

Under clause 8 of Rule XII, executive communications were taken from the Speaker's table as follows:

COMMUNICATION 02719 from the

Publications Control Officer, Department of Defense

transmitting

the Department's final rule - Motor Vehicle Traffic Supervision (RIN: 0702-AA43) Received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A).

Referred to the Committee on Armed Services. July 14, 2005.



41217

AD

Submission of Federal Rules Under the Congressional Review Act

AD204C
TD1772

President of the Senate Speaker of the House of Representatives GAO

Please fill the circles electronically or with black pen or #2 pencil.

1. Name of Department or Agency

2. Subdivision or Office

Department of Defense

Department of the Army

3. Rule Title

Motor Vehicle Traffic Supervision

4. Rule Identification Number (RIN) or Other Unique Identifier (if applicable) RIN 0702-AA43

5. Major Rule Non-major Rule

6. Final Rule Other

7. With respect to this rule, did your agency solicit public comments? Yes No N/A

8. Priority of Regulation (fill in one)

Economically Significant; or Significant; or Substantive, Nonsignificant

Routine and Frequent or Informational/Administrative/Other
(Do not complete the other side of this form if filled in above.)

9. Effective Date (if applicable) April 12, 2005

10. Is a concise Summary of the Rule provided? Yes No

Submitted by: Jeffery B. Porter (signature)

Name: Jeffery Porter

Title: Publications Control Officer

For Congressional Use Only:

Date Received: _____

Committee of Jurisdiction: _____

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	Yes	No	N/A
A. With respect to this rule, did your agency prepare an analysis of costs and benefits?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
B. With respect to this rule, at the final rulemaking stage, did your agency			
1. certify that the rule would not have a significant economic impact on a substantial number of small entities under 5 U.S.C. § 605(b)?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. prepare a final Regulatory Flexibility Analysis under 5 U.S.C. § 604(a)?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
C. With respect to this rule, did your agency prepare a written statement under § 202 of the Unfunded Mandates Reform Act of 1995?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
D. With respect to this rule, did your agency prepare an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act (NEPA)?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
E. Does this rule contain a collection of information requiring OMB approval under the Paperwork Reduction Act of 1995?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
F. Did you discuss any of the following in the preamble to the rule?			
• E.O. 13132, Federalism	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12630, Government Actions and Interference with Constitutionally Protected Property Rights	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12866, Regulatory Planning and Review	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12988, Civil Justice Reform	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
• E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• Other statutes or executive orders discussed in the preamble concerning the rulemaking process (please specify)			

Regulatory Flexibility Act
 Unfunded Mandates Reform Act
 National Environmental Policy Act
 Paperwork Reduction Act



SUMMARY OF 32 CFR 634, "MOTOR VEHICLE TRAFFIC SUPERVISION"

The Department of the Army is publishing our rule concerning motor vehicle traffic supervision. The regulation prescribes policies and procedures on motor vehicle traffic supervision on military installations in the continental United States and overseas areas, including registration of privately owned vehicles; granting, suspending, or revoking the privilege to operate a privately owned vehicle on a military installation; administration of the vehicle registration program; driver improvement programs; police traffic supervision; and off-installation traffic activities.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO TNE5 Parsons, TN [Revised]

Parsons, Scott Field Airport, TN
(Lat. 35°38'16" N., long. 88°07'41" W.)
Beech River Regional Airport, TN
(Lat. 35°39'20" N., long. 88°11'45" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Scott Field Airport, and that airspace within a 6.5-mile radius of Beech River Regional Airport; excluding that airspace within the Lexington, TN, Class E airspace area.

* * * * *

Issued in College Park, Georgia, March 30, 2005

Mark D. Ward,
*Acting Area Director, Air Traffic Division,
Southern Region.*

[FR Doc. 05-7316 Filed 4-11-05; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE**Department of the Army****32 CFR Part 634**

RIN 0702-AA43

Motor Vehicle Traffic Supervision

AGENCY: Department of the Army, DoD.
ACTION: Final rule.

SUMMARY: The Department of the Army is publishing our rule concerning motor vehicle traffic supervision. The regulation prescribes policies and procedures on motor vehicle traffic supervision on military installations in the continental United States and overseas areas, including registration of privately owned vehicles; granting, suspending, or revoking the privilege to operate a privately owned vehicle on a military installation; administration of the vehicle registration program; driver improvement programs; police traffic supervision; and off-installation traffic activities.

DATES: *Effective Date:* May 12, 2005.

ADDRESSES: Headquarters, Department of the Army, Office of the Provost Marshal General, ATTN: DAPM-MPD-LE, 2800 Army Pentagon, Washington, DC 20310-2800.

FOR FURTHER INFORMATION CONTACT:
Nathan Evans, (703) 693-2126.

SUPPLEMENTARY INFORMATION:**A. Background**

In the December 21, 2004, issue of the Federal Register (69 FR 76526) the Department of the Army issued a proposed rule to publish 32 CFR part 634. This final rule prescribes procedures and responsibilities for motor vehicle traffic supervision. The Department of the Army received a response from one commentor. No substantive changes were requested or made. The Department of the Army has added one section since the publication of this part as a proposed rule. Section 634.25(c)(3) was modified to incorporate Department of Defense guidance concerning driving while using a cell phone.

B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the final rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the final rule does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of \$100 million or more.

D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the final rule does not have an adverse impact on the environment.

E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the final rule does not involve collection of information from the public.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the final rule does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 this final rule is not a significant regulatory action. As such, the final rule is not subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 this final rule does not apply.

I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 this final rule does not apply because it will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Jeffery B. Porter,
*Chief, Law Enforcement Policy and Oversight
Section.*

List of Subjects in 32 CFR Part 634

Crime, Investigations, Law, Law enforcement, Law enforcement officers, Military law, Penalties.

■ For reasons stated in the preamble the Department of the Army revises 32 CFR part 634 to read as follows:

PART 634—MOTOR VEHICLE TRAFFIC SUPERVISION**Subpart A—Introduction****Sec.**

- 634.1 Purpose.
- 634.2 References.
- 634.3 Explanation of abbreviations and terms.
- 634.4 Responsibilities.
- 634.5 Program objectives.

Subpart B—Driving Privileges

- 634.6 Requirements for driving privileges.
- 634.7 Stopping and inspecting personnel or vehicles.
- 634.8 Implied consent.
- 634.9 Suspension or revocation of driving or privately owned vehicle registration privileges.
- 634.10 Remedial driver training programs.
- 634.11 Administrative due process for suspensions and revocations.
- 634.12 Army administrative actions against intoxicated drivers.
- 634.13 Alcohol and drug abuse programs.
- 634.14 Restoration of driving privileges upon acquittal of intoxicated driving.

(3) Ensure that traffic supervision is properly integrated in the overall installation traffic safety program.

(4) Actively participate in Alcohol Safety Action Projects (ASAP) in neighboring communities.

(5) Ensure that active duty Army law enforcement personnel follow the provisions of AR 190-45 in reporting all criminal violations and utilize the Centralized Police Operations Suite (COPS) to support reporting requirements and procedures. Air Force personnel engaged in law enforcement and adjudication activities will follow the provisions of AFI 31-203 in reporting all criminal and traffic violations, and utilized the Security Forces Management Information Systems (SFMIS) to support reporting requirements and procedures.

(6) Implement the terms of this part in accordance with the provisions of the Federal Service Labor-Management Relations Statute, 5 U.S.C. Chapter 71.

(7) Revoke driving privileges in accordance with this part.

(f) *Installation law enforcement officer.* The installation law enforcement officer will—

(1) Exercise overall staff responsibility for directing, regulating, and controlling traffic, and enforcing laws and regulations pertaining to traffic control.

(2) Assist traffic engineering functions at installations by participating in traffic control studies designed to obtain information on traffic problems and usage patterns.

(g) *Safety officer.* Safety officers will participate in and develop traffic accident prevention initiatives in support of the installation traffic safety program.

(h) *Facility engineer (public works officer at Navy installations).* The facility engineer, engineer officer or civil engineer at Air Force installations, in close coordination with the law enforcement officer, will—

(1) Perform that phase of engineering concerned with the planning, design, construction, and maintenance of streets, highways, and abutting lands.

(2) Select, determine appropriate design, procure, construct, install, and maintain permanent traffic and parking control devices in coordination with the law enforcement officer and installation safety officer.

(3) Ensure that traffic signs, signals, and pavement markings conform to the standards in the current Manual on Uniform Traffic Control Devices for Streets and Highways.

(4) Ensure that planning, design, construction, and maintenance of streets and highways conform to the NHSPS as implemented by the Army.

(i) *Traffic engineer.* The traffic engineer, in close coordination with the law enforcement officer, will:

(1) Conduct formal traffic engineering studies.

(2) Apply traffic engineering measures, including traffic control devices, to reduce the number and severity of traffic accidents. (If there is no installation traffic engineer, installation commanders may request these services through channels from the Commander, Military Surface Deployment and Distribution Command, 200 Stovall Street, Alexandria, VA 22332).

(j) *Army Alcohol and Drug Control Officer (ADCO).* The ADCO will provide treatment and education services to personnel with alcohol or drug abuse problems.

(k) *Navy Substance Abuse Rehabilitation Program (SARP) Directors.* These directors will—

(1) Supervise the alcohol/drug rehabilitation services to personnel with alcohol or drug abuse problems.

(2) Provide remedial/motivational education for all persons identified as alcohol or drug abusers who are evaluated as not dependent on alcohol or drugs and who have been referred to level one rehabilitation by their commands.

(l) *Marine Corps Substance Abuse Program Officer.* This officer will provide alcohol/drug education, treatment, and rehabilitation services to personnel with alcohol/drug abuse problems.

(m) *DLA Employee Assistance Program Officer.* This officer will provide alcohol/drug counseling and referral services to identified personnel with alcohol/drug abuse problems in accordance with procedures prescribed by the Labor Relations Officer, Office of Human Resource, HQ DLA.

(n) *Alcohol/Drug Abuse Prevention Treatment (ADAPT) program.* Air Force Commanders will refer personnel identified with alcohol/drug abuse problems to this program in accordance with established procedures.

§ 634.5 Program objectives.

(a) The objectives of motor vehicle traffic supervision are to assure—

(1) Safe and efficient movement of personnel and vehicles.

(2) Reduction of traffic deaths, injuries, and property damage from traffic accidents. Most traffic accidents can be prevented. Investigation of motor vehicle accidents should examine all factors, operator status, vehicle condition, and supervisory control measures involved.

(3) Integration of installation safety, engineering, legal, medical, and law

enforcement resources into the installation traffic planning process.

(4) Removal of intoxicated drivers from installation roadways.

(b) [Reserved]

Subpart B—Driving Privileges

§ 634.6 Requirements for driving privileges.

(a) Driving a Government vehicle or POV on military installations is a privilege granted by the installation commander. Persons who accept the privilege must—

(1) Be lawfully licensed to operate motor vehicles in appropriate classifications and not be under suspension or revocation in any state or host country.

(2) Comply with laws and regulations governing motor vehicle operations on any U. S. military installation.

(3) Comply with installation registration requirements in Subpart C of this part. Vehicle registration is required on all Army installations through use of the Vehicle Registration System (VRS). Vehicle registration is required on all Air Force and DLA installations and as directed by the Chief, National Guard Bureau.

(4) Possess, while operating a motor vehicle and produce on request by law enforcement personnel, the following:

(i) Proof of vehicle ownership or state registration if required by the issuing state or host nation.

(ii) A valid state, host nation, overseas command, or international driver's license and/or OF 346 (U.S. Government Motor Vehicle Operator's Identification Card), as applicable to the class vehicle to be operated, supported by a DD Form 2A (U.S. Armed Forces Identification Card), Common Access Card (CAC) or other appropriate identification for non-Department of Defense (DOD) civilians.

(iii) A valid record of motor vehicle safety inspection, as required by the state or host nation and valid proof of insurance if required by the state or locality.

(iv) Any regulatory permits, or other pertinent documents relative to shipping and transportation of special cargo.

(v) When appropriate, documents that establish identification and status of cargo or occupants.

(vi) Proof of valid insurance. Proof of insurance consists of an insurance card, or other documents issued by the insurance company, that has a policy effective date and an expiration date.

(b) Operators of Government motor vehicles must have proof of authorization to operate the vehicle.

DOD, contractors, and other individuals with installation driving privileges. For civilian guests, revocation is authorized only with respect to incidents occurring on the installation or in the areas subject to military traffic supervision.

(3) Driving privileges will be revoked for a mandatory period of not less than 1 year in the following circumstances:

(i) The installation commander or designee has determined that the person lawfully apprehended for driving under the influence refused to submit to or complete a test to measure the alcohol content in the blood, or detect the presence of any other drug, as required by the law of the jurisdiction, or installation traffic code, or by Service directive.

(ii) A conviction, nonjudicial punishment, or a military or civilian administrative action resulting in the suspension or revocation of driver's license for intoxicated driving. Appropriate official documentation of such conviction is required as the basis for revocation.

(4) When temporary suspensions under paragraph (a)(3) of this section are followed by revocations, the period of revocation is computed beginning from the date the original suspension was imposed, exclusive of any period during which full driving privileges may have been restored pending resolution of charges. (Example: privileges were initially suspended on January 1, 2000 for a charge of intoxicated driving with a BAC of 0.14 percent. A hearing was held, extreme family hardship was substantiated, and privileges were restored on February 1 pending resolution of the charge. On March 1, 2000, the driver was convicted for intoxicated driving. The mandatory 1-year revocation period will consist of January 2000 plus March 2000 through January 2001, for a total of 12 months with no installation driving privileges).

(c) Army provost marshals will use the automated VRS to develop and maintain records showing that an individual's driving privileges have been revoked.

§ 634.10 Remedial driver training programs.

(a) Navy activities will comply with OPNAVINST 5100.12 Series, and Marine Corps activities with current edition of MCO 5100.19C for establishment of remedial training programs.

(b) Installation commanders may establish a remedial driver-training program to instruct and educate personnel requiring additional training. Personnel may be referred to a remedial program on the basis of their individual

driving history or incidents requiring additional training. The curriculum should provide instruction to improve driving performance and compliance with traffic laws.

(c) Installation commanders may schedule periodic courses, or if not practical, arrange for participation in courses conducted by local civil authorities.

(d) Civilian personnel employed on the installation, contractor employees, and family members of military personnel may attend remedial courses on the installation, or similar courses off the installation which incur no expense to the government.

§ 634.11 Administrative due process for suspensions and revocations.

(a) Individual Services will promulgate separate regulations establishing administrative due process procedures for suspension or revocation of driving privileges. The procedures in paragraphs (b) and (c) of this section apply to actions taken by Army commanders with respect to Army military personnel and family members and to civilian personnel operating motor vehicles on Army installations. For Marine Corps users, the provisions of this section apply. For Air Force users, a preliminary suspension for intoxicated driving remains in effect until the installation commander makes a final decision. Requested hearings must take place within a reasonable period, which is determined by the installation commander.

(b) For offenses other than intoxicated driving, suspension or revocation of the installation driving privilege will not become effective until the installation commander or designee notifies the affected person and offers that person an administrative hearing. Suspension or revocation will take place 14 calendar days after written notice is received unless the affected person makes an application for a hearing within this period. Such application will stay the pending suspension or revocation for a period of 14 calendar days.

(1) If, due to action by the government, a hearing is not held within 14 calendar days, the suspension will not take place until such time as the person is granted a hearing and is notified of the action of the installation commander or designee. However, if the affected person requests that the hearing be continued to a date beyond the 14-day period, the suspension or revocation will become effective immediately on receipt of notice that the request for continuance has been granted, and remain in force pending a hearing at a scheduled hearing date.

(2) If it is determined as a result of a hearing to suspend or revoke the affected person's driving privilege, the suspension or revocation will become effective when the person receives the written notification of such action. In the event that written notification cannot be verified, either through a return receipt for mail or delivery through command channels, the hearing authority will determine the effective date on a case-by-case basis.

(3) If the revocation or suspension is imposed after such hearing, the person whose driving privilege has been suspended or revoked will have the right to appeal or request reconsideration. Such requests must be forwarded through command channels to the installation commander within 14 calendar days from the date the individual is notified of the suspension or revocation resulting from the administrative hearing. The suspension or revocation will remain in effect pending a final ruling on the request. Requests for restricted privileges will be considered per § 634.15.

(4) If driving privileges are temporarily restored (i.e. for family hardship) pending resolution of charges, the period of revocation (after final authority determination) will still total the mandatory 12 months. The final date of the revocation will be adjusted to account for the period when the violator's privileges were temporarily restored, as this period does not count towards the revocation time.

(c) For drunk driving or driving under the influence offenses, reliable evidence readily available will be presented promptly to an individual designated by the installation commander for review and authorization for immediate suspension of installation driving privileges.

(1) The reviewer should be any officer to include GS-11 and above, designated in writing by the installation or garrison commander whose primary duties are not in the field of law enforcement.

(2) 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. Immediate suspension should not be based solely on published lists of arrested persons, statements by parties not witnessing the apprehension, or telephone conversations or other information not supported by documented and reliable evidence.

subsequent offense, or for such other reasons as may be authorized.

(c) Commanders may extend a suspension or revocation of driving privileges on personnel until completion of an approved remedial driver training course or alcohol or drug counseling programs after proof is provided.

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

(e) For Navy personnel 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 the traffic accident, or driver cited for a moving violation).

§ 634.18 Reinstatement of driving privileges.

Reinstatement of driving privileges shall be automatic, provided all revocations applicable have expired, proper proof of completion of remedial driving course and/or substance abuse counseling has been provided, and reinstatement requirements of individual's home state and/or state the individual may have been suspended in, have been met.

Subpart C—Motor Vehicle Registration

§ 634.19 Registration policy.

(a) Motor vehicles will be registered according to guidance in this Part and in policies of each Service and DLA. A person who lives or works on an Army, DLA, Air Force, Navy, or Marine Corps installation, or Army National Guard of the U.S. (ARNGUS) facility, or often uses the facilities is required to register his or her vehicle. Also, individuals who access the installation for regular activities such as use of medical facilities and regular recurring activities on the installation should register their vehicles according to a standard operating procedure established by the installation commander. The person need not own the vehicle to register it, but must have a lease agreement, power of attorney, or notarized statement from the owner of the vehicle specifying the inclusive dates for which permission to use the vehicle has been granted.

(b) Vehicles intended for construction and material handling, or used solely off the road, are usually not registered as motor vehicles. Installation commanders may require registration of off-road vehicles and bicycles under a separate local system.

(c) Commanders can grant limited temporary registration for up to 30 days, pending permanent registration, or in other circumstances for longer terms.

(d) Except for reasons of security, all installations and activities of the Services and DLA within the United States and its territories with a vehicle registration system will use and honor the DD Form 2220, (Department of Defense Registration Decal). Registration in overseas commands may be modified in accordance with international agreements or military necessity.

(e) Army Installation commanders will establish local visitor identification for individuals who will be on installation for less than 30 days. The local policy will provide for use of temporary passes that establish a start and end date for which the pass is valid. Army installation commanders must refer to AR 190-16 Chapter 2 for guidance concerning installation access control. (Air Force, see AFI 31-204). Other Armed Services and DLA may develop and issue visitor passes locally.

(f) The conditions in § 634.20 must be met to operate a POV on an Army and DLA Installation. Other Armed Services that do not require registration will enforce § 634.20 through traffic enforcement actions. Additionally, failure to comply with § 634.20 may result in administrative suspension or revocation of driving privileges.

§ 634.20 Privately owned vehicle operation requirements.

Personnel seeking to register their POVs on military installations within the United States or its territories and in overseas areas will comply with the following requirements. (Registration in overseas commands may be modified in accordance with international agreements or military necessity.)

(a) Possess a valid state, overseas command, host nation or international drivers license (within appropriate classification), supported by DD Form 2, or other appropriate identification for DOD civilians, contractors and retirees. DA Form 1602, Civilian Identification Card, is limited for identification on Army installations only.

(b) Possess a certificate of state registration as required by the state in which the vehicle is registered.

(c) Comply with the minimum requirements of the automobile insurance laws or regulations of the state or host nation. In overseas commands where host nation laws do not require minimum personal injury and property damage liability insurance, the major overseas commander will set reasonable liability insurance requirements for registration and/or

operation of POVs within the confines of military installations and areas where the commander exercises jurisdiction. Prior to implementation, insurance requirements in host states or nations should be formally coordinated with the appropriate host agency.

(d) Satisfactorily complete a safety and mechanical vehicle inspection by the state or jurisdiction in which the vehicle is licensed. If neither state nor local jurisdiction requires a periodic safety inspection, installation commanders may require and conduct an annual POV safety inspection; however, inspection facilities must be reasonably accessible to those requiring use. Inspections will meet minimum standards established by the National Highway Traffic Safety Administration (NHTSA) in 49 CFR 570.1 through 570.10. Lights, turn signals, brake lights, horn, wipers, and pollution control devices and standards in areas where applicable, should be included in the inspection. Vehicles modified from factory standards and determined unsafe may be denied access and registration.

(e) Possess current proof of compliance with local vehicle emission inspection if required by the state, and maintenance requirements.

(f) Vehicles with elevated front or rear ends that have been modified in a mechanically unsafe manner are unsafe and will be denied registration. 49 CFR 570.8 states that springs shall not be extended above the vehicle manufacturer's design height.

§ 634.21 Department of Defense Form 2220.

(a) Use. DD Form 2220 will be used to identify registered POVs on Army, Navy, Air Force, Marine Corps, and DLA installations or facilities. The form is produced in single copy for conspicuous placement on the front of the vehicle only (windshield or bumper). If allowed by state laws, the decal is placed in the center by the rear view mirror or the lower portion of the driver's side windshield. The requirement to affix the DD Form 2220 to the front windshield or bumper of registered vehicles is waived for General Officers and Flag Officers of all Armed Services, Armed Service Secretaries, Political Appointees, Members of Congress, and the Diplomatic Corps.

(1) Each Service and DLA will procure its own forms and installation and expiration tabs. For the Army, the basic decal will be ordered through publications channels and remain on the vehicle until the registered owner disposes of the vehicle, separates from active duty or other conditions specified

and minor routes, location of traffic control devices, and conditions requiring engineering or enforcement services.

(d) The (Military) Surface Deployment and Distribution Command Transportation Engineering Agency (SDDCTEA) will help installation commanders solve complex highway traffic engineering problems. SDDCTEA traffic engineering services include—

(1) Traffic studies of limited areas and situations.

(2) Complete studies of traffic operations of entire installations. (This can include long-range planning for future development of installation roads, public highways, and related facilities.)

(3) Assistance in complying with established traffic engineering standards.

(e) Installation commanders should submit requests for traffic engineering services in accordance with applicable service or agency directives.

§ 634.25 Installation traffic codes.

(a) Installation or activity commanders will establish a traffic code for operation of motor vehicles on the installation. Commanders in overseas areas will establish a traffic code, under provisions of this Part, to the extent military authority is empowered to regulate traffic on the installation under the applicable SOFA. Traffic codes will contain the rules of the road (parking violations, towing instructions, safety equipment, and other key provisions). These codes will, where possible, conform to the code of the State or host nation in which the installation is located. In addition, the development and publication of installation traffic codes will be based on the following:

(1) Highway Safety Program Standards (23 U.S.C. 402).

(2) Applicable portions of the Uniform Vehicle Code and Model Traffic Ordinance published by the National Committee on Uniform Traffic Laws and Ordinances.

(b) The installation traffic code will contain policy and procedures for the towing, searching, impounding, and inventorying of POVs. These provisions should be well publicized and contain the following:

(1) Specific violations and conditions under which the POV will be impounded and towed.

(2) Procedures to immediately notify the vehicle owner.

(3) Procedures for towing and storing impounded vehicles.

(4) Actions to dispose of the vehicle after lawful impoundment.

(5) Violators are responsible for all costs of towing, storage and impounding

of vehicles for other than evidentiary reasons.

(c) Installation traffic codes will also contain the provisions discussed as follows: (Army users, see AR 385-55).

(1) *Motorcycles and mopeds.* For motorcycles and other self-propelled, open, two-wheel, three-wheel, and four-wheel vehicles powered by a motorcycle-type engine, the following traffic rules apply:

(i) Headlights will be on at all times when in operation.

(ii) A rear view mirror will be attached to each side of the handlebars.

(iii) Approved protective helmets, eye protection, hard-soled shoes, long trousers and brightly colored or reflective outer upper garment will be worn by operators and passengers when in operation.

(2) *Restraint systems.* (i) Restraint systems (seat belts) will be worn by all operators and passengers of U.S. Government vehicles on or off the installation.

(ii) Restraint systems will be worn by all civilian personnel (family members, guests, and visitors) driving or riding in a POV on the installation.

(iii) Restraint systems will be worn by all military service members and Reserve Component members on active Federal service driving or riding in a POV whether on or off the installation.

(iv) Infant/child restraint devices (car seats) will be required in POVs for children 4 years old or under and not exceeding 45 pounds in weight.

(v) Restraint systems are required only in vehicles manufactured after model year 1966.

(3) *Driver Distractions.* Vehicle operators on a DoD Installation and operators of Government owned vehicles shall not use cell phones unless the vehicle is safely parked or unless they are using a hands-free device. The wearing of any other portable headphones, earphones, or other listening devices (except for hand-free cellular phones) while operating a motor vehicle is prohibited. Use of those devices impairs driving and masks or prevents recognition of emergency signals, alarms, announcements, the approach of vehicles, and human speech. DoD Component safety guidance should note the potential for driver distractions such as eating and drinking, operating radios, CD players, global positioning equipment, etc. Whenever possible this should only be done when the vehicle is safely parked.

(d) Only administrative actions (reprimand, assessment of points, loss of on-post driving privileges, or other actions) will be initiated against service

members for off-post violations of the installation traffic code.

(e) In States where traffic law violations are State criminal offenses, such laws are made applicable under the provisions of 18 U.S.C. 13 to military installations having concurrent or exclusive Federal jurisdiction.

(f) In those States where violations of traffic law are not considered criminal offenses and cannot be assimilated under 18 U.S.C., DODD 5525.4,

enclosure 1 expressly adopts the vehicular and pedestrian traffic laws of such States and makes these laws applicable to military installations having concurrent or exclusive Federal jurisdiction. It also delegates authority to installation commanders to establish additional vehicular and pedestrian traffic rules and regulations for their installations. Persons found guilty of violating the vehicular and pedestrian traffic laws made applicable on the installation under provisions of that directive are subject to a fine as determined by the local magistrate or imprisonment for not more than 30 days, or both, for each violation. In those States where traffic laws cannot be assimilated, an extract copy of this paragraph (f) and a copy of the delegation memorandum in DODD 5525.4, enclosure 1, will be posted in a prominent place accessible to persons assigned, living, or working on the installation.

(g) In those States where violations of traffic laws cannot be assimilated because the Federal Government's jurisdictional authority on the installation or parts of the installation is only proprietary, neither 18 U.S.C. 13 nor the delegation memorandum in DoDD 5525.4, enclosure 1, will permit enforcement of the State's traffic laws in Federal courts. Law enforcement authorities on those military installations must rely on either administrative sanctions related to the installation driving privilege or enforcement of traffic laws by State law enforcement authorities.

§ 634.26 Traffic law enforcement principles.

(a) Traffic law enforcement should motivate drivers to operate vehicles safely within traffic laws and regulations and maintain an effective and efficient flow of traffic. Effective enforcement should emphasize voluntary compliance by drivers and can be achieved by the following actions:

(1) Publishing a realistic traffic code well known by all personnel.

(2) Adopting standard signs, markings, and signals in accordance

may require such reporting on Service forms or forms of the State jurisdiction.

(3) Reports required in paragraph (d) (1) of this section by the Army will include the following about the accident:

- (i) Location, date, and time.
- (ii) Identification of all drivers, pedestrians, and passengers involved.
- (iii) Identification of vehicles involved.
- (iv) Speed and direction of travel of each vehicle involved, including a sketch of the collision and roadway with street names and north arrow.
- (v) Property damage involved.
- (vi) Environmental conditions at the time of the incident (weather, visibility, road surface condition, and other factors).
- (vii) A narrative description of the events and circumstances concerning the accident.

§ 634.30 Use of traffic accident investigation report data.

(a) Data derived from traffic accident investigation reports and from vehicle owner accident reports will be analyzed to determine probable causes of accidents. When frequent accidents occur at a location, the conditions at the location and the types of accidents (collision diagram) will be examined.

(b) Law enforcement personnel and others who prepare traffic accident investigation reports will indicate whether or not seat restraint devices were being used at the time of the accident.

(c) When accidents warrant, an installation commander may establish a traffic accident review board. The board will consist of law enforcement, engineer, safety, medical, and legal personnel. The board will determine principal factors leading to the accident and recommend measures to reduce the number and severity of accidents on and off the installation. (The Air Force will use Traffic Safety Coordinating Groups. The Navy will use Traffic Safety Councils per OPNAVINST 5100.12 Series).

(d) Data will be shared with the installation legal, engineer, safety, and transportation officers. The data will be used to inform and educate drivers and to conduct traffic engineering studies.

(e) Army traffic accident investigation reports will be provided to Army Centralized Accident Investigation of Ground Accidents (CAIG) boards on request. The CAIG boards are under the control of the Commander, U.S. Army Safety Center, Fort Rucker, AL 36362-5363. These boards investigate Class A, on-duty, non-POV accidents and other selected accidents Army-wide (See AR

385-40). Local commanders provide additional board members as required to complete a timely and accurate investigation. Normally, additional board members are senior equipment operators, maintenance officer, and medical officers. However, specific qualifications of the additional board members may be dictated by the nature of the accident.

(f) The CAIG program is not intended to interfere with, impede, or delay law enforcement agencies in the execution of regulatory responsibilities that apply to the investigation of accidents for a determination of criminal intent or criminal acts. Criminal investigations have priority.

(g) Army law enforcement agencies will maintain close liaison and cooperation with CAIG boards. Such cooperation, particularly with respect to interviews of victims and witnesses and in collection and preservation of physical evidence, should support both the CAIG and law enforcement collateral investigations.

§ 634.31 Parking.

(a) The most efficient use of existing on- and off-street parking space should be stressed on a nonreserved (first-come, first-served) basis.

(b) Reserved parking facilities should be designated as parking by permit or numerically by category of eligible parkers. Designation of parking spaces by name, grade, rank, or title should be avoided.

(c) Illegal parking contributes to congestion and slows traffic flow on an installation. Strong enforcement of parking restrictions results in better use of available parking facilities and eliminates conditions causing traffic accidents.

(d) The "Denver boot" device is authorized for use as a technique to assist in the enforcement of parking violations where immobilization of the POV is necessary for safety. Under no circumstances should the device be used to punish or "teach a lesson" to violators. Booting should not be used if other reasonably effective but less restrictive means of enforcement (such as warnings, ticketing, reprimands, revocations, or suspensions of on-post driving privileges) are available. Procedures for booting must be developed as follows:

(1) Local standing operating procedures (SOPs) must be developed to control the discretion of enforcers and limit booting to specific offenses. SOPs should focus on specific reasons for booting, such as immobilization of unsafe, uninspected, or unregistered vehicles or compelling the presence of

repeat offenders. All parking violations must be clearly outlined in the installation traffic code.

(2) Drivers should be placed on notice that particular violations or multiple violations may result in booting. Also, drivers must be provided with a prompt hearing and an opportunity to obtain the release of their property.

(3) To limit liability, drivers must be warned when a boot is attached to their vehicle and instructed how to have the boot removed without damaging the vehicle.

§ 634.32 Traffic violation reports.

(a) Most traffic violations occurring on DOD installations (within the UNITED STATES or its territories) should be referred to the proper U.S. Magistrate. (Army, see AR 190-29; DLA, see DLAI 5720.4; and Air Force, see AFI 51-905). However, violations are not referred when—

(1) The operator is driving a Government vehicle at the time of the violation.

(2) A Federal Magistrate is either not available or lacks jurisdiction to hear the matter because the violation occurred in an area where the Federal Government has only proprietary legislative jurisdiction.

(3) Mission requirements make referral of offenders impractical.

(4) A U.S. Magistrate is available but the accused refuses to consent to the jurisdiction of the court and the U.S. Attorney refuses to process the case before a U.S. District Court. For the Navy, DUI and driving under the influence of drugs cases will be referred to the Federal Magistrate.

(b) Installation commanders will establish administrative procedures for processing traffic violations.

(1) All traffic violators on military installations will be issued either a DD Form 1408 (Armed Forces Traffic Ticket) or a DD Form 1805 (United States District Court Violation Notice), as appropriate. Unless specified otherwise by separate Service/DLA policy, only on-duty law enforcement personnel (including game wardens) designated by the installation law enforcement officer may issue these forms. Air Force individuals certified under the Parking Traffic Warden Program may issue DD Form 1408 in areas under their control.

(2) A copy of all reports on military personnel and DOD civilian employees apprehended for intoxicated driving will be forwarded to the installation alcohol and drug abuse facility.

(c) Installation commanders will establish procedures used for disposing of traffic violation cases through

(c) *Chemical tests of personnel involved in fatal accidents.* (1)

Installation medical authorities will immediately notify the installation law enforcement officer of—

(i) The death of any person involved in a motor vehicle accident.

(ii) The circumstances surrounding such an accident, based on information available at the time of admission or receipt of the body of the victim.

(2) Medical authorities will examine the bodies of those persons killed in a motor vehicle accident to include drivers, passengers, and pedestrians subject to military jurisdiction. They will also examine the bodies of dependents, who are 16 years of age or older, if the sponsors give their consent. Tests for the presence and concentration of alcohol or other drugs in the person's blood, bodily fluids, or tissues will be made as soon as possible and where practical within 8 hours of death. The test results will be included in the medical reports.

(3) As provided by law and medical conditions permitting, a blood or breath sample will be obtained from any surviving operator whose vehicle is involved in a fatal accident.

§ 634.36 *Detection, apprehension, and testing of intoxicated drivers.*

(a) Law enforcement personnel usually detect drivers under the influence of alcohol or other drugs by observing unusual or abnormal driving behavior. Drivers showing such behavior will be stopped immediately. The cause of the unusual driving behavior will be determined, and proper enforcement action will be taken.

(b) When a law enforcement officer reasonably concludes that the individual driving or in control of the vehicle is impaired, field sobriety tests should be conducted on the individual. The DD Form 1920 may be used by law enforcement agencies in examining, interpreting, and recording results of such tests. Law enforcement personnel should use a standard field sobriety test (such as one-leg stand or walk and turn) horizontal gaze nystagmus tests as sanctioned by the National Highway Traffic and Safety Administration, and screening breath-testing devices to conduct field sobriety tests.

§ 634.37 *Voluntary breath and bodily fluid testing based on implied consent.*

(a) Implied consent policy is explained in § 634.8.

(b) Tests may be administered only if the following conditions are met:

(1) The person was lawfully stopped while driving, operating, or in actual physical control of a motor vehicle on the installation.

(2) Reasonable suspicion exists to believe that the person was driving under the influence of alcohol or drugs.

(3) A request was made to the person to consent to the tests combined with a warning that failure to voluntarily submit to or complete a chemical test of bodily fluids or breath will result in the revocation of driving privileges.

(c) As stated in paragraphs (a) and (b) of this section, the law enforcement official relying on implied consent will warn the person that driving privileges will be revoked if the person fails to voluntarily submit to or complete a requested chemical test. The person does not have the right to have an attorney present before stating whether he or she will submit to a test, or during the actual test. Installation commanders will prescribe the type or types of chemical tests to be used. Testing will follow policies and procedures in § 634.35. The results of chemical tests conducted under the implied consent provisions of this part may be used as evidence in courts-martial, nonjudicial proceedings under Article 15 of the UCMJ, administrative actions, and civilian courts.

(d) Special rules exist for persons who have hemophilia, other blood-clotting disorders, or any medical or surgical disorder being treated with an anticoagulant. These persons—

(1) May refuse a blood extraction test without penalty.

(2) Will not be administered a blood extraction test to determine alcohol or other drug concentration or presence under this part.

(3) May be given breath or urine tests, or both.

(e) If a person suspected of intoxicated driving refuses to submit to a chemical test, a test will not be administered except as specified in § 634.38.

§ 634.38 *Involuntary extraction of bodily fluids in traffic cases.*

(a) *General.* The procedures outlined in this section pertain only to the investigation of individuals stopped, apprehended, or cited on a military installation for any offense related to driving a motor vehicle and for whom probable cause exists to believe that such individual is intoxicated.

Extractions of body fluids in furtherance of other kinds of investigations are governed by the Manual for Courts-Martial, United States, Military Rule of Evidence 315 (2002) (MRE 315), and regulatory rules concerning requesting and granting authorizations for searches.

(1) Air Force policy on nonconsensual extraction of blood samples is addressed in AFI 44-102.

(2) Army and Marine Corps personnel should not undertake the nonconsensual extraction of body fluids for reasons other than a valid medical purpose without first obtaining the advice and concurrence of the installation staff judge advocate or his or her designee.

(3) DLA policy on nonconsensual taking of blood samples is contained in DLAR 5700.7.

(b) *Rule.* Involuntary bodily fluid extraction must be based on valid search and seizure authorization. An individual subject to the UCMJ who does not consent to chemical testing, as described in § 634.37, may nonetheless be subjected to an involuntary extraction of bodily fluids, including blood and urine, only in accordance with the following procedures:

(1) An individual subject to the UCMJ who was driving a motor vehicle and suspected of being under the influence of an intoxicant may be subjected to a nonconsensual bodily fluid extraction to test for the presence of intoxicants only when there is a probable cause to believe that such an individual was driving or in control of a vehicle while under the influence of an intoxicant.

(i) A search authorization by an appropriate commander or military magistrate obtained pursuant to MRE 315, is required prior to such nonconsensual extraction.

(ii) A search authorization is not required under such circumstances when there is a clear indication that evidence of intoxication will be found and there is reason to believe that the delay necessary to obtain a search authorization would result in the loss or destruction of the evidence sought.

(iii) Because warrantless searches are subject to close scrutiny by the courts, obtaining an authorization is highly preferable. Warrantless searches generally should be conducted only after coordination with the servicing staff judge advocate or legal officer, and attempts to obtain authorization from an appropriate official prove unsuccessful due to the unavailability of a commander or military magistrate.

(2) If authorization from the military magistrate or commander proves unsuccessful due to the unavailability of such officials, the commander of a medical facility is empowered by MRE 315, to authorize such extraction from an individual located in the facility at the time the authorization is sought.

(i) Before authorizing the involuntary extraction, the commander of the medical facility should, if circumstances permit, coordinate with the servicing staff judge advocate or legal officer.

mandatory minimum or maximum suspension or revocation periods. Traffic points are not assessed for suspension or revocation actions.

Table 5-1 of Part 634 Suspension/Revocation of Driving Privileges (See Notes 1 and 2)

Assessment 1: Two-year revocation is mandatory on determination of facts by installation commander. (For Army, 5-year revocation is mandatory.)

Violation: Driving while driver's license or installation driving privileges are under suspension or revocation.

Assessment 2: One-year revocation is mandatory on determination of facts by installation commander.

Violation: Refusal to submit to or failure to complete chemical tests (implied consent).

Assessment 3: One-year revocation is mandatory on conviction.

Violation: A. Manslaughter (or negligent homicide by vehicle) resulting from the operation of a motor vehicle.

B. 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).

C. 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.

D. 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).

E. Perjury or making a false statement or affidavit under oath to responsible officials relating to the ownership or operation of motor vehicles.

F. Unauthorized use of a motor vehicle belonging to another, when the act does not amount to a felony.

Assessment 4: Suspension for a period of 6 months or less or revocation for a period not to exceed 1 year is discretionary.

Violation: A. Mental or physical impairment (not including alcohol or other drug use) to the degree rendered incompetent to drive.

B. Commission of an offense in another State which, if committed on the installation, would be grounds for suspension or revocation.

C. Permitting an unlawful or fraudulent use of an official driver's license.

D. Conviction of fleeing, or attempting to elude, a police officer.

E. Conviction of racing on the highway.

Assessment 5: Loss of OF 46 for minimum of 6 months is discretionary.

Violation: Receiving a second 1-year suspension or revocation of driving privileges within 5 years.

Notes

1. When imposing a suspension or revocation because of an off-installation offense, the effective date should be the same as the date of civil conviction, or the date that State or host-nation driving privileges are suspended or revoked. This effective date can be retroactive.

2. No points are assessed for revocation or suspension actions. Except for implied

consent violations, revocations must be based on a conviction by a civilian court or court-martial, nonjudicial punishment under Article 15, UCMJ, or a separate hearing as addressed in this part. If revocation for implied consent is combined with another revocation, such as 1 year for intoxicated driving, revocations may run consecutively (total of 24 months) or concurrently (total of 12 months). The installation commander's policy should be applied systematically and not on a case-by-case basis.

§ 634.44 The traffic point system.

The traffic point system provides a uniform administrative device to impartially judge driving performance of Service and DLA personnel. This system is not a disciplinary measure or a substitute for punitive action. Further, this system is not intended to interfere in any way with the reasonable exercise of an installation commander's prerogative to issue, suspend, revoke, deny, or reinstate installation driving privileges.

§ 634.45 Point system application.

(a) The Services and DLA are required to use the point system and procedures prescribed in this section without change.

(b) The point system in table 5-2 of this part applies to all operators of U.S. Government motor vehicles, on or off Federal property. The system also applies to violators reported to installation officials in accordance with § 634.32.

(c) Points will be assessed when the person is found to have committed a violation and the finding is by either the unit commander, civilian supervisor, a military or civilian court (including a U.S. Magistrate), or by payment of fine, forfeiture of pay or allowances, or posted bond, or collateral.

Table 5-2 of Part 634 Point Assessment for Moving Traffic Violations (See Note 1)

- A. Violation: Reckless driving (willful and wanton disregard for the safety of persons or property).
Points assessed: 6
- B. Violation: Owner knowingly and willfully permitting a physically impaired person to operate the owner's motor vehicle.
Points assessed: 6
- C. Violation: Fleeing the scene (hit and run)-property damage only.
Points assessed: 6
- D. Violation: Driving vehicle while impaired (blood-alcohol content more than 0.05 percent and less than 0.08 percent).
Points assessed: 6
- E. Violation: Speed contests.
Points assessed: 6
- F. Violation: Speed too fast for conditions.
Points assessed: 2
- G. Violation: Speed too slow for traffic conditions, and/or impeding the flow of traffic, causing potential safety hazard.
Points assessed: 2

H. Violation: Failure of operator or occupants to use available restraint system devices while moving (operator assessed points).
Points assessed: 2

I. Violation: Failure to properly restrain children in a child restraint system while moving (when child is 4 years of age or younger or the weight of child does not exceed 45 pounds).
Points assessed: 2

J. Violation: One to 10 miles per hour over posted speed limit.
Points assessed: 3

K. Violation: Over 10 but not more than 15 miles per hour above posted speed limit.
Points assessed: 4

L. Violation: Over 15 but not more than 20 miles per hour above posted speed limit.
Points assessed: 5

M. Violation: Over 20 miles per hour above posted speed limit.
Points assessed: 6

N. Violation: Following too close.
Points assessed: 4

O. Violation: Failure to yield right of way to emergency vehicle.
Points assessed: 4

P. Violation: Failure to stop for school bus or school-crossing signals.
Points assessed: 4

Q. Violation: Failure to obey traffic signals or traffic instructions of an enforcement officer or traffic warden; or any official regulatory traffic sign or device requiring a full stop or yield of right of way; denying entry; or requiring direction of traffic.
Points assessed: 4

R. Violation: Improper passing.
Points assessed: 4

S. Violation: Failure to yield (no official sign involved).
Points assessed: 4

T. Violation: Improper turning movements (no official sign involved).
Points assessed: 3

U. Violation: Wearing of headphones/earphones while driving motor vehicles (two or more wheels).
Points assessed: 3

V. Violation: Failure to wear an approved helmet and/or reflectorized vest while operating or riding on a motorcycle, MOPED, or a three or four-wheel vehicle powered by a motorcycle-like engine.
Points assessed: 3

W. Violation: Improper overtaking.
Points assessed: 3

X. Violation: Other moving violations (involving driver behavior only).
Points assessed: 3

Y. Violation: Operating an unsafe vehicle. (See Note 2).
Points assessed: 2

Z. Violation: Driver involved in accident is deemed responsible (only added to points assessed for specific offenses).
Points assessed: 1

Notes

1. When two or more violations are committed on a single occasion, points may be assessed for each individual violation.

2. This measure should be used for other than minor vehicle safety defects or when a driver or registrant fails to correct a minor

ongoing operations or movement of traffic, threaten public safety or convenience, are involved in criminal activity, contain evidence of criminal activity, or are stolen or abandoned.

(b) The impoundment of a POV would be inappropriate when reasonable alternatives to impoundment exist.

(1) Attempts should be made to locate the owner of the POV and have the vehicle removed.

(2) The vehicle may be moved a short distance to a legal parking area and temporarily secured until the owner is found.

(3) Another responsible person may be allowed to drive or tow the POV with permission from the owner, operator, or person empowered to control the vehicle. In this case, the owner, operator, or person empowered to control the vehicle will be informed that law enforcement personnel are not responsible for safeguarding the POV.

(c) Impounding of POVs is justified when any of the following conditions exist:

(1) The POV is illegally parked—

(i) On a street or bridge, in a tunnel, or is double parked, and interferes with the orderly flow of traffic.

(ii) On a sidewalk, within an intersection, on a cross-walk, on a railroad track, in a fire lane, or is blocking a driveway, so that the vehicle interferes with operations or creates a safety hazard to other roadway users or the general public. An example would be a vehicle parked within 15 feet of a fire hydrant or blocking a properly marked driveway of a fire station or aircraft-alert crew facility.

(iii) When blocking an emergency exit door of any public place (installation theater, club, dining hall, hospital, and other facility).

(iv) In a "tow-away" zone that is so marked with proper signs.

(2) The POV interferes with—

(i) Street cleaning or snow removal operations and attempts to contact the owner have been unsuccessful.

(ii) Emergency operations during a natural disaster or fire or must be removed from the disaster area during cleanup operations.

(3) The POV has been used in a crime or contains evidence of criminal activity.

(4) The owner or person in charge has been apprehended and is unable or unwilling to arrange for custody or removal.

(5) The POV is mechanically defective and is a menace to others using the public roadways.

(6) The POV is disabled by a traffic incident and the operator is either unavailable or physically incapable of

having the vehicle towed to a place of safety for storage or safekeeping.

(7) Law enforcement personnel reasonably believe the vehicle is abandoned.

§ 634.50 Towing and storage.

(a) Impounded POVs may be towed and stored by either the Services and DLA or a contracted wrecker service depending on availability of towing services and the local commander's preference.

(b) The installation commander will designate an enclosed area on the installation that can be secured by lock and key for an impound lot to be used by the military or civilian wrecker service. An approved impoundment area belonging to the contracted wrecker service may also be used provided the area assures adequate accountability and security of towed vehicles. One set of keys to the enclosed area will be maintained by the installation law enforcement officer or designated individual.

(c) Temporary impoundment and towing of POVs for violations of the installation traffic code or involvement in criminal activities will be accomplished under the direct supervision of law enforcement personnel.

§ 634.51 Procedures for impoundment.

(a) *Unattended POVs.* (1) DD Form 2504 (Abandoned Vehicle Notice) will be conspicuously placed on POVs considered unattended. This action will be documented by an entry in the installation law enforcement desk journal or blotter.

(2) The owner will be allowed 3 days from the date the POV is tagged to remove the vehicle before impoundment action is initiated. If the vehicle has not been removed after 3 days, it will be removed by the installation towing service or the contracted wrecker service. If a contracted wrecker service is used, a DD Form 2505 (Abandoned Vehicle Removal Authorization) will be completed and issued to the contractor by the installation law enforcement office.

(3) After the vehicle has been removed, the installation law enforcement officer or the contractor will complete DD Form 2506 (Vehicle Impoundment Report) as a record of the actions taken.

(i) An inventory listing personal property will be done to protect the owner, law enforcement personnel, the contractor, and the commander.

(ii) The contents of a closed container such as a suitcase inside the vehicle need not be inventoried. Such articles

should be opened only if necessary to identify the owner of the vehicle or if the container might contain explosives or otherwise present a danger to the public. Merely listing the container and sealing it with security tape will suffice.

(iii) Personal property must be placed in a secure area for safekeeping.

(4) DD Form 2507 (Notice of Vehicle Impoundment) will be forwarded by certified mail to the address of the last known owner of the vehicle to advise the owner of the impoundment action, and request information concerning the owner's intentions pertaining to the disposition of the vehicle.

(b) *Stolen POVs or vehicles involved in criminal activity.* (1) When the POV is to be held for evidentiary purposes, the vehicle should remain in the custody of the applicable Service or DLA until law enforcement purposes are served.

(2) Recovered stolen POVs will be released to the registered owner, unless held for evidentiary purposes, or to the law enforcement agency reporting the vehicle stolen, as appropriate.

(3) A POV held on request of other authorities will be retained in the custody of the applicable Service or DLA until the vehicle can be released to such authorities.

§ 634.52 Search incident to impoundment based on criminal activity.

Search of a POV in conjunction with impoundment based on criminal activity will likely occur in one of the following general situations:

(a) The owner or operator is not present. This situation could arise during traffic and crime-related impoundments and abandoned vehicle seizures. A property search related to an investigation of criminal activity should not be conducted without search authority unless the item to be seized is in plain view or is readily discernible on the outside as evidence of criminal activity. When in doubt, proper search authority should be obtained before searching.

(b) The owner or operator is present. This situation can occur during either a traffic or criminal incident, or if the operator is apprehended for a crime or serious traffic violation and sufficient probable cause exists to seize the vehicle. This situation could also arise during cases of intoxicated driving or traffic accidents in which the operator is present but incapacitated or otherwise unable to make adequate arrangements to safeguard the vehicle. If danger exists to the police or public or if there is risk of loss or destruction of evidence, an investigative type search of the vehicle

Oregon: Motor Vehicles Division, 1905 Lana Avenue, NE., Salem, OR 97314, (503) 378-6903.	DEPARTMENT OF HOMELAND SECURITY	DEPARTMENT OF HOMELAND SECURITY
Pennsylvania: Department of Transportation, Bureau of Motor Vehicles, Transportation and Safety Bldg., Harrisburg, PA 17122, (717) 787-3130.	Coast Guard 33 CFR Part 117	Coast Guard 33 CFR Part 117 [CGD07-05-009]
Rhode Island: Department of Motor Vehicles, State Office Building, Providence, RI 02903, (401) 277-6900.	Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY	Drawbridge Operation Regulation; Seventh Coast Guard District
South Carolina: Motor Vehicle Division, P.O. Drawer 1498, Columbia, SC 29216, (803) 758-5821.	AGENCY: Coast Guard, DHS. ACTION: Notice of temporary deviation from regulations.	AGENCY: Coast Guard, DHS. ACTION: Final rule.
South Dakota: Division of Motor Vehicles, 118 W. Capitol, Pierre, SD 57501, (605) 773-3501.	SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this temporary deviation the bridge may remain in the closed position from April 27, 2005 through April 29, 2005. This temporary deviation is necessary to facilitate bridge maintenance.	SUMMARY: The Coast Guard is removing drawbridge operation regulations for seven bascule bridges within the Seventh Coast Guard District. The seven bascule bridges were removed and the regulations governing their operation are no longer needed.
Tennessee: Department of Revenue, Motor Vehicle Division, 500 Deaderick Street, Nashville, TN 37242, (615) 741-1786.	DATES: This deviation is effective from April 27, 2005 through April 29, 2005.	DATES: This rule is effective April 12, 2005.
Texas: Department of Highways and Public Transportation, Motor Vehicle Division, 40th and Jackson Avenue, Austin, TX 78779, (512) 475-7686.	FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7195.	ADDRESSES: Documents referred to in this rule are available for inspection or copying at the office of the Seventh Coast Guard District, Bridge Branch, 909 SE 1st Avenue, Room 432, Miami, Florida 33131, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 415-6743. The Seventh District Bridge Branch maintains the public docket for this rulemaking.
Utah: Motor Vehicle Division State Fairgrounds, 1095 Motor Avenue, Salt Lake City, UT 84116, (801) 533-5311.	SUPPLEMENTARY INFORMATION: The Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).	FOR FURTHER INFORMATION CONTACT: Evelyn Smart, Bridge Branch, at (305) 415-6753.
Vermont: Department of Motor Vehicles, State Street, Montpelier, VT 05603, (802) 828-2014.	The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the drawbridge operation regulations to facilitate rehabilitation repairs at the bridge. The bridge must remain in the closed position to perform these repairs.	SUPPLEMENTARY INFORMATION: Good Cause
Virginia: Department of Motor Vehicles, 2300 W. Broad Street, Richmond, VA 23220, (804) 257-1855.	Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position from April 27, 2005 through April 29, 2005.	We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Public comment is not necessary since the purpose of the affected regulations is to regulate the opening and closing of bridges that have been removed. For the same reasons under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists for making this rule effective in less than 30 days after publication in the Federal Register.
Washington: Department of Licensing, Highways-Licenses Building, Olympia, WA 98504, (206) 753-6975.	This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.	Background and Purpose
West Virginia: Department of Motor Vehicles, 1800 Washington Street, East, Charleston, WV 25317, (304) 348-2719.	Dated: April 5, 2005.	The State of Florida (Department of Transportation) has removed five bascule bridges, removing the need for their associated regulations. The following bridges have been removed: a. Brooks Memorial (SE 17th Street) bascule span bridge across the Atlantic Intracoastal Waterway, mile 1065.9 at Fort Lauderdale, Broward County, Florida. (33 CFR 117.261(ii)
Wisconsin: Department of Transportation Reciprocity and Permits, P.O. Box 7908, Madison, WI 53707, (608) 266-2585.	Gary Kassof, Bridge Program Manager, First Coast Guard District.	
Wyoming: Department of Revenue, Policy Division, 122 W. 25th Street, Cheyenne, WY 82002, (307) 777-5273.	[FR Doc. 05-7327 Filed 4-11-05; 8:45 am] BILLING CODE 4910-15-P	
Guam: Deputy Director, Revenue and Taxation, Government of Guam, Agana, Guam 96910, (no phone number available).		
Puerto Rico: Department of Transportation and Public Works, Bureau of Motor Vehicles, P.O. Box 41243, Minillas Station, Santurce, Puerto Rico 00940, (809) 722-2823.		
[FR Doc. 05-7165 Filed 4-11-05; 8:45 am] BILLING CODE 3710-06-P		