

State of Kansas
Office of the Attorney General
Notice of Public Hearing on Proposed Administrative Regulations

August 13, 2015

A public hearing will be conducted on Thursday, October 22, 2015, at 10:00 a.m. in the 4th Floor Conference Room of the Memorial Hall State Office Building, 120 S.W. Tenth Ave., Topeka, Kansas, to consider the adoption of proposed rules and regulations of the Office of the Attorney General, Consumer Protection Division, on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Consumer Protection Division, 120 SW Tenth Ave., 2nd Fl., Topeka, KS, 66612 or by email to cprotect@ag.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least one week in advance of the hearing by contacting Crystal Moe at (785) 296-2215. The south public entrance to Memorial Hall Office Building is handicap accessible. Handicapped parking is located in front of Memorial Hall and on Jackson Ave., between 9th and 10th streets. A summary of the proposed regulation and its economic impact follow. (Note: Statements indicating that a regulation is "not anticipated to have any economic impact" are intended to indicate that no economic impact on the Office of the Attorney General, other state agencies, state employees, or the general public has been identified.)

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be viewed at the following website:

<http://ag.ks.gov/licensing/scrap-metal-dealers>

The following regulations are all new regulations, and all listed regulations relate to the Scrap metal theft reduction act ("Act").

K.A.R. 16-14-1: Fees. This regulation establishes the fee for initial and renewal applications for a scrap metal dealer's registration certificate. The initial and renewal fee is set at \$1,000. The attorney general believes that the costs are set at the minimum amount necessary to implement and administer the Act while upholding the requirements of the Act.

K.A.R. 16-14-2: Initial application. This regulation establishes the process and requirements for filing an initial application for a certificate of registration pursuant to the Act. Since this

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regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-14-3: Computation of time. This regulation establishes the process for computing any time period prescribed by the Act. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-14-4: Hearings. This regulation establishes the procedure for requesting a hearing on an order denying, suspending, or revoking a scrap metal dealer application or registration. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

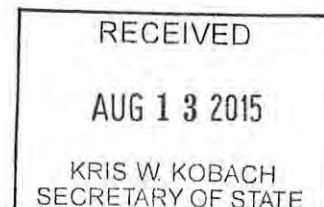
K.A.R. 16-14-5: Notice of hearing. This regulation establishes the notice of hearing requirement for denial, suspension, or revocation hearings. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-14-6: Service of order or notice. This regulation establishes the procedure for serving an order or notice, as required under the Act. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-14-7: Hearing procedure. This regulation establishes the procedure to be followed at a hearing regarding the denial, suspension, or revocation of a scrap metal dealer's application or registration. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-14-8: Evidence. This regulation establishes the requirements relating to evidence considered at a hearing for the denial, suspension, or revocation of a scrap metal dealer's application or registration. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-14-9: Default. This regulation establishes the default procedure to be followed during the hearing process for the denial, suspension, or revocation of a scrap metal dealer's application or registration. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.



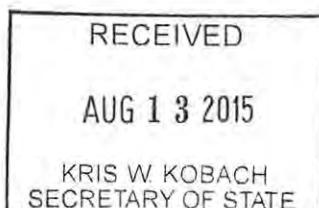
Article 14. Scrap Metal Dealers' Registration and Hearing Procedure

16-14-1. Fees. Each applicant or registrant shall pay one of the following nonrefundable fees, as applicable, for registration of each place of business for which a registration is sought:

(a) Scrap metal dealer's initial registration certificate \$1,000

(b) Annual renewal of a scrap metal dealer's registration certificate \$1,000

(Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp. 50-6,112a, as amended by L. 2015, ch. 96, sec. 15; effective, T-_____, _____; effective P-_____.)



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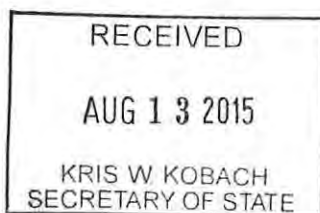
16-14-2. Initial application. (a) Each person seeking an initial registration certificate shall submit an application that consists of the following:

(1) An initial application form provided by the attorney general and fully completed by the applicant;

(2) payment of the initial registration certificate fee specified in K.A.R. 16-14-1; and

(3) a copy of the applicant's current state or federal government-issued photographic identification.

(b) An application for an initial registration certificate shall be deemed incomplete if the application fails to include all information required by the application form and if the applicant fails to submit the items required in paragraphs (a)(2) and (3). If the applicant fails to provide all missing information, documents, and the applicable fee within 30 days of notification by the attorney general that the application is incomplete, the application shall be deemed abandoned, and all fees accompanying the application shall be retained by the attorney general and shall not be refunded to the applicant. (Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp. 50-6,112a, as amended by L. 2015, ch. 96, sec. 15; effective, T-_____, _____; effective P-_____.)



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16-14-3. Computation of time. (a) In computing any period of time prescribed by the scrap metal theft reduction act or this article concerning registration, the day of the action or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday, or legal holiday, in which event the period shall include the end of the next day that is not a Saturday, Sunday, or legal holiday.

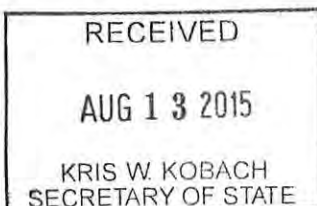
(b) Unless otherwise specified in this article, each of the following terms shall have the meaning specified in this subsection:

(1) "Day" means calendar day and not business day. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation.

(2) "Business day" means any day that is not a Saturday, Sunday, or legal holiday.


(3) "Legal holiday" shall include any day designated as a holiday by any Kansas statute or regulation.

(c) If the attorney general's office is not open to the public on the last day of any time period prescribed by this article, the time period shall be extended until the next business day on which the attorney general's office is open for business. (Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp. 50-6,112c, as amended by L. 2015, ch. 96, sec. 17; effective, T-_____, _____; effective P-_____.)



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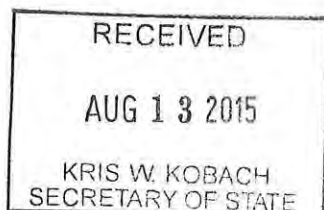
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16-14-4. Hearings. Any applicant or registered scrap metal dealer may request a hearing on an order denying, suspending, or revoking that individual's application or registration by submitting a written request for a hearing to the attorney general's office within 15 days of the date of service of the order denying, suspending, or revoking the registration. (Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp. 50-6,112c, as amended by L. 2015, ch. 96, sec. 17; effective, T-_____, _____; effective P-_____.)



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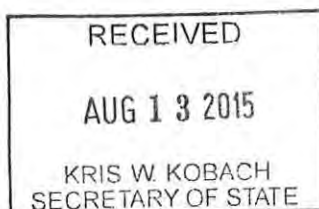
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16-14-5. Notice of hearing. The time and place of each hearing shall be set at least 10 days before the hearing. Notice of the hearing shall be provided to all parties. (Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp. 50-6,112c, as amended by L. 2015, ch. 96, sec. 17; effective, T-_____, _____; effective P-_____.)



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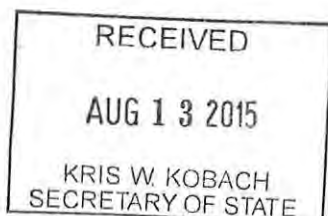
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16-14-6. Service of order or notice. (a) Service of an order or notice shall be made upon each party and, if any, each party's attorney of record by delivering a copy of the order or notice to the person to be served or by mailing a copy of the order or notice by first-class mail to the person at the person's last known address. Service shall be presumed if the attorney general, or the attorney general's designee, delivers a written certificate of service. Delivery of a copy of an order or notice to a person shall mean handing the order or notice to the person or leaving the order or notice at the person's principal place of business or residence with a responsible person who works or resides there. Service by mail shall be complete upon mailing.

(b) Whenever a party has the right or is required to perform an action within a prescribed period after service of a notice or order and the notice or order is served by mail, three days shall be added to the prescribed period. (Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp. 50-6,112c, as amended by L. 2015, ch. 96, sec. 17; effective, T-_____, _____; effective P-_____.)



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16-14-7. Hearing procedure. The following provisions shall apply at each hearing:

(a) The proceedings shall be conducted by the attorney general or the attorney general's designee.

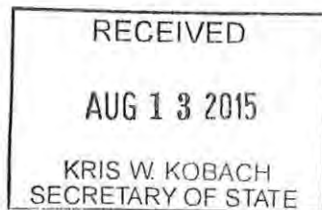
(b) To the extent necessary for full disclosure of all relevant facts and issues, each party shall have the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.

(c) Nonparties may be given an opportunity by the attorney general or the attorney general's designee to present oral or written statements. Each party shall be given an opportunity to challenge or rebut these statements. On motion of any party, the statements shall be required by the attorney general or the attorney general's designee to be given under oath or affirmation.

(d) The hearing may occur by telephone or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(e) The hearing shall be recorded at the expense of the attorney general's office. The attorney general's office shall not be required at its own expense to prepare a transcript, unless required to do so by a provision of law. Any party, at the party's expense and subject to any reasonable conditions that the attorney general's office may establish, may cause a person other than the attorney general's office to prepare a transcript from the record or cause additional recordings to be made during the hearing.

(f) Each hearing shall be open to public observation, except to the limited extent as determined by the attorney general or the attorney general's designee, that it is necessary to close parts of the hearing pursuant to any provision of law requiring confidentiality or expressly authorizing closure. (Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp.



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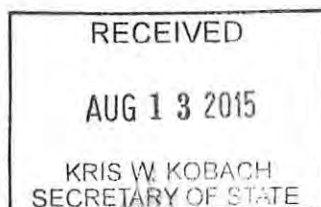
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50-6,112c, as amended by L. 2015, ch. 96, sec. 17; effective, T-_____, _____;

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16-14-8. Evidence. (a) At each hearing, the parties shall not be bound by technical rules of evidence, and the parties shall have reasonable opportunity to be heard and to present evidence. The attorney general or the attorney general's designee shall act reasonably and without partiality. The rules of privilege recognized by law shall be followed by the attorney general or the attorney general's designee. Evidence shall not be required to be excluded solely because the evidence is hearsay.

(b) All testimony of parties and witnesses shall be given under oath or affirmation. The power to administer an oath or affirmation for that purpose shall reside with the attorney general or the attorney general's designee.

(c) Any statements presented by nonparties in accordance with this article may be received as evidence.

(d) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.

(e) Documentary evidence may be received in the form of a copy or excerpt. Upon request, the parties shall be given an opportunity to compare the copy with the original if the original is available.

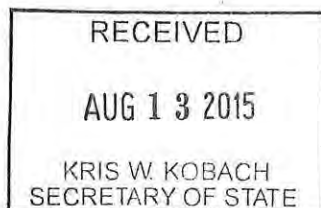
(f) Official notice may be taken of the following:

(1) Any matter that could be judicially noticed in Kansas courts;

(2) the record of other proceedings before the attorney general or the attorney general's designee;

(3) technical or scientific matters within the specialized knowledge of the attorney general's office; and

(4) codes or standards that have been adopted by an agency of the United States, of



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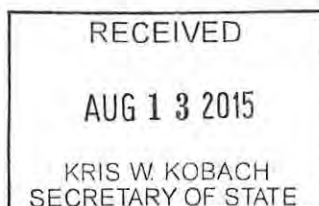
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Kansas, or of another state or by a nationally recognized organization or association.


(g) The parties shall be notified before or during the hearing, or before the issuance of any order that is based in whole or in part on matters or material noticed, of the specific matters or material noticed and the source thereof, including any staff memoranda and data. The parties shall be afforded an opportunity to contest and rebut the matters or material so noticed.

(Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp. 50-6,112c, as amended by L. 2015, ch. 96, sec. 17; effective, T-_____, _____; effective P-_____.)



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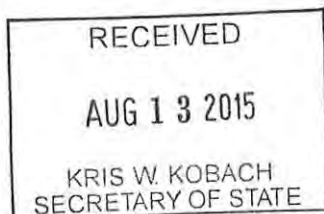
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16-14-9. Default. If the party requesting a hearing defaults by failing to attend or participate in a hearing or any other stage of an adjudicative proceeding, the request for a hearing shall be dismissed and the order denying, suspending, or revoking the registration shall become final.

(Authorized by L. 2015, ch. 96, sec. 1; implementing K.S.A. 2014 Supp. 50-6,112c, as amended by L. 2015, ch. 96, sec. 17; effective, T-_____, _____; effective P-_____.)



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**KANSAS ATTORNEY GENERAL'S OFFICE
ECONOMIC IMPACT STATEMENT**

K.A.R. 16-14-1, 16-14-2, 16-14-3, 16-14-4, 16-14-5, 16-14-6, 16-14-7, 16-14-8, and 16-14-9

I. Summary of Regulations, Including Their Purposes.

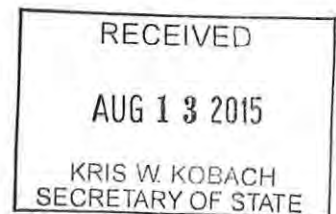
K.A.R. 16-14-1, 16-14-2, 16-14-3, 16-14-4, 16-14-5, 16-14-6, 16-14-7, 16-14-8, and 16-14-9 are new regulations implementing the Scrap metal theft reduction act ("Act"). The purpose of these new regulations is to establish the fees, application procedure, denial, suspension, and revocation procedure for the Act, following the passage of 2015 House Bill 2048. The cost of these regulations will be borne solely by applicants for registration pursuant to the scrap metal theft reduction act. The cost to each applicant for registration will be \$1,000 per scrap metal location, an amount allowed by HB 2048.

II. Reason the Regulation is Required, Including Whether the Regulations are Mandated by Federal Law.

The regulations are needed to instruct scrap metal dealers of the requirements to obtain a registration certificate and inform the public regarding the Act and the attorney general's administration of the Act. The regulations are not mandated by federal law, and therefore the regulations do not exceed the requirements of federal law.

III. Anticipated Economic Impact upon the Kansas Attorney General's Office.

The attorney general will review for completeness and accuracy each application and supporting documents submitted by an applicant seeking a scrap metal dealer's registration certificate. If an application is complete and contains accurate information, the attorney general will issue a scrap metal dealer's registration certificate. If the provided information is incorrect, the attorney may deny the application for registration. The attorney general will create and



maintain a publicly verifiable database for all Act registrants; collect all fees for initial and renewal applications; and may investigate any complaints regarding a registrant's compliance with the Act. These functions will involve at least one full time employee at an estimated cost of \$58,000 annually in total compensation. There may be initial costs associated with implementing the Act and with administering the Act if applicants or registrants request an administrative hearing on the attorney general's decision regarding their application or registration certificate.

IV. Anticipated Financial Impact upon Other Governmental Agencies and upon Private Businesses or Individuals.

The attorney general's office does not anticipate economic impact on other government agencies. Private businesses or individuals falling under the ambit of the Act will be required to pay a specified fee to process an application. The application fee will be \$1,000 for initial and renewal applications.

V. Less Costly or Intrusive Methods Considered

These regulations are the first regulations to be considered, as the Act first became effective July 1, 2015. The attorney general believes that the costs are set at the minimum amount necessary to implement and administer the Act while upholding the requirements of the Act.

VI. Permanent Regulation Comment Period and Hearing

The Attorney General will hold a comment period for the permanent regulations prior to the regulation hearing. The regulation hearing is anticipated to be held October 22, 2015, at 10:00 a.m. at the Office of the Attorney General, 120 SW Tenth Avenue, Topeka, Kansas.

