

99.10 PAYMENT OF FIXED SUM IN LIEU OF APPEARANCE IN SUITABLE TYPES OF MISDEMEANOR CASES

(a) Purpose of Rule; Forms; Definitions. This Rule is adopted pursuant to Fed. R. Crim. P. 58 to promote the more efficient administration of justice and improve the effectiveness of court administration. The Court en banc may adopt any form related to the implementation of this Rule, including a violation notice form, and may establish the procedures to be followed in issuing, filing, and processing violation notices. As used in this Rule, “charge,” “offense,” and “violation” mean the violation set forth on the face of this violation notice.

(b) Payment of Fixed Sum in Lieu of Personal Appearance for Specified Misdemeanors. A defendant who is charged with committing a misdemeanor specified in Rule 99.10(c) – whether chargeable under an applicable federal statute or regulation or an applicable state statute or regulation by virtue of the Assimilative Crimes Act, 18 U.S.C. § 13 – may, prior to or at the time fixed for appearance, pay a fixed sum to the Clerk in lieu of personal appearance before the Court. Upon receiving this payment, the Clerk must terminate the proceeding. By making this payment, the defendant signifies that he or she:

1. Does not contest the charge;
2. Does not request a trial before a judge;
3. Agrees that the payment is the equivalent of a plea of guilty; and
4. Agrees that the amount so paid is forfeited to the United States.

(c) Schedules. The following “Omnibus Fine Schedule for Misdemeanor Offenses in Lieu of Personal Appearance” schedules sets out the misdemeanor offenses for which a fixed sum may be paid in lieu of personal appearance, and the sums to be paid.:

- ~~1. Schedule “A” entitled “Schedule of Cash Payments That May Be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of the Interior to Regulate the Occupancy and Use of National Parks, Reservations, and Monuments.”~~
- ~~2. Schedule “B” entitled “Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of Agriculture to Regulate the Occupancy and Use of National Forests, and for Violation of Statutes Relating to National Forests.”~~
- ~~3. Schedule “C” entitled “Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Administrator of General Services to Regulate the Occupancy and use of Public Buildings and Grounds.”~~
- ~~4. Schedule “D” entitled, “Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of the Interior to Regulate Hunting and Fishing and the Occupancy and Use of Wildlife Refuge Areas, and for Violation of Statutes Relating to Fish and Wildlife.”~~

- ~~5. Schedule "E" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of the Army to Regulate the Occupancy and Use of Water Resources Development Projects."~~
- ~~6. Schedule "F" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Administrator of Veterans' Affairs to Regulate the Occupancy and Use of Property, Buildings, and Facilities Under the Charge and Control of the Veterans Administration."~~
- ~~7. Schedule "G" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Postmaster General to Regulate the Occupancy and Use for Real Property Under the Charge and Control of the Postal Service."~~
- ~~8. Schedule "H" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Statutes or Regulations Regulating Registration and Operation of Motor Vehicles, Hunting, Trapping, and Fishing on Military Installations."~~
- ~~9. Schedule "I" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of the Interior to Protect, Manage, and Control Wild, Free-Roaming Horses and Burros and Maintain a Natural Ecological Balance on Lands Administered Through the Bureau of Land Management."~~

(d) Access and Modifications to Schedules. The "Omnibus Fine Schedule for Misdemeanor Offenses in Lieu of Personal Appearance" ~~schedules~~ specified in Rule 99.10(c) ~~are~~ is not published as part of these Rules, but ~~are~~ is incorporated into this Rule by reference. The Clerk must maintain copies of ~~such~~ the ~~schedules~~ for examination by the public during regular business hours upon request in the Clerk's Office in Kansas City, Springfield, and Jefferson City. The Court en banc may issue an order amending or supplementing any such schedule, substituting a page bearing a new number or numbers and the effective date.

(e) Mandatory Personal Appearances. A defendant must personally appear before the Court, and may not pay a fixed sum in lieu of appearance, if the alleged violation:

1. Is not shown on a schedule specified in Rule 99.10(c);
2. Involves the operation of a motor vehicle which was involved in a collision;
3. Is for operating a motor vehicle while under the influence of an intoxicating liquor, narcotic, or controlled substance;
4. Is for leaving the scene of a motor vehicle accident;
5. Is for operating a motor vehicle while operator's or chauffeur's licensee is under suspension or has been revoked;
6. Is for operating a motor vehicle without being licensed to drive;

7. Is for exceeding the speed limit, except on a military installation, by more than 15 miles per hour when operating a motor vehicle;

8. Is for exceeding the speed limit, on a military installation by more than 20 miles per hour when operating a motor vehicle; or

9. Is for a second moving traffic violation occurring within the preceding 12-month period when operating a motor vehicle.

(f) Arrests for Misdemeanor Violations. If, in the opinion of the enforcement officer or agent, the circumstances surrounding the alleged violation are so aggravated that payment of the specified sum may not be adequate punishment for the offense, or if the offense is one specified in Rule 99.10(e), this Rule does not prohibit the officer or agent from arresting the alleged offender and taking the offender immediately before a magistrate judge, or requiring the person, upon written notice, to appear before the Court.