

4. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the US Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the United Kingdom.

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID: DOD-2016-OS-0110]

### Manual for Courts-Martial; Publication of Supplementary Materials

**AGENCY:** Joint Service Committee on Military Justice (JSC), Department of Defense.

**ACTION:** Publication of Discussion (Supplementary Materials) accompanying the Manual for Courts-Martial, United States (2012 ed.) (MCM).

**SUMMARY:** The JSC hereby publishes Supplementary Materials accompanying the MCM as amended by Executive Orders 13643, 13669, 13696, 13730, and 13740. These 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 and Testimony," June 15, 2007, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency. These Supplementary Materials have been approved by the JSC and the General Counsel of the Department of Defense, and shall be applied in conjunction with the rule with which they are associated. The Discussion is effective insofar as the Rules it supplements are effective, but may not be applied earlier than the date of publication in the **Federal Register**.

**DATES:** This Discussion is effective as of December 8, 2016.

**FOR FURTHER INFORMATION CONTACT:** Major Harlye S.M. Carlton, USMC, (703) 963-9299 or [harlye.carlton@usmc.mil](mailto:harlye.carlton@usmc.mil). The JSC Web site is located at: <http://jsc.defense.gov>.

**SUPPLEMENTARY INFORMATION:** The Discussion to Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) The Discussion immediately after paragraph 60.c.(6)(a) is amended to read as follows:

"Clauses 1 and 2 are theories of liability that must be expressly alleged in a specification so that the accused will be given notice as to which clause or clauses to defend against. The words "to the prejudice of good order and discipline in the armed forces" encompass both paragraph c.(2)(a), prejudice to good order and discipline, and paragraph c.(2)(b), breach of custom of the Service. A generic sample specification is provided below:

*In that \_\_\_\_\_ (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_\_\_, (commit elements of Article 134 clause 1 or 2 offense), and that said conduct (was to the prejudice of good order and discipline in the armed forces) (and) (was of a nature to bring discredit upon the armed forces).*

If clauses 1 and 2 are alleged together in the terminal element, the word "and" should be used to separate them. Any clause not proven beyond a reasonable doubt should be excepted from the specification at findings. See R.C.M. 918(a)(1). See also Appendix 23 of this Manual, Art. 79. Although using the conjunctive "and" to connect the two theories of liability is recommended, a specification connecting the two theories with the disjunctive "or" is sufficient to provide the accused reasonable notice of the charge against him. See Appendix 23 of this Manual, Art. 134.

Lesser included offenses are defined and explained under Article 79; however, in 2010, the Court of Appeals for the Armed Forces examined Article 79 and clarified the legal test for lesser included offenses. See *United States v. Jones*, 68 M.J. 465 (C.A.A.F. 2010). Under *Jones*, an offense under Article 79 is "necessarily included" in the offense charged only if the elements of the lesser offense are a subset of the elements of the greater offense alleged. 68 M.J. at 472; see also discussion following paragraph 3b(1)(c) in this part and the related analysis in Appendix 23 of this Manual. Practitioners should carefully consider lesser included offenses using the elements test in conformity with *Jones*. See paragraph 3b(4) in Appendix 23 of this Manual. If it is uncertain whether an Article 134 offense is included within a charged offense, the government may plead in the alternative or, with the consent of the accused, the government may amend the charge sheet. *Jones*, 68 M.J. at 472-73 (referring to R.C.M. 603(d) for amending a charge sheet)."

Dated: December 2, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2016-29384 Filed 12-7-16; 8:45 am]

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## ELECTION ASSISTANCE COMMISSION

### Sunshine Act Notice of Public Meeting Agenda

**DATE AND TIME:** Thursday, December 15, 2016 (10:30 a.m.–1:00 p.m.—EDT).

**PLACE:** 1335 East West Highway (First Floor Conference Room) Silver Spring, MD 20910.

**AGENDA:** Commissioners will meet to provide an initial de-brief on the 2016 election and to celebrate the 10th anniversary of the EAC's Testing and Certification Program. Commissioners will discuss the 2016 election with a panel of state and local election administrators, and a panel representing the perspectives of military and overseas voters, voters with disabilities and other election administration interest groups. Commissioners will hear from a panel to discuss the past ten years of EAC Testing and Certification of voting systems. Voting system manufacturers will discuss the evolution of the program from their perspective; a state certification official will provide insight into how EAC certification assists the states in their unique certification roles, and EAC program staff will provide their thoughts on ten years in the certification business.

**STATUS:** This meeting will be open to the public.

**PERSON TO CONTACT FOR INFORMATION:** Bryan Whitener, Telephone: (301) 563-3961.

**Bryan Whitener,**

*Director of Communications and Clearinghouse, U.S. Election Assistance Commission.*

[FR Doc. 2016-29592 Filed 12-6-16; 4:15 pm]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER17-423-000]

### Rubicon NYP Corp; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Rubicon