

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

OCT 31 2007

JOHN F. CORCORAN, CLERK
BY:  DEPUTY CLERK

IN THE MATTER OF

ORDER

AMENDMENT OF RULE OF COURT
GOVERNING PROCEDURE IN
PETTY OFFENSE CASES

By: James P. Jones
Chief United States District Judge

Upon the motion of the United States Attorney, SCHEDULE G attached with the Order of this Court dated April 7, 1998, governing procedure in petty offense cases - IN RE: RULE 58 FORFEITURES OF COLLATERAL IN LIEU OF APPEARANCE IN PETTY OFFENSE CASES - is updated to amend the entire forfeiture schedule for the United States Fish and Wildlife Service.

The attached SCHEDULE G is effective November 1, 2007, and will replace SCHEDULE G dated April 7, 1998, filed with the Forfeiture of Collateral Schedule.

The Clerk is directed to send certified copies of this Order to the magistrate judges of this court; to each place of holding court in this district; to the United States Fish and Wildlife Service; to the United States Attorney, Roanoke, Virginia; and the Central Violations Bureau, San Antonio, Texas.

ENTER: October 31, 2007

/s/ JAMES P. JONES
Chief United States District Judge

SCHEDULE G: UNITED STATES FISH AND WILDLIFE SERVICE

November 1, 2007

NOTE: Due to increased liability and potential severity for environmental degradation posed by commercial and organized activities, collateral amounts for violations listed herein shall be doubled for corporations, businesses, partnerships, hunt clubs, and other organizations committing such violations (18 USC 3571(C) - Fines For Organizations).

In no case may the amount of collateral forfeited for any single violation exceed the statutory maximum fine imposed for such violation.

50 CFR 13: General Permit Procedures

<u>Section Number</u>	<u>Offense</u>	<u>Collateral</u>
13.1	Engaging in activity for which a permit is required without a valid permit	250.00
13.43	Altering or misusing permit	250.00
13.44	Failing to display a permit as required	100.00
13.45	Failing to report permit activities as required	200.00
13.46	Failing to keep or retain permit records as required	150.00
13.47	Failing to permit inspection as required	500.00

50 CFR 14: Humane and Healthful Transport of Wild Mammals and Birds to the U.S.

<u>Section Number</u>	<u>Offense</u>	<u>Collateral</u>
14.103	Import, transport, cause or permit transport to the U.S. any wild mammal or bird in violation of Humane Transport Regulations	500.00 + value
14.104	Failure to provide English translation for any required certificate/document	150.00
14.105	Unauthorized acceptance by carrier of any wild mammal or bird for transport to the U.S.	500.00 + value
14.106	Failure by carrier to require proper primary enclosures for transport to U.S.	250.00 + value
14.107	Improper animal cargo space of a conveyance	500.00 + value
14.108	Violation by carrier of food/water requirements	500.00 + value
14.109(b)	Improper ambient air temperature and ventilation provided by holding area, transporting device, conveyance or terminal facility	500.00 + value
14.110	Improper or lack of animal holding area	500.00
14.111	Violation of handling requirements	250.00 + value
14.121 thru 14.172	Violation of primary enclosure specifications	500.00 + value

16 USC 4901-4916: Wild Bird Conservation Act of 1992

<u>Statute</u>	<u>Offense</u>	<u>Collateral</u>
16 USC 4901 <i>et seq.</i> (50 CFR 15)	Violate any regulations, prohibitions, or regulations of Act relating to the import of any exotic bird	
	Non-commercial	500.00 + value
	Commercial	1,000.00 + value

18 USC 42: Lacey Act

<u>Statute</u>	<u>Offense</u>	<u>Collateral</u>
18 USC 42(a)(1)	Importation, shipment, possession, of injurious wildlife	500.00 + value
18 USC 42 (c)	Importation of wildlife under inhumane or unhealthful conditions	500.00 + value

16 USC 3371-3378: Lacey Act Amendments

<u>Statute</u>	<u>Offense</u>	<u>Collateral</u>
16 USC 3372(a)(1)	Import, export, transport, sell, receive, acquire, or purchase, any fish, wildlife, or plant taken, possessed, transported, or sold in violation of any law, treaty or regulation of the United States, or in violation of any Indian tribal law	500.00 + value
16 USC 3372(a)(2)	Import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce, (A) any fish or wildlife, taken, possessed, transported, or sold in violation of any law or regulation of any State, or in violation of any foreign law (B) any plant taken, possessed, transported, or sold in violation of any law or regulation of any State	500.00 + value 500.00 + value
16 USC 3372(a)(3)	Within the special maritime and territorial jurisdiction of the United States (as defined by 18 USC 7), (A) possess any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State, or in violation of any foreign law or Indian tribal law (B) possess any plant taken, possessed, transported or sold in violation of any law or regulation of any State	500.00 + value 500.00 + value
16 USC 3372(a)(4)	Attempt to commit any act described in 16 USC 3372(a)(1) through 16 USC 3372(a)(3)	500.00
16 USC 3372(b)	Import, export, or transport in interstate commerce any container or package containing any fish or wildlife without the container having previously been plainly marked, labeled or tagged	250.00

<u>Statute</u>	<u>Offense</u>	<u>Collateral</u>
16 USC 3372(c)	Sale and purchase of guiding and outfitting services and invalid licenses and permits. It shall be deemed to be a sale of fish or wildlife in violation of this Act,	
	(1)(A) to offer or provide guiding, outfitting, or other services for money or other consideration, for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife	1000.00 + value
	(1)(B) to offer or provide a hunting or fishing license or permit for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife	1000.00 + value
	It shall be deemed to be a purchase of fish or wildlife in violation of this Act,	
	(2)(A) to obtain for money or other consideration guiding, outfitting, or other services for the illegal taking, acquiring, receiving, transporting, or possessing of fish and wildlife	1000.00 + value
	(2)(B) to obtain for money or other consideration a hunting or fishing license or permit for the illegal taking, acquiring, receiving, transporting, or possessing of fish and wildlife	1000.00 + value
16 USC 3372(d)	Make or submit any false record, account or label for, or any false identification of any fish, wildlife, or plant which has been or is intended to be,	
	(1) imported, exported, transported, sold, purchased, or received from any foreign country	1000.00 + value
	(2) transported in interstate or foreign commerce	1000.00 + value
<u>50 CFR 16: Regulations for the Importation or Shipment of Injurious Species</u>		
<u>Section Number</u>	<u>Offense</u>	<u>Collateral</u>
16.3 thru 16.13(a)	Unauthorized import, transport, acquire or release of prohibited species or their progeny	1000.00 + 25.00/animal
16.13(b)(1)	Import live/dead or salmonid fish, eggs, or gametes of the family <u>Salmonidae</u> which are not accompanied by the required disease-free health certificate	500.00 + 25.00/fish
16.14 and 16.15	Release of imported live wild amphibians/reptiles or progeny or eggs thereof to the wild without authorization	1000.00 + 25.00/animal
16.22(b)(1)	Failure to properly confine injurious species	500.00 + 25.00/animal
16.22(b)(2)	Sell, donate, trade, loan, or transfer of injurious species to unauthorized person	500.00 + 25.00/animal

16 USC 703-711: Migratory Bird Treaty Act***Only if the offense is punishable under 16 USC 707(a) (involving taking without sale or intent to sell)**

<u>Statute</u>	<u>Offense</u>	<u>Collateral</u>
16 USC 703	Taking, pursuing, hunting, capturing, killing, or the attempt thereof; possess, sell, barter, purchase, ship, export, import, carry, transport, offer, or cause thereof; migratory birds, their parts, nests, or eggs, without authorization	1000.00 + value + 50.00 per part, nest, egg, animal
16 USC 705	Ship, transport, carry in interstate or foreign commerce, any bird, part, nest, or egg, thereof, carried contrary to the law of the place where captured, killed, taken, shipped, transported, or carried	1000.00 + value + 50.00 per part, nest, egg, animal

50 CFR 20: Migratory Game Bird Hunting Regulations

<u>Section Number</u>	<u>Offense</u>	<u>Collateral</u>
20.21(a)	Take with illegal device or substance	1000.00 + value
20.21(b)	Take with shotgun capable of holding more than three (3) shells	200.00 + value
20.21(c)	Take by means, aid or use of sink box	500.00 + value
20.21(d)	Take from or by means, aid, or use of a motor driven conveyance, motor vehicle or aircraft	500.00 + value
20.21(e)	Take by means of motorboat or other craft having motor attached and under power	500.00 + value
20.21(f)	Take by use or aid of live decoys	500.00 + value
20.21(g)	Take by use or aid of electronic/recorded calls	500.00 + value
20.21(h)	Take by means or aid of motor driven conveyance for concentrating, driving, or rallying, or stirring up any migratory bird	500.00 + value
20.21(i)	Take by aid of bait or on or over baited area (where the defendant knew, or reasonably should have known, that the area was a baited area)	1000.00 + value
20.21(j)	Take while possessing toxic shotshells or shot	100.00 + value + 20.00/toxic shell + forfeit toxic shells
20.22	Take during closed season	500.00 + value
20.23	Take before/after legal shooting hours 1-15 min. 16-30 min. 30+ min.	200.00 + value 300.00 + value 500.00 + value
20.24	Take in excess of daily bag limit	500.00 + value
20.25	Wanton Waste of migratory birds	500.00 + value
20.26	Failure to comply with temporary closure regs	250.00 + value
20.31	Possession of birds taken in violation of 20.20 through 20.26	500.00 + value
20.32	Possess freshly killed migratory birds during closed season	500.00 + value
20.33	Exceed possession limit of migratory birds taken in the U.S.	500.00 + value
20.34	Possess in excess of daily bag limit on the opening day	500.00 + value

<u>Section Number</u>	<u>Offense</u>	<u>Collateral</u>
20.35	Possess, have in custody or transport in excess of daily bag limit	250.00 + value
20.36	Violation of tagging regulations	250.00 + value
20.37	Receipt or custody of untagged birds of another	250.00 + value
20.38	Live wounded birds in possession	300.00 + value
20.40	Receive, possess, give to another untagged birds	250.00 + value
20.41	Transport birds taken in violation of 20.20 thru 20.26	500.00 + value
20.42	Transportation of untagged birds of another	250.00 + value
20.43	Transport mig. game birds with species ID removed	500.00
20.44	Transport unmarked or improperly marked package containing mig. game birds via postal service or common carrier	500.00 per package
20.51	Export birds taken in violation of 20.12 through 20.24	500.00 + value
20.52	Export birds with species ID removed	500.00 + value
20.53	Export unmarked or improperly marked packages containing mig. birds as required	500.00 per package
20.61	Import mig. game birds in excess of legal limit	500.00 + value
20.62	Import mig. game birds belonging to another	250.00 + value
20.63	Import mig. game birds with species ID removed	500.00 + value
20.64	Import, possess, transport birds killed in foreign country without required export permits	250.00 + value
20.65	Import birds not drawn or dressed as required	250.00 + value
20.66	Import unmarked or improperly marked packages containing mig. birds as required	250.00 + value
20.71	Take, possess, transport, or export migratory birds, their parts, nests, or eggs in violation of any other federal law or regulation	500.00 + value
20.72	Take, possess, transport, or export migratory birds, their parts, nests, or eggs in violation of any other state law or regulation	500.00 + value
20.73	Import, possess, or transport, migratory birds, their parts, nests, or eggs if taken, bought, sold, transported, possessed, or exported contrary to any law or regulation of any foreign country, state, or province thereof	500.00 + value
20.81	Migratory bird preservation facility with untagged mig. birds of another as required under 20.36	500.00 + value
20.82	Violation of record keeping requirement	350.00
20.83	Failure to permit premise inspection	500.00
20.100	Take mig. game birds for which no season has been established	250.00 + value
20.133	Violation of crow hunting regulations	50.00 + 50.00/bird

50 CFR 21: Migratory Bird Permit Violations

<u>Section Number</u>	<u>Offense</u>	<u>Collateral</u>
21.2 thru 21.27	Migratory Bird Permit Violations	250.00
21.28	Violation of Falconry Permit requirements	250.00
21.28(d)(1)	Take, possess, transport, golden eagle for falconry without a permit	500.00
21.29	Violation of Falconry Standards	250.00
21.29(d)	Take, possess, transport raptor in violation of 50 CFR 21.29	250.00
21.29(e)(3)(v)	Unauthorized take of a threatened raptor species	500.00 + value
21.29(g)	Failure to comply with facility/equip. standards	250.00
21.29(i)	Unauthorized take of raptor	350.00 + value
21.29(j)	General violations of Misc. Falconry Regs	250.00
21.29(j)(5)	Retain or exchange molted feathers for other than imping purposes	250.00 + 50.00/feather
21.30	General violation of Raptor propagation permit	250.00 + \$100/bird
21.30(a)	Take, possess, transport, sell, purchase, barter or transfer any raptor, raptor egg, or raptor semen, for propagation without authorization	350.00 + value
21.30(d)(12)	Unauthorized hybridization of raptors	500.00
21.41 thru 21.43	Violation of Depredating Bird regulations	300.00
21.41(c)(1)	Unauthorized killing of depredating mig. birds	300.00 + value
21.42	Take or kill of depredating birds by unauthorized method or in unauthorized area	300.00 + value

16 USC 718: Migratory Waterfowl Hunting and Conservation Stamp Tax Act

<u>Statute</u>	<u>Offense</u>	<u>Collateral</u>
16 USC 718a	Hunt migratory waterfowl without a federal waterfowl hunting stamp	500.00 + value
16 USC 718b	Hunting migratory waterfowl with an invalid (unsigned) federal waterfowl stamp	500.00 + value
16 USC 718e(a)	Loan or transfer valid migratory stamp to another person, or use stamp validated by another	500.00 + value
16 USC 718e(b)	Alter, mutilate, imitate, or counterfeit migratory waterfowl stamp	500.00

16 USC 5301 - 5306: Rhinoceros and Tiger Conservation Act of 1998

<u>Statute</u>	<u>Offense</u>	<u>Collateral</u>
16 USC 5305(a)	Sale, import or export of any product, item or substance intended for human consumption or application containing or labeled or advertised as containing any substance derived from any species of rhinoceros or tiger.	1000.00

16 USC 431-433: American Antiquities Act

<u>Statute</u>	<u>Offense</u>	<u>Collateral</u>
16 USC 433	Appropriate, excavate, injure, or destroy historic or prehistoric ruins, or monument, or any object of antiquity	1000.00

****Replacement values for illegally taken migratory birds shall be in accordance with the Commonwealth of Virginia Department of Game and Inland Fisheries' Revised Replacement Values of Illegally Taken Wildlife and Fish, dated August 25, 2005, attached hereto and identified as Appendix A.**

*****Based upon the egregiousness of a particular offense, a charging officer may, at his or her discretion, designate a mandatory appearance in lieu of posting of collateral for any offense listed in this schedule.**

WILDLIFE/PROPERTY FORFEITURE ORDER

Unless otherwise specifically ordered by a United States Court, any fish, wildlife, plants, or property which has been seized under the authority of the Migratory Bird Treaty Act, 16 USC 703-712; the Migratory Waterfowl Hunting Stamp Act, 16 USC 718-718i; the American Antiquities Act, 16 USC 433; the Rhinoceros and Tiger Conservation Act of 1998, 16 USC 5301-5306 and Wild Bird Conservation Act, 16 USC 4901-4916, where final disposition of the case has been made by either payment of a forfeiture of collateral or a judgement by the Court on behalf of the government and where so authorized by statute, such wildlife or property shall be forfeited to the U.S. government and disposed of by the U.S. Fish & Wildlife Service in the manner prescribed by Title 50, Code of Federal Regulations, Part 12.

**COMMONWEALTH of VIRGINIA**

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Department of Game and Inland Fisheries

Colonel W. Gerald Massengill
Interim Director

August 25, 2005

REVISED REPLACEMENT VALUES ILLEGALLY TAKEN WILDLIFE AND FISH**TO COUNTY JUDGES AND COMMONWEALTH ATTORNEYS:**

Under the provisions of Chapter 469, Acts 1962, amending Section 29.1-550 of the game, and inland fish code, it is provided that certain penalties be exacted in the way of fines, costs and jail sentences, and, further, as follows:

§29.1-551 - The judge, or court, upon convicting any person of a violation of §29.1-523 or §29.1-530.2, 29.1-548, 29.1-550 or §29.1-552, shall in addition to imposition of the punishment prescribed in those sections, ascertain the approximate replacement value of animals, birds, or fish taken in violation of those sections and shall assess the value against the person convicted. The assessment shall be paid by the person so convicted within the time prescribed in the judgment of the judge or court, not exceeding sixty days and the collecting officer shall forward such payments to the Board for payment into the state treasury. The Comptroller shall credit such payments to the game protection fund. (Code 1950, § 29-163.2; 1950, p.936; 1952, c. 78; 1962, c. 469; 1976, c.660; 1987, c. 488; 1994, c. 412.)

We are listing below for your guidance a schedule of costs for replacing certain species of game and fish, which we suggest that you use as a guide.

GAME AND FUR BEARING ANIMALS**REPLACEMENT VALUE**

BEAR	\$1,500.00
BEAVER	50.00
BOBCAT	250.00
DEER	500.00
FOX	100.00
MINK	75.00
MUSKRAT	25.00
OPOSSUM	25.00
OTTER	500.00
RABBIT	25.00
RACCOON	75.00
SQUIRREL	10.00

GAME BIRDS

REPLACEMENT VALUE

CLAPPER OR KING RAIL	\$25.00
COOT	25.00
DOVE	25.00
DUCKS	50.00
GEESE	75.00
GROUSE	75.00
PHEASANTS	50.00
QUAIL	75.00
SORA	25.00
TURKEY	500.00
WOODCOCK	75.00

RAPTORS

REPLACEMENT VALUE

TURKEY VULTURE	\$500.00
BLACK VULTURE	500.00
NORTHERN HARRIER	1,000.00
MISSISSIPPI KITE	750.00
SWALLOW-TAILED KITE	750.00
SHARP-SHINNED HAWK	500.00
COOPER'S HAWK	500.00
NORTHERN GOSHAWK	750.00
RED-SHOULDERED HAWK	500.00
BROAD-WINGED HAWK	500.00
RED-TAILED HAWK	500.00
ROUGH-LEGGED HAWK	750.00
BALD EAGLE	1,500.00
GOLDEN EAGLE	750.00
OSPREY	500.00
MERLIN	750.00
AMERICAN KESTREL	500.00
GYRFALCON	750.00
PEREGRINE FALCON	1,500.00
BARN OWL	1,000.00
LONG-EARED OWL	750.00
SHORT-EARED OWL	750.00
GREAT HORNED OWL	500.00
SNOWY OWL	750.00
BARRRED OWL	500.00
NORTHERN SAW-WHET OWL	1,000.00
EASTERN SCREECH-OWL	500.00
UNIDENTIFIED/UNSPECIFIED RAPTOR	500.00

FISH

REPLACEMENT VALUE

BROOK, RAINBOW OR BROWN TROUT	\$10.00
LARGEMOUTH BASS, SMALLMOUTH BASS AND SPOTTED BASS	25.00
ROCKBASS, BLUEGILL, CRAPPIE AND OTHER SUN FISH	3.00
WALLEYE	20.00
CHAIN PICKEREL	10.00
NORTHERN PIKE	50.00
MUSKELLUNGE	300.00
STRIPED BASS, STRIPED BASS HYBRID	100.00
OTHER CATFISH	10.00
BLUE & FLATHEAD CATFISH.....	50.00
AMERICAN SHAD	35.00

All other species replacement values per "Investigation and Valuation Fish Kills" of the American Fisheries Society special publication 24.

Sincerely,


Colonel W. Gerald Messengill
Interim Director

WGM:dr