

the request. The suspension for intoxicated driving will remain in effect until a decision has been made by the installation commander or designee, but will not exceed 10 working days after the hearing while awaiting the decision. If no decision has been made by that time, full driving privileges will be restored until such time as the accused is notified of a decision to continue the suspension.

(10) Hearing on suspension actions under § 634.10(a) for intoxicated drivers pending resolution of charges will cover only the pertinent issues of whether—

(i) 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 alcohol or other drugs.

(ii) The person was lawfully cited or apprehended for an intoxicated driving offense.

(iii) The person was lawfully requested to submit to a test for alcohol or other drug content of blood, breath, or urine and was informed of the consequences of refusal to take or complete such test.

(iv) The person refused to submit to the test for alcohol or other drug content of blood, breath, or urine; failed to complete the test; or submitted to the test and the result was 0.10 percent or higher blood alcohol content, or showed results indicating the presence of other drugs for an on-post apprehension or in violation of State laws for an off-post apprehension.

(v) The testing methods used were valid and reliable, and the results accurately evaluated.

(11) For revocation actions under § 634.10(b)(3) for intoxicated driving, the revocation is mandatory on conviction or other findings that confirm the charge. (Pleas of nolo contendere are considered equivalent to guilty pleas.)

(i) Revocations are effective as of the date of conviction or other findings that confirm the charges.

(ii) The notice that revocation is automatic may be placed in the suspension letter. If it does not appear in the suspension letter, a separate letter must be sent and revocation is not effective until receipt of the written notice.

(iii) Revocations cancel any full or restricted driving privileges that may have been restored during suspension and the resolution of the charges. Requests for restoration of full driving privileges are not authorized.

#### **§ 634.12 Army administrative actions against intoxicated drivers.**

Army commanders will take appropriate action against intoxicated drivers. These actions will include the following:

(a) A written general officer reprimand, administrative in nature, will be issued to active duty Army officers, commissioned and warrant, and non-commissioned officers, to include soldiers in the grade of E-4 appointed on official orders to corporal, in the cases described below. This reprimand may be issued by an officer frocked to the grade of brigadier general. Subsequent filing of the reprimand will be in accordance with the provisions of AR 600-37.

(1) Conviction of intoxicated driving or driving under the influence of alcohol or other drugs either on or off the installation.

(2) Refusal to take or failure to complete a lawfully requested test to measure alcohol or drug content of the blood, breath, or urine, either on or off the installation, when there is reasonable belief of driving under the influence of alcohol or drugs.

(3) Driving or being in physical control of a motor vehicle on post when the blood alcohol content is 0.10 percent or higher, irrespective of other charges, or off post when the blood alcohol content is in violation of State laws, irrespective of other charges.

(4) Driving or being in physical control of a motor vehicle, either on or off the installation, when lawfully requested chemical tests reflect the presence of illegal drugs.

(b) A written reprimand, administrative in nature, may be issued by a general officer or other appropriate official to active duty soldiers in the grade of E-4 (except corporals) and below in cases described in paragraph (a) of this section.

(c) Review by commanders of the service records of active duty soldiers apprehended for offenses described in

### § 634.13

(a) above to determine if the individual's warrant—

(1) Administrative reduction per AR 600-200.

(2) Bar to reenlistment per AR 601-280.

(3) Administrative discharge per AR 635-200.

### § 634.13 Remedial driver training programs.

(a) Navy activities will comply with OPNAVINST 5100.12D, Air Force activities with AFR 30-2, and Marine Corps activities with MCO 5100.19C.

(b) Installation commanders may establish a remedial driver training program to instruct and educate military personnel requiring additional training. Personnel will be chosen for the program on the basis of their individual driving records. The curriculum should provide instruction to improve driving performance and compliance with traffic laws.

(c) Installation commanders may schedule periodic courses if courses on a continuing basis are not practical. If civil authorities conduct such courses, commanders may arrange for installation personnel to attend these courses in lieu of operating a course on or by the installation.

(d) Civilian personnel employed on the installation, contractor employees, and family members of military personnel may voluntarily attend these or similar courses.

### § 634.14 Alcohol and drug abuse programs.

(a) Commanders will refer military personnel suspected of drug or alcohol abuse for evaluation in the following circumstances:

(1) Behavior is indicative of alcohol or drug abuse.

(2) Continued inability to drive a motor vehicle safely because of alcohol or drug abuse.

(b) The commander will ensure military personnel are referred to the installation alcohol and drug abuse program or other comparable facilities when they are convicted of, or receive an official administrative action for, any offense involving intoxicated driving. A first offender may be referred for treatment if more evidence of sub-

### 32 CFR Ch. V (7-1-02 Edition)

stance abuse exists than merely the offense of intoxicated driving. The provisions of this paragraph do not limit the commander's prerogatives concerning other actions that may be taken against offenders under separate Service policies. (Army, see AR 600-85; Marine Corps, see MCO P5300.12.)

(c) Active duty Army personnel apprehended for drunk driving, on or off the installation, will be referred to the local Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) for evaluation within 10 days to determine if the person is dependent on alcohol or other drugs which will result in enrollment in Track I or other level of treatment in accordance with AR 600-85.

(d) Active duty Navy personnel apprehended for drunk driving, on or off the installation, will be screened by the respective CAAC facility within 10 days to determine if the individual is dependent on alcohol or other drugs. Active duty Marines apprehended for intoxicated driving, on or off the installation, will be referred for interview by a Level II substance abuse counselor within 10 days for evaluation and determination of the appropriate level of treatment required subsequent to this evaluation, the Marine will be assigned to the appropriate treatment program as prescribed by MCO P5300.12.

(e) The Services may develop preventive treatment and rehabilitative programs for civilian employees with alcohol-related problems section 4561, title 42, U.S. Code (42 U.S.C. 4561).

(f) Army supervisors of civilian employees apprehended for drunk driving will advise employees of ADAPCP services available. Army civilian employees apprehended for intoxicated driving while on duty will be referred to the ADAPCP for evaluation in accordance with AR 600-85. Army commanders will ensure that sponsors encourage family members apprehended for drunk driving to seek ADAPCP evaluation and assistance.

(g) Navy and DLA civilian personnel charged with intoxicated driving will be referred to the Civilian Employee Assistance Program for evaluation in accordance with FPM Supplement 792-2. Such referral does not exempt the