].
211.207	Computation of the noise reduction rating (NRR).
211.208	Export provisions.
211.209	Maintenance of records: submittal of information.
211.210	Labeling verification.
211.210-1	General requirements.
211.210-2	Labeling verification requirements.
211.210-3	Labeling verification report: required data.
211.210-4	Test hearing protector selection.
211.210-5	Test hearing protector preparation.
211.210-6	Testing.
211.210-7	Addition of new categories: modifications.
211.211	Compliance with labeling requirement.

- 211.212 Compliance audit testing.
- 211.212-1 Test request.
- 211.212-2 Test hearing protector selection.
- 211.212-3 Test hearing protector preparation.
- 211.212-4 Testing procedures.
- 211.212-5 Reporting of test results.
- 211.212-6 Determination of compliance.
- 211.212-7 Continued compliance testing.
- 211.212-8 Relabeling requirements.
- 211.213 Remedial orders for violations of these regulations.
- 211.214 Removal of label.

Appendix A—Labeling Verification Report
Appendix B—Compliance Audit Testing
Report Data Sheet

Authority: Sec. 8, Pub. L. 92-574, 86 Stat. 1241 (42 U.S.C. 4907), and additional authority as specified.

Subpart B—Hearing Protective Devices

§ 211.201 Applicability.

Unless this regulation states otherwise, the provisions of this subpart apply to all hearing protective devices manufactured after the effective date of this regulation. (See § 211.203(m) for definition of "hearing protective device.")

§ 211.202 Effective date.

Manufacturers of hearing protectors must comply with the requirements set forth in this part for all hearing protective devices manufactured on or after September 27, 1980.

§ 211.203 Definitions.

(a) As used in subpart B, all terms not defined here have the meaning given them in the Act or in Subpart A of Part 211.

(b) *ANSI Z24.22-1957*—A measurement procedure published by the American National Standards Institute (ANSI) for obtaining hearing protector attenuation values at nine of the one-third octave band center frequencies by using pure tone stimuli presented to ten different test subjects under anechoic conditions.

(c) *ANSI S3.19-1974*—A revision of the ANSI Z24.22-1957 measurement procedure using one-third octave band stimuli presented under diffuse (reverberant) acoustic field conditions.

(d) *Carrying Case*—The container used to store reusable hearing protectors.

(e) *Category*—A group of hearing protectors which are identical in all aspects to the parameters listed in § 211.210-2(c).

(f) *Claim*—An assertion made by a manufacturer regarding the effectiveness of his product.

(g) *Custom-molded device*—A hearing protective device that is made to conform to a specific ear canal. This is

usually accomplished by using a moldable compound to obtain an impression of the ear and ear canal. The compound is subsequently permanently hardened to retain this shape.

(h) *Dispenser*—The permanent (intended to be refilled) or disposable (discarded when empty) container designed to hold more than one complete set of hearing protector(s) for the express purpose of display to promote sale or display to promote use or both.

(i) *Disposable Device*—A hearing protective device that is intended to be discarded after one period of use.

(j) *Ear Insert Device*—A hearing protective device that is designed to be inserted into the ear canal, and to be held in place principally by virtue of its fit inside the ear canal.

(k) *Ear Muff Device*—A hearing protective device that consists of two acoustic enclosures which fit over the ears and which are held in place by a spring-like headband to which the enclosures are attached.

(l) *Headband*—The component of hearing protective device which applies force to, and holds in place on the head, the component which is intended to acoustically seal the ear canal.

(m) *Hearing Protective Device*—Any device or material, capable of being worn on the head or in the ear canal, that is sold wholly or in part on the basis of its ability to reduce the level of sound entering the ear. This includes devices of which hearing protection may not be the primary function, but which are nonetheless sold partially as providing hearing protection to the user. This term is used interchangeably with the terms, "hearing protector" and "device."

(n) *Impulsive Noise*—An acoustic event characterized by very short rise time and duration.

(o) *Label*—That item, as described in this regulation, which is inscribed on, affixed to or appended to a product, its packaging, or both for the purpose of giving noise reduction effectiveness information appropriate to the product.

(p) *Manufacturer*—As stated in the Act "means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products."

(q) *Noise Reduction Rating (NRR)*—A single number noise reduction factor in decibels, determined by an empirically derived technique which takes into account performance variation of protectors in noise reducing effectiveness due to differing noise

spectra, fit variability and the mean attenuation of test stimuli at the one-third octave band test frequencies.

(r) *Octave Band Attenuation*—The amount of sound reduction determined according to the measurement procedure of § 211.206 for one-third octave bands of noise.

(s) *Over-the-Head Position*—The mode of use of a device with a headband, in which the headband is worn such that it passes over the user's head. This is contrast to the behind-the-head and under-the-chin positions.

(t) *Package*—The container in which a hearing protective device is presented for purchase or use. The package in some cases may be the same as the carrying case.

(u) *Primary Panel*—The surface that is considered to be the front surface or that surface which is intended for initial viewing at the point of ultimate sale or the point of distribution for use.

(v) *Spectral uncertainty*—Possible variation in exposure to the noise spectra in the workplace. (To avoid the underprotection that would result from these variations relative to the assumed "Pink Noise" used to determine the NRR, an extra three decibel reduction is included when computing the NRR.)

(w) *Tag*—Stiff paper, metal or other hard material that is tied or otherwise affixed to the packaging of a protector.

(x) *Test Facility*—For this subpart, a laboratory that has been set up and calibrated to conduct ANSI Std S3.19-1974 tests on hearing protective devices. It must meet the applicable requirements of these regulations.

(y) *Test Hearing Protector*—A hearing protector that has been selected for testing to verify the value to be put on the label, or which has been designated for testing to determine compliance of the protector with the labeled value.

(z) *Test Request*—A request submitted to the manufacturer by the Administrator that will specify the hearing protector category, and test sample size to be tested according to § 211.212-1, and other information regarding the audit.

(aa) *Random Incident Field*—A sound field in which the angle of arrival of sound at a given point in space is random in time.

(bb) *Real-Ear Protection at Threshold*—The mean value in decibels of the occluded threshold of audibility (hearing protector in place) minus the open threshold of audibility (ears open and uncovered) for all listeners on all trials under otherwise identical test conditions.

(cc) *Reverberation Time*—The time that would be required for the mean-square sound pressure level, originally

in a steady state, to fall 60 dB after the source is stopped.

§ 211.204 Hearing protector labeling requirements.

All provisions of Subpart A apply to this subpart except as otherwise noted.

§ 211.204-1 Information content of primary label.

The information to appear on the primary label must be according to § 211.104 of Subpart A except as stated here and shown in Figure 1 of § 211.204-2:

(a) Area A must state "Noise Reduction Rating."

(b) (1) Area B must state the value of the Noise Reduction Rating (NRR) in decibels for that model hearing protector. The value stated on the label must be no greater than the NRR value determined by using the computation method of § 211.207 of this Subpart.

(2) For devices with headbands that are intended for use with the headband in different positions, the worst case NRR must be specified. The top of Area B must state the position(s) associated with that NRR. The other positions and the respective NRRs must be included with the supporting information specified in § 211.204-4.

(c) Area C must contain the statement "The range of Noise Reduction Ratings for existing hearing protectors is approximately 0 to 30 (higher numbers denote greater effectiveness)."

(d) At the bottom of Area A-B, there must be the phrase "(When worn as directed)."

§ 211.204-2 Primary label size, print and color.

The primary label characteristics are the same as those specified in § 211.105 and 211.106 of Subpart A except as stated here.

(a) The label must be no smaller than 3.8 centimeters by 5.0 centimeters (cm) (approximately 1.5 inches by 2.0 inches).

(b) The minimum type face size for each area shall be as follows, based upon a scale of 72 points=1 inch:

- (1) Area A—2.8 millimeters (mm) or 8 point.
- (2) Area B—7.6 mm or 22 point for the Rating; —1.7 mm or 5 point for "Decibels".
- (3) Area A-B—1.5 mm or 4 point.
- (4) Area C—1.5 mm or 4 point.
- (5) Area D—0.7 mm or 2 point.
- (6) Area E—0.7 mm or 2 point.
- (7) Area F—0.7 mm or 2 point.
- (8) Area H—0.7 mm or 2 point.

These type face sizes apply to the 3.8 cm x 5.0 cm label; type face sizes for larger labels must be in the same approximate proportion to the label as

those specified for the 3.8 cm x 5.0 cm label.

(c) The use of upper and lower case letters and the general appearance of the label must be similar to the example in Figure (1).

(d) The color of the label must be as specified in Subpart A.

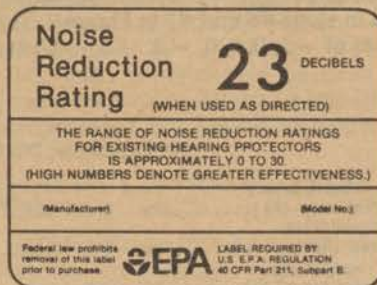


Figure - 1

§ 211.204-3 Label location and type.

(a) The manufacturer labeling the product for ultimate sale or use selects the type of label and must locate it as follows:

(1) Affixed to the device or its carrying case; and

(2) Affixed to primary panel of the product packaging if the label complying with § 211.204-3(a)(1) is not visible at the point of ultimate purchase or the point of distribution to users.

(b) Labeling with a minimum sized label will occur as follows:

(1) If the protector is individually packaged and so displayed at the point of ultimate purchase or distribution to the prospective user, the package must be labeled as follows:

(i) If the primary panel of the package has dimensions greater than 3.8 x 5.0 cm (approximately 1 1/2 x 2 in) the label must be presented on the primary panel.

(ii) If the primary panel of the package is equal to or smaller than 3.8 x 5.0 centimeters, a label at least 3.8 x 5.0 centimeters must be affixed to the package by means of a tag.

(2) If the protector is displayed at the point of ultimate purchase or distribution to prospective users in a permanent or disposable bulk container or dispenser, even if the protector is individually packaged within the dispenser and labeled as above, the container or dispenser itself must be labeled. The label must be readily visible to the ultimate purchaser or prospective user.

§ 211.204-4 Supporting Information.

The following minimum supporting information must accompany the device in a manner that insures its availability to the prospective user. In the case of

bulk packaging and dispensing, such supporting information must be affixed to the container in the same manner as the label, and in a readily visible location.

(a) The mean attenuation and standard deviation values obtained for each test frequency according to § 211.206, and the NRR calculated from those values. For "muff" type protectors with various use positions, the positions providing higher NRR values shall be identified, and their associated NRR values listed in bold type.

(b) The following statement, example and cautionary note: "The level of noise entering a person's ear, when hearing protector is worn as directed, is closely approximated by the difference between the A-weighted environmental noise level and the NRR."

Example

1. The environmental noise level as measured at the ear is 92 dBA.
2. The NRR is 17 decibels (dB).
3. The level of noise entering the ear is approximately equal to 75 dBA.

Caution: For noise environments dominated by frequencies below 500 Hz the C-weighted environmental noise level should be used."

(c) The month and year of production, which may be in the form of a serial number or a code in those instances where the records specified in § 211.209(a)(1)(iv) are maintained;

(d) The following statement: "Improper fit of this device will reduce its effectiveness in attenuating noise. Consult the enclosed instructions for proper fit";

(e) Instructions as to the proper insertion or placement of the device; and

(f) The following statement: "Although hearing protectors can be recommended for protection against the harmful effects of impulsive noise, the Noise Reduction Rating (NRR) is based on the attenuation of continuous noise and may not be an accurate indicator of the protection attainable against impulsive noise such as gunfire."

§ 211.205 Special claims and exceptions.

(a) Any manufacturer wishing to make claims regarding the acoustic effectiveness of a device, other than the Noise Reduction Rating, must be prepared to demonstrate the validity of such claims.

(b) If a manufacturer believes that the Noise Reduction Rating is inapplicable to a given device, the manufacturer may submit a request that the Agency consider granting an exception to certain provisions of this subpart for that device. The request must support the manufacturer's contention that an

exception is necessary and offer a suitable alternative effectiveness rating for the device.

(c) Any request concerning an exception must be supported by scientific test data that establishes the exception without doubt, and must be submitted for consideration and approval to: Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460. The Agency will notify the manufacturer within thirty (30) days of receipt of the request if: the special claim or exception is approved, additional information is needed, or the Agency needs additional time to consider the request.

§ 211.206 Methods for measurement of sound attenuation.

§ 211.206-1 Real ear method.

(a) The value of sound attenuation to be used in the calculation of the Noise Reduction Rating must be determined according to the "Method for the Measurement of Real-Ear Protection of Hearing Protectors and Physical Attenuation of Earmuffs." This standard is approved as the American National Standards Institute Standard (ANSI STD) S3.19-1974. The provisions of this standard, with the modifications indicated below, are included by reference in this section. Copies of this standard may be obtained from: American National Standards Institute, Sales Department, 1430 Broadway, New York, New York 10018.

(b) For the purpose of this subpart only, Sections 1, 2, 3 and Appendix A of the standard, as modified below, shall be applicable. These Sections describe the "Real Ear Method." Other portions of the standard are not applicable in this section.

(1) The sound field characteristics described in paragraph 3.1.1.3 are "required."

(2) Sections 3.2.1, 3.2.2, 3.3.2 and 3.3.3 shall be accomplished in this order during the same testing session to insure that distortions introduced by a Temporary Threshold Shift (TTS) do not occur. Any breaks in testing should not allow the subject to engage in any activity that may cause a TTS.

(3) Section 3.3.3.1(1) shall not apply. Only "Experimenter fit" described in Section 3.3.3.1(2) is permitted.

(4) Section 3.3.3.3 applies to all devices except custom-molded devices. When testing custom-molded devices, each test subject must receive his own device molded to fit his ear canal.

§ 211.206-2 through § 211.206-10 Alternative test methods [Reserved].

§ 211.207 Computation of the noise reduction rating (NRR).

Calculate the NRR for hearing protective devices by substituting the average attenuation values and standard deviations for the pertinent protector category for the sample data used in steps #6 and #7 in Figure 2. The values of $-2, 0, 0, 0, -2, -.8, -3.0$ in

Step 2 and $-16.1, -8.6, -3.2, 0, +1.2, +1.0, -1.1$ in Step 4 of Figure 2 represent the standard "C"- and "A"-weighting relative response corrections applied to any sound levels at the indicated octave band center frequencies. (NOTE: The manufacturer may label the protector at values lower than indicated by the test results and this computation procedure, e.g. lower NRR from lower attenuation values. (Ref. Section 211.211(b).)

FIGURE 2

COMPUTATION OF THE NOISE REDUCTION RATING

Octave Band Center									
Frequency (Hz).....	125	250	500	1000	2000	3000	4000	6000	8000
1 assumed Pink noise (dB).....	100	100	100	100	100		100		100
2 "C" weighting corrections (dB).....	-.2	0	0	0	-.2		-.8		-3.0
3 unprotected ear "C"-weighted level (dB)...	99.8	100	100	100	99.8		99.2		97.0
(The seven logarithmically added "C"-weighted sound pressure levels of Step #3 = 107.9 dB)									
4 "A"-weighting corrections (dB).....	-16.1	-8.6	-3.2	0	+1.2		+1.0		-1.1
5 unprotected ear "A"-weighted level (step #1-step #4) (dB).....	93.9	91.4	96.8	100	101.2		101		98.9
6 average attenuation in dB at frequency.....	21	22	23	29	41		(43 + 47)/2 = 45		(41 + 36)/2 = 38.5
7 standard deviation in dB at frequency....	3.7	3.3	3.8	4.7	2.3		(3.3 + 3.4)		(6.1 + 6.5)
	$\times 2$	$\times 2$	$\times 2$	$\times 2$	$\times 2$		$\times 2$		$\times 2$
	7.4	6.6	7.6	9.4	4.6		6.7		12.6
8 step #5-(step #6-step #7) develops the protected ear "A" weighted levels (dB)...	70.3	76.0	81.4	80.4	66.8		62.7		73.0
(The seven logarithmically added "A"-weighted sound pressure levels of Step #8 using this sample data = 85.1 dB)									
9 NRR Step #3 - Step #8 - 3 dB*	107.9 dB - 85.1 dB - 3 dB = 19.8 dB (or 20) (Round values ending in .5 to next lower whole number)								
*Spectral uncertainty (as defined in 211.203)									

The value for #3 is constant. Use Logarithmic mathematics to determine the combined value of protected ear levels (Step #8) which is used in Step #9 to exactly derive the NRR; or use the following table as a substitute for logarithmic mathematics to determine the value of Step #8 and thus very closely approximate the NRR.

Difference between any two sound pressure levels being combined (dB)	Add this level to the higher of the two levels (dB)
0 to less than 1.5	3
1.5 to less than 4.5	2
4.5 to 9	1
Greater than 9	0

§ 211.208 Export provisions.

(a) The outside of each package or container containing a hearing protective device intended solely for export must be so labeled or marked. This will include all packages or containers that are used for shipping, transporting, or dispersing the hearing protective device along with any individual packaging.

(b) In addition, the manufacturer of a hearing protective device intended solely for export is subject to the export exemption requirements of § 211.110-3 of Subpart A.

(Sec. 10(b)(2), Pub. L. 92-574, 86 Stat. 1242 (42 U.S.C. 4909(b)(2)))

§ 211.209 Maintenance of records: Submittal of information.

(a) The manufacturer of any new hearing protective device subject to this regulation must establish, maintain and retain the following adequately organized and indexed records:

(1) *General records.* (i) Identification and description by category parameters of all protectors comprising the manufacturer's product line;

(ii) A description of any procedures, other than those contained in this regulation, used to perform noise tests on any test protector, and the results of those tests;

(iii) A record, signed by an authorized representative of the laboratory, of any calibration that was performed during testing by the test laboratory; and

(iv) A record of the date of manufacture of each protector subject to this regulation, keyed to the serial number or other coded identification contained in the supporting information required by § 211.204-4(c).

(2) *Individual records for test protectors.* A complete record, or exact copies of the complete record, of all noise attenuation tests performed (except tests performed by EPA directly), which includes all individual worksheets, and other documentation relating to each test required by the Federal test procedure.

(3) The manufacturer may fulfill this record retention requirement by keeping a copy of the labeling verification report that he has submitted to EPA in the format recommended by the Administrator, and by establishing a record of the information required by § 211.209(a)(1)(iv).

(4) The manufacturer must retain all required records for a period of three (3) years from the labeling verification date. Records may be retained as hard copy or reduced to microfilm, punch cards, or other forms of data storage, depending on the record retention procedures of the manufacturer.

(b) On request by the Administrator, the manufacturer must submit to the Administrator information regarding the number of protectors, by category, produced or scheduled for production during the time period designated in the request.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.210 Labeling verification.

§ 211.210-1 General requirements.

(a) Every new hearing protector manufactured for distribution in commerce in the United States, and which is subject to this regulation:

(1) Must have its noise reducing effectiveness verified according to the Labeling Verification requirements described in § 211.210-2 of this subpart;

(2) Must be represented in a Labeling Verification Report as required by § 211.210-3 of this subpart;

(3) Must be labeled at the point of ultimate purchase or distribution to the prospective user according to the requirements of § 211.204 of this Subpart; and

(4) Must meet or exceed the mean attenuation values determined by the procedure in § 211.206 and explained in § 211.211(b).

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

(b) Manufacturers who distribute protectors in commerce to another manufacturer for packaging for ultimate purchase or use must provide to that manufacturer the mean attenuation values and standard deviations at each of the one-third octave band center frequencies as determined by the test procedure in § 211.206. He must also provide the Noise Reduction Rating calculated according to § 211.207.

§ 211.210-2 Labeling verification requirements.

(a) (1) A manufacturer responsible for label verification must satisfy the label verification requirements of this subpart for a category of hearing protectors before distributing that category of hearing protectors in commerce, *except* as provided in paragraph (a)(2) of this section.

(2) A manufacturer may apply to the Administrator for an extension of time to comply with the labeling verification requirements for a category of protectors before he distributes any protectors in commerce. The Administrator may grant the manufacturer an extension of up to 20 days from the date of distribution. The manufacturer must provide reasonable assurance that the protectors equal or exceed their mean attenuation values, and that labeling verification requirements will be satisfied before the extension expires. Requests for extension should go to the: Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460. The Administrator must respond to a request within 2 business days. Responses may be either written or oral.

(3) A manufacturer, receiving hearing protectors through the chain of distribution that were label verified by a previous manufacturer, may use that previous manufacturer's data when labeling the protectors for ultimate sale

or use, but is responsible for the accuracy of the information on the label. The manufacturer may elect to retest the protectors.

(b) Labeling verification requirements regarding each hearing protector category in a manufacturer's product line consist of:

(1) Testing hearing protectors according to § 211.206 that were selected according to § 211.210-4.

(2) Submitting a labeling verification report to the Administrator according to § 211.210-3.

(c) Each category of hearing protectors is determined by the combination of at least the following parameters. Manufacturers may use additional parameters as needed to create and identify additional categories of protectors.

(1) *Ear muffs.* (i) *Head band tension* (spring constant);

(ii) Ear cup volume or shape;

(iii) Mounting of ear cup on head band;

(iv) Ear cushion;

(v) Material composition.

(2) *Ear inserts.* (i) Shape;

(ii) Material composition.

(3) *Ear caps.* (i) Head band tension (spring constant);

(ii) Mounting of plug on head band;

(iii) Shape of plug;

(iv) Material composition.

If an ear insert or ear cap is manufactured in more than one size (small, medium, large, etc.) each size does not constitute a separate category and is not required to be separately label verified. However, each size must be used when conducting the required test to determine the labeled values for the specified category.

(d) When the Director of the Noise Enforcement Division requests, either orally or in writing, what labeling verification testing is scheduled by a manufacturer under this section, the manufacturer must notify the Director so that EPA Enforcement Officers may be present to observe the testing, or to conduct the testing in lieu of the manufacturer.

§ 211.210-3 Labeling verification report: Required data.

(a) All manufacturers must submit the labeling verification report to: Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460. A manufacturer may choose to submit separate labeling verification reports for different categories of protectors. A suggested label verification report form is included as Appendix A.

(b) The report must be signed by an authorized representative of the manufacturer and include the following:

(1) The name and location of the test facility that was used to conduct testing under this Subpart;

(2) A description of all hearing protector categories, determined according to § 211.210-2(c), that the manufacturer intends to distribute in commerce. The manufacturer may satisfy the hearing protector category description by submitting, as part of the labeling verification report, a copy of the sales data literature that describes the product line;

(3) For each test conducted:

(i) A data sheet, as specified, showing the mean attenuation values with standard deviation at each of the one-third octave band center frequencies, along with the Noise Reduction Rating, for all official tests conducted under this Subpart, including each invalid test and the reason it was invalid;

(ii) A copy of the label including the NRR that will be used for the labeling of that specified category; and

(iii) The test results (if any) for any hearing protector replaced, and the reason why it was replaced.

(4) The following statement and endorsement:

This report is submitted under Section 8 and Section 13 of the Noise Control Act of 1972. All testing, for which data are reported here, was conducted in strict conformance with applicable regulations under 40 CFR Part 211 et seq. All the data reported here are true and accurate representations of this testing. All other information reported here is, to the best of (company name) and (test laboratory name) knowledge, true and accurate. I am aware of the penalties associated with violation of the Noise Control Act of 1972 and the regulations published under it.

(authorized representative).

If the testing is conducted by an outside laboratory the manufacturer must require an authorized representative of the laboratory to cosign the statement and endorsement.

(c) Where a manufacturer elects to submit separate labeling verification reports for portions of his product line, as provided for in paragraph (a) of this Section, information provided in previous reports need not be resubmitted unless it is information that is necessary to update previously submitted information.

(d) Any change concerning any information reported under this section must be reported as soon as it becomes available.

(e) The reporting requirements of this regulation will no longer be effective after five (5) years from the date of

publication; however, the requirements will remain in effect if the Administrator is taking appropriate steps to repromulgate or modify the reporting requirements at that time.

(f) A manufacturer may conduct label verification testing on protectors which were produced up to 6 months before the effective date of this regulation. The manufacturers must test models of protectors scheduled for production during the first year after the effective date of this regulation. For these early label verification reports to be acceptable to the Agency, the manufacturer must:

(1) Use production protectors as the test protectors; and

(2) Permit the Agency to inspect and monitor the early label verification tests.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.210-4 Test hearing protector selection.

A test hearing protector must be a hearing protector selected from the category for which labeling verification testing is required; it must have been assembled by the manufacturer's normal production process; and it must have been intended for distribution in commerce.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.210-5 Test hearing protector preparation.

(a) A test hearing protector selected according to § 211.210-4 must not be tested, modified, or adjusted in any manner before the official test unless the adjustments, modifications and/or tests are part of the manufacturer's prescribed manufacturing and inspection procedures.

(b) Quality control, testing, assembly or selection procedures must not be used on the completed protector or any portion of the protector, including parts, that will not normally be used during the production and assembly of all other protectors of that category to be distributed in commerce.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.210-6 Testing.

(a) The manufacturer must conduct one valid test on the hearing protectors selected from each category for verification testing according to the test procedures as specified.

(b) The test hearing protectors must not be repaired or adjusted once testing has begun. In the event a unit is unable to complete the test, the manufacturer or test laboratory may replace the protector; testing may be continued or

reinitiated. Any replacement hearing protector will be a protector of the same category and will be subject to all the provisions of these regulations. Any replacement must be reported in the labeling verification report, including the reason for the replacement.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.210-7 Addition of new categories: Modifications.

(a) Any modifications to a hearing protector, so that one or more of the category parameters listed in § 211.210-2(c) are modified, constitutes the addition of a new and separate category to the manufacturer's product line.

(b) A new category of products is also introduced whenever a manufacturer makes a design change which decreases the noise attenuation characteristics of the product.

(c) When a manufacturer introduces a new category to his model line he must proceed according to the label verification requirements of § 211.210-2.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.211 Compliance with labeling requirement.

(a) All hearing protective devices manufactured after the effective date of this regulation, and meeting the applicability requirements of § 211.201, must be labeled according to this subpart, and must comply with the Labeled Values of mean attenuation as reported in the Labeling Verification Report.

(b) A manufacturer must take into account both product variability and test-to-test variability when labeling his devices in order to meet the requirements of paragraph (a) of this section. A specific category is considered in compliance with the requirements of § 211.210-1, when the attenuation value at the tested one-third octave band is not greater than the mean attenuation value, reported as Labeled Values in the Labeling Verification Report. The attenuation value must be determined according to the test procedures of § 211.206. The Noise Reduction Rating for the label must be calculated using the Labeled Values of mean attenuation in the Labeling Verification Report that will be included in the supporting information required by § 211.204-4. Actual mean attenuation values at the one-third octave bands may exceed the Labeled Values.

§ 211.212 Compliance audit testing.**§ 211.212-1 Test request.**

(a) The Administrator will request all testing under this section by means of a test request addressed to the manufacturer.

(b) The test request will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered by an EPA Enforcement Officer or sent by certified mail to the plant manager or other responsible official as designated by the manufacturer.

(c) In the test request, the Administrator must specify the following:

- (1) The hearing protector category selected for testing;
 - (2) The manufacturer's plant or storage facility from which the protectors must be selected;
 - (3) The selection procedure the manufacturer will use to select test protectors;
 - (4) The test facility where the manufacturer is required to have the protectors tested (which could be the facility where they went through labeling verification testing);
 - (5) The number of test hearing protectors to be tested;
 - (6) The time period allowed for the manufacturer to initiate testing; and
 - (7) Any other information that will be necessary to conduct testing under this section.
- (d) The test request may provide for situations in which the selected category is unavailable for testing. It may include an alternative category to be selected for testing in the event that protectors of the first specified category are not available because the protectors are not being manufactured at the specified plant, at the specified time, and are not being stored at the specified plant or storage facility.

(e) (1) Any testing conducted by the manufacturer under a test request must commence within the period specified within the test request. The Administrator may extend the time period on request by the manufacturer, if a test facility is not available to conduct the testing.

(2) The manufacturer must complete the required testing within one week following commencement of the testing.

(3) The manufacturer will be allowed 24 hours to send test hearing protectors from the assembly plant to the testing facility. The Administrator may approve more time based upon a request by the manufacturer. The request must be accompanied by a satisfactory justification.

(f) Failure to comply with any of the requirements of this section will not be considered a violation of these regulations if conditions and circumstances outside the control of the manufacturer render it impossible for him to comply. These conditions and circumstances include, but are not limited to, the temporary unavailability of equipment and personnel needed to conduct the required tests. The manufacturer bears the burden of establishing the presence of the conditions and circumstances.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.212-2 Test hearing protector selection.

(a) The test request will specify that thirty (30) protectors be selected, from which up to twenty (20) test protectors will be drawn for testing. The remainder may be used as replacement protectors if replacement is needed. The request will also specify that the 30 protectors be the next 30 produced after receipt of the request, or that the 30 be randomly drawn from the group of up to 100 that are next scheduled for production.

(b) If random selection is specified, it must be achieved by sequentially numbering all the protectors in the group and then using a table of random numbers to select the test hearing protectors. The manufacturer may use an alternative random selection plan when it is approved by the Administrator.

(c) Each test protector of the category selected for testing must have been assembled, by the manufacturer, for distribution in commerce using the manufacturer's normal production process.

(d) At their discretion, EPA Enforcement Officers, rather than the manufacturer, may select the protectors designated in the test request.

(e) The manufacturer must keep on hand the thirty (30) protectors designated for testing under this test request until such time as the category is determined to be in compliance. Hearing protectors actually tested and found to be in conformance with these regulations may be distributed in commerce.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.212-3 Test hearing protector preparation.

The manufacturer must select the test hearing protector according to § 211.212-2 before the official test, and must comply with the test protector preparation requirements of § 211.210-5.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.212-4 Testing procedures.

(a) The manufacturer must conduct one valid test according to the test procedures specified in § 211.206 for each hearing protector selected for testing under § 211.212-2.

(b) The manufacturer must not repair or adjust the test hearing protectors once compliance testing has been initiated. In the event a hearing protector is unable to complete the test, the manufacturer may replace the protector. Any replacement protector will be of the same category as the protector being replaced. It will be selected from the remaining designated test protectors and will be subject to all the provisions of these regulations. Any replacement and the reason for replacement must be reported in the compliance audit test report.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.212-5 Reporting of test results.

(a)(1) The manufacturer must submit to the Administrator a copy of the Compliance Audit Test report for all testing conducted under § 211.212. It must be submitted within 5 days after completion of testing. A suggested compliance audit test report form is included as Appendix B.

(2) The manufacturer must provide the following test information:

- (i) Category identification;
- (ii) Production date, and model of hearing protector;
- (iii) The name and location of the test facility used;
- (iv) The completed data sheet in the form specified for all tests including, for each invalid test, the reason for invalidation; and
- (v) The reason for the replacement where a replacement protector was necessary.

(3) The manufacturer must provide the following statement and endorsement:

This report is submitted under Section 8 and Section 13 of the Noise Control Act of 1972. All testing, for which data are reported here, was conducted in strict conformance with applicable regulations under 40 CFR 211 et seq. All the data reported are true and accurate representations of this testing. All other information reported here is, to the best of (company name) and (test laboratory name) knowledge, true and accurate. I am aware of the penalties associated with violation of the Noise Control Act of 1972 and the regulations published under it. (authorized representative)

If the testing is conducted by an outside laboratory the manufacturer must require an authorized representative of

the laboratory to cosign both the statement and the endorsement.

(b) In the case where an EPA Enforcement Officer is present during testing required by this Subpart, the written reports required in paragraph (a) of this section may be given directly to the Enforcement Officer.

(c) The reporting requirements of this regulation will no longer be effective after five (5) years from the date of publication; however, the requirements will remain in effect if the Administrator is taking appropriate steps to repromulgate or modify the reporting requirements at that time.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.212-6 Determination of compliance.

(a) A category will be in compliance with these requirements if the results of the test conducted under the test request, show that:

(1) The mean attenuation value, at each one-third octave band center frequency as determined from the Compliance Audit Test values plus 3 dB(A), is equal to or greater than the mean attenuation value at the same one-third octave band reported in the "Labeled Values" section of the labeling Verification Report; and

(2) The Noise Reduction Rating, when calculated from the mean attenuation values determined by Compliance Audit Testing, equals or exceeds the Noise Reduction Rating as reported in the "Labeled Values" section of the Labeling Verification Report.

(b) If a category is not in compliance, as determined in paragraph (a) of this section, the manufacturer must satisfy the continued testing requirements of § 211.212-7, and the relabeling requirements of § 211.212-8 before further distributing hearing protectors of that category in commerce.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.212-7 Continued compliance testing.

If a category is not in compliance as determined under § 211.212-6, the manufacturer must satisfy the requirements of paragraph (a) or (b) of this section.

(a) The manufacturer must continue to test additional sets of (20) protectors until the mean attenuation values from the last test at each octave band equal or exceed the lowest attenuation values obtained from all previous compliance tests.

(b) Upon approval by the Administrator, the manufacturer may relabel at a lower level in compliance with § 211.212-8 in lieu of testing under

paragraph (a) of this section. The manufacturer must obtain approval by showing that the relabeled values adequately take into account results achieved from the Compliance Audit Testing and product variability. The Administrator is to exercise his discretion in light of factors including the prior compliance record of the manufacturer, the adequacy of the proposed new labeling value, the amount of deviation of test results from the labeled values, and any other relevant information.

(c) When the manufacturer can show that the non-compliance under § 211.212-6 was caused by a quality control failure and that the failure has been remedied, he may, with the Administrator's approval, conduct only two additional tests and relabel at least as low as the mean attenuation values received from the two tests.

(d) The manufacturer may request a hearing on the issue of whether the compliance audit testing was conducted properly and whether the criteria for non-compliance in § 211.212-6 have been met; and the appropriateness or scope of a continued testing order. In the event that a hearing is requested, the hearing shall begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing, nor the fact that a hearing is in progress, shall affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

(Sec. 13, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

§ 211.212-8 Relabeling requirements.

(a) Any manufacturer who is found to not conform with § 211.212-6, and who has met the requirement of § 211.212-7, must relabel all protectors of the specified category already in his possession according to § 211.211 before distributing them in commerce. The manufacturer shall relabel at values no greater than any mean attenuation values received from Compliance Audit Testing. Any manufacturer who proceeds with § 211.212-7(a) or (b) must relabel his product line with the lowest mean attenuation value at each octave band received from testing; or he may take into account product variability under § 211.211(b) and label with a lower mean attenuation value than the worst case values obtained from Compliance Audit Testing.

(Sec. 10(a)(3), Pub. L. 92-574, 86 Stat. 1242 (42 U.S.C. 4909(a)(3)))

§ 211.213 Remedial orders for violations of these regulations.

(a) The Administrator may issue an order under section 11(d)(1) of the Act when any person is in violation of these regulations.

(b) A remedial order will be issued only after the violator has been notified of the violation and given an opportunity for a hearing according to § 554 of Title 5 of the United States Code.

(c) All costs associated with a remedial order shall be borne by the violator.

(Sec. 11(d) Pub. L. 92-574, 86 Stat. 1243 (42 U.S.C. 4910(d)))

§ 211.214 Removal of label.

Section 10(a)(4) of the Act prohibits any person from removing, prior to sale, any label required by this Subpart, by either physical removal or defacing or any other physical act making the label and its contents not accessible to the ultimate purchaser prior to sale.

(Sec. 10(a)(4), Pub. L. 92-574, 86 Stat. 1242 (42 U.S.C. 4909(a)(4)))

Appendix A.—Labeling Verification Report

Data Sheet

Company name: _____
Address: _____
Test laboratory: _____
Address: _____
Model number of hearing protector: _____
Category designation: _____

Test Results—Frequency, Mean Attenuation, and Standard Deviation

125 _____
250 _____
500 _____
1000 _____
2000 _____
3150 _____
4000 _____
6300 _____
8000 _____
Noise Reduction Rating: _____

Labeled Values—Frequency, Mean Attenuation, and Standard Deviation

125 _____
250 _____
500 _____
1000 _____
2000 _____
3150 _____
4000 _____
6300 _____
8000 _____
Noise Reduction Rating: _____

If replacement hearing protector was necessary to conduct test, reason for replacement:

This report is submitted under Section 8 and Section 13 of the Noise Control Act of 1972. All testing, for which data are reported here, was conducted in strict conformance with applicable regulations under 40 CFR 211, et seq. All data reported here are true and accurate representations of this testing. All other information reported here is, to the best of (company name) and (test laboratory

name) knowledge, true and accurate. I am aware of the penalties associated with violation of the Noise Control Act of 1972 and the regulations published under it.

(Authorized representative of company)

(Authorized representative of test laboratory)

Appendix B.—Compliance Audit Testing Report

Data Sheet

Company name: _____

Address: _____

Test laboratory: _____

Address: _____

Model number of hearing protector: _____

Category designation: _____

Production date: _____

Test Results—Frequency, Mean Attenuation, and Standard Deviation

125 _____

250 _____

500 _____

1000 _____

2000 _____

3150 _____

4000 _____

6300 _____

8000 _____

Noise Reduction Rating: _____

If replacement hearing protector was necessary to conduct test, reason for replacement:

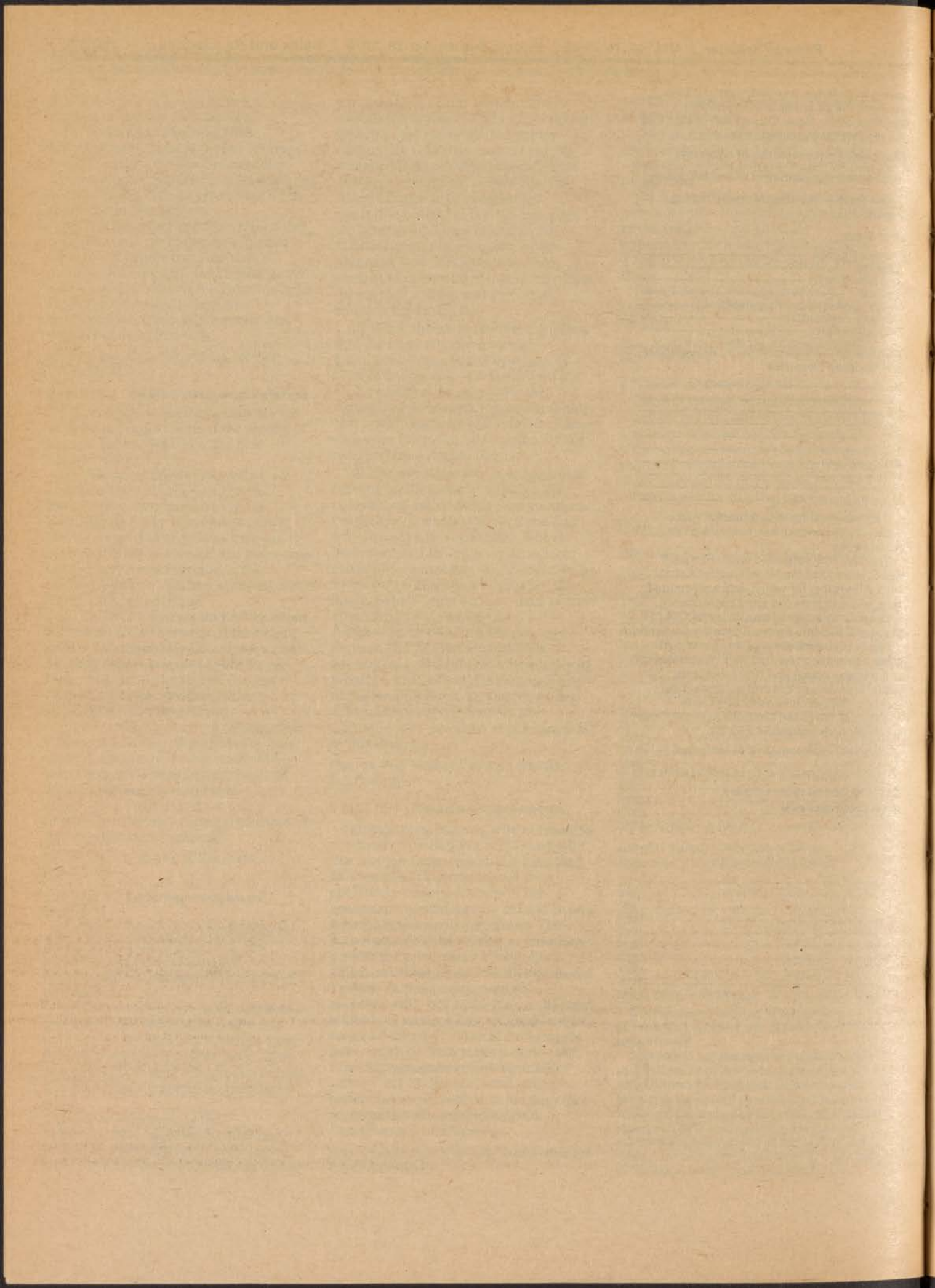
This report is submitted under Section 8 and Section 13 of the Noise Control Act of 1972. All testing, for which data are reported here, was conducted in strict conformance with applicable regulations under 40 CFR 211, et seq. All the data reported here are true and accurate representations of this testing. All other information reported here is, to the best of (company name) and (test laboratory name) knowledge, true and accurate. I am aware of the penalties associated with violation of the Noise Control Act of 1972 and the regulations published under it.

(Authorized representative of company)

(Authorized representative of test laboratory)

[FR Doc. 79-30068 Filed 9-27-79; 8:45 am]

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federal register

**Friday
September 28, 1979**

Part IV

Department of the Interior

Fish and Wildlife Service

**Migratory Bird Hunting; Late Seasons,
and Bag and Possession Limits For
Certain Game Birds**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the open seasons, shooting and hawking hours, hunting areas, and daily bag and possession limits for general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and additional falconry seasons. The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The rules will permit taking of the designated species within specified periods of time beginning as early as September 29 and benefit the public by opening the seasons which are presently closed.

EFFECTIVE DATE: September, 28, 1979.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C., telephone 202-254-3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons and those for "late" seasons. Early seasons include those which open before September 29, while late seasons

open on or after September 29. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, ducks in late September in Iowa, sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and additional special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a *Federal Register* document in mid-February, and opened to public comment. As additional information becomes available, and comments on the initial proposals are received and considered, supplemental proposed rulemakings are published in the *Federal Register*. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting and hawking hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period and after consideration of additional comments, the Service publishes in the *Federal Register* the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20 then appear in the *Federal Register*, and become effective upon publication.

This year the process was implemented as follows. On February 15, 1979, the Service published for public

comment in the *Federal Register* (44 FR 9928) proposals to amend 50 CFR 20, with a comment period ending May 16, 1979. That document dealt with the establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On June 13, 1979, the Service published for public comment in the *Federal Register* (44 FR 34082) the second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental proposals arising from comments received on the initial proposals, or from new information. On June 28, 1979, the Service also published for public comment in the *Federal Register* (44 FR 37857) the third document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1979-80 season. On June 28, 1979, the Service also published in the *Federal Register* (44 FR 37854) the fourth document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1979-80 season. On July 24, 1979, the Service published in the *Federal Register* (44 FR 43420) the fifth document in the series consisting of final rulemaking dealing specifically with final frameworks for early season migratory bird hunting regulations in all States during the 1979-80 seasons from which State wildlife conservation officials selected early season dates and daily bag and possession limits for the 1979-80 season. On August 8, 1979, the Service published in the *Federal Register* (44 FR 46462) the sixth document in the series consisting of final rulemaking dealing specifically with a correction to the Final Regulations Frameworks for 1979-80 Early Hunting Seasons on Certain Migratory Game Birds in the United States, adding text inadvertently omitted from the July 24 publication (44 FR 43420) affecting *Gallinules*, *Sandhill*

Cranes, and Scoter, Eider and Oldsquaw Ducks (Atlantic Flyway). On August 10, 1979, the Service published for comment in the *Federal Register* (44 FR 47246) the seventh document in the series of proposed and final rulemakings dealing specifically with proposed regulations frameworks for 1979-80 late hunting seasons on certain migratory game birds. On August 20, 1979, the Service published in the *Federal Register* (44 FR 48846) the eighth document in the series of proposed and final rulemakings dealing specifically with amending subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting and hawking hours, and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in late September in Iowa; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. On August 28, 1979, the Service published in the *Federal Register* (44 FR 50544) the ninth document in the series of proposed and final rulemakings dealing specifically with final regulations frameworks for 1979-80 late hunting seasons on certain migratory game birds from which States selected season dates and daily bag and possession limits for the 1979-80 season. This final rulemaking document is the tenth in the series of proposed, supplemental, and final rulemakings for migratory game bird hunting regulations and consists of final rulemaking amending subpart K of 50 CFR 20 to set open hunting seasons, hunting areas, shooting and hawking hours, and bag and possession limits for waterfowl, coots, and gallinules; sandhill cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; common snipe in the Pacific Flyway; and additional extended falconry seasons.

On June 21, 1979, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. The meeting was announced in the *Federal Register* on February 15, 1979 (44 FR 9928) and June 13, 1979 (44 FR 34082). Proposed hunting regulations for these species were discussed plus those for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the

Mississippi and Central Flyways; an early duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

On August 2, 1979, a public hearing was held in Washington, D.C., as announced in the *Federal Register* on February 15, 1979 (44 FR 9928) and June 13, 1979 (44 FR 34082) to review information on population status and proposed hunting regulations for waterfowl, coots, and gallinules; sandhill cranes in Colorado, New Mexico, Oklahoma, Texas, Montana and Wyoming; common snipe in the Pacific Flyway; and special falconry regulations. Statements or comments were invited from the public.

Steel Shot Regulations

Non-toxic shot requirements in some areas apply to waterfowl regulations being finalized here. On July 17, 1979, the Service published in the *Federal Register* (44 FR 41461) final regulations regarding zones in all flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1979. Minor corrections to the final regulations appeared in the *Federal Register* dated August 10, 1979 (44 FR 47093). The intended effect of establishing these steel shot regulations is to reduce the number of waterfowl deaths caused by ingesting spent lead pellets.

The regulations appear under 50 CFR, §§ 20.21 and 20.108, and will also be summarized in the Service's regulations leaflets to be published late this summer.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the *Federal Register* on June 13, 1975 (40 FR 24241). A number of environmental assessments have been issued by the Service to supplement the above FES. Shooting hours, dove hunting in September, black ducks, canvasbacks and redheads, Atlantic flyway brant, and greater snow geese are among the subjects of these assessments. The 1975 FES is now out of print but copies of the environmental assessments are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Endangered Species Act Consideration

Compliance with the Endangered Species Act, insofar as late season regulations frameworks are concerned, was described in the *Federal Register* dated August 28, 1979 (44 FR 50544). As a result of intra-Service Section 7 consultation, Acting Director Robert S. Cook concluded in a biological opinion dated August 21, 1979, "that the migratory bird late hunting seasons are not likely to jeopardize the continued existence of the above listed species or result in destruction or adverse modification of any designated Critical Habitat."

The Service wishes to reiterate that delays or closures of migratory bird hunting seasons will be considered, and invoked when justified, for the protection of endangered species.

The Service's biological opinions and threshold examination reports resulting from its consultation under section 7 are considered to be public documents and are available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Copies may be also be obtained by mail upon request.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Exception From Executive Order 12044 and 43 CFR Part 14

As discussed in the *Federal Register* dated February 15, 1979 (44 FR 9929), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining slack in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed and final rulemakings. Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR 14 which is provided for in section 6(b)(6) and § 14.3(f), respectively.

Regulations Promulgation

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the late season proposals (44 FR 9928, February 15, 1979; 44 FR 34082, June 13, 1979; and 44 FR 47246, August 10, 1979) the Service published in the *Federal Register* on August 28, 1979 (44 FR 50544), final late season frameworks. Copies of the final frameworks were also sent to the officials of the State conservation agencies who were invited to submit selections for hunting seasons and related options which complied with the shooting hours, daily bag and possession limits, season times and lengths, and areas specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The amendments will permit taking of the designated species within specified time periods beginning as early as September 29 and benefit the

public by opening the seasons which are presently closed.

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on February 15, June 13, and August 10, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the printing and distribution of Federal and State regulatory announcements and leaflets would be delayed to the extent that hunters would not have regulatory information available prior to the beginning of the hunting seasons. The Service has determined that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3), and these regulations

will, therefore, take effect immediately upon publication.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State (all dates inclusive) on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter 1, Subchapter B, Part 20, Subpart K, are amended to read as follows:

PART 20—MIGRATORY BIRD HUNTING

1. Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

	Rails (sora and Virginia)	Rails (clapper and king)	Woodcock	Common snipe
Daily bag limits.....	25	(*)	5	8
Possession limits.....	25	(*)	10	16

Shooting Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.
Check State regulations for additional restrictions, including area descriptions.

SEASONS IN THE ATLANTIC FLYWAY

Connecticut.....	Sept. 1 to Nov. 9.....	Sept. 1 to Nov. 9.....	Oct. 20 to Dec. 1.....	Oct. 20 to Dec. 1.....
Delaware.....	Sept. 1 to Nov. 9.....	Sept. 1 to Nov. 9.....	Oct. 18 to Nov. 3 and Nov. 19 to Jan. 5.	Oct. 1 to Nov. 3 and Nov. 19 to Jan. 30.
Florida.....	Sept. 1 to Nov. 9.....	Sept. 1 to Nov. 9.....	Dec. 8 to Feb. 10.....	Nov. 10 to Feb. 24.
Georgia.....	Sept. 8 to Nov. 16.....	Sept. 8 to Nov. 16.....	Nov. 20 to Jan. 23.....	Nov. 20 to Feb. 28.
Maine.....	Sept. 1 to Nov. 9.....	Closed.....	Sept. 24 to Nov. 15.....	Sept. 1 to Dec. 15.
Maryland.....	Sept. 1 to Nov. 9.....	Sept. 1 to Nov. 9.....	Oct. 5 to Nov. 23 and Dec. 22 to Jan. 5.	Sept. 14 to Dec. 29.
Massachusetts.....	Sept. 1 to Nov. 9.....	Closed.....	Oct. 10 to Nov. 30.....	Sept. 1 to Dec. 15.
New Hampshire.....	Closed.....	Closed.....	Sept. 22 to Nov. 25.....	Sept. 22 to Nov. 25.
New Jersey: ²				
North Zone.....	Sept. 1 to Nov. 9.....	Sept. 1 to Nov. 9.....	Oct. 3 to Nov. 26.....	Oct. 13 to Nov. 13 and Nov. 22 to Jan. 2.
South Zone.....	Sept. 1 to Nov. 9.....	Sept. 1 to Nov. 9.....	Oct. 27 to Dec. 1 and Dec. 15 to Jan. 2.	Oct. 13 to Nov. 13 and Nov. 22 to Jan. 2.
New York: ³				
Northern Zone including Lake Champlain.....	Sept. 1 to Nov. 9.....	Closed.....	Sept. 20 ⁴ to Nov. 23.....	Sept. 1 to Nov. 23.
Southern Zone.....	Sept. 1 to Nov. 9.....	Closed.....	Oct. 1 ⁴ to Nov. 23.....	Sept. 1 to Nov. 23.
Long Island.....	Closed.....	Closed.....	Oct. 1 ⁴ to Nov. 23.....	Closed.
North Carolina.....	Sept. 1 to Nov. 9.....	Sept. 1 to Nov. 9.....	Nov. 17 to Jan. 19.....	Nov. 14 to Feb. 28.
Pennsylvania.....	Sept. 1 to Nov. 9.....	Closed.....	Oct. 13 to Dec. 15.....	Oct. 13 to Dec. 15.
Rhode Island.....	Sept. 17 to Nov. 25.....	Sept. 17 to Nov. 25.....	Oct. 20 to Dec. 7 and Dec. 17 to Jan. 1.	Sept. 17 to Dec. 7 and Dec. 17 to Jan. 10.
South Carolina.....	Sept. 1 to Nov. 9.....	Sept. 1 to Nov. 9.....	Nov. 22 to Jan. 25.....	Nov. 14 to Feb. 28.
Vermont.....	Sept. 29 to Dec. 2.....	Closed.....	Sept. 29 to Dec. 2.....	Sept. 29 to Dec. 2.
Virginia.....	Sept. 8 to Nov. 16.....	Sept. 8 to Nov. 16.....	Oct. 22 to Dec. 25.....	Oct. 17 to Jan. 31.
West Virginia.....	Sept. 10 to Nov. 17.....	Closed.....	Oct. 13 to Dec. 15.....	Sept. 10 to Dec. 25.

SEASONS IN THE MISSISSIPPI FLYWAY

Alabama	Nov. 10 to Jan. 18	Nov. 10 to Jan. 18	Nov. 28 to Jan. 31	Nov. 14 to Feb. 28.
Arkansas	Sept. 1 to Nov. 9	Closed	Nov. 15 to Jan. 18	Nov. 15 to Feb. 28.
Illinois	Sept. 1 to Nov. 9	Closed	Oct. 15 to Dec. 18	Oct. 15 to Jan. 29.
Indiana	Sept. 1 to Nov. 9	Closed	Sept. 22 to Nov. 25	Sept. 1 to Dec. 16.
Iowa	Sept. 1 to Nov. 9	Closed	Sept. 22 to Nov. 25	Sept. 1 to Dec. 16.
Kentucky	Nov. 12 to Jan. 20	Closed	Oct. 6 to Nov. 30 and Dec. 8 to Dec. 16.	Oct. 6 to Nov. 30 and Dec. 8 to Dec. 16.
Louisiana	Sept. 22 to Nov. 30	Sept. 22 to Nov. 30	Dec. 8 to Feb. 10	Nov. 3 to Feb. 17.
Michigan: ²				
Zone 1	Sept. 15 to Nov. 14	Closed	Sept. 15 to Nov. 13	Sept. 15 to Nov. 14.
Zone 2	Sept. 15 to Nov. 14	Closed	Sept. 15 to Nov. 14	Sept. 15 to Nov. 14.
Zone 3	Sept. 15 to Nov. 14	Closed	Oct. 20 to Nov. 14	Sept. 15 to Nov. 14.
Minnesota	Sept. 1 to Nov. 4	Closed	Sept. 1 to Nov. 4	Sept. 1 to Nov. 4.
Mississippi	Oct. 27 to Jan. 4	Oct. 27 to Jan. 4	Dec. 15 to Feb. 17	Nov. 17 to Feb. 28.
Missouri	Sept. 1 to Nov. 9	Closed	Oct. 1 to Dec. 4	Oct. 1 to Dec. 4.
Ohio	Sept. 1 to Nov. 9	Closed	Sept. 28 to Dec. 1	Sept. 1 to Dec. 15.
Tennessee	Dec. 1 to Jan. 19 ⁴	Closed	Oct. 20 to Nov. 25 and Feb. 1 to Feb. 28.	Nov. 19 to Feb. 28.
Wisconsin	Oct. 1 ¹ to Oct. 7 and Oct. 13 to Nov. 24.	Closed	Sept. 15 to Nov. 18	Oct. 1 ¹ to Oct. 7 and Oct. 13 to Nov. 24.

SEASONS IN THE CENTRAL FLYWAY

Colorado ⁴	Sept. 1 to Nov. 9	Closed	Closed	Sept. 1 to Dec. 2.
Kansas	Sept. 15 to Nov. 23	Closed	Oct. 6 to Dec. 9	Sept. 15 to Dec. 30.
Montana ⁵	Closed	Closed	Closed	Sept. 29 to Nov. 27.
Nebraska	Sept. 1 to Nov. 9	Closed	Sept. 15 to Nov. 18	Sept. 15 to Nov. 18.
New Mexico ⁶	Sept. 15 to Nov. 23	Closed	Closed	Sept. 15 to Dec. 16.
North Dakota	Closed	Closed	Closed	Sept. 15 to Nov. 11.
Oklahoma	Sept. 1 to Nov. 9	Closed	Nov. 20 to Jan. 23	Oct. 20 to Feb. 3.
South Dakota	Closed	Closed	Closed	Sept. 1 to Oct. 31.
Texas	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Nov. 17 to Jan. 20	Nov. 3 to Feb. 17.
Wyoming ⁶	Sept. 29 to Dec. 7	Closed	Closed	Sept. 29 to Jan. 7.

SEASONS IN THE PACIFIC FLYWAY

Arizona	Closed	Closed	Closed	Oct. 20 to Jan. 20.
California: ¹				
Northeastern Zone	Closed	Closed	Closed	Oct. 13 to Jan. 13.
Southern Zone	Closed	Closed	Closed	Oct. 20 to Jan. 20.
Colorado River Zone	Closed	Closed	Closed	Oct. 20 to Jan. 20.
Remainder of State	Closed	Closed	Closed	Oct. 20 to Jan. 20.
Colorado	Sept. 1 to Nov. 9	Closed	Closed	Sept. 1 to Dec. 2.
Idaho: ³				
Columbia Basin	Closed	Closed	Closed	Oct. 6 to Jan. 13.
Remainder of State	Closed	Closed	Closed	Oct. 6 to Jan. 6.
Montana	Closed	Closed	Closed	Sept. 29 to Dec. 30.
Nevada:				
Clark County	Closed	Closed	Closed	Oct. 20 to Jan. 20.
Remainder of State	Closed	Closed	Closed	Oct. 13 to Jan. 13.
New Mexico	Sept. 15 to Nov. 23	Closed	Closed	Sept. 15 to Dec. 16.
Oregon:				
Columbia Basin	Closed	Closed	Closed	Oct. 13 to Jan. 20.
Remainder of State	Closed	Closed	Closed	Oct. 13 to Jan. 13.
Utah ⁷	Closed	Closed	Closed	Oct. 6 to Jan. 6.
Washington ⁷	Closed	Closed	Closed	Oct. 13 to Jan. 13.
Wyoming	Closed	Closed	Closed	Sept. 29 to Dec. 30.

¹ The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

² In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

³ For description of zones or management units within a State, see State regulations.

⁴ In New York, on the first day the season opens at sunrise for woodcock.

⁵ In Michigan, in the counties of Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola and Wayne, and adjacent Great Lakes and connecting waters, the snipe and rail seasons shall open concurrently with the duck season and shall run continuously in all areas through November 14.

⁶ In Tennessee, the season dates for the Reelfoot Zone are November 17, 1979, through January 5, 1980. See waterfowl regulations for the description of the Reelfoot Zone.

⁷ In Wisconsin, Utah, and Washington, on the first day the season opens at 12 noon.

⁸ The Central Flyway portion consists of: Colorado and Wyoming—the area lying east of the Continental Divide; Montana—the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; New Mexico—the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remainder portions of these States are in the Pacific Flyway.

2. Section 20.105 is amended to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Sea Ducks.* (1) An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following

table during the period between September 15, 1979, and January 20, 1980, in all coastal waters and all waters or rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any

tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia, provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the

respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the possession limit 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set in addition to the limits prescribed for such seasons a daily bag limit of 7 and possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

Check State regulations for additional restrictions, including area descriptions.

Seasons in:

Connecticut	Oct. 15 to Jan. 12.
Delaware	Sept. 28 to Jan. 12.
Georgia	Nov. 21 to Jan. 20.
Maine	Oct. 1 to Jan. 15.
Maryland	Oct. 5 to Jan. 19.
Massachusetts	Oct. 5 to Jan. 19.
New Hampshire	Sept. 15 to Dec. 30.
New Jersey	Oct. 5 to Jan. 19.
New York (Long Island only)	Sept. 21 to Jan. 5.
North Carolina	Oct. 5 to Jan. 19.
Rhode Island	Oct. 6 to Jan. 20.
South Carolina	Oct. 5 to Jan. 19.
Virginia	Oct. 5 to Jan. 19.

(4) Notwithstanding the provisions of this Part 20, the shooting of *crippled* waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

(b) Teal. September season:

(c) Gallinules.

Limits in the Atlantic, Mississippi, and Central Flyways:

Daily bag limit	15
Possession limit	30

Limits in the Pacific Flyway: The daily bag and possession limits are 25 gallinules and coots singly or in the aggregate of these two species.

Shooting hours: One-half hour before sunrise to sunset.

Check State regulations for additional restrictions, including area descriptions.

Seasons in the Atlantic

Flyway:	
Connecticut	Sept. 1 to Nov. 9.
Delaware	Sept. 1 to Nov. 9.
Florida ¹	Sept. 1 to Nov. 9.
Georgia	Nov. 21 to Jan. 20.
Maine	Sept. 1 to Nov. 9.
Maryland	Sept. 1 to Nov. 9.
Massachusetts	Sept. 1 to Nov. 9.
New Hampshire	Sept. 1 to Nov. 9.
New Jersey	Sept. 1 to Nov. 9.
New York:	
Long Island	Closed
Remainder of State	Sept. 1 to Nov. 9.

North Carolina	Sept. 1 to Nov. 9.
Pennsylvania	Sept. 1 to Nov. 9.
Rhode Island	Sept. 17 to Nov. 25.
South Carolina	Sept. 1 to Nov. 9.
Vermont	Sept. 29 to Dec. 2.
Virginia	Oct. 3 to Oct. 6.
	Nov. 20 to Dec. 1.
	Dec. 17 to Jan. 19.
West Virginia	Oct. 3 to Oct. 20.
	Dec. 12 to Jan. 12.

Seasons in the Mississippi

Flyway:	
Alabama	Nov. 10 to Jan. 18.
Arkansas	Nov. 7 to Jan. 15.
Illinois	Closed.
Indiana	Sept. 1 to Nov. 9.
Iowa	Closed.
Kentucky	Nov. 12 to Jan. 20.
Louisiana	Sept. 22 to Nov. 30.
Michigan:	
Zone 1	Sept. 29 to Nov. 17.
Zones 2 and 3	Oct. 4 to Nov. 22.
Minnesota	Sept. 29 to Nov. 17.
Mississippi	Sept. 22 to Sept. 30.
	Oct. 27 to Dec. 26.
Missouri	Sept. 1 to Nov. 9.
Ohio	Sept. 1 to Nov. 9.
Tennessee ²	Dec. 1 to Jan. 19.
Wisconsin	Oct. 1 ³ to Oct. 7.
	Oct. 13 to Nov. 24.

Seasons in the Central

Flyway:	
Colorado ⁴	Closed.
Kansas	Closed.
Montana ⁴	Closed.
Nebraska	Closed.
New Mexico ⁴	Oct. 30 to Jan. 6.
North Dakota	Closed.
Oklahoma	Sept. 1 to Nov. 9.
South Dakota	Closed.
Texas	Sept. 1 to Nov. 9.
Wyoming ⁴	Closed.

Seasons in the Pacific

Flyway:	
Arizona	Oct. 20 to Jan. 20.
California:	
Northeastern Zone	Oct. 13 to Jan. 13.
Southern Zone	Oct. 20 to Jan. 20.
Colorado River Zone	Oct. 20 to Jan. 20.
Remainder of State	Oct. 20 to Jan. 20.
Nevada	
Clark County	Oct. 20 to Jan. 20.
Remainder of State	Oct. 13 to Jan. 13.
New Mexico ⁴	Oct. 6 to Dec. 14.

¹ The gallinule season in Florida applies to the common or Florida gallinule only. No open season on purple gallinules in Florida.

² In Tennessee, the season dates for the Reelfoot Zone are November 17, 1979, through January 5, 1980. See footnote under waterfowl regulations for description of the Reelfoot Zone.

³ On the first day the season opens at 12 noon.

⁴ Seasons apply to Central Flyway portion of State only.

⁵ Seasons apply to Pacific Flyway portion of State only.

(d) Waterfowl and coots in Atlantic, Mississippi, Central and Pacific Flyways.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset

daily except as otherwise restricted.

In all States in the Atlantic Flyway:

Wood ducks—No more than 2 wood ducks may be taken daily nor more than 4 wood ducks may be possessed.

Exceptions: during duck seasons prior to October 15, 1979, in North Carolina, under conventional regulations, no special restrictions within the regular daily bag and possession limits shall apply to wood ducks. In Virginia, under the point system, the point value of wood ducks shall be 25; and in Pennsylvania, the possession limit is 2 wood ducks.

Hooded mergansers—In States selecting conventional regulations, no more than 1 hooded merganser may be taken daily nor more than 2 hooded mergansers may be possessed.

Canvasbacks and redheads—Except in close areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession under conventional regulations. Under the point system canvasbacks count 100 points each, except in closed areas, and redheads count 70 points each, except in closed areas. The areas closed to canvasback and redhead hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

North Carolina—Those portions of the State lying east of U.S. Highway 1.

Maryland and Virginia—The entire State.

Brant—The season is closed on brant.

Check State regulations for additional restrictions and delineations of geographical areas. Special restrictions may apply on Federal and State public hunting areas.

The season dates for mergansers and coots are the same as those for ducks in the following tables:

Season dates	Limits	
	Bag	Possession
Connecticut:		
Ducks		
North zone ¹		
South zone ¹		
Including no more than:		
Black ducks		
Mergansers	2	4
Coots	5	10
Geese:	15	30
Canada		
Snow (including blue)	3	6
	4	8

	Season dates	Limits	
		Bag	Possession
Delaware:			
Ducks.....	Oct. 1 to Oct. 8, Nov. 7 to Nov. 24, and Dec. 18 to Jan. 12.	5	10
Including no more than: Black ducks.....		1	2
Mergansers.....		5	10
Coots.....		15	30
Geese:			
Canada.....	Nov. 7 to Jan. 31.....	4	8
Snow (including blue).....	Nov. 7 to Dec. 1 and Dec. 18 to Jan. 31.....	4	8
Florida:			
Ducks.....	Nov. 21 to Dec. 2 and Dec. 14 to Jan. 20.....	Point system.	
Coots.....		15	30
Geese.....	Closed.....		
Georgia:			
Ducks.....	Nov. 21 to Nov. 25 and Dec. 7 to Jan. 20.....	5	10
Including no more than: Black ducks.....		1	2
Mergansers.....		5	10
Coots.....		15	30
Geese.....	Closed.....		
Maine:			
Ducks.....		4	8
North zone (wildlife management units 1-3).....	Oct. 1 to Nov. 19.....		
South zone (wildlife management units 4-8).....	Oct. 1* to Oct. 20 and Nov. 16 to Dec. 15.....		
Including no more than:			
Black ducks.....		2	4
Mergansers.....		5	10
Coots.....		15	30
Geese:			
North zone (wildlife management units 1-3).....	Oct. 1 to Dec. 8.....		
South zone (wildlife management units 4-8).....	Oct. 1* to Dec. 8.....		
Including no more than:			
Canada.....		3	6
Snow (including blue).....		4	8
Maryland:			
Ducks (except canvasbacks and redheads).....	Oct. 26 to Oct. 27, Nov. 9 to Nov. 23, and Dec. 11 to Jan. 12.	Point system.	
Canvasbacks and redheads.....		Season closed.	
Coots.....		15	30
Geese:			
Canada:			
In Delmarva Peninsula ²	Oct. 26 to Nov. 23 and Dec. 3 to Jan. 31.....	3	6
In remainder of State.....	Nov. 2 to Nov. 23 and Dec. 3 to Jan. 19.....	3	6
Snow (including blue).....	Nov. 14 to Nov. 23 and Dec. 3 to Jan. 31.....	4	8
Massachusetts:			
Ducks ⁴	Oct. 10 to Oct. 20, Nov. 2 to Nov. 24, and Dec. 28 to Jan. 12.	4	8
Including no more than: Black ducks.....		2	4
Mergansers.....		5	10
Coots.....		15	30
Geese.....	Oct. 10 to Oct. 27, Nov. 2 to Nov. 30, and Dec. 28 to Jan. 19.		
Canada.....		3	6
Snow (including blue).....		4	8
New Hampshire:			
Ducks.....	Oct. 3 to Oct. 28 and Nov. 23 to Dec. 16.....	4	8
Including no more than: Black ducks.....		2	4
Mergansers.....		5	10
Coots.....		15	30
Geese.....	Oct. 3 to Oct. 28 and Nov. 17 to Dec. 30.....		
Canada.....		3	6
Snow (including blue).....		4	8
New Jersey:			
Ducks.....	Oct. 13 to Oct. 20 and Nov. 22 to Jan. 2.....	Point system. ⁵	
Coots.....		15	30
Geese:			
Canada.....	Oct. 1 to Oct. 31 and Nov. 22 to Jan. 19.....	4	8
Snow (including blue).....	Oct. 13 to Nov. 13 and Nov. 22 to Dec. 29.....	4	8
New York:			
Long Island area:			
Ducks.....	Nov. 14 to Jan. 2.....	4	8
Including no more than:			
Black ducks.....		2	4
Mergansers.....		5	10
Coots.....		15	30
Geese.....	Nov. 14 to Jan. 20.....		
Canada.....		3	6
Snow (including blue).....		4	8
Lake Champlain area:			
Ducks.....	Oct. 3* to Oct. 14 and Oct. 27 to Dec. 3.....	4	8
Including no more than:			
Black ducks.....		2	4
Mergansers.....		5	10
Coots.....		15	30
Geese.....	Oct. 3* to Dec. 11.....		
Canada.....		3	6
Snow (including blue).....		4	8

	Season dates	Limits	
		Bag	Possession
North zone: ⁷			
Ducks.....	Oct. 3 to Oct. 28 and Nov. 9 to Dec. 2.....	5	10
Including no more than:			
Black ducks.....		1	2
Mergansers.....		5	10
Coots.....		15	30
Geese.....	Oct. 3 to Dec. 11.....		
Canada.....		3	6
Snow (including blue).....		4	8
South zone: ⁷			
Ducks.....	Oct. 10 to Oct. 21 and Nov. 2 to Dec. 9.....	5	10
Including no more than:			
Black ducks.....		1	2
Mergansers.....		5	10
Coots.....		15	30
Geese.....	Oct. 3 to Dec. 11.....		
Canada.....		3	6
Snow (including blue).....		4	8
West zone: ⁷			
Ducks.....	Oct. 10 to Nov. 15 and Dec. 21 to Jan. 2.....	5	10
Including no more than:			
Black ducks.....		1	2
Mergansers.....		5	10
Coots.....		15	30
Geese.....	Oct. 3 to Dec. 11.....		
Canada.....		3	6
Snow (including blue).....		4	8
North Carolina:			
Ducks.....		5	10
East zone ⁸	Nov. 21 to Nov. 24 and Dec. 5 to Jan. 19.....		
West zone ^{8, 9}	Oct. 3 to Oct. 6 and Dec. 5 to Jan. 19.....		
Including no more than:			
Black ducks.....		1	2
Mergansers.....		5	10
Coots.....		15	30
Geese:			
Canada.....	Nov. 21 to Nov. 24 and Dec. 5 to Jan. 19.....	2	4
Snow (including blue).....	Nov. 23 to Jan. 31.....	4	8
Pennsylvania:			
Ducks.....		4	8
Including no more than:			
Black ducks.....		2	4
Wood ducks.....		2	2
North zone ¹⁰	Oct. 27 to Dec. 15.....		
South zone ¹⁰	Oct. 10 ¹¹ to Oct. 20 and Oct. 31 to Dec. 8.....		
Mergansers.....		5	10
Coots.....		15	30
Geese:			
Canada:			
In Southeastern zone ¹²	Oct. 10 ¹¹ to Dec. 18 and Dec. 26 to Jan. 14.....	4	8
In remainder of the State ¹³	Oct. 10 ¹¹ to Dec. 18.....	3	6
Snow (including blue).....	Oct. 10 ¹¹ to Dec. 18.....	4	8
Rhode Island:			
Ducks.....	Oct. 11 to Oct. 14 and Nov. 21 to Jan. 5.....	Point system.	
Coots.....		15	30
Geese.....	Nov. 12 to Jan. 20.....		
Canada.....		3	6
Snow (including blue).....		4	8
South Carolina:			
Ducks.....	Nov. 21 to Nov. 24 and Dec. 5 to Jan. 19.....	5	10
Including no more than: Black duck and mottled duck, singly or in the aggregate.....		1	2
Mergansers.....		5	10
Coots.....		15	30
Geese:			
Anderson, Beaufort, Colleton, Fairfield, McCormick, Newberry, and Oconee Counties.....	Season closed.....		
Remainder of State.....	Nov. 21 to Nov. 24 and Dec. 5 to Jan. 19.....		
Canada.....		1	2
Snow (including blue).....		4	8
Vermont:			
Ducks.....	Oct. 3 ⁴ to Oct. 14 and Oct. 27 to Dec. 3.....	4	8
Including no more than: Black ducks.....		2	4
Mergansers.....		5	10
Coots.....		15	30
Geese ¹⁴	Oct. 3 ⁴ to Dec. 11.....		
Canada.....		3	6
Snow (including blue).....		4	8

	Season dates	Limits	
		Bag	Possession
Virginia:			
Ducks ¹⁵ (except canvasbacks and redheads)	Oct. 3 to Oct. 6, Nov. 20 to Dec. 1, and Dec. 17 to Jan. 19.	Point system.	
Canvasbacks and redheads	Season closed		
Coots		15	30
Geese:			
Canada:			
In Back Bay area ¹⁶	Oct. 3 to Oct. 6, Nov. 20 to Dec. 1, and Dec. 17 to Jan. 19.	2	4
In Delmarva Peninsula area	Nov. 3 to Jan. 31	4	8
In remainder of State	Nov. 12 to Jan. 19	3	6
Snow (including blue):			
In Back Bay area ¹⁷	Nov. 23 to Dec. 1 and Dec. 17 to Jan. 19	4	8
In remainder of State	Nov. 23 to Jan. 31	4	8
West Virginia:			
Ducks	Oct. 3 to Oct. 20 and Dec. 12 to Jan. 12	4	8
Including no more than: Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 3 to Oct. 20 and Dec. 12 to Jan. 12		
Canada		3	6
Snow (including blue)		4	8

¹⁵ In Connecticut, the *North Zone* is that portion of the State north of Interstate 95. The *South Zone* is that portion of the State south of Interstate 95.

¹⁶ In Maine, in the *South Zone*, on the first day the season opens at 12 noon.

¹⁷ In Maryland, the Delmarva Peninsula includes the counties of Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester.

¹⁸ Season closed on wood ducks in Nantucket County.

¹⁹ In New Jersey, the green-winged teal is assigned 25 points.

²⁰ In the Lake Champlain area of New York and Vermont, on the first day the season opens at 8 a.m.

²¹ In New York, the *West Zone* is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border. The *North* and *South* Zones are bordered on the west by the boundary of the West Zone and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and New York Route 49 and extending easterly along Route 49 to its junction with Route 8 in Ulster, then southerly along Route 8 to its intersection with U.S. Highway 20 in Bridgewater, then easterly along U.S. Highway 20 to the Massachusetts border.

²² In North Carolina, the *East Zone* is that portion of the State east of U.S. Highway 1. The *West Zone* is that portion of the State west of U.S. Highway 1.

²³ No special daily bag and possession limit restrictions apply to wood ducks during the October 3-6 season.

²⁴ In Pennsylvania, the *North Zone* is comprised of the Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle peninsula. The *South Zone* is the remainder of Pennsylvania.

²⁵ In Pennsylvania, on the first day the season opens at 12 noon.

²⁶ In Pennsylvania, the *Southeastern Zone* is that portion of the State lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border.

²⁷ In Pennsylvania, in Butler, Crawford, Erie, and Mercer Counties, and in the controlled shooting section of the Middle Creek Wildlife Management Area, the Canada goose daily bag limit is 1 and the possession limit is 2.

²⁸ See State regulations for further limit restrictions for Dead Creek Area, Addison County, Vermont.

²⁹ In Virginia, the wood duck is assigned 25 points during the October 3-October 6 season.

³⁰ In Virginia, the *Back Bay Area* is defined for Canada geese as those portions of the cities of Virginia Beach and Chesapeake lying east of U.S. Highway 17 and Interstate 64.

³¹ In Virginia, the *Back Bay Area* is defined for snow (including blue) geese as the waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Lake Tecumseh and Red Wing Lake and the marshes adjacent thereto.

Mississippi Flyway

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

Check State regulations for additional restrictions and delineations of

geographical areas. Special restrictions may apply on Federal and State public hunting areas.

The season dates for mergansers and coots are the same as those for ducks in the following tables.

	Season Dates	Limits	
		Bag	Possession
Alabama:			
Ducks ¹		Point system.	
North Zone ²	Dec. 1 to Jan. 19		
South Zone ²	Nov. 16 to Jan. 4		
Coots		15	30
Geese		5	5
In Barbour, Henry, and Russell Counties, On Pickwick, Wilson, and Wheeler Res- ervoirs west of U.S. Highway 31.	Closed season Dec. 1 to Jan. 19		
In remainder of State	Nov. 12 to Jan. 20		
Including no more than:			
Canada		2	4
White-fronted		2	2
Canada and white-fronted geese combined		2	4
Snow (including blue)		5	5
Arkansas: ³			
Ducks	Nov. 17 to Jan. 5	Point system.	
Coots		15	30
Geese:			
Canada	Closed season		
Other geese	Nov. 12 to Jan. 20	5	5
Including no more than:			
White-fronted		2	2
Snow (including blue)	Nov. 12 to Jan. 20	5	5
Illinois:			
Ducks ¹		Point system.	
North Zone ⁴	Oct. 17 to Dec. 5		
South Zone ⁴	Oct. 31 to Dec. 19		
Coots		15	30
Geese:			
In Alexander, Jackson, Union, and Williamson Counties: ⁵			
Canada	Nov. 9 to Jan. 17		
White-fronted and snow	Oct. 31 to Dec. 31		
In remainder of the State:			
North Zone ⁴	Oct. 17 to Dec. 25		
South Zone, ⁴ except Alexander, Jackson, Union, and Williamson Counties	Oct. 31 to Dec. 31		
For the entire State, including no more than:			
Canada ⁴		2	4
White-fronted		2	2
Canada and white-fronted geese combined		2	4
Snow (including blue)		5	5
Indiana:			
Ducks		Point system.	
North Zone ⁷	Oct. 20 to Dec. 8		
South Zone ⁷	Nov. 10 to Dec. 29		
Coots		15	30
Geese	Oct. 20 to Nov. 21 and Dec. 15 to Jan. 20	5	5
Including no more than:			
Canada		2	2
White-fronted		2	2
Canada and White-fronted geese combined		2	4
Snow (including blue)		5	5
Iowa:			
Ducks ¹	Sept. 22 to Sept. 26 and Oct. 20 to Dec. 3	Point system.	
Coots		15	30
Geese	Sept. 29 to Dec. 7	5	5
Including no more than:			
Canada		2	4
White-fronted		2	2
Canada and white-fronted geese combined		4	4
Snow (including blue)		5	5
Kentucky:			
Ducks	Nov. 21 to Nov. 25 and Dec. 7 to Jan. 20	Point system.	
Coots		15	30
Geese	Nov. 12 to Jan. 20		
Including no more than:			
Canada ⁴		2	4
White-fronted		2	2
Canada and white-fronted geese combined		2	4
Snow (including blue)		5	5
Louisiana:			
Ducks ¹		Point system.	
East Zone ⁸	Nov. 17 to Dec. 6 and Dec. 22 to Jan. 20		
West Zone ⁸	Nov. 3 to Nov. 27 and Dec. 15 to Jan. 13		
Coots		15	30
Geese:			
Canada	Closed season		
Other geese		5	5
East Zone ⁸	Nov. 17 to Jan. 25		
West Zone	Nov. 3 to Nov. 27 and Dec. 15 to Jan. 28		
Including no more than:			
White-fronted		2	2
Snow (including blue)		5	5

	Season Dates	Limits	
		Bag	Possession
Michigan:			
Ducks ¹		Point system.	
North Zone (Zone 1) ¹⁰	Sept. 29 to Nov. 17		
South Zone (Zones 2 and 3) ¹⁰	Oct. 4 to Nov. 22		
Coots		15	30
Geese		5	5
North Zone (Zone 1) ¹⁰	Sept. 29 to Nov. 17		
South Zone:			
(Zone 2) ¹⁰	Oct. 1 to Nov. 30		
(Zone 3) ¹⁰	Oct. 4 to Nov. 30		
Including no more than:			
Canada ^{11, 12}		1	1
White-fronted		2	2
Canada and White-fronted geese combined		2	3
Snow (including blue)		5	5
Minnesota:			
Ducks ¹	Sept. 29 to Nov. 17 ¹³	5	10
Including no more than:			
Mallards (no more than 2 female mallards daily or 4 in possession)		3	6
Black ducks		1	2
Wood ducks		2	4
Canvasbacks or redheads (except in closed areas)		1	1
Mergansers		5	10
Including no more than:			
Hooded mergansers		1	2
Coots		15	30
Geese		5	5
In Lac Qui Parle Quota Zone ¹⁴	Sept. 29 to Nov. 17		
Including no more than:			
Canada or white-fronted (including no more than 2 white-fronted geese in possession)		1	4
Snow (including blue)		5	5
In Southeastern Zone ¹⁵	Sept. 29 to Dec. 7		
Including no more than:			
Canada		2	4
White-fronted		2	2
Canada and white-fronted geese combined		2	4
Snow (including blue)		5	5
In remainder of State	Sept. 29 to Nov. 17		
Including no more than:			
Canada		2	4
White-fronted		2	2
Canada and white-fronted geese combined		2	4
Snow (including blue)		5	5
Mississippi:			
Ducks	Dec. 8 to Dec. 9 and Dec. 15 to Jan. 31	Point system.	
Coots		15	30
Geese:			
Canada geese	Closed		
Other geese	Oct. 13 to Nov. 3 and Dec. 15 to Jan. 31	5	5
Including no more than:			
White-fronted		2	2
Snow (including blue)		5	5
Missouri: ²			
Ducks ¹		Point system.	
North Zone ¹⁶	Oct. 24 to Dec. 12		
South Zone ¹⁶	Nov. 14 to Jan. 2		
Coots		15	30
Geese		5	5
Including no more than:			
Canada:			
Southern Area east of U.S. Highway 67 and south of Crystal City	Dec. 7 to Jan. 20	2	4
In Swan Lake Zone ¹⁷	Oct. 24 to Jan. 1	(17)	(17)
In remainder of State	Oct. 24 to Dec. 7	2	4
White-fronted	Oct. 24 to Jan. 1	2	2
Canada and white-fronted geese combined		2	4
Snow (including blue)	Oct. 24 to Jan. 1	5	5
Ohio:			
In Pymatuning Area: ¹⁸			
Ducks	Oct. 10 ¹⁸ to Oct. 20 and Oct. 31 to Dec. 8	4	8
Including no more than:			
Black ducks		2	4
Wood ducks		2	2
Canvasback or redhead		1	1
Coots		15	30
Mergansers (except hooded)		5	10
Hooded mergansers		1	2
Geese	Oct. 10 ¹⁸ to Dec. 18		
Including no more than:			
Canada		3	6
Snow (including blue)		4	8

	Season Dates	Limits	
		Bag	Possession
Ohio:			
In the remainder of State:			
Ducks ¹		Point system.	
North Zone ¹⁹	Oct. 12 to Nov. 24 and Dec. 24 to Dec. 29		
South Zone ¹⁸	Oct. 19 to Oct. 27 and Nov. 19 to Dec. 29		
Coots		15	30
Geese	Oct. 12 to Dec. 14 and Dec. 24 to Dec. 29	5	5
Including no more than:			
Canada:			
In Ashtabula, Auglaize, Erie, Lucas, Marion, Mercer, Ottawa, Sandusky, Trumbull, and Wyandot Counties.		1	2
In remainder of State		2	2
White-fronted		2	2
Canada and white-fronted geese combined		2	4
Snow (including blue)		5	5
Tennessee:			
Ducks ¹		Point system.	
Reel foot Zone ²⁰	Nov. 17 to Jan. 5		
Remainder of State	Dec. 10 to Jan. 19		
Coots		15	30
Geese	Nov. 12 to Jan. 20		
Including no more than:			
Canada: ²¹			
West of State Highway 13		2	2
In remainder of State		1	2
White-fronted		2	2
Canada and white-fronted geese combined		4	4
West of State Highway 13		4	4
In remainder of State		3	4
Snow (including blue)		5	5
Wisconsin:			
Ducks ¹	Oct. 1 ¹⁸ to Oct. 7 and Oct. 13 to Nov. 24	Point system ²²	
Coots		15	30
Geese ⁶		5	5
In Horizon Zone ²³			
Including no more than:			
Canada:			
Oct. 1 ¹⁸ to Oct. 31		1	1
Nov. 1 to Dec. 9		2	2
White-fronted		2	2
Canada and white-fronted geese combined		2	2
Snow (including blue)		5	5
In Central Zone ²³			
Including no more than:			
Canada:			
Oct. 1 ¹⁸ to Oct. 7 and Oct. 13 to Dec. 9		2	2
White-fronted		2	2
Canada and white-fronted geese combined		2	2
Snow (including blue)		5	5
In Rock Prairie Zone ²³			
Including no more than:			
Canada:			
Oct. 1 ¹⁸ to Oct. 7 and Oct. 13 to Nov. 25		1	2
White-fronted		2	2
Canada and white-fronted combined		2	2
Snow (including blue)		5	5
In remainder of the State			
Including no more than:			
Canada:			
Oct. 1 ¹⁸ to Oct. 7 and Oct. 13 to Dec. 9		1	2
White-fronted		2	2
Canada and white-fronted geese combined		2	2
Snow (including blue)		5	5

¹The areas closed to canvasback and redhead hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under the jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahanomen, Polk, Pope and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T130N, R31W (i.e., land between Lake Christine and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winnebago and Butte des Morts, including the connecting waters thereof, in Winnebago County.

²In Alabama, the South Zone consists of Mobile and Baldwin Counties. The North Zone consists of the remainder of Alabama.

⁸In the lower St. Francis River area of Arkansas and Missouri, the Missouri regulations apply. The lower St. Francis River area is defined as that part of the St. Francis River south of U.S. Highway 62 that is the boundary between Arkansas and Missouri and all sloughs and chutes (but not tributaries) connected to it.

⁹In Illinois, the North Zone is that portion of the State north of U.S. Highway 50. The South Zone is the remainder of Illinois.

¹⁰Shooting hours for geese are sunrise until 3 p.m. local time.

¹¹In Illinois and Wisconsin, the kill of Canada geese will be limited to 35,000 in each State. In the Ballard County Zone of Kentucky, the kill will be limited to 15,000 birds. In the Swan Lake Zone of Missouri the kill of Canada geese will be limited to 25,000 birds. In the Lac Qui Parle Zone of Minnesota, the kill of Canada geese will be limited to 7,000 birds. When it is determined by the Director, U.S. Fish and Wildlife Service, that the quota of Canada geese allotted to the Southern Illinois Zone, the Swan Lake Zone of Missouri, or the Ballard County Zone of Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

¹²In Indiana, the North Zone consists of that portion of the State north of State Highway 18. The South Zone consists of the remainder of Indiana.

¹³See State regulations for area descriptions.

¹⁴In Louisiana the West Zone is described as follows: that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass. The East Zone consists of the remainder of Louisiana.

¹⁵The North Zone is the Upper Peninsula. The South Zone comprises the lower Peninsula. See State regulations for descriptions of Zones 2 and 3.

¹⁶In Michigan, in Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon Counties, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each and the possession limit is 2 Canada and 2 white-fronted geese.

¹⁷In Michigan, in the Southeastern Canada Goose Management Area—as described in State regulations—from October 4 through November 14, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, and the possession limit is 1 Canada and 2 white-fronted geese; from November 15 through December 9, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each, and the possession limit is 2 Canada and 2 white-fronted geese. See State regulations for additional restrictions in Genesee, Lapeer, and Saginaw Counties.

¹⁸In Minnesota, the shooting hours for ducks vary as follows: Sept. 29—12 noon to 4 p.m.; Sept. 30 through Oct. 19—½ hour before sunrise to 4 p.m.; and Oct. 20 through Nov. 17—½ hour before sunrise through sunset.

¹⁹In Minnesota, the Lac Qui Parle Zone is described in State regulations.

²⁰In Minnesota, the Southeastern Zone is described in State regulations.

²¹In Missouri the North Zone consists of that portion of the State north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 21, along State Highway 21 to the junction of State Highway 34, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau. The South Zone consists of the remainder of Missouri.

²²In the Swan Lake zone of Missouri, through November 25, the daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. After November 25, the daily bag limit is 2 Canada geese, or 2 white-fronted geese, or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

²³On the first day the season opens at 12 noon.

²⁴In Ohio the North Zone consists of the counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. The South Zone consists of the remainder of the Ohio.

²⁵In Tennessee, the Reelfoot Zone is defined as all of the Reelfoot Wildlife Management Area plus that area lying between the eastern boundaries of the Reelfoot Wildlife Management Area and Reelfoot National Wildlife Refuge and State Highways 157 and 22, from the Kentucky State line southward to the spillway outlet of Reelfoot Lake.

²⁶In Tennessee the season on Canada geese is closed in the Canada Goose Restoration Areas (see State regulations). The season on Canada geese is also closed in that portion of southwestern Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45.

²⁷In Wisconsin the point-system season is split, with different point values assigned during each split season by State regulation. See Wisconsin regulations for point values assigned by the State for various species during each season.

²⁸In Wisconsin, the Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of State Highway 175 and State Highway 23 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S and continuing easterly on County Highway AS to its intersection with County Highway E, then northerly on County Highway E to its intersection with State Highway 23, then easterly on State Highway 23 to the point of beginning. The Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then southerly on State Highway 175 to its intersection with State Highway 23, then westerly on State Highway 23 to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway AS, then westerly on County Highway AS and continuing westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then northerly on State Highway 49 to its intersection with State Highway 116, then easterly on State Highway 116 to State Highway 21, then easterly on State Highway 21 to the point of beginning. The Rock Prairie Zone is defined as that portion of the State encompassed by the boundaries described as follows: starting at the Illinois State line with its intersection with Interstate Highway 90 in Rock County, proceeding north to County Trunk Highway A, east on County Trunk Highway A to its intersection with U.S. Highway 12 in Walworth County, southeast on U.S. Highway 12 to State Highway 50, west on State Highway 50 to State Highway 120, south on State Highway 120 to its intersection with the Illinois State line.

Central Flyway

The Central Flyway consists of Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide and outside the Jicarilla Apache Indian Reservation),

North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Dark geese include Canada geese and white-fronted geese.

Light geese include snow (and blue) geese and Ross' geese.

Flywaywide Restrictions

Shooting (including hawking) hours:
One-half hour before sunrise to sunset
daily except as otherwise noted.

Mergansers—All mergansers are to be
included within the daily bag and
possession limits under conventional
and point system regulations.

Check State regulations for additional
restrictions and delineations of
geographical areas within States.
Special restrictions may apply on
Federal and State public hunting areas.

The season dates for mergansers and
coots are the same at those for ducks in
the following tables:

	Season dates	Limits	
		Bag	Possession
Colorado:			
Ducks	Sept. 29 to Oct. 12 and Nov. 10 to Jan. 17	Point system.	
Coots		15	30
Geese	Nov. 10 to Jan. 20	2	4
Kansas:			
Ducks		Point system.	
In High Plains area	Oct. 6 to Oct. 21 and Oct. 27 to Jan. 1		
In remainder of State	Oct. 13 to Oct. 14 and Oct. 27 to Dec. 23		
Coots		15	30
Geese		5	5
Dark geese		2	2
Including no more than:			
Canada	Oct. 13 to Dec. 23	1	2
White-fronted		1	2
Light geese	Oct. 20 to Jan. 13		
Snow (including blue)		5	5
Montana:			
Ducks	Sept. 29 to Nov. 27 and Dec. 10 to Jan. 1	Point system.	
Coots		15	30
Geese	Sept. 29 to Dec. 30	2	4
Nebraska:			
Ducks			
In High Plains area	Oct. 13 to Jan. 3	Point system.	
In remainder of State	Oct. 6 to Oct. 7 and Oct. 13 to Dec. 9		
Coots		15	30
Geese		5	5
East of U.S. Highway 183:			
Dark geese	Oct. 6 to Dec. 16	2	2
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Sept. 29 to Dec. 23		
Snow (including blue and Ross')		5	5
West of U.S. Highway 183:			
Dark geese	Oct. 6 to Dec. 16		
Including no more than:			
Canada	Oct. 6 to Nov. 18	2	4
White-fronted	Nov. 19 to Dec. 16	1	2
Canada and white-fronted geese combined.		1	2
Light geese	Oct. 6 to Nov. 18	2	4
Snow (including blue and Ross')	Nov. 19 to Dec. 16	2	2
Light geese	Sept. 29 to Dec. 23		
Snow (including blue and Ross')		5	5
New Mexico:			
Ducks	Oct. 30 to Jan. 20	Point system.	
Coots		15	30
Geese		5	5
In Bernalillo, Sandoval, Sierra, Valencia and Socorro Counties:	Dec. 15 to Dec. 30		
Including no more than:			
Canada		1	1
White-fronted		1	1
Canada and white-fronted geese combined		1	1
Snow (including blue)	Oct. 20 to Jan. 20	5	5
In remainder of State	Oct. 20 to Jan. 20		
Including no more than:			
Canada		2	4
White-fronted		2	4
Canada and white-fronted geese combined		2	4
Snow (including blue)		5	5
North Dakota:			
Ducks	Sept. 29 to Nov. 25 and Dec. 1 to Dec. 2	5	10
Including no more than:			
Female mallards		1	2
Canvasback (except in closed area) or redhead		1	1
Wood ducks		2	4
Hooded mergansers		1	2

	Season dates	Limits	
		Bag	Possession
North Dakota:			
Coots.....		15	30
Geese.....		5	5
Dark geese.....	Sept. 29 to Nov. 18.....	2	2
Including no more than:			
Canada.....		1	2
White-fronted.....		2	2
Light geese (including snow, blue, and Ross').....	Sept. 29 to Dec. 9.....	5	5
Oklahoma:			
Ducks.....		Point system.	
In High Plains area.....	Oct. 13 to Jan. 3.....		
In remainder of State.....	Oct. 27 to Nov. 25 and Dec. 15 to Jan. 13.....		
Coots.....		15	30
Geese.....		5	5
In Alfalfa, Bryan, Johnston, and Marshall Counties:			
Dark geese.....	Nov. 1 to Nov. 25 and Dec. 17 to Jan. 13.....	2	2
Including no more than:			
Canada.....		2	2
White-fronted.....		1	2
Light geese (including snow, blue, and Ross').....	Oct. 6 to Nov. 25 and Dec. 17 to Jan. 20.....	5	5
In the remainder of State.....		5	5
Dark geese.....	Oct. 13 to Nov. 25 and Dec. 17 to Jan. 13.....	2	2
Including no more than:			
Canada.....		2	2
White-fronted.....		1	2
Light geese (including snow, blue, and Ross').....	Oct. 6 to Nov. 25 and Dec. 17 to Jan. 20.....	5	5
South Dakota:			
Ducks.....		Point system.	
In High Plains area.....	Oct. 6 to Dec. 4 and Dec. 15 to Jan. 6.....		
In remainder of State.....	Oct. 6 to Nov. 25 and Dec. 1 to Dec. 9.....		
Coots.....		15	30
Geese.....		5	5
In Buffalo, Brule, Hughes, Hyde, Lyman, Potter, Stanley, and Sully Counties:			
Dark geese.....	Sept. 29 to Nov. 25.....	2	2
Including no more than:			
Canada.....		1	2
White-fronted.....		1	2
Light geese (including snow, blue, and Ross').....	Sept. 29 to Dec. 23.....	5	5
In remainder of State:			
Dark geese.....	Sept. 29 to Dec. 9.....	2	2
Including no more than:			
Canada.....		1	2
White-fronted geese.....		1	2
Light geese (including snow, blue, and Ross').....	Sept. 29 to Dec. 23.....	5	5
Texas:			
Ducks (except black-bellied tree duck and masked duck).....		Point system.	
In High Plains area.....	Oct. 30 to Jan. 20.....		
In remainder of State.....	Nov. 10 to Nov. 25 and Dec. 8 to Jan. 20.....		
Black-bellied tree duck and masked duck.....	Closed season.....		
Coots.....		15	30
Geese.....		5	5
East of U.S. Highway 81:			
Dark geese.....	Oct. 29 to Nov. 25 and Dec. 8 to Jan. 20.....	1	2
Including no more than:			
Canada.....		1	2
White-fronted.....		1	2
Light geese.....	Oct. 29 to Jan. 20.....	5	5
Snow (including blue).....		5	5
West of U.S. Highway 81:			
Geese.....	Oct. 30 to Jan. 20.....	5	5
Including no more than:			
Dark geese.....		2	4
Canada.....		2	4
White-fronted.....		2	4
Snow (including blue).....		5	5
Wyoming:			
Ducks and coots.....	Sept. 29 to Oct. 28 and Nov. 16 to Jan. 7.....	Point system ³	
Geese.....	Oct. 7 to Jan. 7.....	2	4

¹In Kansas, shooting hours are one-half hour before sunrise to sunset except in the northeast Kansas counties of Atchison, Brown, Doniphan, Douglas, Jefferson, and Leavenworth where the goose shooting hours are one-half hour before sunrise till 1 p.m.

²See State and other Federal regulations for special restrictions on Bosque del Apache National Wildlife Refuge.

³The areas closed to canvasback hunting are: North Dakota—That portion lying east of State Highway 3, including all or portions of 27 counties. South Dakota—All of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

⁴See State regulations for special seasons and limits on Canada geese in local areas.

⁵In Wyoming, coots are assigned 10 points.

Pacific Flyway

The Pacific Flyway consists of Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.

In all States in the Pacific Flyway:

Aleutian Canada geese—the season is closed on Aleutian Canada geese throughout the Flyway.

Canvasbacks/Redheads—No more than 2 canvasbacks or 2 redheads or 1 of each may be taken daily nor more than 4 singly or in the aggregate may be possessed.

Mergansers—5 daily and 10 in possession of which not more than 1 daily and 2 in possession may be hooded mergansers. These limits are in addition to the regular waterfowl limits.

Coots and gallinules (singly or in the aggregate)—25 daily and in possession. These limits are in addition to the regular waterfowl limits.

Dark geese—No more than 3 dark (Canada and white-fronted) geese may be taken daily nor more than 6 may be possessed.

White geese—No more than 3 white (snow, including blue, and Ross') geese may be taken daily nor more than 6 may be possessed. Unless otherwise noted, limits for dark geese are for Canada and white-fronted geese, either singly or in the aggregate; and limits for white geese are for snow, including blue, and Ross' geese, either singly or in the aggregate.

Check State regulations for additional restrictions and delineations of geographical areas within States. Special restrictions may apply on Federal and State public hunting areas.

The season dates for mergansers and coots are the same as those for ducks in the following tables.

	Season Dates	Limits	
		Bag	Possession
Arizona: ¹			
Ducks.....	Oct. 20 to Jan. 20.....	7	14
Geese.....	Nov. 10 to Jan. 6.....	6	6
Mohave and Yuma Counties.....			
Including no more than:			
Dark (no more than 2 Canada geese or 3 white-fronted geese).....		3	3
White (including no more than 1 Ross' goose).....		3	3
Remainder of State.....	Nov. 10 to Jan. 20.....		
Including no more than:			
Dark (no more than 2 Canada geese or 3 white-fronted geese).....		3	3
White (including no more than 1 Ross' goose).....		3	3
California:			
Northeastern Zone:			
Ducks.....	Oct. 13 to Jan. 13.....	7	14
Geese (including no more than 2 dark and 2 white geese in the daily bag).....	Oct. 27 to Jan. 13.....	4	4
Brant.....	Jan. 12 to Feb. 20.....	4	8
Southern Zone:			
Ducks.....	Oct. 20 to Jan. 20.....	7	14
Geese.....	Oct. 20 to Jan. 20.....	6	6
Including no more than:			
Dark (except the open season on Canada geese shall be from Nov. 10, 1979, through Jan. 20, 1980, and Canada geese may not exceed 2 in the daily bag and possession limits; but in that portion of District 22 in the Southern Zone, the season for Canada geese shall be Oct. 27, 1979, through January 5, 1980, and Canada geese may not exceed 1 in the daily bag or 2 in possession).....		3	3
White.....		3	3
Brant.....	Jan. 12 to Feb. 20.....	4	8
Colorado River Zone:			
Ducks.....	Oct. 20 to Jan. 20.....	7	14
Geese.....	Nov. 10 to Jan. 6.....	6	6
Including no more than:			
Dark (no more than 2 Canada geese).....		3	3
White.....		3	3
Brant.....	Jan. 12 to Feb. 20.....	4	8
Balance-of-the-State Zone:			
Ducks.....	Oct. 20 to Jan. 20.....	7	14
Geese.....		2	2
Including no more than:			
Dark.....			
Counties of Del Norte and Humboldt.....			
Sacramento Valley Area ²			
San Joaquin Valley Area ³			
Remaining areas.....			
White.....	Oct. 20 to Jan. 20.....	1	2
Brant.....	Jan. 12 to Feb. 20.....	4	8
Colorado:			
Ducks.....	Sept. 29 to Oct. 12 and Nov. 3 to Jan. 20.....	7	14
Geese:			
Delores, Gunnison, and Montezuma Counties.....			
Browns Park Area ⁴			
West Central Permit Area:			
Delta and Montrose Counties.....			
Mesa County.....			
Garfield County.....			
In remainder of State.....			

	Season Dates	Limits	
		Bag	Possession
Idaho:			
Ducks: *			
Counties of Adams, Bear Lake, Boise, Bonneville, Butte, Caribou, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Lemhi, Madison, Oneida, Teton, Valley, and that portion of Blackfoot Reservoir drainage lying within Bingham County.	Oct. 6 to Jan. 6.....	7	14
In remainder of State.....	Oct. 6 to Jan. 13.....	7	14
Geese:			
Northern 10 counties (Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone).	Oct. 6 to Jan. 6.....	3	6
Including no more than:			
Ross'.....		1	1
Fremont County within the North Fork of the Snake River drainage above the new Wendell Bridge near Ashton.	Oct. 13 to Nov. 25.....	3	6
Including no more than:			
Canada.....		2	2
White.....	Closed.....		
Remainder of Fremont County, Clark, Madison, and Teton Counties.	Oct. 13 to Dec. 23.....	3	6
Including no more than:			
Canada.....		2	2
White.....	Closed.....		
Blaine County lying south and west of U.S. Highway 93, and the counties of Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls.	Oct. 27 to Dec. 23.....	3	6
Including no more than:			
Canada.....		2	2
Ross'.....		1	1
In remainder of State.....	Oct. 13 to Dec. 23.....	3	6
Including no more than:			
Canada.....		2	2
Ross'.....		1	1
Montana:			
Ducks.....	Sept. 29 to Dec. 30.....	7	14
Geese.....	Sept. 29 to Dec. 30.....	5	5
Including no more than:			
Dark.....		2	2
White.....		3	3
Nevada:			
Ducks:			
Clark County.....	Oct. 20 to Jan. 20.....	7	14
In remainder of State.....	Oct. 13 to Jan. 13.....	7	14
Geese:			
Clark County.....	Dec. 1 to Jan. 20.....	5	5
Including no more than:			
Dark.....		2	2
White.....		3	3
Eiko County and Ruby Lake National Wildlife Refuge in White Pine County *.	Oct. 13 to Jan. 13.....	5	5
Including no more than:			
Dark.....		2	2
White.....		3	3
White River Valley in Nye County.....	Dec. 12 to Dec. 23.....		
Dark.....		1	1
White.....		3	3
In remainder of State *.....		5	5
Including no more than:			
Dark.....	Nov. 17 to Jan. 20.....	2	2
White.....	Oct. 20 to Jan. 20.....	3	3
New Mexico:			
Ducks.....	Oct. 6 to Jan. 6.....	7	14
Geese:			
North of I-40/U.S. 66.....	Season closed.....		
South of I-40/U.S. 66.....	Oct. 6 to Dec. 16.....	6	6
Including no more than:			
Dark (no more than 2 Canada geese).....		3	3
White.....		3	3
Oregon:			
Ducks:			
Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wasco Counties.	Oct. 13 to Jan. 20.....	7	14
In remainder of State.....	Oct. 13 to Jan. 13.....	7	14

	Season Dates	Limits	
		Bag	Possession
Geese:			
Western Oregon ¹	Oct. 13 to Jan. 13.....	2	2
Crook, Deschutes, Grant, Harney, Hood River, Jefferson, Union, Wallowa and Wheeler Counties.	Oct. 13 to Jan. 13.....	6	6
Including no more than:			
Dark.....		3	6
White.....		3	6
Baker and Malheur Counties.....	Oct. 13 to Dec. 23.....	2	2
Gilliam, Morrow, Sherman, Umatilla, and Wasco Counties.	Oct. 13 to Jan. 20.....	6	6
Including no more than:			
Dark.....		3	6
White.....		3	6
Klamath and Lake Counties.....		3	6
Geese (no more than 1 dark and 1 white geese in the daily bag).	Oct. 13 to Oct. 26.....	2	2
Geese (no more than 3 dark and 3 white geese in the daily bag).	Oct. 27 to Jan. 13.....	6	6
Brant—Statewide.....	Nov. 17 to Feb. 17.....	4	8
Utah:			
Ducks ²	Oct. 6 to Jan. 6.....	7	14
Geese.....		5	5
Daggett County.....	Nov. 3 to Dec. 9.....		
Including no more than:			
Canada goose.....		1	1
White geese.....		3	3
Washington County.....	Nov. 10 to Jan. 20.....		
Including no more than:			
Dark.....		2	2
White.....		3	3
In remainder of State.....	Oct. 13 to Dec. 23.....		
Including no more than:			
Dark.....		2	2
White.....		3	3
Washington:³			
Ducks:			
Eastern Washington.....	Oct. 13 to Jan. 20.....	7	14
Western Washington.....	Oct. 13 to Jan. 13.....	7	14
Geese: ⁴			
Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties.	Oct. 13 to Jan. 20.....	3	6
Island, Skagit, Snohomish, and Whatcom Counties.	Oct. 13 to Dec. 31.....	2	4
In remainder of State.....	Oct. 13 to Jan. 13.....	3	6
Brant ¹⁰ —Statewide.....	Nov. 17 to Feb. 17.....	3	6
Wyoming:			
Ducks (including mergansers and coots), singly or in the aggregate.	Sept. 29 to Dec. 30.....	7	14
Geese:			
In all of the drainage of the Green River in Carbon, Lincoln, Sublette, Sweetwater, Teton, and Uinta Counties.	Sept. 29 to Dec. 10.....	2	2
Those portions of the above named counties not in the drainage of the Green River.	Sept. 29 to Dec. 30.....	2	2

¹The Imperial, Cibola and Havasu National Wildlife Refuges, Arizona, are open to waterfowl hunting except for posted portions. Ashurst Lake in State Game Management Unit 5B is closed to all waterfowl hunting during the 1979-80 waterfowl season. Unit 1, Unit 27, and that portion of Unit 25B lying east of Highway 273 are closed to the taking of Canada geese and its subspecies for the entire season. All of Units 3A and 3B lying east of Highways 77 and 260 are closed to the taking of Canada geese and its subspecies through December 1, 1979.

²In California the Sacramento Valley Area is encompassed as follows: beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River, then south on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45-162 to Glen; then westerly on State Highway 162 to the point of beginning in Willows.

³In California the San Joaquin Valley is the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 99; then northerly on State Highway 99 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning in Modesto.

⁴In Colorado, that portion of Moffat County west of County Road from Greystone to Rock Springs, Wyoming, and north of Cottonwood Creek, Green River, and Pot Creek.

⁵In Idaho, in Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties, no more than 1 wood duck may be taken daily nor more than 1 may be possessed.

⁶In Nevada, the season is closed on all geese in the Pahrangat Valley of Lincoln County; the season is closed on snow and Ross' geese in the Ruby Valley of Elko County and White Pine County.

⁷Western Oregon consists of all counties west of the summit of the Cascades excluding Klamath and Hood River Counties.

⁸Shooting hours are from noon through sunset on the first day of the season.

⁹Geese may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 22 and 23, and December 25, 1979, in Adams, Benton, Douglas, Franklin, Grant, Lincoln, Okanogan, Spokane, and Walla Walla Counties; and east of Satus Pass (U.S. Highway 97) in Klickitat County during regular season in these counties.

¹⁰Brant may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 22 and 23, and December 25, 1979, and January 1 and February 11 through 15, 1980.

(e) *Point system*—*Ducks, mergansers, and coots.* The States selecting the point system bag limits on designated species

are listed in the table under § 20.105(d).

(1) The point values assigned to the species and sexes are as follows:

Atlantic Flyway

100 points	70 points	10 points	25 points
Canvasback (except in closed areas)	Female mallard	Pintail	Male mallard and all other species of ducks
Florida only: Fulvous tree duck	Black duck	Blue-winged teal	
	Mottled duck	Green-winged teal ²	
	Wood duck ¹	Shoveler	
	Redhead (except in closed areas)	Gadwall	
	Hooded merganser	Wigeon	
		Scaup	
		Sea ducks ³	
		Mergansers (except hooded)	

¹ In Virginia during October 3 through October 6, the wood duck counts 25 points.

² In New Jersey the point value for green-winged teal is 25 by State regulation.

³ Sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Mississippi Flyway

100 points	70 points	10 points	25 points
Canvasback (except where closed)	Female mallard	Pintail	Male mallard and all other species of ducks
	Black duck	Blue-winged teal	
	Wood duck	Green-winged teal	
	Redhead (except where closed) ²	Cinnamon teal	
	Hooded merganser	Wigeon	
		Shoveler	
		Gadwall	
		Scaup	
		Mergansers (except hooded)	

¹ In Wisconsin the pointed-system season is split, with different, more restrictive point values assigned during each split season by State regulation. See Wisconsin regulations for point values assigned by the State for various species during each season.

² In Illinois the redhead is assigned 100 points by State regulation.

Central Flyway

100 points	70 points	10 points ¹	20 points
Canvasback (except where closed)	Female mallard	Pintail	Male mallard and all other species of ducks
	Mexican-like duck	Blue-winged teal	
	Wood duck	Green-winged teal	
	Redhead	Cinnamon teal	
	Hooded merganser	Shoveler	
		Gadwall	
		Wigeon	
		Scaup	
		Mergansers (except hooded)	
	Texas only: Mottled duck		Texas only: Fulvous tree duck

¹ In Wyoming the coot is assigned 10 points.

Pacific Flyway: There is no point system in the Pacific Flyway.

Coots have no point value (except in Wyoming) but conventional bag limits of 15 daily and 30 in possession apply.

(2) The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 2 days. The shooting (including hawking) hours are one-half hour before sunrise until sunset daily unless otherwise indicated.

(f) *Scaup only season.* A special hunting season for scaup only is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the respective States.

Daily bag limit	5
Possession limit	10

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.

Check State regulations for additional restrictions and delineations of geographical areas within States.

Seasons in the Atlantic

Flyway:	
Connecticut	Jan. 16 to Jan. 31.
Florida	Jan. 21 to Jan. 31.
Maryland	Nov. 24 to Dec. 8.
Massachusetts	Nov. 30 to Dec. 15.
New Jersey	Jan. 4 to Jan. 19.
New York: Long Island zone only	Jan. 5 to Jan. 20.
Rhode Island	Jan. 12 to Jan. 27.
Virginia	Jan. 21 to Jan. 31.

Seasons in the Mississippi

Flyway:	
Indiana	Dec. 9 to Dec. 24.
Louisiana	Jan. 21 to Jan. 31.
Michigan	Nov. 23 to Dec. 8.
Ohio (North Zone Only)	Dec. 3 to Dec. 18.
Wisconsin	Nov. 25 to Dec. 10.

(g) *Extra teal during regular season.* Hunting seasons for blue-winged and green-winged teal ducks in the Atlantic Flyway, and blue-winged teal only in the Central Flyway, are prescribed according to the following table. The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

Daily bag limit	2
Possession limit	4

Check State regulations for additional restrictions and delineations of geographical areas within States.

Seasons in the Atlantic

Flyway:	
Connecticut	Oct. 20 to Oct. 27.
Delaware	Oct. 1 to Oct. 6.
Georgia	Nov. 7 to Nov. 9.
Maine	Nov. 21 to Nov. 25.

North zone	Oct. 1 to Oct. 9
South zone	Oct. 1 to Oct. 9
Massachusetts	Oct. 10 to Oct. 18.
New Hampshire	Oct. 3 to Oct. 11.
New York:	
North zone	Oct. 3 to Oct. 11.
South zone	Oct. 10 to Oct. 18.
West zone	Oct. 10 to Oct. 18.
Lake Champlain	Oct. 3 to Oct. 11.
Long Island	Nov. 14 to Nov. 22.
North Carolina:	
East zone	Nov. 21 to Nov. 24.
West zone	Dec. 5 to Dec. 9.
Pennsylvania	Oct. 3 to Oct. 6.
South Carolina	Dec. 5 to Dec. 9.
Vermont	Oct. 10 to Oct. 18.
West Virginia	Oct. 3 to Oct. 11.

Seasons in the Mississippi

Flyway:	
None.	
Seasons in the Central	
Flyway:	
North Dakota	Sept. 29 to Oct. 7.

Seasons in the Pacific

Flyway:	
None.	

¹ Shooting hours on first day begin at 12 noon.

² Shooting hours on first day begin at 8 a.m.

(h) *Extra scaup during regular season.* The following States may take an extra bag limit on scaup of two daily and four in possession during the regular duck hunting season. The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

Check State regulations for additional restrictions and delineations of geographical areas within States.

Seasons in the Atlantic

Flyway:	
Delaware	Oct. 1 to Oct. 6.
Georgia	Nov. 7 to Nov. 24.
Maine (South zone only)	Dec. 18 to Jan. 12.
New Hampshire	Nov. 21 to Nov. 25.
New York:	
North zone	Dec. 7 to Jan. 20.
South zone	Oct. 1 to Oct. 20.
West zone	Nov. 16 to Dec. 15.
North Carolina (Eastern zone)	Oct. 3 to Oct. 28.
Pennsylvania (on waters of Lake Erie and Presque Isle Bay only)	Nov. 23 to Dec. 16.
South Carolina	Oct. 3 to Oct. 28.
West Virginia	Nov. 21 to Nov. 24.
	Dec. 5 to Jan. 19.
	Oct. 27 to Dec. 15.

¹ Shooting hours on first day begin at 12 noon.

(i) *Special scaup and goldeneye season.* A special hunting season for scaup and goldeneye is prescribed according to the following table in the Lake Champlain areas which are described, delineated, and designated in the hunting regulations of the respective States.

Daily bag limit is 3 scaups or 3 goldeneyes or 3 in the aggregate.

The possession limit is 6 scaup or 6 goldeneyes or 6 in the aggregate.

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.

Check State regulations for additional restrictions and delineations of geographical areas within States.

Seasons in the Lake Champlain

area only:	
New York	Dec. 4 to Dec. 19.
Vermont	Dec. 4 to Dec. 19.

3. Section 20.106 is amended as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of three and a possession limit of six, and with shooting (including hawking) hours from one-half hour before sunrise until sunset, in the following areas for the dates indicated:

(a) In the Central Flyway portion of Colorado except the San Luis Valley area, seasons dates are October 13 through November 18, 1979.

(b) In the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (and including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio, season dates in the New Mexico portion are October 27, 1979, through January 27, 1980, and in the Texas portion, October 30, 1979, through January 30, 1980.

(c) In that portion of Oklahoma lying west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border, season dates in the Oklahoma portion are November 24, 1979, through January 20, 1980, and in the Texas portion, December 4, 1979, through January 30, 1980.

(d) In the North Dakota counties of Kidder, Stutsman, Benson, Emmons, Pierce, McLean, Sheridan, and Burleigh, and in the South Dakota counties of Campbell, Walworth, Potter, Dewey, and Corson, the season dates are September 7 through September 11, 1979.

(e) In all of the Central Flyway portion of Montana except Sheridan County and that area south and west of Interstate Highway 90 and the Big Horn River, the season dates are September 29 through November 4, 1979.

(f) In Crook, Goshen, Laramie, Niobrara, Platte and Weston Counties, Wyoming, the season dates are October 13 through November 18, 1979.

(g) Every hunter participating in the sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

4. Section 20.107 is amended as follows.

§ 20.107 Seasons, limits, and shooting hours for whistling swans.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking a limited number of whistling swans in Montana, Nevada, and Utah, subject to the following conditions:

(a) The season must run concurrently with the season for ducks.

(b) In Montana, no more than 500 permits may be issued authorizing each permittee to take one whistling swan in Teton County. The season dates are September 29, 1979, through December 30, 1979.

(c) In Nevada, no more than 500 permits may be issued authorizing each permittee to take one whistling swan in Churchill County. The season dates are November 3, 1979, through January 13, 1980.

(d) In Utah, no more than 2,500 permits may be issued authorizing each permittee to take one whistling swan. The season dates are October 6, 1979, through January 6, 1980.

(e) Permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

5. Section 20.109 is amended as follows.

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Hawking hours: One-half hour before sunrise until sunset daily.

Daily bag limit..... 3 singly or in the aggregate.
Possession limit..... 6 singly or in the aggregate.

Falconry, as a method of hunting, is permitted during the regular season. In States selecting extended seasons, special bag and possession limits for falconers apply to both the extended and regular seasons. In States not selecting extended seasons, regular bag and possession limits apply.

Check State regulations for additional restrictions, including exceptions to hawking hours and daily bag and possession limits; area descriptions; and area closures.

Atlantic Flyway	
Florida:	
Mourning doves.....	Oct. 1 to Jan. 15.
Rails.....	Sept. 1 to Dec. 16.
Woodcock.....	Nov. 1 to Feb. 15.
Snipe.....	Nov. 10 to Feb. 24.
All ducks, (except scaup), mergansers, and coots.	Oct. 6 to Jan. 20.
Scaup.....	Oct. 17 to Jan. 31. ¹
Maryland:	
Mourning doves.....	Sept. 1 to Oct. 13.
Rails and gallinules.....	Nov. 12 to Jan. 14.
Woodcock.....	Sept. 1 to Dec. 15.
Common snipe.....	Oct. 5 to Nov. 23.
Ducks, mergansers and coots.....	Dec. 4 to Jan. 29.
Canada geese:	
East Zone.....	Sept. 14 to Dec. 29.
West Zone.....	Oct. 5 to Jan. 19.
Snow geese.....	Oct. 17 to Jan. 31.
Massachusetts:	
Ducks, geese, and coot.....	Oct. 11 to Jan. 19.
Pennsylvania:	
Mourning doves.....	Sept. 1 to Dec. 15.
Ducks and geese.....	Oct. 10 to Jan. 12.
Virginia:	
Mourning doves, rails, and woodcock.....	Sept. 18 to Dec. 10.
All ducks, (except scaup), coots, mergansers, and gallinules.	Dec. 22 to Jan. 2.
Mississippi Flyway	
Illinois:	
Mourning doves and sora and Virginia rails.....	Oct. 10 to Dec. 31.
Waterfowl.....	Nov. 10 to Jan. 31.
Indiana: Woodcock only.....	Sept. 1 to Sept. 21.
Michigan:	
Rails, woodcock, snipe, and gallinules.....	Sept. 1 to Dec. 16.
Ducks, geese, mergansers, and coots.....	Sept. 29 to Dec. 16.
Minnesota:	
Rails, woodcock, and snipe.....	Sept. 1 to Dec. 16.
Ducks, geese, mergansers, coots, and gallinules.....	Sept. 29 to Jan. 13. ²
Missouri:	
Mourning doves only.....	Sept. 1 to Dec. 16.
Ducks, geese, mergansers, and coots.....	Oct. 24 to Jan. 20.

Central Flyway	
Colorado: Ducks, geese, coots, cranes, and band-tailed pigeons.....	Oct. 13 to Oct. 26.
Montana: Ducks, geese, coots, snipe, and cranes.....	Sept. 29 to Jan. 13.
New Mexico:	
Daily bag and possession limits in New Mexico are 2 and 4, respectively, singly or in the aggregate of migratory species named below and resident game species.	
Mourning doves, white-winged doves, and band-tailed pigeons.....	Sept. 1 to Nov. 16.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.....	Nov. 24 to Dec. 22.
	Oct. 15 to Jan. 20.

Ducks, geese, mergansers, coots, and gallinules.....	Oct. 15 to Jan. 20.
Oklahoma:	
Ducks, coots, geese, and cranes.....	Oct. 13 to Jan. 18.
Wyoming:	
Doves.....	Sept. 1 to Dec. 16.
Ducks, geese, and snipe.....	Sept. 29 to Jan. 6.
Pacific Flyway	
Colorado: Ducks, geese, coots, and band-tailed pigeons.....	Oct. 13 to Oct. 26.
Idaho:	
Mourning doves only.....	Sept. 1 to Oct. 20.
Ducks, coots, mergansers and snipe.....	Oct. 6 to Jan. 20.
Montana: Ducks, geese, coots, snipe, and swans.....	Sept. 29 to Jan. 13.
New Mexico:	
Daily bag and possession limits in New Mexico are 2 and 4, respectively, singly or in the aggregate of migratory species named below and resident game species.	
Mourning doves, white-winged doves, and band-tailed pigeons.....	Sept. 1 to Nov. 16.
Ducks, geese, mergansers, coots, and gallinules.....	Nov. 24 to Dec. 22.
Oregon:	
Daily bag and possession limits of 3 and 3, respectively, singly or in the aggregate of migratory species named below.	
Ducks, coots, and snipe.....	Oct. 6 to Jan. 20.
Utah:	
Mourning doves and band-tailed pigeons.....	Sept. 1 to Sept. 30.
Ducks, geese, mergansers, coots, and snipe only.....	Oct. 6 to Jan. 20.
Washington:	
Ducks, geese, mergansers, and coots.....	
Eastern Washington.....	Oct. 6 to Oct. 12.
Western Washington.....	Oct. 6 to Oct. 12.
	Jan. 14 to Jan. 20.
Wyoming:	
Doves.....	Sept. 1 to Dec. 16.
Ducks, geese, and snipe only.....	Sept. 29 to Jan. 6.

¹ In Florida, Statewide October 17, 1979, through January 20, 1980; designated area(s) January 21 through January 31, 1980. See State regulations.

² In Minnesota, the hawking hours are the same as for hunting in general. See State regulations.

Dated: September 7, 1979.

Lynn A. Greenwalt,
Director, U.S. Fish and Wildlife Service.

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