States Treasury. Upon the failure of Maran to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Maran at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the *4th* day of *September* 2009.

By Order of the Commission.

Todd A. Stevenson,
Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. E9–22399 Filed 9–16–09; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2009–OS–0133]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), DOD.

ACTION: Notice of Proposed Amendments to the Manual for Courts-Martial, United States (2008 ed.) (MCM) and Notice of Public Meeting.

SUMMARY: The Department of Defense is considering recommending changes to the *Manual for Courts-Martial, United States* (2008 Edition) (MCM). The proposed changes constitute the 2009 annual review required by the MCM and DoD Directive 5500.17, ''Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' May 3, 2003 (DoD Directive 5500.17). The proposed changes concern the rules of procedure and evidence and the punitive articles applicable in trials by courts-martial. These proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, ''Preparation, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters Testimony,'' June 15, 2007, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency.

This notice also sets forth the date, time and location for the public meeting of the JSC to discuss the proposed changes.

This notice is provided in accordance with DoD Directive 5500.17. This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

In accordance with paragraph III.B.4 of the Internal Organization and Operating Procedures of the JSC, the committee also invites members of the public to suggest changes to the Manual for Courts-Martial.

DATES: Comments on the proposed changes must be received no later than November 16, 2009, to be assured consideration by the JSC. A public meeting for comments will be held on October 29, 2009 at 10:30 a.m.

ADDRESSES: A public meeting for comments will be held on October 29, 2009, at 10:30 a.m. in the 8th Floor Conference Room, 1501 Wilson Blvd., Rosslyn, VA 22209–2460.

You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Stacia Gawronski, Executive Secretary, Joint Service Committee on Military Justice, Office of the Judge Advocate General, Criminal Law Division (Code 20), 1254 Charles Morris Street, SE., Suite B01, Washington Navy Yard, District of Columbia 20374, (202) 685–7683, e-mail *stacia.gawronski@navy.mil.*

SUPPLEMENTARY INFORMATION: The proposed amendments by Executive Order to the MCM are as follows:

Section 1. Part III of the Manual for Courts-Martial, United States, is amended as follows:

(a) M.R.E. 504 (c)(2)(D) is added to read as follows: ''(D) Where both parties have been substantial participants in illegal activity, those communications between the spouses during the marriage regarding the illegal activity in which they have jointly participated are not marital communications for purposes of the privilege in subdivision (b), and are not entitled to protection under the privilege in subdivision (b).''

(b) The following amendments conform M.R.E. 609 to F.R.E. 609:

(1) M.R.E. 609 (a) is amended to substitute the words ''character for truthfulness'' for the word ''credibility.''

(2) M.R.E. 609 (a)(2) is amended to substitute the words ''regardless of the punishment, if it readily can be determined that establishing the elements of the crime required proof or admission of an act of dishonesty or false statement by the witness'' for the words ''if it involved dishonesty or false statement, regardless of the punishment.''

(3) M.R.E. 609(c) is amended to substitute the words ''a subsequent crime that was punishable by death, dishonorable discharge, or imprisonment in excess of one year'' for the words ''a subsequent crime which was punishable by death, dishonorable discharge, or imprisonment in excess of one year.''

Section 2. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 13, Article 89, Disrespect toward a superior commissioned officer, paragraph c.(1) is amended to substitute the words ''uniformed service'' for ''armed forces'' everywhere the words ''armed forces'' appear in that paragraph. This change is made to clarify that the uniformed officers of the Public Health Service and the National Oceanographic and Atmospheric Administration, when assigned to and serving with the armed forces, are included in the definition of a superior commissioned officer.

(b) A clerical amendment is made to Paragraph 35, Article 111, Drunken or reckless operation of vehicle, aircraft or vessel, paragraph f to read as follows:

''(f) *Sample Specification.*

In that ___ (personal jurisdiction data), did (at/on board—location) (subject matter jurisdiction data, if required), on or about ___, 20 __, (in the motor pool area) (near the Officer's Club) (at the intersection of ___ and ___) (while in the Gulf of Mexico) (while in flight over North America) physically control [a vehicle, to wit: (a truck) (a passenger car) (___)] [an aircraft, to wit: (an AH–64 helicopter) (an F–14A fighter) (a KC–135 tanker) (___)] [a vessel, to wit: (the aircraft carrier USS ___) (the Coast Guard Cutter ___) (___)], [while drunk] [while impaired by ___] [while the alcohol concentration in his (blood or breath) equaled or exceeded the applicable limit under subparagraph (b) of the text of the statute in paragraph 35 as shown by chemical analysis] [in a (reckless) (wanton) manner by (attempting to pass another vehicle on a sharp curve) (by ordering that the

aircraft be flown below the authorized altitude)] [and did thereby cause said (vehicle) (aircraft) (vessel) to (strike and) (injure __)].''

(c) A clerical amendment is made to Paragraph 48, Article 123, Forgery, paragraph c.(4) to add the word ''to'' after the word ''liability'' the second time it appears in the fifth sentence.

(d) Paragraph 68b. is added as follows:

''68b. Article 134—(Child pornography)

a. *Text. See* paragraph 60.

b. *Elements.*

(1) *Possessing, receiving, or viewing child pornography.*

(a) That the accused knowingly and wrongfully possessed, received or viewed child pornography; and

(b) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) *Possessing child pornography with intent to distribute.*

(a) That the accused knowingly and wrongfully possessed child pornography;

(b) That the possession was with the intent to distribute; and

(c) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(3) *Distributing child pornography.*

(a) That the accused knowingly and wrongfully distributed child pornography to another; and

(b) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(4) *Producing child pornography.*

(a) That the accused knowingly and wrongfully produced child pornography; and

(b) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) It is not a defense to any offense under this paragraph that the minor depicted was not an actual person or did not actually exist.

(2) An accused may not be convicted of possessing, receiving, viewing, distributing, or producing child pornography, if he was not aware of the contraband nature of the visual depictions. Awareness may be inferred from circumstantial evidence such as the name of a computer file.

(3) ''Child Pornography'' means any visual depiction of a minor, or what appears to be a minor, engaging in sexually explicit conduct.

(4) ''Distributing'' means delivering to the actual or constructive possession of another.

(5) ''Minor'' means any person under the age of 18 years;

(6) ''Possessing'' means exercising control of something. Possession may be direct physical custody like holding an item in one's hand, or it may be constructive, as in the case of a person who hides something in a locker or a car to which that person may return to retrieve it. Possession must be knowing and conscious. Possession inherently includes the power or authority to preclude control by others. It is possible for more than one person to possess an item simultaneously, as when several people share control over an item.

(7) ''Producing'' means creating or manufacturing. As used in this paragraph, it refers to making child pornography that did not previously exist. It does not include reproducing or copying.

(8) ''Sexually explicit conduct'' means actual or simulated:

(a) Sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) Bestiality;

(c) Masturbation;

(d) Sadistic or masochistic abuse; or

(e) Lascivious exhibition of the genitals or pubic area of any person.

(9) ''Visual depiction'' includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, or computer image or picture, whether made or produced by electronic, mechanical, or other means.

(10) Affirmative defenses.

It shall be an affirmative defense to a charge of possessing child pornography that the accused promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any such visual depiction:

(a) Took reasonable steps to destroy each such visual depiction; or

(b) Reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

(11) On motion of the government, in any prosecution under this paragraph, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography or visual depiction or copy thereof shall not be admissible and may be redacted from any otherwise admissible evidence, and the panel shall be instructed, upon request of the Government, that it can draw no inference from the absence of such evidence.

d. *Lesser included offenses.*

(1) *Possessing, receiving, or viewing child pornography.*

Article 80—attempts.

(2) *Possessing child pornography with intent to distribute.*

Article 80—attempts.

Article 134—possessing child pornography.

(3) *Distributing child pornography.*

Article 80—attempts.

Article 134—possessing child pornography.

Article 134—possessing child pornography with intent to distribute.

(4) *Producing child pornography.*

Article 80—attempts.

Article 134—possessing child pornography.

e. *Maximum punishment.*

(1) *Possessing, receiving or viewing child pornography.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 10 years.

(2) *Possessing child pornography with intent to distribute.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.

(3) *Distributing child pornography.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(4) *Producing child pornography.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 30 years.

f. *Sample specification.*

Possessing, receiving, viewing, possessing with intent to distribute, distributing or producing child pornography.

In that ____ (personal jurisdiction data), did, at ____, on or about ____ 20__, knowingly and wrongfully (possess) (receive) (view) (distribute) (produce) child pornography, to wit: a (photograph) (video) (film) (picture) (digital image) (computer image) of a minor, or what appears to be a minor, engaging in sexually explicit conduct, (with intent to distribute the said child pornography).''

Section. 3. These amendments shall take effect 30 days from the date of this order.

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to the effective date of this order that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the effective date of this order, and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

The White House

Changes to the Discussion accompanying the Manual for Courts Martial, United States

(a) A clerical amendment is made to the first paragraph of the Discussion following R.C.M. 1107(d)(1) to correctly reference R.C.M. 1003(b)(5) and (6) instead of R.C.M. 1003(b)(6) and (7).

Dated: September 14, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–22405 Filed 9–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Meeting

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board will meet in closed session on October 28–29, 2009 to discuss interim finding and recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture and homeland security.

DATES: The meeting will be held October 28–29, 2009, and is closed to the public.

ADDRESSES: The meeting will be held at the Pentagon, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Rose, Executive Officer, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *debra.rose@osd.mil*, or via phone at (703) 571–0084.

SUPPLEMENTARY INFORMATION: The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology and Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Board will discuss interim finding and recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U. S. national defense posture and homeland security.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2) and 41 CFR 102–3.155, the Department of Defense has determined that the Defense Science Board meeting will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology and Logistics), with the coordination of the DoD Office of General Counsel, has determined in writing that all sessions of these meetings will be closed to the public because they will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements:

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official (see **FOR FURTHER INFORMATION CONTACT**), at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: September 14, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–22400 Filed 9–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Department of Defense Wage Committee

AGENCY: Civilian Personnel Management Service (Wage and Salary Division), DoD.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of section 10[d] of the Federal Advisory Committee Act of 1972, Public Law 92–463, it is hereby determined that every Wage Committee meeting concerns matters listed in 5 U.S.C. 552b[c][2] and 5 U.S.C. 552b[c][4], and that, accordingly, the meeting will be closed to the public. The DoD announces that the Department of Defense Wage Committee will meet in September, October, November and December 2009.

DATES: A meeting will convene at 10 a.m. on September 22, 2009. Additional meetings will be held on October 6 and 20, November 3 and 17, and December 1, 15, and 29, 2009.

ADDRESSES: The meetings will be held at 1400 Key Boulevard, Level A, Room A101, Rosslyn, Virginia 22209–5144.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Jerabek, Designated Federal Officer for the Department of Defense Wage Committee, 1400 Key Boulevard, Suite A105, Arlington, Virginia 22209–5144, *Telephone:* (703) 696–1735, Fax: (703) 696–5472, *E-mail: craig.jerabek@cpms.osd.mil*.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting:

The Committee will receive, review, and consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

The Department of Defense Wage and Salary Division was unable to finalize its agenda in time to publish notice of its September 22, 2009, meeting in the **Federal Register** for the 15-calendar days required by 41 CFR 102–3.150(a). In order to meet legal effective dates, the meeting date cannot be changed. Accordingly, the Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Written Statements:

Members of the public are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing