filled, such products shall no longer be charged to any limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29916 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the Republic of Uruguay

November 27, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Uruguay and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 27, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Uruguay and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
334	227,875 dozen.
335	196,167 dozen.
410	3,106,344 square meters of which not more than 1,775,056 square meters shall be in Category 410–A [1] and not more than 2,859,807 square meters shall be in Category 410–B [2].
433	18,549 dozen.
434	27,672 dozen.
435	55,886 dozen.
442	39,534 dozen.

[1] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[2] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 2, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–29917 Filed 12–3–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Manual for Courts-Martial; Proposed Amendments

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

ACTION: Notice of summary of public comment received regarding proposed amendments to the Manual for Courts-Martial, United States (2000 ed.).

SUMMARY: The JSC is forwarding final proposed amendments to the Manual for Courts-Martial, United States (2000 ed.) (MCM) to the Department of Defense. The proposed changes, resulting from the JSC's 2001 annual review of the MCM, concern the rules of procedure applicable in trials by courts-martial. The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, ''Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and

Comments Thereon,'' May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

ADDRESSES: Comments and materials received from the public are available for inspection or copying at the Headquarters, U.S. Marine Corps, Military Law Branch, 2 Navy Annex, Washington, DC 20380–1775, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Major D.T. Brannon, USMCR, Executive Secretary, Joint Service Committee on Military Justice, Headquarters, U.S. Marine Corps (JAM), 2 Navy Annex, Washington, DC 20380–1775, (703) 614–4250, (703) 614–5775 fax.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2001, the JSC published a Notice of Proposed Amendments to the Manual for Courts-Martial and a Notice of Public Meeting to receive comment on its 2001 draft annual review of the Manual for Courts-Martial. On 19 July 2001, the public meeting was held. Three individuals attended and two provided oral comment. The JSC received two letters commenting on the proposed amendments.

Purpose

The proposed changes concern the rules of procedure applicable in trials by courts-martial. More specifically, the proposed changes: Incorporate the JSC's role in the Preamble of the MCM: require that matters in aggravation be alleged in the specification; clarify the 100-mile rule; recommend that the staff judge advocate include the Article 32 investigating officer's recommendations in the pretrial advice to the convening authority; acknowledge that the speedy trial rules apply at a rehearing; consider the accused's periods of unauthorized absence as excludable delay; clarify the military judge's responsibility to control courtroom spectators and the accused's right to a public trial; clarify when evidence of an accused's impaired mental state may be admissible; clarify assessment of sentence on rehearing; conform the Military Rules of Evidence to the 1 December 2000 amendments to the Federal Rules of Evidence; amend the Punitive Articles to clarify the two distinct categories of carnal knowledge and sodomy in cases involving children; require that the materiality of false testimony, in a perjury prosecution be submitted to the members for decision; and clarify the reckless endangerment Article to make the sample specification consistent with the elements.

Discussion of Comments and Changes

In response to the request for public comment the JSC received written comment from one individual and oral written comment on behalf of one organization. The JSC considered the combined public comments and is satisfied that the proposed amendments are appropriate to implement without additional modification except as indicated herein. The JSC will forward the public comments and the proposed amendments, as modified, to the Department of Defense.

The written comments from the individual recommended a technical correction to the proposed changes and propose additional changes to the MCM. In proposed Mil.R.Evid. 803(6), the writer recommended correcting the typographical error of ''area'' to ''are'' in the third sentence. The writer also suggested four substantive modifications to proposed Mil.R.Evid. 902(11):

1. Certification should not be limited to ''domestic'' records due to the worldwide operation of the U.S. Armed Forces.

2. The declaration should be sworn.

3. The declaration should include a form affidavit.

4. The declaration should have more definitive guidelines on the timeliness of production to opposing counsel.

The writer also proposed that the MCM be amended to require that members be instructed on the legal effect of Article 58b, UCMJ, and the statutory provisions for dropping officers from the rolls. Finally, the writer proposed amending R.C.M. 1001(c)(1)(B) to allow the accused to present evidence on the effect of a punitive discharge on military retirement pay and benefits if the accused is retirement eligible or within 2 years of being retirement eligible at the time of referral of charges. *See United States* v. *Luster,* 55 M.J. 67 (2001).

The JSC has considered these comments and adopts the technical correction changing the word ''area'' to ''are'' in the third sentence to its proposed amendment to Mil.R.Evid. 803(6). The JSC declined to modify its proposed amendment to Mil.R.Evid. 902(11) because the JSC's proposal was designed to conform the Military Rules of Evidence to the Federal Rules of Evidence and keep military practice in line with Federal practice to the extent practicable, as required by Article 36, Uniform Code of Military Justice. The JSC declined the writer's invitation to amend the MCM to require the mandatory instruction and to amend R.C.M. 1001 (c)(1)(B) as those recommendations were outside the scope of the public comment.

The oral and written comment provided by the organization mirrored those submitted during the JSC 2000 Annual Review and invitation for public comment. The organization believes the rulemaking process is inadequate. Specifically, the organization suggests that the JSC's invitation for public proposals may discourage participation due to is admonition that ''[i]ncomplete submissions may not be considered.'' The organization also asserts that DOD's proposal to publish DOD Directive 5500.17 (1996 ed.) as an appendix to the MCM does not reflect current JSC practice and conflicts with the version published in the CFR. The organization recommends updating DOD Directive 5500.17 (1996 ed.) and publishing it in the MCM and CFR. Additionally, the organization asserts that the Notice of Proposed Changes as published in the **Federal Register** is inadequate because it fails to provide an adequate discussion of the rationale behind the proposal and the anticipated effect of the change. The organization submitted additional comments regarding the proposed substantive changes as follows:

a. R.C.M. 405(g)(1)(A)—Revisit the rationale for the 100-mile rule and reconsider the regulations pertaining to the ''reasonable availability'' of military attorneys as individual military counsel (IMC).

b. R.C.M. 707(b)(3)(D)—On sentence rehearings, allow assembly of the court or reception of evidence to serve as events that stop the speedy trial clock instead of the proposed Art. 39(a) session.

c. R.C.M. 916(k)(2)—Change the wording of the proposal stating that evidence of partial mental responsibility is admissible whenever relevant to an issue before the court.

d. R.C.M. 1107(e)(1)(B)(4)—Prohibit the convening authority (CA) from reassessing a sentence where part of the findings have been set aside by an appellate court because the CA is not the appropriate official to determine and impose a sentence.

e. ¶ 57(c)(2)(B)—Review other offenses which contain elements, such as ''materiality'' of a statement under Art. 131, to determine if the rationale is applicable to other elements of the offenses. In light of *United States* v. *New*, 55 M.J. 95 (2001), consider whether a regulatory clarification regarding ''lawfulness'' of an order as an

element of offenses Art. 90, 91 and 92 is appropriate.

The JSC has considered these comments and has determined that the rulemaking process is adequate, satisfies statutory requirements, and does not discourage public participation. Encouraging commentators to submit specific, detailed recommendations assists the JSC better understand the scope and purpose of submitted recommendations. Pragmatically, vague, or inartfully worded recommendations might not be addressed within the time available for review and might therefore be unnecessarily delayed. Recommendations for matters that are outside the scope of the issues submitted for public comment may not meet the requirements of DOD Directive 5500.17 (1996 ed.) for JSC consideration. While it is not the intent of the JSC to discourage comment, the invitation for public comment does properly encourage relevant and focused input to the matters proposed for change.

The JSC declined the organization's invitation to change its proposed amendments.

a. The JSC determined that the 100-mile rule is an appropriate factor to be considered when determining the availability of witnesses for Article 32 pre-trial investigations.

b. The JSC determined that an Article 39(a) session is an appropriate means of stopping the speedy trial clock at a rehearing on sentencing.

c. The JSC determined that R.C.M. 916(k)(2) provides the military judge the appropriate authority to determine whether the evidence shows a lack of mental responsibility so as to warrant a specific instruction on the issue.

d. The JSC determined that the reassessment of a sentence is an appropriate quasi-judicial function of the convening authority who is limited to a sentence no more severe than originally adjudged and whose actions are reviewable by the service Judge Advocate General or the service courts of criminal appeals with Article 66, UCMJ authority.

e. The JSC determined that the organization's final recommendation is outside the scope of the invited public comment. The organization's final proposal regarding the question of whether other offenses have elements solely determined by a military judge instead of the fact finder will be considered within the normal course of JSC annual review process under DOD Directive 5500.17 (1996 ed.).

Proposed Amendments After Consideration of Public Comment Received

The proposed amendments to the Manual for Court-Martial are as follows:

Amend paragraph 4 of the Preamble by adding a new third subparagraph to read as follows:

''The Department of Defense Joint Service Committee (JSC) on Military Justice reviews the Manual for Courts-Martial and proposes amendments to the Department of Defense for consideration by the President on an annual basis. In conducting its annual review, the JSC is guided by DoD Directive 5500.17, ''The Roles and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' a copy of which is included in this Manual as Appendix 26. DoD Directive 5500.17 includes provisions allowing public participation in the annual review process.''

Amend R.C.M. 307(c)(3) to read as follows:

''*Specification.* A specification is a plain, concise, and definite statement of the essential facts constituting the offense charged. A specification is sufficient if it alleges every element of the charged offense expressly or by necessary implication. Except for aggravating factors under R.C.M 1003(d) and R.C.M. 1004, facts that increase the maximum authorized punishment must be alleged in order to permit the possible increased punishment. No particular format is required.''

Amend subparagraph (ix) of the Discussion accompanying R.C.M. 307(c) to read as follows:

''(ix) *Matters in aggravation.* Matters in aggravation that do not increase the maximum authorized punishment ordinarily should not be alleged in the specification. Prior convictions need not be alleged in the specification to permit increased punishment. Aggravating factors in capital cases should not be alleged in the specification. Notice of such factors is normally provided in accordance with R.C.M. 1004(b)(1).''

Amend the analysis accompanying R.C.M. 307(c)(3) by inserting the following at the end thereof:

''*200 Amendment:* The Rule was amended by modifying language in the Discussion at (H)(ix), and pulling it into the text of the Rule, to emphasize that facts that increase maximum authorized punishments must be alleged and proven beyond a reasonable doubt. *Jones v. United States,* 526 U.S. 227 (1999). *See also Apprendi v. New Jersey,* 530 U.S. 466 (2000). R.C.M 1003(d) prior convictions and R.C.M 1004 capital aggravating factors were excluded because the rule in *Apprendi* exempts prior convictions and distinguishes capital sentencing schemes. R.C.M. 1004 capital aggravating factors were also excluded to avoid complication Part IV of the Manual and because R.C.M. 1004 already establishes a separate scheme for satisfying an accused's Constitutional rights in this area. *See Walton v. Arizona,* 497 U.S. 639 (1990) (capital aggravating factors are not separate penalties or offenses but are standards to guide the making of the choice between the alternative verdicts of death and life imprisonment).''

Insert the following discussion to accompany R.C.M. 405(g)(1)(A):

''A witness located beyond the 100-mile limit is not *per se* unavailable. To determine if a witness beyond 100 miles is reasonably available, the significance of the witness' live testimony must be balanced against the relative difficulty and expense of obtaining the witness' presence at the hearing.''

Amend the analysis accompanying R.C.M. 405(g)(1) by inserting the following before the Discussion of subsection (2):

''*2000 Amendment:* The discussion to subsection (g)(1)(A) is new. It was added in light of the decision in *United States v. Marie,* 43 M.J. 35 (1995) that a witness beyond 100 miles from the site of the investigation is not *per se* unavailable.''

Amend the second paragraph of the Discussion accompanying R.C.M. 406(b) to read as follows:

''The advice need not set forth the underlying analysis or rationale for its conclusions. Ordinarily, the charge sheet, forwarding letterr, and endorsements, and report of investigation are forwarded with the pretrial advice. In addition, the pretrial advice should include when appropriate: A brief summary of the evidence; discussion of significant aggravating, extenuating, or mitigating factors; any recommendations for disposition of the case by commanders or others who have forwarded the charges; and the recommendation of the Article 32 investigating officer. However, there is no legal requirement to include such information, and failure to do so is not error.''

Amend the analysis accompanying R.C.M. 406(b) by inserting the following at the end thereof:

''*200 Amendment:* The Dicussion to R.C.M. 406(b) was amended to add as additional, non-binding guidance that the SJA should include the recommendation of the Article 32 investigating officer.''

Amend R.C.M. 707(b)(3)(D) to read as follows:

''*Rehearings.* If a rehearing is ordered or authorized by an appellate court, a new 120-day time period under this rule shall begin on the date that the responsible convening authority receives the record of trial and the opinion authorizing or directing a rehearing. An accused is brought to trial within the meaning of this rule at the time of arraignment under R.C.M. 904 or, if arraignment is not required (such as in the case of a sentence-only rehearing), at the time of the first session under R.C.M. 803.''

Amend the analysis accompanying R.C.M. 707(b) by inserting the following before the Discussion of subsection (c):

''*200 Amendment:* Subsection (3)(D) was amended in light of *United States* v. *Becker,* 53 M.J. 229 (2000, to clarify that the 120-day time period applies to sentence-only rehearings. The amendment also designates the first session under R.C.M. 803 as the point where an accused is brought to trial in a sentence-only rehearing.''

Amend R.C.M. 707(c) to read as follows:

''(c) *Excludable delay.* All periods of time during which appellate courts have issued stays in the proceedings, or the accussed is absent without authority, or the accused is

hospitalized due to incompetence, or is otherwise in the custody of the Attorney General, shall be excluded when determining whether the period in subsection (a) of this rule has run. All other pretrial delays approved by a military judge or the convening authority shall be similarly excluded.''

Delete the Discussion accompanying R.C.M. 707(c).

Amend the analysis accompanying R.C.M. 707(c) by inserting the following before the Discussion of subsection (d):

''*200 Amendment:* Subsection (c) was amended to treat periods of the accused's unauthorized absence as excludable delay for purposes of speedy trial. *See United States* v. *Dies,* 45 M.J. 376 (1966). THe Discussion was deleted as superfluous.''

Amend R.C.M. 707(d) to read as follows:

''(d) *Remedy.* A failure to comply with this rule will result in dismissal of the affected charges, or, in a sentence-only rehearing, sentence relief as appropriate.

(1) *Dismissal.* Dismissal will be with or without prejudice to the government's right to reinstitute court-martial proceedings against the accused for the same offense at a later date. The charges must be dismissed with prejudice where the accused has been deprived of his or her constitutional right to a speedy trial. In determining whether to dismiss charges with or without prejudice, the court shall consider, among others, each of the following factors: The seriousness of the offense; the facts and circumstances of the case that lead to dismissal; the impact of a reprosecution on the administration of justice; and any prejudice to the accused resulting from the denial of a speedy trial.

(2) *Sentence relief.* In determining whether or how much sentence relief is appropriate, the military judge shall consider, among others, each of the following factors: The length of the delay, the reasons for the delay, the accused's demand for speedy trial, and any prejudice to the accused from the delay. Any sentence relief granted will be applied against the sentence approved by the convening authority.''

Insert the following Discussion accompanying R.C.M. 707(d):

''*See* subsection (c)(1) and the accompanying Discussion concerning reasons for delay and procedures for parties to request delay.''

Amend the analysis accompanying R.C.M. 707(d) by inserting the following before the Discussion of subsection (e):

''*200 Amendment:* Subsection (d) was amended in light of *United States* v. *Becker*, 53 M.J. 229 (2000), to provide for sentence relief as a sanction for violation of the 120-day rule in sentence-only rehearings. The amendment sets forth factors for the court to consider to determine whether or to what extent sentence relief is appropriate and provides for the sentence credit to be applied to the sentence approved by the convening authority.''

Amend R.C.M. 806(b) to read as follows:

''(b) *Control of spectators and closure.*

(1) *Control of spectators.* In order to maintain the dignity and decorum of the proceedings or for other good cause, the military judge may reasonably limit the number of spectators in, and the means of access to, the courtroom, and exclude specific persons from the courtroom. When excluding specific persons, the military judge must make findings on the record establishing the reason for the exclusion, the basis for the military judge's belief that exclusion is necessary, and that the exclusion is as narrowly tailored as possible.

(2) *Closure.* Courts-martial shall be open to the public unless (1) there is a substantial probability that an overriding interest will be prejudiced if the proceedings remain open; (2) closure is no broader than necessary to protect the overriding interest; (3) reasonable aalternatives to closure were considered and found inadequate; and (4) the military judge makes case-specific findings on the record justifying closure.''

The following Discussion is added to R.C.M. 806(b)(1):

''The military judge must ensure that the dignity and decorum of the proceedings are maintained and that the other rights and interests of the parties and society are protected. Public access to a session may be limited, specific persons excluded from the courtroom, and, under unusual circumstances, a session may be closed.

Exclusion of specific persons, if unreasonable under the circumstances, may violate the accused's right to a public trial, even though other spectators remain. Whenever specific persons or some members of the public are excluded, exclusion must be limited in time and scope to the minimum extent necessary to achieve the purpose for which it is ordered. Prevention of overcrowding or noise may justify limiting access to the courtroom. Disruptive or distracting appearance or conduct may justify excluding specific persons. Specific persons may be excluded when necessary to protect witnesses from harm or intimidation. Access may be reduced when no other means is available to relieve a witness' inability to testify due to embarrassment or extreme nervousness. Witnesses will ordinarily be excluded from the courtroom so that they cannot hear the testimony of other witnesses. *See* Mil.R.Evid. 615.''

The following Discussion is added to R.C.M. 806(b)(2):

''The military judge is responsible for protecting both the accused's right to, and the public's interest in, a public trial. A court-martial session is ''closed'' when no member of the public is permitted to attend. A court-martial is not ''closed'' merely because the exclusion of certain individuals results in there being no spectators present, so long as the exclusion is not so broad as to effectively bar everyone who might attend the sessions and is there for a proper purpose.

A session may be closed over the objection of the accused or the public upon meeting the Constitutional standard set forth in this Rule. *See also* Mil.R.Evid. 412(c), 505(i), and 513(e)(2).

The accused may waive his right to a public trial. The fact that the prosecution and defense jointly seek to have a session closed does not, however, automatically justify closure, for the public has a right in attending courts-martial. Opening trials to public scrutiny reduces the chance of arbitrary and capricious decisions and enhances public confidence in the court-martial process.

The most likely reason for a defense request to close court-martial proceedings is to minimize the potentially adverse effect of publicity on the trial. For example, a pretrial Article 39(a) hearing at which the admissibility of a confession will be litigated may, under some circumstances, be closed, in accordance with this Rule, in order to prevent disclosure to the public (and hence to potential members) of the very evidence that my be excluded. When such publicity may be a problem, a session should be closed only as a last resort.

There are alternative means of protecting the proceedings from harmful effects of publicity, including a thorough *voir dire* (*see* R.C.M. 912), and, if necessary, a continuance to allow the harmful effects of publicity to dissipate (*see* R.C.M. 906(b)(1)). Alternatives that may occasionally be appropriate and are usually preferable to closing a session include: directing members not to read, listen to, or watch any accounts concerning the case; issuing a protective order (*see* R.C.M. 806(d)); selecting members from recent arrivals in the command, or from outside the immediate area (*see* R.C.M. 503(a)(3)); changing the place of trial (*see* R.C.M. 906(b)(11)); or sequestering the members.''

Amend the analysis accompanying R.C.M. 806(b) by inserting the following before the Discussion of subsection (c):

''*200 Amendment:* Subsection (b) was divided to separate the provisions addressing control of spectators and closure and to clarity that exclusion of specific individuals is not a closure. The rules for control of spectators now is subsection (b)(1) were amended to require the military judge to articulate certain findings on the record prior to excluding specific spectators. *See United States* v. *Short,* 41 M.J. 42 (1994). The rules on closure now in subsection (b)(2) and the Discussion were amended in light of military case law that has applied the Supreme Court's Constitutional test for closure to courts-martial. *See ABC, Inc. v. Powell,* 47 M.J. 363 (1997); *United States* v. *Hershey,* 20 M.J. 433 (C.M.A. 1985); *United States* v. *Grunden,* 2 M.J. 116 (C.M.A. 1977).''

Amend the Discussion accompanying R.C.M. 916(k)(1) to read as follows:

''*See* R.C.M. 706 concerning sanity inquiries; R.C.M. 909 concerning the capacity of the accused to stand trial; and R.C.M. 1102A concerning any post-trial hearing for an accused found not guilty only by reason of lack of mental responsibility.''

Amend the analysis accompanying R.C.M. 916(k)(1) by inserting the following before the Discussion of subsection (2):

''*200 Amendment:* The Discussion to R.C.M. 916(k)(1) was amended to add a cross-reference to R.C.M. 1102A.''

Amend R.C.M. 916(k)(2) to read as follows:

''(2) *Partial mental responsibility.* A mental condition not amounting to a lack of mental responsibility under subsection (k)(1) of this rule is not a affirmative defense.''

Insert the following discussion to accompany R.C.M. 916(k)(2):

''Discussion, Evidence of a mental condition not amount to a lack of mental responsibility may be admissible as to

whether the accused entertained a state of mind necessary to be proven as an element of the offense. The defense must notify the trial counsel before the beginning of trial on the merits if the defense intends to introduce expert testimony as to the accused's mental condition. *See* R.C.M. 701(b)(2).''

Amend the analysis accompanying R.C.M. 916(k) (2) by inserting the following before the Discussion of subsection (3):

''*200 Amendment:* Subsection (k)(2) was modified to clarify that evidence of an accused's impaired mental state may be admissible. *See United States* v. *Schap,* 49 M.J. 317, 322 (1998); *United States* v. *Berrie,* 33 M.J. 337 (C.M.A. 1991); *Ellis* v. *Jacob,* 26 M.J. 90 (C.M.A. 1988).''

Amend R.C.M. 1103(f)(2) to read as follows:

''(2) Direct a rehearing as to any offense of which the accused was found guilty if the finding is supported by the summary of the evidence contained in the record, provided that the convening authority may not approve any sentence imposed at such a rehearing more severe than or in excess of that adjudged by the earlier court-martial.''

Amend the analysis accompanying R.C.M. 1103(f) by inserting the following before the Discussion of subsection (g):

''*200 Amendment:* Subsection (f)(2) was amended to reflect amendments to Article 63, UCMJ, in the National Defense Authorization Act for Fiscal Year 1993, Pub.L.No. 102–484, 106 Stat. 2315, 2506 (1992). The revisions provide that subsection (f)(2) sentencing limitations are properly applicable only to the sentence that may be approved by the convening authority following a rehearing. Subsection (f)(2) as revised does not limit the maximum sentence that may be adjudged at the rehearing. *See United States* v. *Gibson,* 43 M.J. 343, 346 n.3 (1995); *United States* v. *Lawson*, 34 M.J. 38 (CMA. 1992) Cox, J., concurring); *United States* v. *Greaves,* 48 M.J. 885 (A.F.Ct.Crim.App. 1998), *rev. denied,* 51 M.J. 365 (1999).''

Insert the following new subsection (iv) after R.C.M. 1107(3)(1)(B)(iii) to read as follows:

''(iv) *Sentence reassessment.* If a superior authority has approved some of the findings of guilty and has authorized a rehearing as to other offenses and the sentence, the convening authority may, unless otherwise directed, reassess the sentence based on the approved findings of guilty and dismiss the remaining charges. Reassessment is appropriate only where the convening authority determines that the accused's sentence would have been at least of a certain magnitude had the prejudicial error not been committed and the reassessed sentence is appropriate in relation to the affirmed findings of guilty.''

Amend the Discussion to R.C.M. 1107(e)(1)(B)(iii) to read as follows;

''A sentence rehearing, rather than a reassessment, may be more appropriate in cases where a significant part of the government's case has been dismissed. The convening authority may not take any actions inconsistent with directives of superior competent authority. Where that directive is unclear, appropriate clarification should be sought from the authority issuing the original directive. ''

Amend the analysis accompanying R.C.M. 1107(e)(1) by inserting the following before the Discussion of subsection (2):

''*200 Amendment:* The Discussion to R.C.M. 1107(e)(1)(B)(iii) was moved to new subsection (1)(B)(iv) to expressly recognize that, in cases where a superior authority has approved some findings of guilty and has authorized a rehearing as to other offenses, the convening authority may, unless otherwise directed, reassess a sentence based on approved findings of guilty under the criteria established by *United States* v. *Sales,* 22 M.J. 305 (C.M.A. 1986), and dismiss the remaining charges. *See United Stats* v. *Harris,* 53 M.J. 86 (2000). The power of convening authorities to reassess had been expressly authorized in paragraph 92*a* of MCM, 1969. The authorizing language was moved to the Discussion following R.C.M. 1107(e)(1)(B)(iii) in MCM, 1984. The Discussion was amended to advise practitioners to apply the criteria for sentence reassessment established by *United States* v. *Sales,* 22 M.J. 305 (C.M.A. 1986). *Sea also United States* v. *Harris,* 53 MJ. 86 (2000); *United States* v. *Eversole,* 53 M.J. 132 (2000). The Discussion was further amended to encourage practitioners to seek clarification from superior authority where the directive to the convening authority is unclear.''

Amend R.C.M. 1108(b) to read as follows:

''(b) *Who may suspend and remit.* The convening authority may, after approving the sentence, suspend the execution of all or any part of the sentence of a court-martial, except for a sentence of death. The general court-martial convening authority over the accused at the time of the court-martial may, when taking the action under R.C.M. 1112(f), suspend or remit any part of the sentence. The Secretary concerned and, when designated by the Secretary concerned, any Under Secretary, Assistant Secretary, Judge Advocate General, or commanding officer may suspend or remit any part or amount of the unexecuted part of any sentence other than a sentence approved by the President or a sentence of confinement for life without eligibility for parole that has been ordered executed. The Secretary concerned may, however, suspend or remit the unexecuted part of a sentence of confinement for life without eligibility for parole only after the service of a period of confinement of not less than 20 years. The commander of the accused who has the authority to convene a court-martial of the kind which adjudged the sentence may suspend or remit any part of amount of the unexecuted part of any sentence by summary court-martial or of any sentence by special court-martial which does not include a bad-conduct discharge regardless of whether the person acting has previously approved the sentence. The ''unexecuted part of any sentence'' includes that part which has been approved and ordered executed but which has not actually been carried out.''

Amend the analysis accompanying R.C.M. 1108 by inserting the following at the end thereof:

''200 Amendment: Subsection (b) was amended to conform to the limitations on Secretarial authority to grant clemency for military prisoners serving a sentence of confinement for life without eligibility for parole contained in section 553 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106–398, 114 Stat. 1654, Oct 30, 2000.''

Amend R.C.M. 1305(c) to read as follows:

''(c) *Authentication.* The summary court-martial shall authenticate the record by signing the original record of trial.''

Amend the analysis accompanying R.C.M. 1305(c) by inserting the following prior to the Discussion of subsection (d):

''*200 Amendment:* This subsection was amended to require that summary courts-martial authenticate the original record of trial, as is currently the procedure for special and general courts-martial.''

Amend R.C.M. 1306(b)(1) to read as follows:

''(1) *Who shall act.* Except as provided herein, the convening authority shall take action in accordance with R.C.M. 1107. The convening authority shall not take action before the period prescribed in R.C.M. 1105(c)(2) has expired, unless the right to submit matters has been waived under R.C.M. 1105(d).''

Amend the analysis accompanying R.C.M. 1306(b) by inserting the following prior to the discussion of subsection (c):

''*200 Amendment:* The cross-reference to subsection R.C.M. 1105(c)(3) is amended to R.C.M. 1105(c)(2) to conform to the 1987 Change 3 amendment that re-designated R.C.M. 1105(c)(3) as R.C.M. 1105(c)(2).''

Amend Mil.R.Evid. 103(a0(2) to read as follows:

''(2) *Offer of proof.* In case the ruling is one excluding evidence, the substance of the evidence was made known to the military judge by offer or was apparent from the context within which questions were asked. Once the military judge makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, a party need not renew an objection or offer of proof to preserve a claim of error for appeal. The standard provided in this subdivision does not apply to errors involving requirements imposed by the Constitution of the United States as applied to members of the armed forces except insofar as the error arises under these rules and this subdivision provides a standard that is more advantageous to the accused than the constitutional standard.''

Amend the analysis accompanying Mil.R.Evid. 103(a) by inserting the following prior to the Discussion of subsection (b):

''*200 Amendment:* Subdivision (a)(2) was modified based on the amendment to Fed.R.Evid. 103(a)(2), effective 1 December 2000, and is virtually identical to its Federal Rule counterpart. It is intended to provide that where an advance ruling is definitive, a party need not renew an objection or offer of proof at trial, otherwise renewal is required.''

Amend Mil.R.Evid. 404(a) to read as follows:

''(a) *Character evidence generally.* Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(1) *Character of accused.* Evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the

same, or if evidence of a pertinent trait of character of the alleged victim of the crime is offered by an accused and admitted under Mil.R.Evid. 404(a)(2), evidence of the same trait of character, if relevant, or the accused offered by the prosecution;

(2) *Character of alleged victim.* Evidence of a pertinent trait of character of the alleged victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the alleged victim offered by the prosecution in a homicide or assault case to rebut evidence that the alleged victim was an aggressor;

(3) *Character of witness.* Evidence of the character of a witness, as provided in Mil.R.Evid. 607, 608, and 609.''

Amend the analysis accompanying Mil.R.Evid. 404(a) by inserting the following prior to the Discussion of subsection (b):

''*200 Amendment:* Subdivision (a) was modified based on the amendment to Fed.R.Evid. 404(a), effective 1 December 2000, and is virtually identical to its Federal Rule counterpart. It is intended to provide a more balanced presentation of character evidence when an accused attacks the victim's character. The accused opens the door to an attack on the same trait of his own character when he attacks an alleged victim's character, giving the members an opportunity to consider relevant evidence about the accused's propensity to act in a certain manner. The words ''if relevant'' are added to subdivision (a)(1) to clarify that evidence of an accused's character under this rule must meet the requirements of Mil.R.Evid. 401 and Mil.R.Evid. 403. The drafters believe this addition addresses the unique use of character evidence in courts-martial. The amendment does not permit proof of the accused's character when the accused attacks the alleged victim's character as a witness under Rule 608 or 609, nor does it affect the standards for proof of character by evidence of other sexual behavior or sexual offenses under Rules 412–415.''

Amend Mil.R.Evid. 701 to read as follows:

''If the witness if not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based in scientific, technical, or other specialized knowledge within the scope of Rule 702.''

Amend the analysis accompanying Mil.R.Evid. 701 by inserting the following at the end thereof:

''200 *Amendment:* Rule 701 was modified based on the amendment to Fed.R.Evid. 701, effective 1 December 2000, and is taken from the Federal Rule without change. It prevents parties from proferring an expert as a lay witness in an attempt to evade the gatekeeper and reliability requirements of Rule 702 by providing that testimony cannot qualify under Rule 701 if it is based on ''scientific, technical or other special knowledge with the scope of Rule 702.''''

Amend Mil.R.Evid. 702 to read as follows:

''If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.''

amend the analysis accompanying Mil.R.Evid. 702 by inserting the following at the end thereof:

''*200 Amendment:* Rule 702 was modified based on the amendment to Fed.R.Evid. 702, effective 1 December 2000, and is taken from the Federal Rule without change. It provides guidance for courts and parties as to the factors to consider in determining whether an expert's testimony is reliable in light of *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.* 509 U.S. 579 (1993) and *Kumho Tire Co.* v. *Carmichael,* 526 U.S. 137 (1999) (holding that gatekeeper function applies to all expert testimony, not just testimony based on science).''

Amend Mil.R.Evid. 703 to read as follows:

''The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert, at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the members by the proponent of the opinion or inference unless the military judge determines that their probative value in assisting the members to evaluate the expert's opinion substantially outweighs their prejudicial effect.''

Amend the analysis accompanying Mil.R.Evid. 703 by inserting the following at the end thereof:

''*200 Amendment:* Rule 703 was modified based on the amendment to Fed.R.Evid. 703, effective 1 December 2000, and is virtually identical to its Federal Rule counterpart. It limits the disclosure to the members of inadmissible information that is used as the basis of an expert's opinion. *Compare* Mil.R.Evid. 705.''

Amend Mil.R.Evid. 803(6) to read as follows:

''*Records of regularly conducted activity.* A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, or by certification that complies with Mil.R.Evid. 902(11) or any other statute permitting certification in a criminal proceeding in a court of the United States, unless the source of the information or the method or circumstances of preparation indicate a lack of trust worthiness. The term ''business'' as used in this paragraph includes the armed forces, a business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit. Among those memoranda, reports, records, or data compilations normally admissible pursuant to this paragraph are enlistment papers, physical examination papers, outline-figure and fingerprint cards, forensic laboratory reports, chain of custody documents, morning reports and other personnel accountability documents, service records, officer and enlisted qualification records, logs, unit personnel diaries, individual equipment records, daily strength records of prisoners, and rosters of prisoners.''

Amend the analysis accompanying Mil.R.Evid. 803(6) by inserting the following prior to the Discussion of subsection (7):

''*200 Amendment:* Rule 803(6) was modified based on the amendment to Fed.R.Evid. 803(6), effective 1 December 2000. It permits a foundation for business records to be made through certification to save the parties the expense and inconvenience or producing live witnesses for what is often perfunctory testimony. The Rule incorporates federal statutes that allow certification in a criminal proceeding in a court of the United States. (*See, E.g.*, 18 U.S.C. Section 3505, Foreign records of regularly conducted activity.) The Rule does not include foreign records of regularly conducted business activity in civil cases as provided in its Federal Rule counterpart. This Rule works together with Mil.R.Evid. 902(11).''

Insert Mil.R.Evid. 902(11) to read as follows:

''(11) *Certified domestic records of regularly conducted activity.* The original or a duplicate of a domestic record of regularly conducted activity that would be admissible under Mil.R.Evid. 803(6) if accompanied by a written declaration of its custodian or other qualified person, in a manner complying with any Act of Congress or rule prescribed by the Supreme Court pursuant to statutory authority, certifying that the record:

(A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

(B) was kept in the course of the regularly conducted activity; and

(C) was made by the regularly conducted activity as a regular practice.

A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.''

Insert the following new analysis accompanying Mil.R.Evid. 902(11) after the Discussion of subsection (10):

''*200 Amendment:* Rule 902(11) was modified based on the amendment to Fed.R.Evid. 902(11), effective 1 December 2000, and is taken from Federal Rule without change. It provides for self-authentication of domestic business records and sets forth procedures for preparing a declaration of a custodian or other qualified witness that will

establish a sufficient foundation for the admissibility of domestic business records. This Rule works together with Mil.R.Evid. 803(6).''

The amendment to the Federal Rules of Evidence, effective in United States District Courts, 1 December 2000, creating Rule 901(12) is not adopted.

Amend the analysis accompanying Nil.R.Evid. 1102 by inserting the following at the end thereof:

''*200 Amendment:* The amendment to the Federal Rules of Evidence, effective in United States District Courts, 1 December 2000, creating Rule 902(12) is not adopted. Federal Rules 301, 302, and 415, were not adopted because they were applicable only to civil proceedings.''

Amend Part IV, para. 45(b)(2) by deleting para. 45(b)(2)(C) and inserting the following after para. 45(b)(2)(b):

''(Note: Add one of the following elements)

(c) That at the time of the sexual intercourse the person was under the age of 12.

(d) That at the time of the sexual intercourse the person had attained the age of 12 but was under the age of 16.''

Amend the analysis accompanying Part IV, para. 45(b) by inserting the following prior to the Discussion of subsection (c):

''b. *Elements.*

200 Amendment: Paragraph 45(b)(2) was amended to add two distinct elements of age based upon the 1994 amendment to paragraph 45(e). *See also* concurrent change to R.C.M. 307(c)(3) and accompanying analysis.''

Amend Part IV, para. 45(f) to read as follows:

''f. *Sample specifications.*

(1) *Rape.*

In that _____(personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____20__, rape _____, (a person under the age of 12) (a person who had attained the age of 12 but was under the age of 16).

(2) *Carnal Knowledge.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____ 20__, commit the offense of carnal knowledge with _____, (a person under the age of 12) (a person who attained the age of 12 but was under the age of 16).''

Amend the analysis accompanying Part IV, para. 45(f) by inserting the following at the end of subsection (e):

''*200 Amendment:* Paragraph 45(f)(2) was amended to aid practitioners in charging the two distinct categories of carnal knowledge created in 1994. For the same reason paragraph 45(f)(1) was amended to allow for contingencies of proof because carnal knowledge is a lesser-included offense of rape if properly pleaded. *See also* concurrent change to R.C.M. 307(c)(3) and accompanying analysis.''

Amend part IV, para. 51(b) to read as follows:

''(1) That the accused engaged in unnatural carnal copulation with a certain other person or with an animal.

(Note: Add any of the following as applicable)

(2) That the act was done with a child under the age of 12.

(3) That the act was done with a child who had attained the age of 12 but was under the age of 16.

(4) That the act was done by force and without the consent of the other person.''

Amend the analysis accompanying Part IV, para. 51(b) by inserting the following prior to the Discussion of subsection (c):

''b. *Elements.*

200 Amendment. Paragraph 51(b) was amended by adding two factors pertaining to age based upon the 1994 amendment to paragraph 51(e) that created two distinct categories of sodomy involving a child. *See also* concurrent change to R.C.M. 307(c)(3) and accompanying analysis.''

Amend Part IV, para. 51(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__, commit sodomy with _____, (a child under the age of 12) (a child who had attained the age of 12 but was under the age of 16) (by force and without the consent of the said_____).''

Amend the analysis accompanying Part IV, para. 51(f) by inserting the following at the end of subsection (e):

''*200 Amendment:* Paragraph 51(f) was amended to aid practitioners in charging the two distinct categories of sodomy involving a child created in 1994. *See also* concurrent change to R.C.M. 307(c)(3) and accompany8ing analysis.''

Amend Part IV, para. 57(c) (2) (B) to read as follows:

''(b) *Material matter.* The false testimony must be with respect to a material matter, but that matter need not be the main issue in the case. Thus, perjury may be committed by giving false testimony with respect to the credibility of a material witness or in an affidavit in support of a request for a continuance, as well as by giving false testimony with respect to a fact which a legitimate inference may be drawn as to the existence or nonexistence of a fact in issue.''

Amend the analysis accompanying Part IV, para 57(c) (2) (B) by inserting the following before the Discussion of subsection (d):

''*200 Amendment:* Subsection (2)(b) was amended to comply with *United States* v. *Gaudin,* 515 U.S. 506 (1995), which held that when materiality is a statutory element of an offense, it must be submitted to the jury for decision. Materiality cannot be removed from the members' consideration by an interlocutory ruling that a statement is material. *See also Gaudin* at 521 (''It is commonplace for the same mixed question of law and fact to be assigned to the court for one purpose, and to the jury for another.''); and at 517 (''The prosecution's failure to provide minimal evidence of any other element, of course raises a question of 'law' that warrants dismissal.'').''

Amend Part IV, para. 100a(c)(1) to read as follows:

''(1) *In general.* This offense is intended to prohibit and therefore deter reckless or wanton conduct that wrongfully creates a substantial risk of death or grievous bodily harm to others.''

Amend Part IV, para. 100a(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 __, wrongfully and (recklessly) (wantonly) engage in conduct, to wit: (describe conduct), conduct likely to cause death or grievous bodily harm to _____.''

Amend the analysis accompanying Part IV, para. 100a by inserting the following at the end thereof:

''*200 Amendment:* The sample specification was amended to add the word ''wantonly'' to make the sample specification consistent with the elements. The phrase ''serious bodily harm'' has been changed to read ''grievous bodily harm'' in the sample specification to parallel the language in the elements. Similarly, in the *Explanation,* the phrase ''serious injury'' was modified to read ''grievous bodily harm.'' The format of the sample specification was also modified to follow the format of other sample specification in the MCM.''

Insert DoD Directive 5500.17, ''The Roles and Responsibilities of the Joint Service Committee (JSC) on Military Justice'' as Appendix 26.

Dated: November 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend and delete systems of records.

SUMMARY: The Department of the Army is proposing to consolidate two existing Privacy Act systems of records its inventory of systems of records subject to the Privacy Act of 1974. The records systems are A0600 ARPC, Career Management Files of Dual Component Personnel and A0600–8–104g TAPC, Career Management Individual Files. As a result of the consolidation, A0600 ARPC will be deleted.

DATES: This proposed action will be effective without further notice on January 3, 2002, unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.