

Red Tape Review Rule Report (Due: September 1, 2024)

Department Name:	Department of Transportation	Date:	6/4/24	Total Rule Count:	29
IAC #:	761	Chapter/ SubChapter/ Rule(s):	401	Iowa Code Section Authorizing Rule:	307.12(1)“j”; 321.166(2); 321.34(1); 321.34(13); 321.34(14)
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What is the intended benefit of the rule?

BACKGROUND: By law, Iowa DOT currently offers over 70 types of specialty license plates. Approximately 20 of these license plates have specific statutory application, eligibility, and design requirements. Pursuant to Iowa Code section 321.34, the individuals must apply to the Department and submit documentation as approved by the Department to determine eligibility before being issued such plates. This chapter does not discuss specialty license plates that do not require application or special eligibility (such as blackout plates, collegiate plates, or department of natural resources plates).

The intended benefit of this chapter is to outline how individuals seeking certain specialty license plates that have specific eligibility requirements under Iowa Code section 321.34 can obtain the license plates. The rules are intended to provide clarity about which specialty license plates can be personalized, and which cannot. The rules are also intended to ensure that special license plates are only issued to individuals who are eligible for the plates. This is especially important for plates that confer special privileges, such as:

- Persons with disabilities license plates, which allow special parking under Iowa law.
- Certain military award plates, which allow free parking in certain places under Iowa law.
- First responder (e.g. firefighter and EMS) plates, which allow display of certain lights or disregard of certain traffic laws when responding to emergencies.

The benefit is also to outline requirements the public are to adhere to when specialty plates must be surrendered, when and how they can be reassigned, and the appeal process if a specialty plate is revoked. These procedures ensure the return of the license plate material (by surrendering them, the Department can recycle and reuse the aluminum), prevent fraud by ensuring unneeded plates do not remain in circulation, and ensure the public has clear guidelines to follow so they are not subject to enforcement action regarding improper use of license plates.

The intended benefit is also to outline the requirements to issue a nonprofit organizational decal. The rules set specific design criteria that a nonprofit organization must meet before receiving approval to issue a decal that can legally be placed on a decal license plate.

Finally, the rules set criteria for the types of messaging that can be used on personalized plates. The intended benefit is to ensure no profanity, sexual content, or other messaging is not used on license plates – and to ensure that such standards are applied equitably to all who request a personalized license plate.

Is the benefit being achieved? Please provide evidence.

The Department has determined that this chapter benefits the public, county treasurer staff, law enforcement, and our customers to better understand the processes used for specialty license plate issuance, use, and surrender.

This is demonstrated by the number of specialty and personalized license plates issued in one fiscal year alone, from July 1, 2022, through June 30, 2023: a total of 748,329 specialty plates and 255,578 personalized plates.

The image below demonstrates the numbers of military service plates valid as of July 1, 2023:

							
Air Force Cross Medal Implemented in 2008 by legislation None currently valid	Airman's Medal Implemented in 2008 by legislation Total of 16 currently valid with 6 personalized	Distinguished Service Cross Medal Implemented in 2008 by legislation Total of 3 currently valid with none personalized	Navy/Marine Corps Medal Implemented in 2008 by legislation Total of 17 currently valid with 7 personalized	Navy Cross Medal Implemented in 2008 by legislation Total of 1 currently valid with none personalized	Soldier's Medal Implemented in 2008 by legislation Total of 18 currently valid with 10 personalized	Bronze Star Plate Implemented in 1997 by legislation Total of 933 currently valid with 389 personalized	Disabled Veteran Implemented in 1978 by legislation Total of 119 currently valid with 2 personalized
							
Gold Star Family Implemented in 2008 by legislation Total of 123 currently valid with 76 personalized	Iowa National Guard Implemented in 1981 by legislation Total of 133 currently valid with 36 personalized	Legion of Merit Implemented in 1999 by legislation Total of 450 currently valid	Pearl Harbor Survivor Implemented in 1990 by legislation Total of 1 currently valid with none personalized	Purple Heart Implemented in 1990 by legislation Total of 1,181 currently valid with 348 personalized	Retired Air Force Implemented in 1997 by legislation Total of 747 currently valid with 250 personalized	Retired Army Implemented in 1997 by legislation Total of 865 currently valid with 350 personalized	Retired Coast Guard Implemented in 1997 by legislation Total of 36 currently valid with 13 personalized
							
Retired Navy Implemented in 1997 by legislation Total of 595 currently valid with 295 personalized	Silver Star Implemented in 1981 by legislation Total of 57 currently valid with 23 personalized	Veteran Implemented in 1999 by special emblem plate process Total of 12,079 currently valid with 3,051 personalized	Medal of Honor Air Force Implemented in 1988 by legislation None currently valid	Medal of Honor Army Implemented in 1988 by legislation None currently valid	Medal of Honor Navy Implemented in 1988 by legislation None currently valid		

In addition, there are 1,146 amateur radio call letter plates, 1, 242 emergency medical services plates, 820 professional firefighter plates, 57,982 persons with disabilities plates,

Additionally, military and first responder groups (such as the Iowa National Guard and the Iowa Firefighter's Association) have asked the Department to ensure the criteria for obtaining specialty plates that designate a certain status (such as firefighter, veteran, or EMS plates) remain intact so the standards can be applied consistently, and eligibility is properly vetted. The testimonial of these groups to keep the documentation requirements intact is evidence that the benefit is being achieved.

What are the costs incurred by the public to comply with the rule?

There is no cost to the public to comply with the rules, other than the time to fill out an application for a specialty plate or a personalized plate. The vast majority of applications are done via an online process; however, there are also paper application options for those without computer access.

Any costs to comply with the rules are associated with the fees for the license plates established by underlying statute. This rule chapter does not create any additional costs.

What are the costs to the agency or any other agency to implement/enforce the rule?

There is no cost to the Department to implement these rules beyond the cost to implement the underlying statute.

The rules that establish specific documentation requirements to determine eligibility actually reduce staff time in reviewing applications, as they ensure consistent standards are easily available to reviewing staff.

There is a minor cost to the Iowa Department of Veterans Affairs and Iowa National Guard for reviewing and approving certain military specialty plate eligibility. However, this is at the request of both agencies and can be attributed to the underlying statute, which requires the Department to work with these agencies for approval of these plates.

Do the costs justify the benefits achieved? Please explain.

N/A, there are no costs beyond the underlying statute.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

No. The only less restrictive alternative would be to not have standards for reviewing eligibility for specialty license plates and to not have standards for the review of personalized plate text. However, the result would be that none of the intended benefits above would be achieved.

The rules have been revised where possible to rescind the statutory text or redundant language. The rules that will be repromulgated have been determined to be necessary and reworded to provide clarity.

This chapter conforms, to the extent permitted by statute, to the American Association of Motor Vehicle Administrators (AAMVA) License Plate Standard – Edition 3, which is also used by most states. For example, the rule setting forth the criteria for personalized plate text is closely aligned with standard 6.4 (page 19) which states:

Examples of Unacceptable Vanity License Plate Number Criteria

Defined and documented criteria for unacceptable vanity license plates may include:

- Profanity
- Derogatory reference to a group based on age, race, nationality, ethnicity, gender, or religion
- Reference to illegal substances or criminal acts
- Sexual terms, intimate body parts, and bodily functions or fluids
- Reference to acts of violence

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes, Chapter 401 contains language that is redundant and duplicative of statutory language. To address these concerns and to better organize the material into a more usable format, the entire chapter has been rewritten and consolidated.

Pursuant to Executive Order 10, this draft rule chapter has been re-written from a zero base. The prior chapter had numerous statutory redundancies, inconsistent verbiage, and several unnecessary restrictions that have been corrected in the proposed draft.

Rather than having a separate rule for each type of special registration plate with specific requirements separated by plate type as in the current chapter 761-401, the proposed chapter is streamlined by combining like content, eliminating redundant requirements, and organizing the content as follows:

Rule 401.1 establishes definitions.

Rule 401.2 identifies the availability and application process for each plate type authorized under 321.34.

- Subrule (1) lists the specialty plates that are available in letter-number designation from a county treasurer's office without application.
- Subrule (2) lists the specialty plates that require a separate application to the DOT, and identifies what supporting documents are required.
- Subrule (3) outlines the requirements for persons with disabilities plates.
- Subrule (4) lists the plates that have unmet statutory minimum ordering requirements, and provides instruction for applicants seeking those plates.
- Subrule (5) indicates that fees are due in accordance with statute.
- Subrule (6) indicates which vehicles are eligible for special registration plates.
- Subrule (7) establishes legal requirements for the department's usage of reserved images, emblems, or logos.

Rule 401.3 establishes character limits for special and personalized plates that are not already set forth in statute (such as the alpha-numeric requirement and character maximum).

Rule 401.4 establishes the nonprofit organizational decal approval and issuance process.

Rule 401.5 establishes requirements concerning the personalized plate application process.

Rule 401.6 outlines issuance and eligibility requirements for special and personalized plates.

Rule 401.7 provides procedures for renewal of special and personalized plates.

Rule 401.8 sets forth procedures for reassignment or surrender of special plates.

Rule 401.9 outlines the appeal process following revocation of a special or personalized plate.

Rule 401.10 outlines the availability of refund of fees for special registration plates.

Additionally, the proposed rule chapter contains the following changes to address redundant, duplicative, obsolete, and burdensome language:

1. Changes the title of the chapter from "special registration plates" to "personalized and special registration plates."
2. Eliminates the definition of "child" since there is no reference to that term in chapter 401. The definition will instead be added to Chapter 411 (Persons with Disabilities Parking) during the Department's comprehensive review of that chapter. *Prior 401.1.*
3. Eliminates the term "validation" fee in reference to fees for special or personalized plates that are due annually upon renewing registration, as such fees are not referred to as "validation fees" in 321.34 and already clearly established in 321.34. *Prior 401.2(3), proposed 401.7(1).*

4. Adds submission of a DD-214 as an option for applicants to show eligibility for veteran plates, instead of only permitting certification from Department of Veterans Affairs (consistent with other veterans products issued by the DOT). *Proposed 401.2(2), multiple paragraphs.*
5. Improves the existing plate pick-up process to provide clarity to the counties and allow customers extra time to pick up their special registration plate before it is destroyed and requires new fee/application. The previous rule required new personalized plates to be picked up 90 days from the date ordered; the proposed rule establishes 90 days from when the county receives new personalized plates, and 90 days of the last day of the month of registration expiration for replacement plates. *Prior 401.2(2); proposed 401.6(3).*
6. Allows applicants to submit alternate documentation for military/veteran plates if the Office of the Adjutant General or Department of Veterans Affairs approves, creating more options, less restrictions, and greater flexibility for eligible applicants who may be lacking the typical documentation. *Proposed 401.2(2)“p.”*
7. Eliminates gift certificates for personalized and special plates, as that product is not authorized under Iowa law. *Prior 401.4.*
8. Clearly defines which specialty plates cannot be personalized pursuant to Iowa Code, including the change required by 2024 Iowa Acts HF 2579 which allowed firefighter and EMS specialty plates to be personalized. *Proposed 401.5(4).*
9. Reduces the signature requirement on the application for firefighter plates, to only require one signature from the fire chief rather than a signature from the fire chief and another fire officer. *Prior 401.9.*
10. Eliminated redundant rules regarding issuance of fallen peace officer plates under 321.34(26), as those plates are issued by county treasurers (non-personalized) or DOT (personalized) without any separate application or requirements. *Prior 401.18.*
11. Eliminates the provision that stated that five specific plate types are limited to five characters when personalized, which was inconsistent with actual practice. The revised rule now accurately states that any plate with an emblem on the lefthand side is limited to 5 characters whether personalized or standard, due to space availability on the plate. *Proposed 401.3(2).*

RULES PROPOSED FOR REPEAL (list rule number[s]):

- 761.401.1 Definition.
- 761.401.2 Application, issuance and renewal.
- 761.401.3 Reserved
- 761.401.4 Gift certificates.
- 761.401.5 Amateur radio call letter plates.
- 761.401.6 Personalized plates.
- 761.401.7 Collegiate plates.
- 761.401.8 Medal of Honor plates.
- 761.401.9 Firefighter plates.
- 761.401.10 Emergency medical services plates.
- 761.401.11 Natural resources plates.
- 761.401.12 Blackout plates.
- 761.401.13 Disabled veteran plates.
- 761.401.14 Flying our colors plates.
- 761.401.15 Nonprofit organization decal.
- 761.401.16 Special plates with space reserved for a nonprofit organization decal.
- 761.401.17 State agency-sponsored processed emblem plates.(already rescinded)
- 761.401.18 Combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, combat medical badge, fallen peace officers and civil war sesquicentennial plates.
- 761.401.19 Legion of Merit plates.

- 761.401.20 Persons with disabilities plates.
- 761.401.21 Ex-prisoner of war plates.
- 761.401.22 National guard plates.
- 761.401.23 Pearl Harbor plates.
- 761.401.24 Purple Heart, Silver Star and Bronze Star plates.
- 761.401.25 U.S. armed forces retired plates.
- 761.401.26 Reserved
- 761.401.27 Iowa heritage plates.(already rescinded)
- 761.401.28 Education plates. (already rescinded)
- 761.401.29 Love our kids plates. (already rescinded)
- 761.401.30 Motorcycle rider education plates. (already rescinded)
- 761.401.31 Veteran plates.
- 761.401.32 Surrender of plates.
- 761.401.33 Validation fees.
- 761.401.34 Reassignment of plates.
- 761.401.35 Revocation of special registration plates—appeal.
- 761.401.36 Refund of fees.

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

- The Department proposes to repromulgate 10 rules as follows:
- 401.1 Definitions.
 - 401.2 Application and requirements for certain special registration plates.
 - 401.3 Character limits.
 - 401.4 Nonprofit organization decal approval and issuance.
 - 401.5 Personalized plates.
 - 401.6 Issuance.
 - 401.7 Renewal.
 - 401.8 Reassignment or surrender of special registration plates.
 - 401.9 Revocation of plates—appeal.
 - 401.10 Refund of fees.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	19
Proposed word count reduction after repeal and/or re-promulgation	1,655
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	90

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Yes. In consultation with the stakeholders, the following requests were made that the Department determined must be accomplished via a legislative change, and cannot be done by rulemaking:

1. Discontinue minimum plate orders and instead, authorize military nonprofit decals for the following plates that, by law, must meet a minimum 250 orders before being produced as license plates

(previous rule 761-401.18(3)). These awards are prestigious, and we estimate there will never be enough start-up orders to meet the 250 threshold:

- Air Force Combat Action (0 orders received)
- Civil War Sesquicentennial (24 startup orders received)
- Combat Action Badge (13 orders received)
- Combat Infantryman Badge (33 orders received)
- Combat Medical Badge (3 orders received)
- Combat Action Ribbon U.S. Coast Guard (9 orders received)
- Combat Action Ribbon U.S. Marine Corps/U.S. Navy (9 orders received)

2. Eliminate the requirement that applicants for persons with disabilities (PWD) license plates who have a lifelong disability resubmit eligibility documents every year. This requirement is in Iowa Code section 321.34(14), proposed rule 401.2(3). For cases of lifelong disability that do not change over time, this would eliminate a burdensome requirement to require these individuals to resubmit documentation demonstrating their eligibility every year.
3. Allow Medal of Honor, Ex-prisoner of war, and Legion of Merit plates to be personalized. Iowa Code section 321.34 expressly allows personalization for nearly all other types of special plates (e.g., Gold star, Pearl Harbor, National Guard, Retired Military, Combat Infantryman, Education, Breast Cancer, DNR, Love our Kids, etc...), and the Department frequently receives requests for personalization of these plate types, which is not currently allowed by law. HF 2579 passed during the 2024 legislative session did make this change for firefighter and EMS plates, which was very well received by the public. *NOTE: There are two types of specialty plates that cannot be personalized due to the nature of the required plate text: Amateur Radio plates (plate text is the radio operator's call number) and Disabled Veteran plates (plate text includes "DV").*

Additionally, the Department recommends that explicit rulemaking authority be added to Iowa Code section 321.34 for the application, issuance, renewal, revocation, and fee refund of special registration plates. While the Department could enforce these provisions by policy, utilizing administrative rules ensures consistency and transparency on the processes and requirements for applying for and obtaining specialty plates. The Department currently relies on general agency rulemaking authority in Iowa Code section 307.12(1)"j" for the following rules:

401.1 Definitions.

401.2 Application and requirements for certain special registration plates. *except subrule (3)*

401.3 Character limits. *in part*

401.6 Issuance.

401.7 Renewal.

401.8 Reassignment or surrender of special registration plates. *in part*

401.9 Revocation of plates—appeal.

401.10 Refund of fees.

The Department also recommends that explicit rulemaking authority be added to Iowa Code section 321.34 for promulgation of rule 401.5 (Personalized plates), for which the Department currently promulgates under the general authority of Iowa Code section 307.12(1)"j." These rules are critical to transparent and consistent application of the standards for personalized registration plates, which have been intact in similar form since the 1994 Iowa Supreme Court decision, *McMahon v. Iowa Department of Transportation, Motor Vehicle Division*, 522 N.W.2d 51 (Iowa 1994).

