

employee from appropriate administrative or disciplinary actions under civilian personnel regulations.

(h) Marine Corps civilian employees charged with intoxicated driving, on or off the installation, will be referred to the Employee Assistance Program as prescribed by MCO P5300.12. Marine dependents charged with intoxicated driving, on or off the installation, will be provided assistance as addressed in MCO P5300.12. Such referral and assistance does not exempt the individual from appropriate administrative or disciplinary action under current civilian personnel regulations or State laws.

(i) For Army, DLA, and Marine Corps, installation driving privileges of any person who refuses to submit to or fails to complete chemical testing for blood-alcohol content when apprehended for intoxicated driving, or convicted of intoxicated driving, will not be reinstated unless the person successfully completes either an alcohol education and treatment program sponsored by the installation, State, county, or municipality, or a private program evaluated as acceptable by the installation commander.

(j) For Navy, on-base driving privileges will not be reinstated for Navy personnel convicted of driving under the influence, on- or off-base, unless the person completed the full 36-hour Navy Alcohol and Drug Safety Action Program (NADSAP). The condensed NADSAP supervisor course will not be used for this purpose.

**§634.15 Restoration of driving privileges on acquittal.**

When an official report pertaining to drunk driving or driving while intoxicated indicates a finding of not guilty, that the charges have been dismissed or reduced to an offense not amounting to intoxicated driving, or that an equivalent determination has been made in a nonjudicial punishment proceeding or military or civilian administrative action, the suspension of driving privileges will be vacated except in cases in which:

(a) The preliminary suspension was based on refusal to take a BAC test.

(b) The preliminary suspension resulted from a BAC test (unless disposition of the charges was based on inva-

lidity of the BAC test). When a valid BAC test is involved, the suspension will continue pending completion of a hearing. In such instances, the individual will be notified in writing of the continuation of the preliminary suspension and of the opportunity to request a hearing within 10 working days. At the hearing the arrest report, the commander's report of official disposition, information presented by the individual, and such other information as the hearing officer may deem appropriate will be considered. If the hearing officer determines by a preponderance of evidence that the individual was engaged in intoxicated driving, the revocation will be for 1 year from the date of the original preliminary suspension.

(c) The person was driving or in physical control of a motor vehicle while under a preliminary suspension or revocation.

(d) An administrative determination has been made by the State or host nation licensing authority to suspend or revoke driving privileges based on local law or pertinent regulations.

(e) The individual has failed to complete a formally directed substance abuse or driver's training program.

**§634.16 Restricted driving privileges or probation.**

(a) For the Navy, Air Force, Marine Corps, and DLA, the installation commander may modify a suspension or revocation of driving privileges in certain cases per paragraph (d) of this section.

(b) Army requests for restricted driving privileges subsequent to suspension or revocation of installation driving privileges will be referred to the installation commander or designee for determination under criteria of (d) below, except for intoxicated driving cases, which must be referred to the General Court Martial Convening Authority. Withdrawal of restricted driving privileges is within the installation commander's discretion.

(c) Probation or restricted driving privileges will not be granted to any person whose driver's license is under suspension or revocation by a State, Federal, or host nation licensing authority.

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(d) Aside from any other provisions of this regulation, the installation commander or designee may grant restricted driving privileges or probation on a case-by-case basis to accommodate any of the following reasons, provided the person's State driver's license remains valid:

(1) Mission requirements.

(2) Unusual personal or family hardships.

(3) Delays exceeding 90 days, not attributed to the person concerned, in the formal disposition of an apprehension or charges that are the basis for any type of suspension or revocation.

(4) When there is no reasonably available alternate means of transportation to officially assigned duties. (In this instance, a limited exception can be granted for the sole purpose of driving directly to and from the place of duty.)

(e) The limitations on a restricted driving privilege (for example, an authorization to drive to and from place of employment or duty, selected installation facilities such as hospital and commissary, or other facilities) will be specified in writing and provided to the individual concerned. Persons found to be in violation of the restricted privilege are subject to revocation action as prescribed in § 634.10(b). For good cause, the appropriate authority may withdraw the restricted driving privilege and continue the suspension or revocation period (for example, driver at fault in a traffic accident, or driver cited for a moving traffic violation).

(f) The conditions and terms of probation will be specified in writing and provided to the individual concerned. The original suspension or revocation term in its entirety may be activated to commence from the date of the violation of probation. In addition, separate action may be initiated based on the commission of any traffic, criminal, or military offense that constitutes a probation violation.

(g) DOD employees of the Services or DLA, who can demonstrate that suspension or revocation of installation driving privileges would constructively remove them from employment, may be given a limited suspension/revocation that restricts driving on the installation or activity (or in the overseas command) to the most direct

route to and from their respective work sites (5 U.S.C. 2303 (b)(10)). This is not to be construed as limiting the commander from suspension or revocation of on-duty driving privileges or seizure of OF 346, even if this action would constructively remove a person from employment, in those instances in which the person's duty requires driving from place to place on the installation.

**§ 634.17 Extensions of suspensions and revocations.**

(a) Driving in violation of a suspension or revocation imposed under this regulation will result in the original period of suspension or revocation being increased by 2 years. In addition, administrative action may also be initiated based on the commission of any traffic, criminal, or military offense (for example, active duty military personnel driving on the installation in violation of an order not to do so).

(b) For each subsequent determination within a 5-year period that revocation is authorized under § 634.10(b), military personnel, DOD civilians, and NAF employees will be prohibited from obtaining or using an OF 346 for 6 months for each such incident. A determination whether DOD civilian personnel should be prohibited from obtaining or using an OF 346 will be made under FPM 930, and other laws and regulations applicable to civilian personnel. This does not preclude a commander from imposing such prohibition for a first offense, or for a longer period of time for a first or subsequent offense, or for such other reasons as may be authorized.

(c) Commanders may extend a suspension or revocation of the installation driving privileges of military personnel until completion of an approved remedial driver training course or alcohol or drug counseling program.

(d) Commanders may extend a suspension or revocation of the installation driving privileges of civilian personnel convicted of intoxicated driving on the installation until successful completion of a State or installation approved alcohol or drug rehabilitation program.