

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

Department Name:	Department of Transportation	Date:	3/7/24	Total Rule Count:	9
IAC #:	761	Chapter/ SubChapter/ Rule(s):	405	Iowa Code Section Authorizing Rule:	321.52(4), 321.52(5) and 321.69(12)
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE!

What is the intended benefit of the rule?

Background: A designation is a “brand” placed on a vehicle’s ownership document (title), including its electronic record, which identifies or describes an event that affects the value or safety of the vehicle. All states have some system for designating prior damage, and some (like Iowa) issue specific types of documents that denote an event affecting the value or safety of the vehicle. Examples are a “salvage certificate” issued for a salvage (repairable) vehicle or “junk certificate” issued for a junk (non-repairable) vehicle. States apply brands to ownership documents to disclose to consumers, who may not otherwise know, an event or other condition that may affect its value or safety. The brands and the criteria used to assign them vary widely from jurisdiction to jurisdiction. Additionally, the brand labels vary from jurisdiction to jurisdiction. Examples of title designations include “junk,” “salvage,” “non-repairable,” “prior salvage,” “rebuilt salvage,” “parts only,” “flood damage,” and “water damage.” There is no national standard for title designations, meaning that there is often a need to translate a foreign title designation into the Iowa equivalent when a vehicle is transferred into the state.

In 1988, the Iowa legislature passed Senate File 2285. The bill affected all dealers, vehicle rebuilders, insurance companies, peace officers, and anyone who acquired a vehicle that has a designation of salvage, rebuilt, or junked. At the time, the Department filed emergency rulemaking, including promulgation of this chapter, stating that the bill required “extensive rulemaking.” The lack of rules would be detrimental to persons affected by the bill and persons who are affected by the bill have the right to know what to expect in the course of their business affairs.

The intended benefit of this chapter is to outline clear standards for vehicle owners, buyers, sellers, insurers, and dealers regarding the processing of vehicles with title designations other than regular. The chapter is intended to implement the Department’s express authority under Iowa Code sections 321.24(5) and 321.24(6) to require out-of-state title designations when a vehicle has incurred prior damage, to determine the manner in which other states’ rebuilt, salvage, or other designations are to be indicated on Iowa titles, and determine whether a “rebuilt” or “salvage” designation supersedes another designation.

The intended benefit is also to implement procedures for the conduct of “salvage theft examinations” as required under Iowa Code section 321.52. This section requires the owner of a “salvage” designated vehicle to repair the vehicle and have a salvage theft examination performed by a specially certified peace officer

before a regular certificate of title may be issued to ensure that the parts used to repair the vehicle were lawfully obtained.

The chapter gives individuals and businesses more clarity on how to convert a foreign (out-of-state) vehicle into Iowa, how to convert a vehicle with a “salvage” designation to a “rebuilt” status, and provides robust consumer protection measures by ensuring vehicle records checks are in place so that unknowing individuals or fraudulent actors cannot conceal prior damage on a vehicle by converting to a clean title.

Is the benefit being achieved? Please provide evidence.

Yes. Last year, Iowa issued 49,192 salvage titles, 45,870 junk certificates, and 40,194 other designated titles (out of a total of 901,422 titles issued)

Regarding the “records checks,” last year, the Department completed 3,348 junk, salvage, and insurance records checks and 240 individual record corrections to reconcile a vehicle’s electronic record on the National Motor Vehicle Title Information System (NMVTIS) with the vehicle’s printed foreign or Iowa titled. These corrections ensure titles are appropriately designated and protect consumers down the line.

One specific example this year which demonstrates the necessity of the salvage and title designation process involved a vehicle that was sold new in Pennsylvania, wrecked badly, then sold to a parts shop in Minnesota. The parts shop fixed it up, then due to a grandfathering clause in Minnesota law, obtained a “clean” title. The vehicle was then sold to an individual in South Dakota. South Dakota’s laws permitted issuance of a clean title because the Minnesota title was clean, despite the records check revealing the vehicle’s salvage history. The vehicle was then sold at auction to an Iowan who, upon attempting to register the vehicle in Iowa, discovered via the records check process that the vehicle actually needed to be designated as “rebuilt” due to the prior wreck/salvage status and subsequent repairs. The Iowa buyer was unaware the vehicle had previously been salvaged until the Department’s records check revealed this.

Additionally, in fiscal year 2023 13,288 salvage theft examinations were completed by Iowa certified peace officers allowing consumers to title and then legally drive vehicles that had been salvaged and subsequently repaired.

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

There are no costs to the public to comply with this chapter beyond the fees required under Iowa Code section 321.52(4). This Iowa Code section sets fees for salvage theft examinations.

A salvage, rebuilt, etc. designation on a vehicle’s title may reduce the vehicle’s value (i.e., if it’s “rebuilt” versus a never-salvaged vehicle) but any change in value is attributable to the vehicle’s history, not the title designation that merely describes the history.

Insurers incur minor administrative costs to complete the Department-prescribed form under Iowa Code section 321.52(4)(c).

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

The Department incurs costs to provide salvage theft examination training for law enforcement officers (4-6 classes per year), and law enforcement officers incur time costs for completing the training. The

Department incurs costs via staff time to complete vehicle records checks. However, these costs are attributable to the underlying requirements in Iowa Code sections 321.24 and 321.52.

Do the costs justify the benefits achieved? Please explain.

Yes, there are immense consumer protection benefits realized by having a consistent process related to vehicle title designations and conducting salvage theft examinations. The cost is fairly minimal compared to the benefit achieved – which is that vehicle buyers have transparency in knowing the value and condition of the vehicle, that parts are not stolen.

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.

All states adopt title designations to indicate a vehicle's prior damage history; however, the terminology varies widely. This chapter follows national best practices outlined in the American Association of Motor Vehicle Administrators "Salvage and Junk Vehicle: Best Practice Recommendations for Jurisdictions on Branding and Handling Salvage, Rebuilt Salvage, Junk, and Flood-Damaged Vehicles" (December 2019). Some states have laws providing that they do not carry forward vehicle title designations when a vehicle comes in from another state or is rebuilt, etc. (Kentucky and South Dakota). Such states that are less restrictive experience larger amounts of fraud and consumer complaints.

Regarding the records check, all 50 states use AAMVA's system, the National Motor Vehicle Titling Information System (NMVTIS). A majority of states implement the records check in the same manner as Iowa's; it is not necessarily mandatory, but it is a standard part of the titling/registration process.

Regarding salvage theft examinations, some states have both safety check and fraud/theft check. Iowa's law requires only a fraud/theft focused examination.

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]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes, chapter has numerous statutory redundancies, inconsistent verbiage, and several unnecessary restrictions that have been corrected in the proposed draft. The changes to each rule of the existing chapter are explained below.

- Title: The chapter is renamed from "salvage" to "salvage and other title designations" to more accurately reflect the content and subject matter of the chapter.
- Rule 405.1 (Applicability and information) has been reworded to cross-reference the sections of Iowa Code that designate the types of motor vehicles subject to salvage titles, branded titles, junking certificates, and the other provisions of this chapter, and eliminate the now redundant verbiage. The rule also now includes the contact information of the appropriate department division.
- Rule 405.2 (definitions) has been revised to consolidate definitions from throughout the chapter, to provide that the definitions in 321.1 are adopted for this rule chapter (which then permits the elimination of the definition for "component parts." Of note:
 - The definition of "previous owner" has been removed. The term was intended to provide clarity of Iowa Code section 321.24(3). However, the department determined there was no authority to adopt this definition. Furthermore, the department anticipates passage of legislation that would strike reference to "previous owner" in section 321.24(3) altogether.

- The definition of “junking certificate” has been removed, as the department determined it was unneeded.
- The definition of “regular foreign title” has been redefined to ensure that any title designated as “salvage” will need to go through the salvage process as defined in this chapter, even if the vehicle may be legally driven under another state’s laws. For Iowa (and most states), a “salvage” title or designation means the vehicle is not operable and cannot be registered for operation until it is fixed and then re-designated with a regular title and a "rebuilt" or "prior salvage" designation. However, in certain states (South Dakota) a salvage designation still permits the vehicle to be operated on public roads.
- The term “fair market value” is amended to remove reference to the North American Dealer’s Association average market value, and to clarify that the methodologies to determine fair market value can include a bill of sale, an appraisal conducted by a motor vehicle dealer or a third-party appraiser, or a commercially available motor vehicle pricing guide.
- Rule 405.3 (salvage) has been reworded for clarity and to incorporate portions of former 405.6(3).
- Rules 405.4-405.5 were previously reserved and are now being stricken.
- Rule 405.6 (Iowa salvage title required) has been stricken, as the content is either redundant of Iowa Code section 321.52(4)(b) or has been moved into 405.3.
- Rule 405.7 (Converting salvage title to regular title) has been reworded for clarity and to remove redundancies.
- Rule 405.8 (Foreign vehicles) has been reworded for clarity and to remove redundancies. Of note:
 - The records check requirement under 405.8(8)“a”(2) is being changed to be consistent with the requirement under 405.9 that a records check for a vehicle with a foreign title indicating that the vehicle should have been or has been junked as defined in subrule 405.8(1) requires an Iowa junking certificate.
- Rule 405.9 (records check) contains minor terminology changes and now includes reference to the applicable federal regulation, 28 CFR 25.54.
- Rules 405.9(records check) and 405.10 (designations) are revised to reduce burdensome provisions regarding implementation of 2021 Iowa Acts SF 230, which amended the definition of “wrecked or salvage vehicle” from 50% cost of repair to 70% cost of repair. The changes provide that a 50% designation will no longer be carried forward for any title issuance occurring after July 1, 2021 whereas prior rules required the designation to carry-over for title and registration issuances other than transfers (i.e., Iowa branded vehicles returning from out of state with an unbranded title). In other words, any Iowa title issued after July 1, 2021 that previously had a 50% designation will no longer be required to have that designation. (Current 405.9(1) and 405.10(c); new 405.6(1) and 405.7(1)“c”).
- Rules 405.11-405.14 were previously reserved and are now being stricken.
- Rule 405.15 (salvage theft examination) strikes provisions that are redundant of Iowa Code, but added that the procedure is in addition to requirements in Iowa Code section 321.52(4)“d”. Additionally, the terminology is corrected to align with statutory language (replacing the term “affidavit of salvage vehicle repairs form” with “repair affidavit”) and current processes (such as the payments being made online). Of note:
 - The changes remove the option that an owner’s authorized agent can sign, be present, or submit the information on the repair affidavit for a salvage theft examination. The department determined that this practice is not permitted by Iowa Code. However, in the event a vehicle owner has a legal power of attorney, the rule still permits the POA to act on behalf of the owner if the POA provides express authority.

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

405.6

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

The Department proposes to repromulgate the following 8 rules.

- 405.1 Applicability and information.
- 405.2 Definitions.
- 405.3 Salvage title.
- 405.4 Converting salvage title to regular title.
- 405.5 Foreign vehicles.
- 405.6 Records check.
- 405.7 Designations.
- 405.8 Salvage theft examination.

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

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	469
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation (shall, must, require, restrict)	40

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

Yes, the Department recommends codifying the requirement in federal regulation 28 CFR 25.54 that the state complete a National Motor Vehicle Titling Information System (NMVTIS) record check prior to titling a vehicle from out of state, or transferring a title. This federal regulation is being added by reference in 761-405.6, however, explicit codification in Iowa Code is recommended.