

Directorate of Emergency Services

Motor Vehicle Traffic Supervision and Installation Traffic Code



Presidio of Monterey, California 93944

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Department of the Army
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Directorate of Emergency Services

MOTOR VEHICLE TRAFFIC SUPERVISION AND INSTALLATION TRAFFIC CODE

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History. This is the first publication of this regulation. Section 3-4 updated on 23 July 2021.

Summary. This regulation establishes policies and procedures for the operation of vehicles in all areas under the authority of the Garrison Commander, including the Presidio of Monterey (PoM), Ord Military Community (OMC), and La Mesa Housing Area (LMHA). This regulation is punitive. Any violation of this regulation is punishable under the Uniform Code of Military Justice, Article 92, and/or applicable state and federal law.

Applicability. This regulation applies to all individuals operating vehicles on PoM, OMC, and LMHA, referred to collectively as the Presidio of Monterey.

Proponent and execution authority. The proponent agency of this regulation is the Directorate of Emergency Services (DES).

Supplementation. Supplementation of this regulation is prohibited.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to Commander, PoM.

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CHAPTER 1 INTRODUCTION

1-1. PURPOSE

a. To establish policy, responsibilities, and procedures related to motor vehicle traffic on all areas under the authority of the Garrison Commander, including, but not limited to, the Presidio of Monterey (PoM), Ord Military Community (OMC) and La Mesa Housing Area (LMHA), referenced collectively as the Presidio of Monterey (PoM). The principle objective is to ensure safe and efficient movement of vehicles, materials, and personnel.

b. The operation of privately owned vehicles (POVs) on the Presidio of Monterey is a conditional privilege regulated by the Garrison Commander. All persons operating POVs on the Presidio of Monterey must follow all rules and regulations contained herein.

1-2. REFERENCES

Required and related publications, and prescribed and referenced forms, are listed in appendix A.

1-3. APPLICABILITY

a. This regulation applies to all personnel on the Presidio of Monterey, including, but not limited to, military personnel assigned, attached or present for duty at PoM, regardless of service affiliation, civilian employees, military family members or dependents, contract employees, and guests and visitors to PoM, OMC, and LMHA, regardless of military affiliation. This regulation is written in accordance with Army Regulation (AR) 190-5 (Motor Traffic Vehicle Supervision).

b. The Federal Government has concurrent jurisdiction on the Presidio of Monterey. Accordingly, the Presidio of Monterey Police Department (PoM PD) may cite both military personnel and civilians on a Central Violations Bureau Notice (CVB). The CVB Notices will be processed through either the Federal Magistrate Court or Monterey County District Court.

c. Violations of the provisions of this regulation may be processed as follows:

(1) Military personnel who violate any provision of this regulation are subject to administrative action; prosecution or enforcement under of the Uniform Code of Military Justice; and/or prosecution or enforcement under applicable state or federal law.

(2) Non-military personnel who violate any provision of this regulation are subject to administrative action and/or prosecution or enforcement for violations of applicable state or federal law.

CHAPTER 2 DRIVING PRIVILEGES AND SUSPENSIONS

2-1. REQUIREMENTS FOR DRIVING PRIVILEGES

All operators of POVs on Presidio of Monterey must have a valid state operator's license and proof of liability insurance. If a driver's state license is suspended in any state, the driver is not authorized to operate a motor vehicle on installation property.

2-2. AUTHORITY TO SUSPEND AND REVOKE

The Garrison Commander (GC), or the GC's designee, has the authority to suspend or revoke, IAW the

procedures outlined in AR 190-5, driving privileges for all violations of this regulation. This authority does not infringe upon any unit's ability to separately maintain good order and discipline within their organization. The DES will act as the notification authority and record keeper for all suspension and revocation actions.

2-3. SUSPENSION OF DRIVING PRIVILEGES

Suspension of driving privileges is defined as a temporary withdrawal of a person's driving privileges on military installations. Privileges are not automatically restored at the end of the suspension period. The Deputy Garrison Commander (DGC) is designated the administrative hearing officer for any individual who requests administrative hearing on suspension of driving privileges. Those persons whose driving privileges are suspended by the DGC may appeal to the Garrison Commander to seek to have their driving privileges restored prior to the designated termination period of the suspension.

a. Nonmoving Violations. On the recommendation of the DES, the Garrison Commander may suspend installation driving privileges for POVs and Government Owned Vehicles (GOVs) for up to 60 days for an individual who receives three nonmoving violations within a cumulative six month period. Nonmoving violations include, but are not limited to, illegal parking.

b. Moving Violations. On the recommendation of the DES, the Garrison Commander may suspend installation driving privileges for POVs and GOVs for up to six months for an individual who receives three moving violations within a cumulative six month period. Factors to be considered by the Garrison Commander include, but are not limited to, the seriousness of the violation(s); whether the violation(s) reflect a pattern of disregard for traffic regulations; and, the potential risk the violation(s) pose to the safety, welfare and efficient traffic management of the Installation. Moving violations include cell phone use while driving; motorcyclist failing to wear required personal protective equipment and clothing; failure to wear seatbelts, and any other moving violation listed in the California Vehicle Code, AR 190-5, and this regulation.

c. Serious Violations. The Garrison Commander may suspend the installation driving privileges for POVs and GOVs for up to six months for any individual who receives just one citation for a serious traffic violation that creates a high possibility of significant harm to people or property, or that results in significant harm to people or property. Significant harm means physical injury requiring immediate medical care or damage to property reasonably estimated to exceed \$2,000.

d. Alcohol or Drug Related Traffic Violations. A person's privilege to operate a motor vehicle on the Presidio of Monterey will be immediately suspended upon receipt of reliable evidence of an alcohol or impaired driving-related offense involving the operation of a motor vehicle, regardless of the location of the incident. Reliable evidence includes witness statements, military or civilian police report of apprehension, chemical test results if completed, refusal to consent to breathe or chemical testing, videotapes, statements by the apprehended individual, field sobriety or preliminary breath tests results, and other pertinent evidence. If the DGC is not readily available, the DES shall serve as reviewer and suspension authority. The Chief, Administrative Law, or their designee, will conduct a legal review, as soon as practicable. Immediate suspension will automatically result if:

(1) An individual refused to take or complete a lawfully requested chemical test to determine contents of blood for alcohol or other drugs;

(2) An individual over the age of 21 submitted to a lawfully requested chemical test and the result was 0.08 or higher blood alcohol content (BAC), or between 0.04 and 0.08 in violation of the law of the jurisdiction in which the vehicle is being operated;

(3) An individual under the age of 21 submitted to a lawfully requested chemical test and the result was 0.01 or higher BAC; or

(4) An individual showed results indicating the presence of other drugs for an on-post apprehension or in violation of state laws for an off-post apprehension. Driving while under the influence of marijuana is illegal on all federal installations.

2-4. REVOCATION OF DRIVING PRIVILEGES

A revocation is defined as a termination of one's privileges to operate a motor vehicle on the Presidio of Monterey for a specified period of time. For a revocation to be lifted at the end of a specified period of time, an individual must apply for reinstatement demonstrating proof of the satisfaction of requirements for reinstatement.

2-5. PROCEDURE FOR SUSPENSIONS AND REVOCATIONS

The process for suspension or revocation of driving privileges will be in accordance with the due process requirements as outlined in AR 190-5, paragraph 2-6. Those who have their driving privileges suspended for other reasons are entitled to a hearing in accordance with AR 190-5. See Appendixes B-E for detailed procedures for suspensions, revocations, and restoration of privileges.

2-6. SUSPENSION OR REVOCATION PERIODS

In addition to the suspension periods detailed in paragraph 2-3, above, the following suspension and revocation periods apply.

- a. Driving while driver's license or installation driving privileges are under suspension or revocation will result in a mandatory 5-year revocation for Soldiers, and 2-year revocation for all others.
- b. A refusal to submit to or failure to complete chemical tests (violation of implied consent) will result in a mandatory 1-year revocation.
- c. Manslaughter (or negligent homicide by vehicle) resulting from the operation of a motor vehicle; driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor (0.08% or greater on DOD installations; violation of civil law off post); driving a motor vehicle while under the influence of any narcotic, or while under the influence of any other drug (including alcohol) to the degree rendered incapable of safe vehicle operation; use of a motor vehicle in the commission of a felony; fleeing the scene of an accident involving death or personal injury (hit and run); perjury or making a false statement or affidavit under oath to responsible officials relating to the ownership or operation of motor vehicles; or unauthorized use of a motor vehicle belonging to another, when the act does not amount to a felony, will result in a mandatory 1-year revocation on conviction.
- d. Mental or physical impairment (not including alcohol or other drug use) to the degree rendered incompetent to drive; commission of an offense in another State which, if committed on the installation, would be grounds for suspension or revocation; permitting an unlawful or fraudulent use of an official driver's license; conviction of fleeing, or attempting to elude, a police officer; or conviction of racing on the highway; may result in suspension for a period of 6 months or less or revocation for a period not to exceed 1 year.
- e. Receiving a second 1-year suspension or revocation of driving privileges within 5 years, may

result in the loss of OF 346 (TMP License) for minimum of 6 months.

2-7. RESTRICTED DRIVING PRIVILEGES

Individuals whose driving privileges have been suspended or revoked may request, in writing, restricted driving privileges. For the Navy, Air Force, Marine Corps, and the Defense Logistics Agency (DLA), the Garrison Commander may modify a suspension or revocation of driving privileges in certain cases. Army requests for restricted driving privileges subsequent to suspension or revocation of installation driving privileges will be referred to the Garrison Commander, except for intoxicated driving cases, which must, IAW AR 190-5, be referred to the General Court Martial Convening Authority. Requests for restricted driving privileges will not be considered until final action is taken with regard to the suspension or revocation. All requests from Service Members will be forwarded through the Service Member's chain of command thru the OSJA for legal review prior to staffing to the Garrison Commander, or GCMCA.

a. Driving privileges will not be granted to any person who cannot meet the requirements set forth in paragraph 2-1.

b. Restricted driving privileges will be granted on a case-by-case basis to accommodate any of the following:

(1) Mission requirements;

(2) Unusual personal or family hardships;

(3) Delays exceeding 90 calendar days, not attributable to the person concerned, in the formal disposition of charges, which are the basis for the suspension; or

(4) When there is no reasonably available alternative means of transportation to officially assigned duties.

c. The limitations on a restricted driving privilege will be specified in writing and provided to the individual concerned. For good cause, the Garrison Commander may withdraw the restricted privilege and continue the suspension or revocation.

CHAPTER 3 PRESIDIO OF MONTEREY TRAFFIC CODE

3-1. INCORPORATION

a. The traffic laws set forth in the California Vehicle Code (CVC) and their subsequent amendments are wholly incorporated into this regulation pursuant to Title 18, United States Code (U.S.C.), Section 13. Additional traffic laws are provided in this regulation, pursuant to the authority of Title 40, U.S.C., Section 1315 (Public Buildings, Property, and Works), and DOD Directive 5525.4 (Enforcement of State Traffic Laws on DOD Installations). Any violation of these traffic laws is a violation of this regulation and may be the basis for criminal prosecution under the UCMJ, other federal laws, or regulations.

b. At the time of publication, the CVC, along with penalties for offenses, was located at: <https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=VEH&tocTitle=+Vehicle+Code+-+VEH>.

3-2. TOWING, STORAGE, IMPOUNDING AND INVENTORYING VEHICLES

a. Vehicles may be towed, stored or impounded when:

(1) Illegally parked in a manner that interferes with the orderly flow of traffic.

(2) Parked on a sidewalk or crosswalk, in a fire lane, within an intersection; or, blocking a driveway or emergency exit of a building.

(3) Parked in a properly marked handicapped zone without a clearly visible handicap permit.

(4) Parked in a manner that interferes with street cleaning or debris removal operations and attempts to locate the owner have been unsuccessful.

(5) Emergency situations such as natural disasters or fires necessitate removal.

(6) Being lawfully seized as evidence or when containing evidence of a crime.

(7) The owner or operator has been apprehended and is unable or unwilling to arrange for removal.

(8) The vehicle has been abandoned or disabled for a minimum of 72 hours.

(9) Vehicles that are a force protection concern may be towed immediately.

b. Vehicles should not be impounded unless they clearly meet the standards set forth in paragraph 3-2a and all reasonably available alternatives to locate the owner have been exhausted.

c. Stored and impounded vehicles will be towed at the owner's expense.

d. The procedures for impoundment set forth in AR 190-5, paras 6-4 through 6-6 shall be followed.

3-3. RESTRAINT SYSTEMS (PUNITIVE)

a. A person shall not operate a motor vehicle unless that person and all passengers are properly restrained by a safety belt or child passenger restraint system while on the Presidio of Monterey.

b. A parent, legal guardian, or driver who transports a child under four years of age in a motor vehicle, shall properly secure that child in a rear seat in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards.

c. A parent, legal guardian, or driver who transports a child under two years of age in a motor vehicle, shall properly secure the child in a rear-facing child passenger restraint system that meets applicable federal motor vehicle safety standards, unless the child weighs 40 or more pounds or is 40 or more inches tall. The child shall be secured in a manner that complies with the height and weight limits specified by the manufacturer of the child passenger restraint system.

3-4. PARKING (PUNITIVE)

a. Parking is defined as the stopping or standing of a motor vehicle, regardless of whether attended or unattended.

b. Students who live off post must use commuter student or open parking lots and spaces. Students will not park in parking lots and spaces designated for Staff and Faculty or other designated parking spaces. During the duty day (Monday – Friday, 0730 – 1700 hrs), students who reside in barracks buildings on the installation are only authorized to park vehicles in parking lots for their designated barracks building.

c. A 30 day suspension of on-post driving privileges (including Ord Military Community (OMC) and La Mesa areas) will be issued to individuals who violate the provisions of paragraph b. above. Appeals of the 30 day suspension will be forwarded to the Deputy to the Garrison Commander for consideration. During the suspension period, students are not required to remove already parked vehicles to off installation areas. Vehicles may remain parked in authorized parking lots and spaces. Students who elect to remove their vehicles from the PoM installation prior to commencement of a suspension period must maintain their vehicle off of the installation, including the OMC and La Mesa areas, for the duration of the suspension period.

d. Exception to the parking prohibitions contained in paragraph b. above: Students with urgent medical needs, which would make walking or riding the bus difficult may request an exception to prohibitions referenced above. Any request for an exception based on urgent medical needs must be accompanied by medical documentation substantiating the request. Individuals with medical profiles, which limit their ability to walk or ride the bus, must submit to the Deputy to the Garrison Commander profile documentation to substantiate the necessity to park in areas outside of designated barracks building and commuter parking lots and spaces.

e. Vehicles parked on all highways and roadways will be parked on the right shoulder of the road in the direction of travel so that the vehicle is completely clear of the traveled portion of the roadway.

f. If a vehicle must be parked where it may be a hazard to other traffic, the hazard lights will be turned on and the vehicle must be removed as soon as possible.

g. Unless otherwise ordered or directed by traffic control devices or law enforcement, parking is prohibited in the following areas:

- (1) On grassy areas, athletic courts, or fields.
- (2) In front of public or private driveways, unless actively loading or unloading.
- (3) In a posted loading zone, unless actively loading or unloading.
- (4) When the vehicle location adversely affects the normal flow of traffic.
- (5) In a parking space properly reserved for another and marked to that effect.
- (6) Along major roadways in excess of 24 hours.
- (7) Areas marked with 72 hour “No Parking” signs posted by PoM PD.

h. Designated parking is limited to the following positions, a roster of which will be maintained by the Garrison Command Sergeant Major:

- (1) Garrison Commander

- (2) Commandant
- (3) Battalion Level Commanders (or service equivalent)
- (4) Command Sergeants Major (or service equivalent)
- (5) Battalion Level and Higher Executive Officers (or service equivalent)
- (6) Directorate Level / Deans/ Special Staff (including Military Judge) (one space)
- (7) Handicapped areas

i. Designated parking spots must be clearly marked with an approved erected sign or curb marking emplaced by the Directorate of Public Works (DPW). These signs will not be designated by name, but only by position. Units, tenant organizations, and facilities are not authorized to mark or designate individual parking spaces.

j. Authorized military vehicles. Reserved parking for military vehicles may be requested based on activity requirements, but will not be designated by name or position.

k. Time Limited Spaces. Violation of designated time limited spaces will be the subject of fines as detailed below.

l. Staff & Faculty / Customer Spaces

(1) Non-student personnel assigned to the PoM are authorized to park in areas designated "Staff & Faculty."

(2) Visitors to the PoM, or customers, will park in the spaces labeled as visitor or customer parking.

m. Recreational Vehicles. The term recreational vehicle includes, but is not limited to, full coaches, travel trailers, boats, or any vehicle converted to include living or sleeping quarters. Recreational vehicles (RV's), ATV's, snow mobiles, wave runners, boats, any type of trailer, and anything similar in nature are not allowed on the property for periods exceeding 24 hours. If the vehicle moves locations but is still on the property it is subject to tow at the owner's expense. Recreational vehicles stored on the property for the 24 hour allowed period must be legally parked and not block the flow of traffic. Sale of vehicles on the property is prohibited. Violators will be subject to the towing provisions of this regulation.

n. Unattended Minors. A parent, legal guardian, or other person responsible for a child who is 6 years of age or younger may not leave that child inside a motor vehicle without being subject to the supervision of a person who is 12 years of age or older, under either of the following circumstances:

- (1) Where there are conditions that present a significant risk to the child's health or safety.
- (2) When the vehicle's engine is running or the vehicle's keys are in the ignition, or both.

o. Parking in Ord Military Community and La Mesa Housing Area.

(1) All vehicles must be parked in driveways, along the street (with the flow of traffic), or in an

appropriately marked location.

(2) Residents will park their vehicles in the spots designated for their residence or in appropriately marked locations that do not interfere with another resident's ability to park at their residence.

(3) Residents will ensure their visitors park in spots designated for the resident, or in other appropriately marked locations, and do not interfere with designated parking of other residents.

p. Violations of the provisions above will result in a fine commensurate with the governing law in effect at the time of the violation with an additional processing fee.

3-5. MOTORCYCLES, MOPEDS, MOTOR SCOOTERS AND ALL-TERRAIN VEHICLES (ATV) (PUNITIVE).

a. Service Members who operate motorcycles, mopeds, motor scooters, and ATVs on the Presidio of Monterey must have completed the Installation Safety Motorcycle Defensive Driving Course (or service equivalent) described in AR 385-10 (The Army Safety Program). Motorcycles and mopeds on Presidio of Monterey will have their headlights on during operation. Rearview mirrors will be on both the left and right side handlebars.

b. Civilian personnel or contracted laborers that are properly licensed to ride a motorcycle shall not be required to receive service sponsored training, or to prove that they have taken other motorcycle training as a requirement to operate a motorcycle on Presidio of Monterey, exception is civilians or contractors that operate Government owned motorcycles, mopeds, motor scooters and ATVs.

c. All operators and passengers of these vehicles, Service Member or civilian, will wear the following personal protective safety equipment:

(1) A helmet constructed of reinforced, shatterproof plastic, approved by the Department of Transportation. The helmet must be properly fastened under the chin.

(2) Shatterproof eye protection. A windshield or fairing is not sufficient.

(3) Leather boots or over the ankle shoes.

(4) Long trousers and a long sleeved shirt or jacket.

(5) Full fingered gloves.

(6) High visibility garments and retro reflectorized vests are encouraged.

d. Service Members will wear the safety equipment listed above when operating a motorcycle on or off post. In accordance with AR 190-5, para 4-2d, only administrative action may be pursued for violations committed off post.

3-6. CELLULAR PHONES AND DISTRACTED DRIVING (PUNITIVE)

All motor vehicle operators on the Presidio of Monterey and operators of GOVs off post, unless exempt, shall not use cell phones, unless:

a. The vehicle is safely parked.

b. The operator is using a hands free device. The wearing of any other portable headphones, earphones, or other listening devices, except for hands-free cell phones, while operating a vehicle is prohibited.

c. Use of any other device or activity, such as eating, drinking, or use of a GPS, must not interfere with the safe operation of the vehicle.

d. Violations of the provisions above will result in a fine commensurate with the governing law in effect at the time of the violation with an additional processing fee.

3-7. NOISE LIMITATIONS (PUNITIVE)

a. No person operating or occupying a motor vehicle on a street, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is audible at a distance of 50 or more feet from the vehicle with the windows rolled down, or any discernable noise emitting from the vehicle with the windows rolled up.

b. Penalty. Violations of the provision above will result in a fine commensurate with the governing law in effect at the time of the violation with an additional processing fee.

3-8. SPEED LIMITS (PUNITIVE)

a. A speed limit of 30 miles per hour (mph) is in effect for all roadways on the Presidio of Monterey unless posted otherwise.

b. A speed limit of 20 MPH is in effect for all residential areas. The maximum speed in any parking lot is 10 mph. In such locations, a person may not drive faster than the posted speed limit or 10 mph in the case of a parking lot.

c. When passing troop formations from any direction, no person shall drive faster than 10 mph.

d. Violations of the provisions above will result in a fine commensurate with the governing law in effect at the time of the violation with an additional processing fee.

3-9. PASSING BUSES (PUNITIVE)

“Bus” includes school buses, government contracted buses and municipal buses.

a. On approach to a bus stop, the driver of the bus shall activate the flashing warning light system, beginning 200 feet before the bus stop. The driver shall continue to operate warning lights during loading and unloading of personnel.

b. The driver of any vehicle, upon meeting or overtaking, from either direction, any bus equipped with flashing warning lights shall bring the vehicle to a stop immediately before passing the bus and shall not proceed past the bus until the flashing warning lights cease operation.

c. If a bus driver observes a vehicle overtaking a bus in violation of the provisions above, the bus driver may, within 24 hours, report the violation and furnish the vehicle license plate number, description of the offending vehicle, and the time and place of the violation to PoM PD. PoM PD will issue a

warning letter to the registered owner of the vehicle. The warning letter will not be entered on the driving record of the person to whom it is issued.

d. Violations of paragraph 3-9b will result in a fine commensurate with the governing law in effect at the time of the violation with an additional processing fee.

3-10. CROSSWALKS (PUNITIVE)

a. The driver of a vehicle shall yield the right-of-way to any pedestrian crossing the roadway within a marked crosswalk, except as otherwise provided in this chapter.

b. This section does not relieve a pedestrian from the duty of care for his or her own safety. Pedestrians may not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard. Pedestrians are also prohibited from unnecessarily obstructing or delaying traffic while in a marked crosswalk.

c. The driver of a vehicle approaching a pedestrian within any marked crosswalk shall exercise due care and shall reduce the speed of the vehicle or take any other action relating to the operation of the vehicle as necessary to safeguard the safety of the pedestrian.

d. Pedestrians who are not within a marked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard.

e. Pedestrians shall, when practicable, not cross the roadway at any place except in a crosswalk.

APPENDIX A. REFERENCES

Section I Required Publications

Title 18, United States Code, Section 13 Assimilative Crimes Act

Uniform Code of Military Justice

32 Code of Federal Regulations, Part 634 Motor Vehicle Traffic Supervision

AR 15-6 Procedures for Investigating Officers and Boards of Officers

AR 190-5 Motor Traffic Vehicle Supervision

AR 190-45 Law Enforcement Reporting

AR 385-10 The Army Safety Program

DOD Directive 5525.4 Enforcement of State Traffic Laws on DOD Installations

DoD Instruction 6055.4 DoD Traffic Safety Program

Section II Related Publications

AR 385-55 Prevention of Motor Vehicle Accidents

AR 600-55 The Army Driver and Operator Standardization Program (Selection, Training, Testing, and Licensing)

Title 40, United States Code, Section 1315 Public Buildings, Property, and Works

Section III Prescribed Forms

DA Form 2028 Recommended Changes to Publications and Blank Forms

DA Form 2823 Sworn Statement

DD Form 1408 Traffic Ticket, Armed Forces

APPENDIX B. ADMINISTRATIVE DUE PROCESS FOR SUSPENSIONS AND REVOCATIONS

B-1. Purpose

This appendix establishes procedures in which the Garrison Commander through their designee may, for cause, administratively suspend or revoke driving privileges on the installation. All due process procedures provided under the provisions of AR 190-5, paragraphs 2-4 thru 2-6 will be observed.

B-2. Reviewer

a. The Garrison Commander has designated the Deputy to the Garrison Commander (DGC) as the reviewer. The DES is authorized to conduct reviews and authorize suspensions or revocations in cases where the designated reviewer is not reasonably available and, in the judgment of the senior law enforcement officer on shift, such immediate action is warranted.

b. When suspension or revocation is based on the senior law enforcement officer's review, the designated reviewer shall conduct a subsequent review as soon as practical, but not later than 72 hours after the initial suspension or revocation action was taken.

B-3. Driving Privilege Adjudicator (DPA)

a. The Garrison Commander has designated the DGC as the DPA. The DPA is the suspension and revocation authority.

b. The DPA's primary responsibilities are to:

(1) Serve as a suspension and revocation authority for all traffic point cases.

(2) Serve as the appellate authority and conduct administrative hearings, as outlined in Appendix E.

(3) Adjudicate all requests for restricted driving privileges, as outlined in Appendix D.

B-4. Unit Commander

a. Unit commanders or supervisors may recommend suspension of driving privileges of personnel under their command to the DPA.

b. All requests for suspension of installation driving privileges will be routed through the individual's chain of command, through the OSJA, to the DPA for action.

c. If a civilian employee is involved, such request will be routed through his/her supervisory chain.

d. Included with each request will be a list of all actions taken, if any, by the commander/supervisor to improve the individual's driving performance.

B-5. Alcohol-related or other intoxicated driving offenses

a. The Reviewer shall not impose immediate suspension or revocation of installation driving privileges without reviewing all reliable evidence readily available.

(1) Reliable evidence includes witness statements, military or civilian police report of apprehension, chemical test results if completed, refusal to consent to complete chemical testing, videotapes, statements by the apprehended individual, field sobriety or preliminary breath tests results, and other pertinent evidence.

(2) Reviews normally will be accomplished within the first duty day following final assembly of evidence.

b. The individual whose driving privileges have been suspended will be informed of the right to request a hearing. Such requests must be made in writing and routed through the individual's chain of command, through the OSJA, to the DPA. If a civilian employee is involved, the request will be routed through his/her supervisory chain. The request must be made within 14 calendar days of the notice of suspension.

c. The DPA will determine if post driving privileges will be restored pending resolution of the charge.

d. Hearings on suspension actions for alcohol-related driving offenses will be conducted IAW appendix E of this regulation.

APPENDIX C. REQUESTS FOR RESTRICTED DRIVING PRIVILEGE (RDP)

C-1. General

a. RDP will not be granted to any person whose driver's license, or right to operate motor vehicles, is under suspension or revocation by any driver's licensing authority.

b. The burden of proof for establishing restoration of driving privileges by the driver's licensing authority lies with the person applying for RDP.

C-2. Procedures

Following notification of a suspension or revocation of installation driving privilege, an individual may request RDP. All requests must be in writing and will be routed through the individual's chain of command, to the DPA for action. If a civilian employee is involved, then such request will be routed through his/her supervisory chain. The RDP must meet the criteria outlined below. Considerations to be used in evaluating requests for RDP:

a. A valid adverse military mission impact, serious family hardship, or detrimental effect on an ongoing or contemplated alcohol/drug treatment/rehabilitation program would result from the revocation/suspension.

b. If other members of the family are not licensed drivers, a reason will be provided as to why they cannot drive or obtain a valid state driver's license.

c. Proof of attendance and the successful completion of a remedial driver training course. The RDP cannot be granted unless the individual has attended and successfully completed the course.

d. For suspension or revocation resulting from alcohol or drug-related driving offenses, an alcohol/drug evaluation must have been completed prior to requesting RDP, unless the requesting individual refused to comply with implied consent laws. To satisfy this requirement, Service Members, family members, and civilian employees can obtain an assessment at a clinical substance program office, on or off post. Attendance at an off post substance abuse traffic offender's program will satisfy this requirement as well.

e. The individual's past driving record both on and off the installation will be considered.

C-3. Unit commander's evaluation of request

On receipt of the initial request from the individual, the unit commander will carefully review and evaluate the request. If the request is based on an adverse military mission impact, a statement will be included by the commander stating why adequate military transportation is not available for the individual to perform his or her job. The commander will then make an appropriate recommendation to the DPA. Endorsements must be signed by the appropriate commanders. FOR THE COMMANDER signatures are not acceptable.

APPENDIX D. REQUESTS FOR RESTORATION OF INSTALLATION DRIVING PRIVILEGE

D-1. General

IAW AR 190-5, paragraph 2-9, the suspension of driving privileges for military and civilian personnel shall be restored if a final disposition indicates a finding of not guilty, charges are dismissed or reduced to an offense not amounting to intoxicated driving, or where an equivalent determination is made in a non-judicial proceeding.

D-2. Procedures

a. Application for restoration will be by written request. All requests will be routed through the individual's chain of command and the OSJA, to the DPA for action. If a civilian employee is involved, then such request will be routed through his/her supervisory chain.

(1) Proof of training completion. For alcohol-related driving offenses, requests for restoration of installation driving privileges shall be accompanied by proof of completion of a clinical substance abuse program, or a substance abuse traffic offender's program. For non-alcohol related suspensions/revocation, proof of completion of an accident avoidance course must be provided after the suspension/revocation.

(2) Drug and alcohol evaluation. For suspensions and revocations resulting from drug or alcohol-related driving offenses, an evaluation from an alcohol/drug treatment center shall be included with the request for restoration of installation driving privileges. Active duty and retired Service members, their Family members, and DA civilians may obtain an evaluation from the clinical substance abuse office. Other civilians may obtain evaluation from an appropriate off-post facility. The evaluation will indicate that the individual has been evaluated and has no problems, is scheduled to attend treatment, or has completed such treatment.

(3) Commander's recommendation. On receipt of the initial request from the individual, the unit commander will carefully review and evaluate the request. If the required evaluations are completed, the commander will then make an appropriate recommendation to the next higher element of the chain of command. Endorsements must be signed by the appropriate commanders. FOR THE COMMANDER signatures are not acceptable. Commanders will forward their recommendation in a timely manner. In cases where all requirements for reinstatement have been met, but the commander recommends disapproval, he/she must provide justification for why the privilege should not be reinstated.

b. Upon acquittal (a finding of not guilty), an individual must apply in writing for full restoration of his driving privileges prior to operating a motor vehicle on this installation. Application for restoration will follow the same procedures described above.

APPENDIX E. ADMINISTRATIVE HEARINGS

E-1. Purpose

This appendix establishes guidance in preparing and conducting administrative hearings requested under the provisions of AR 190-5, paragraphs 2-4 and 2-6.

E-2. General

a. Administrative hearings are not immediately granted when individual driving privileges are suspended, revoked, or withdrawn by civil authorities of the state, or the state that issued the individual's driver license. In such cases, installation driving privileges are automatically withdrawn.

b. Requests for administrative hearings must be submitted in writing within 14 calendar days from notice of suspension. Requests will be routed through the individual's chain of command, to the DPA for action. If a civilian employee is involved, then such request will be routed through his/her supervisory chain.

c. The administrative hearing will be conducted by the DPA.

d. Administrative hearings will be conducted generally under the guidelines for informal procedures of AR 15-6. Verbatim transcripts will not be created.

e. The DPA is solely responsible for conducting the hearing. Witnesses may be called to testify at the hearing, if determined appropriate by the DPA.

E-3. Hearings on suspension and revocation actions for alcohol or drug-related driving offenses.

Determination of guilt or innocence is not the purpose of the hearing and such findings will not be made. Administrative hearings will cover only the pertinent issues of whether or not the following occurred:

a. The law enforcement official had reasonable grounds to believe the person was driving or in actual physical control of a motor vehicle while under the influence of an intoxicant.

b. The person was lawfully cited or apprehended for a driving under the influence offense.

c. The person was lawfully requested to submit his/her blood, breath, or urine in order to determine the content of alcohol or other drugs, or was informed of the implied consent policy (consequences of refusal to take or complete the test).

d. The person refused to submit to the blood alcohol content test; failed to complete the test; submitted to the test and the results indicated a violation of state law or federal law, or indicated the presence of other drugs for an on-post apprehension or in violation of State laws for an off-post apprehension.

e. The law enforcement official had probable cause to believe that the person was driving or in actual physical control of a motor vehicle while impaired although the blood alcohol content was below the legal limit.

f. The testing method used was valid and reliable, and the results accurately evaluated.

E-4. Determinations made by a preponderance of the evidence

If the DPA makes a determination, by a preponderance of the evidence, that any of the above circumstances occurred, the individual will be notified that his suspension or revocation of installation driving privilege will remain in effect. If the DPA does not find that any of the above circumstances were established by a preponderance of the evidence, then the suspension or revocation of the individual's driving privileges shall be vacated.

E-5. DPA's findings

The DPA's findings in the administrative hearing are solely for the purpose of acting on the subject's suspension or revocation. The DPA's findings will not prejudice the rights of any party in a subsequent criminal or administrative proceeding involving the same or a related incident.