



ELEMENTS OF CONSERVATION LAW



VERSION 3

**QUICK GUIDE FOR ARMY CONSERVATION LAW
ENFORCEMENT OFFICERS**



October 2017



Inches

The purpose of this quick guide is to provide a field book that assists the Army's Conservation Law Enforcement Officers in

1. identifying conservation law violations;
2. educating violators on conservation laws; and
3. building prosecutable cases by collecting evidence to prove all elements of the violation.



Centimeters

If you have any comments, questions or suggestions for improvement, please contact:

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The Army Environmental Command is a subordinate of the U.S. Army Installation Management Command.

If you have suggested improvements, please send your comments to USARMY.JBSA.AEC.MBX@mail.mil.



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Where the law specifies a "knowing" violation:

- Ignorance of the law is no defense.
- Knowledge of illegality is not required.
- Only awareness that actions affected a resource is required.

It is expected that individuals/organizations act with due care (i.e., care that an ordinary and reasonable person would normally exercise to insure that he/she is not violating the law).

General Elements of violation are:

1. The individual knew he/she affected a natural/cultural resource by the nature of their activities.
2. The individual knew his/her actions were not specifically authorized.

The individual need not:

- know the law or violation
- know a permit was required
- know the exact identity (species) of the natural resource

However:

- Current case law establishes how violations can be prosecuted.

REGULATORS



The Sikes Act Section 106 [16 USC §670e-2] authorizes CLEOs to enforce all federal laws related to the management of natural resources on military land.



The U.S. Fish and Wildlife Service regulates the taking, possession, transportation, sale, purchase, barter, exportation, and importation of wildlife protected by the Lacey Act, MBTA, BGEPA, ESA, and MMPA (walrus, manatees, otters, and polar bears only).



State Departments of Natural Resources and Game Wardens regulate hunting, fishing and trapping on installations in accordance with the Engle Act Section 4 [10 USC §2671].



The National Marine Fisheries Service have jurisdiction over endangered and threatened marine species protected under ESA and over all whales, dolphins, porpoises, seals and sea lions protected under MMPA.

COMMON VIOLATION CODES

Title 10 USC 2671	Military Hunting/Fishing/Trapping
Title 16 USC 470	Archaeological Resources Protection Act
Title 16 USC 470ee	Native American Grave Repatriation Act
Title 16 USC 668	Bald Eagle Protection Act
Title 16 USC 670e-1	Sikes Act Enforcement of Federal Laws
Title 16 USC 703	Migratory Bird Treaty Act
Title 16 USC 1538	Endangered Species Act
Title 16 USC 3372	Lacey Act
Title 18 USC 13	Assimilative Crimes Act
Title 18 USC 641	Theft of Government Property
Title 18 USC 1361	Depredation of Government Property
Title 18 USC 1382	Trespassing
Title 18 USC 1852	Timber Removed or Transported
Title 18 USC 1853	Trees Cut or Injured
Title 18 USC 1855	Timber Set Afire
Title 18 USC 1856	Fires Left Unattended and Unextinguished
Title 18 USC 1857	Fences Destroyed; Livestock Entering
Title 18 USC 1866	Historic, Archaeological, or Prehistoric Items and Antiquities
Title 50 USC 797	DOD Security Regulations
50 CFR Part 20	Migratory Bird Hunting

GENERAL DEFINITIONS

Active Nest (eagles): a nest that is attended, built, maintained or used by a pair of eagles during a given breeding season, whether or not eggs are laid.

Active Nest (migratory birds): a nest that contains eggs or young, or is otherwise still essential to the survival of a juvenile or colonial nesting bird.

Harass [50 CFR §17.3]: an intentional, negligent act, or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding feeding, or sheltering.

Harm [50 CFT §17.3]: such act may include significant habitat modification or degradation where it kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

Incidental take [50 CFR §17.3]: any take otherwise prohibited, if such take is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Military Readiness [50 CFR §21.3]: includes all Armed Forces training and operations that relate to combat or testing of military equipment for combat use. It does not include (a) routine operation of installation support functions, (b) operation of industrial activities, or (c) construction or demolition of facilities.



Take [50 CFR §10.12]: pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to do any such act. Beyond the above definition, Take can vary by law. The following overview lists Take from most to least restrictive:

- **ESA** - includes harass and harm; incidental take prohibited unless permitted
- **MMPA** - includes harass; incidental take prohibited unless permitted
- **BGEPA** - includes disturb (essentially = harass); incidental take prohibited unless permitted
- **MBTA** - basic take definition; avoidable take prohibited but no permit process for incidental take
- **Lacey Act** - basic take definition that is also illegal due to crossing jurisdictional boundaries or due to other laws and regulations

Trafficking: import, export, transport across state lines, sell, purchase, barter, or exchange.

Definitions [16 USC §1532]

Fish or Wildlife: any member of the animal kingdom ... and **includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.**

Plant: any member of the plant kingdom, including seeds, roots and other parts thereof.

Prohibited Acts [16 USC § 1538]

(A) import any such species into, or export any such species from the United States;

(B) **take** any such species within the United States or the territorial sea of the United States;

(C) take any such species upon the high seas;

(D) **possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of** subparagraphs (B) and (C);

(E) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(F) sell or offer for sale in interstate or foreign commerce any such species; or

(G) **violate any regulation pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 4 of this Act and promulgated by the Secretary pursuant to authority provided by this Act.**

Penalties and Enforcement [16 USC § 1540]

Any person **who knowingly violates, and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates, any provision of [ESA], any provision of any [ESA] permit or certificate, or of any [ESA] regulation may be assessed civil or criminal penalties.**

ESA VIOLATION ELEMENTS

1. Define the Protected Feature:

Native plant and animal species determined to be endangered or threatened; any parts thereof designated critical habitat; their suitable habitat as regulated by consultations with USFWS; their essential behaviors.

2. Pinpoint the Act or Conduct:

- Trafficking the resource
- Possess or transport the resource
- Take Animals: harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, (or attempt to engage in any such conduct)
- Take Federal Plants: remove, reduce to possession, or maliciously damage
- Take Non-federal Plants: remove, cut, dig up, damage or destroy in knowing violation of the law

3. Identify Surrounding Circumstances:

- Federal or non-federal land
- Federal - all regulations apply
- Non-federal - usually must demonstrate direct and knowing take; incidental take not prosecutable
- Any disruption of essential behaviors



4. Determine intent:

- Civil: "knowingly" violates as defined of page 1
- Criminal: may require knowledge of the species and its status

5. Statute Exceptions:

- USFWS authorized permit
- Subsistence for Alaska natives
- Economic hardship
- Self-defense
- National defense granted by Secretariat

6. Maximum Penalties:

Civil: \$25K/Endangered species violation and \$12K/Threatened species violation
 Criminal: \$50K and/or 1 yr/Endangered species violation and \$25K and/or 6mo/Threatened species violation.

MARINE MAMMAL PROTECTION ACT

Prohibitions [16 USC § 1372]

(a) Taking

Except as provided in sections 1371, 1373, 1374, 1379, 1381, 1383, 1383a, and 1387 of this title and subchapter V of this chapter, it is unlawful—

- (1) for any person subject to the jurisdiction of the United States or any vessel or other conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas;
- (2) except as expressly provided for by an international treaty, convention, or agreement to which the United States is a party and which was entered into before the effective date of this subchapter or by any statute implementing any such treaty, convention, or agreement—
 - (A) for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States; or
 - (B) for any person to use any port, harbor, or other place under the jurisdiction of the United States to take or import marine mammals or marine mammal products; and
- (3) for any person, with respect to any marine mammal taken in violation of this subchapter, to possess that mammal or any product from that mammal;
- (4) for any person to transport, purchase, sell, export, or offer to purchase, sell, or export any marine mammal or marine mammal product—
 - (A) that is taken in violation of this chapter; or
 - (B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 1374(c) of this title; and

- (5) for any person to use, in a commercial fishery, any means or methods of fishing in contravention of any regulations or limitations, issued by the Secretary for that fishery to achieve the purposes of this chapter.
- Penalties [16 USC § 1375]*
- (a) (1) Any person who violates any provision of this subchapter or of any permit or regulation issued thereunder, except as provided in section 1387 of this title, may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each unlawful taking or importation shall be a separate offense.
- (b) Any person who knowingly violates any provision of this subchapter or of any permit or regulation issued thereunder (except as provided in section 1387 of this title) shall, upon conviction, be fined not more than \$20,000 for each such violation, or imprisoned for not more than one year, or both.

MMPA VIOLATION ELEMENTS

1. Define the Protected Features:

Whale, dolphin, porpoise, seal, sea lion or walrus, manatee, otter, or polar bear; any part of any such marine mammal; any product composed in whole or in part of any marine mammal; their essential behaviors.

2. Pinpoint the Act or Conduct:

- Trafficking the resource
- Possess or transport the resource
- Take: harass, hunt, capture, kill (or attempt to do any such act)

3. Identify Surrounding Circumstances:

- U.S. territory including 200 mi from shore, or U.S. vessel on the high seas
- Any disruption of essential behaviors
- Military readiness vs. non-readiness for probable vs. potential harassment

4. Determine intent:

- Civil: “any person who violates” has no prerequisite knowledge
- Criminal: “knowingly violates” as defined on page 1; for criminal harassment, need to show the action caused serious disruption or harm.

5. Statute Exceptions:

- NOAA-NMFS authorizations
- Native Alaskan subsistence
- Self-defense if immediate danger
- Good Samaritan for entangled mammals
- U.S. citizen on high seas and working on foreign vessel
- National defense granted by Secretariat

6. Maximum Penalties:

- Civil: \$10K/violation
- Criminal: \$100K and/or up to 1yr (double fine for organizations)

Prohibited Acts; Criminal Penalties [16 USC § 668a]

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as hereinafter provided, shall knowingly, or with wanton disregard for the consequences of his act take, possess, sell, purchase, barter, offer

to sell, purchase or barter, transport, export or import, at any time or in any manner, any bald eagle commonly known as the American eagle, or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit or regulation issued pursuant to this Act, shall be fined ...

Prohibited Acts; Civil Penalties [16 USC § 668b]

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as provided in this Act, shall take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any bald eagle, commonly known as the American eagle, or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit

or regulation issued pursuant to this Act, may be assessed a civil penalty by the Secretary ...

BGEPA VIOLATION ELEMENTS

1. Define the Protected Features:

Bald eagle or golden eagle; active and inactive eagle nests; any eagle part including feathers; their essential behaviors.

2. Pinpoint the Act or Conduct:

- Trafficking the resource
- Possess or transport the resource
- Take: pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb*

Disturb: agitate or bother to the degree that causes or is likely to cause injury, decrease in productivity, or nest abandonment

* Can be any bothersome action within a prescribed buffer zone of an active nest

3. Identify Surrounding Circumstances:

- All US territory (federal, state, or private)
- Disturbing actions within protected buffer zone
- Distance of action to active nest

4. Determine intent:

- Civil: "shall take" has no prerequisite knowledge

- Criminal: "knowingly or with wanton disregard for the consequences of his act" requires more than mere negligence - must show person was conscious of surrounding circumstances and that his conduct would naturally and probably result in eagle injury
- 5. Statute Exceptions:
 - USFWS authorized permit
 - Possession of bald eagle parts prior to 1940
 - Possession of golden eagle parts prior to 1962
 - Self-defense is NOT an exception
 - Military readiness is NOT an exception
- Maximum Penalties:
 - Civil: \$5K/violation
 - Criminal: \$100K and/or 1yr for 1st offense; \$250K and/or 2yr for 2nd+ offense (double fi for organizations)

Taking, killing, or possessing migratory birds unlawful [16 USC § 703] Unless and except as permitted by regulations made as hereinafter provided in this subchapter, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to

take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or eggs of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof, included in the terms of the conventions between the United States and Great Britain

for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972 and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976.

Violations and penalties; forfeitures [16 USC § 707]

- (a) Except as otherwise provided in this section, any person, association, partnership, or corporation who shall violate any provisions of said conventions or of this subchapter, or who shall violate or fail to comply with any regulation made pursuant to this subchapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$15,000 or be imprisoned not more than six months, or both.
- (b) Whoever, in violation of this subchapter, shall knowingly—
 - (1) take by any manner whatsoever any migratory bird with intent to sell, offer to sell, barter or offer to barter such bird, or
 - (2) sell, offer for sale, barter or offer to barter, any migratory bird shall be guilty of a felony and shall be fined not more than \$2,000 or imprisoned not more than two years, or both

MBTA VIOLATION ELEMENTS

1. Define the Protected Features:

Nearly all native birds of the U.S. as defined by 50 CFR 10.13; any part or product thereof; and active nests.

Common Birds Not Covered: house sparrow, European starling, rock dove (pigeon), mute swan.

2. Pinpoint the Act or Conduct:

- Trafficking the resource
- Possess or transport the resource
- Take: pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct

3. Identify Surrounding Circumstances:

- All US territory (federal, state, or private)
- Active vs. Inactive nests
- Humane vs. inhumane handling to remove from building
- Military readiness vs. preparing/supporting the mission

4. Determine intent:

Being a strict liability (no criminal intent need be proved), all MBTA violations are criminal.

Misdemeanor: "who shall" requires no prerequisite knowledge
 Felony: "shall knowingly" as defined on page 1

5. Statute Exceptions:

- USFWS authorized permit
- Humanely remove birds in buildings and immediately release in wild habitat suitable for the species
- Transport a sick or injured bird to a federally permitted migratory bird rehabilitator
- Take incidental to military readiness actions

6. Maximum Penalties:

- Criminal Misdemeanor: \$15K/violation and/or up to 6mo
- Criminal Felony: \$2K/violation and/or 2yr
- Potential for \$100K for misdemeanor and \$250K for felony

- (a) It is unlawful for any person—
- (1) to import, export, transport, sell, receive, acquire, or purchase any fish or 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;
- (2) to 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—
- (i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—
- (A) any prohibited wildlife species (any live species of lion, tiger, leopard, cheetah, jaguar, or cougar or any hybrid of such a species);
- (3) within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18)—
- (A) to 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, or
- (B) to possess any plant—
- (i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—
- (4) to attempt to commit any act described in paragraphs (1) through (3).

(b) Marking offenses

It is unlawful for any person to import, export, or transport in interstate commerce any container or package containing any fish or wildlife unless the container or package has previously been plainly marked, labeled, or tagged in accordance with the regulations issued pursuant to paragraph (2) of section 3376 (a) of this title.

(c) Sale and purchase of guiding and outfitting services and invalid licenses and permits

(1) Sale

It is deemed to be a sale of fish or wildlife in violation of this chapter for a person for money or other consideration to offer or provide—

- (A) guiding, outfitting, or other services; or
- (B) a hunting or fishing license or permit; for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(2) Purchase

It is deemed to be a purchase of fish or wildlife in violation of this chapter for a person to obtain for money or other consideration—

- (A) guiding, outfitting, or other services; or
- (B) a hunting or fishing license or permit; for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(d) False labeling offenses

It is unlawful for any person to 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; or
- (2) transported in interstate or foreign commerce.

Penalties and sanctions [16 USC § 3373]

(a) Civil penalties

- (1) Any person who **engages in conduct** prohibited by any

- provision of this chapter (other than subsections (b), (d), and (f) of section 3372 of this title) **and in the exercise of due care should know that** the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty, or regulation, and any person who knowingly violates subsection (d) or (f) of section 3372 of this title, may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation: Provided, That when the violation involves fish or wildlife or plants with a market value of less than \$350, and involves only the transportation, acquisition, or receipt of fish or wildlife or plants taken or possessed in violation of any law, treaty, or regulation of the United States, any Indian tribal law, any foreign law, or any law or regulation of any State.
- (b) **Criminal penalties**
- (1) Any person who—
- (A) **knowingly** imports or exports any fish or wildlife or plants in violation of any provision of this chapter (other than subsections (b), (d), and (f) of section 3372 of this title), or
- (B) violates any provision of this chapter (other than subsections (b), (d), and (f) of section 3372 of this title) by knowingly engaging in conduct that involves the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, fish or wildlife or plants with a market value in excess of \$350, knowing that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation

LACEY ACT VIOLATION ELEMENTS

1. Define the Protected Features:

- All illegally taken and trafficked fish or wildlife
- Plants protected by CITES treaty or by State law that are trafficked
- Illegally taken and trafficked tree species or product thereof
- Unmarked and trafficked fish or wildlife
- Falsely marked and trafficked fish, wildlife or plant

2. Pinpoint the Act or Conduct:

- Taken: captured, killed, collected or harvested
- Trafficked: import, export, transport, sell, receive, acquire, purchase across any state line
- Cross state lines with unmarked fish or wildlife
- Sell or purchase guiding/outfitting services to illegally take fish or wildlife
- Falsely labeled fish, wildlife or plants

3. Identify Surrounding Circumstances:

- Lands with protected fish, wildlife or plants
- Taken in violation of an underlying law or regulation
- Trafficking across state lines
- Market value

- Commercial versus non-commercial activity
- 4. Determine intent:**
- Civil: "in the exercise of due care" as defined of page 1
 - Criminal Misdemeanor: "knowingly" violates as defined of page 1
 - Criminal Felony: must prove the defendant knew the fish/wildlife/plant was illegally taken and/or the market value or commercial conduct warrants a felony
- 5. Statute Exceptions:**
- Common cultivars (except trees) and food crop species
 - Scientific specimen (must be permitted by an underlying law)
 - Plants that remain or will be planted within same jurisdiction taken (unless underlying law prohibits)
- 6. Maximum Penalties:**
- Civil: \$10K/violation
 - Criminal: \$100K for misdemeanor; \$250K for felony and/or up to five yrs (double fines for organizations)

(a) No person may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4 of this Act, a permit referred to in section 4(h)(2) of this Act, or the exemption contained in section 4(g)(1) of this Act.

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a) of this section, or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to

sell, purchase, or exchange, in interstate or foreign commerce, any

archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

(d) Any person who knowingly violates, or counsels, procures, solicits, or

employs any other person to violate, any prohibition contained in

subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than one year, or both:

Provided, however, that if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of \$500, such person shall be fined

not more than \$20,000 or imprisoned not more than two years, or both, in the case of a second or subsequent such violation upon conviction such person shall be fined not more than \$100,000, or imprisoned not more than five years, or both.

(e) The prohibitions contained in this section shall take effect on October 31, 1979 [the date of the enactment of this Act].

- (f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to any archaeological resource which was in the lawful possession of such person prior to October 31, 1979.
- (g) Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

Civil Penalties [16 USC § 470ff]

- (1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.
- (2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—
 - (A) the archaeological or commercial value of the archaeological resource involved, and
 - (B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed any amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

- (3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

ARPA VIOLATION ELEMENTS

1. Define the Protected Features:
Any material remains of past human life or activity or of archaeological interest and at least 100 years of age.

2. Pinpoint the Act or Conduct:

- Excavated, removed, damaged or otherwise altered or defaced (or attempt to do any such act) and/or trafficked
- Without an ARPA permit (or outside the scope of such permit)

3. Identify Surrounding Circumstances:

- Federal or Indian lands
- The archaeological and commercial values
- The cost of restoration/repair

4. Determine intent:

- Civil: "any person who violates" requires no prerequisite knowledge
- Criminal: "who knowingly violates" - current case law may require proof the defendant knew, or had reason to know, it was an archaeological resource

5. Statute Exceptions:

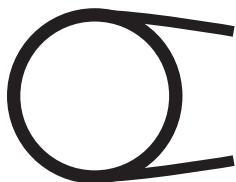
- SHPO authorized permits
- Excavation or removal by any Indian tribe member where the resource is located on Indian lands of such Indian tribe

6. Maximum Penalties:

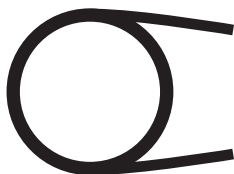
- Civil: Remittance to the Federal land manager accounting for the archaeological, commercial, and restoration costs. Second and subsequent violations double the costs
- Criminal Misdemeanor: \$10K and/or up to 1 yr for <\$500 value
- Criminal Felony: If sum of archaeological, commercial, and restoration costs >\$500 (very low threshold – most “knowing” violations of ARPA are felonies), then \$20K and/or up to 2yrs
- For second and subsequent violation = \$100K and/or up to 5yrs



GAUGE AND CALIBER INSPECTION



10 gauge
.775 inch



12 gauge
.730 inch



16 gauge
.670 inch



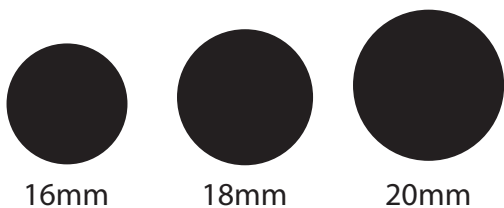
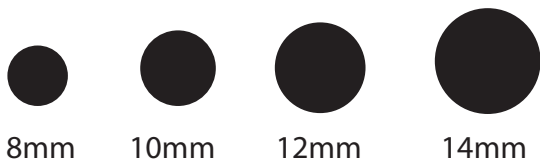
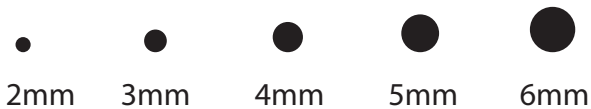
20 gauge
.615 inch



28 gauge
.550 inch



410 caliber
.410 inch





2mm



3mm



4mm



5mm



6mm



8mm



10mm



12mm



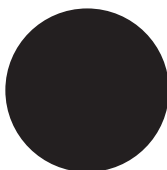
14mm



16mm



18mm



20mm

