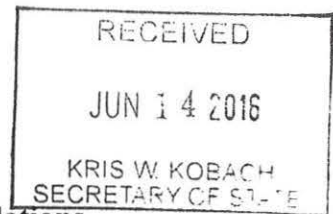


Proposed



State of Kansas

**Office of Attorney General Derek Schmidt  
Notice of Public Hearing on Proposed Permanent Regulations  
Scrap Metal Theft Reduction Act**

Tuesday, June 14, 2016

The Office of Attorney General Derek Schmidt will conduct a public hearing between 1:00 p.m. and 2:00 p.m. on Friday, September 9, 2016, in the Memorial Hall auditorium, 120 SW Tenth Ave., Topeka, Kansas, 66612, to consider the adoption of new regulations K.A.R. 16-14-10 and K.A.R. 16-14-11.

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 Office of the Attorney General Derek Schmidt, Scrap Metal Dealer Registration Unit, 120 SW Tenth Ave. 2<sup>nd</sup> Floor, Topeka, Kansas, 66612 or by email to [randy.slater@ag.ks.gov](mailto:randy.slater@ag.ks.gov). All interested parties will be given a reasonable opportunity during the public hearing to present their views orally regarding the adoption of the proposed regulations. In order to provide all parties an opportunity to present their views, it may be necessary to require that each participant limit any oral presentation to an appropriate timeframe.

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 statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting the Office of Attorney General Special Agent Randy Slater at [randy.slater@ag.ks.gov](mailto:randy.slater@ag.ks.gov) or 1-800-432-2310.

A summary of the proposed regulations and their estimated economic impact follow. Copies of the proposed regulations and the economic impact statement may be obtained by contacting Special Agent Randy Slater at [randy.slater@ag.ks.gov](mailto:randy.slater@ag.ks.gov) or at the phone number listed above.

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>

**K.A.R. 16-14-10.** This regulation outlines the requirements for scrap metal dealers to capture and enter data related to regulated scrap metal transactions into an online database.

**K.A.R. 16-14-11.** This regulation defines terms used in the Scrap Metal Theft Reduction Act, K.S.A. 2015 Supp. 50-6,109 *et seq.*, and in K.A.R. 16-14-10.

**Economic Impact.** It is anticipated that there will be no additional economic impact to the Office of Attorney General or to other governmental agencies. Scrap metal dealers may incur costs to enter required information into the online database, including costs to obtain internet access.

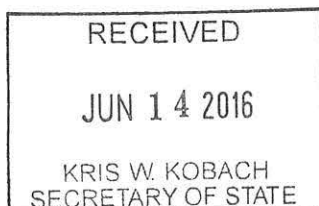
# Proposed

16-14-10. Submission of required information. (a) Except as provided in subsections (c) and (d), each scrap metal dealer shall submit the information required by K.S.A. 2015 Supp. 50-6,110(b) and (c), and amendments thereto, immediately upon the conclusion of each purchase or receipt of regulated scrap metal. This information shall be submitted by entering the required information into the database.

(b) Failure to timely submit the information required by K.S.A. 2015 Supp. 50-6,110(b) and (c), and amendments thereto, shall be grounds for suspension of the scrap metal dealer's registration pursuant to K.S.A. 2015 Supp. 50-6,112c, and amendments thereto.

(c) A scrap metal dealer who purchases regulated scrap metal from a licensed business shall not be required to comply with subsection (a) if the purchase is made at the fixed business location of the licensed business. In this case, each scrap metal dealer shall enter the following information into the database immediately upon the conclusion of each purchase:

- (1) The time, date, and place of the transaction;
- (2) the name of the licensed business;
- (3) the name of the individual acting on behalf of the licensed business in making the sale;
- (4) a general description of the predominant types of junk vehicle or other regulated scrap metal property being purchased in the transaction;
- (5) the weight, quantity, or volume, made in accordance with the custom of the trade, of the regulated scrap metal being purchased; and



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(6) a signed statement from the individual making the sale, indicating that the individual is acting for the licensed business and has permission to sell each item on behalf of the licensed business.

(d) Any scrap metal dealer may submit a written application to the attorney general to request additional time to comply with subsection (a). Each application shall include documentation that the scrap metal dealer is unable to obtain internet access at the scrap metal dealer's place of business. (Authorized by K.S.A. 2015 Supp. 50-6,109a; implementing K.S.A. 2015 Supp. 50-6,109a and 50-6,110; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

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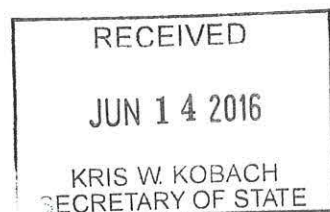
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# Proposed

16-14-11. Definitions. As used in this article of the attorney general's regulations and in the scrap metal theft reduction act, K.S.A. 2015 Supp. 50-6,109 et seq. and amendments thereto, each of the following terms shall have the meaning specified in this regulation:

(a) "Database" means the online central repository approved by the attorney general to be used by each scrap metal dealer to submit the information required by K.S.A. 2015 Supp. 50-6,110, and amendments thereto.

(b) "Licensed business" means a sole proprietorship, general partnership, limited partnership, limited liability partnership, corporation, or limited liability company that lawfully operates out of a fixed business location and that is reasonably expected to generate regulated scrap metal at the fixed business location in the ordinary course of business due to the nature of the products or services offered. (Authorized by K.S.A. 2015 Supp. 50-6,109a; implementing K.S.A. 2015 Supp. 50-6,109a and 50-6,110; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)



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**OFFICE OF THE ATTORNEY GENERAL  
ECONOMIC IMPACT STATEMENT  
New K.A.R. 16-14-10 and 16-14-11**

**I. Summary of Proposed Temporary and Permanent Regulation, Including Its Purpose.**

K.A.R. 16-14-10 and 16-14-11 are new regulations that are required to be in place when phase two of the 2015 Scrap Metal Theft Reduction Act, hereafter referred to as SMTRA, goes into effect on July 1, 2016. These two new regulations describe the data to be entered into an online database that the agency is required to implement, and define certain terms used in K.S.A. 2015 Supp. 50-6,109 through 50-6,112c.

**K.A.R. 16-14-10**

This regulation outlines how the information required to be collected pursuant to K.S.A. 2015 Supp. 50-6,110(b) and (c) will be entered into the new database at the conclusion of each qualifying scrap metal transaction.

Subsection (c) of this regulation allows scrap metal dealers to obtain less information regarding purchases made from licensed businesses. This is consistent with K.S.A. 2015 Supp. 50-6,110(d), which allows the Attorney General to specify which data elements must be collected in transactions between a scrap metal dealer and a licensed business. The purpose of this exception is to reduce the administrative burden with respect to regular, routine purchases from business expected to generate scrap metal.

Subsection (d) of this regulation allows scrap metal dealers to make application to the Attorney General if they do not have access to the internet and need additional time to be in compliance.

**K.A.R. 16-14-11**

This regulation serves to clarify the SMTRA and K.A.R. 16-14-10 by defining the terms “database” and “licensed business,” which are not defined in statute.

**II. Whether the Regulation is Mandated by Federal Law and whether it Exceeds Requirements of Federal Law.**

These regulations are not required by federal law.

**III. Anticipated Economic Impact upon the Attorney General**

There are not any additional costs to the Attorney General’s office related to the proposed K.A.R. 16-14-10 or K.A.R. 16-14-11. It is anticipated that fees collected through the scrap metal dealer registration program should be sufficient to fund the database and oversight of the program.

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

These regulations are not anticipated to have any impact on other governmental agencies. There could be a minor financial impact to scrap metal dealers who do not currently have access to the internet at their place of business. Those scrap metal dealers may choose to purchase internet access for their place of business, or, if they receive approval to do so from the Attorney General's Office, they may choose to travel to their home or to another location where they may access the internet. If the vendor who provides the database has minimum software requirements for end users, it is possible that some scrap metal dealers must either upgrade or purchase new equipment to include an internet connection. However, it appears that common practice within the scrap metal industry as a whole is to record the transactions of regulated scrap metal via digital records, photographing and/or video recording each transaction.

**VI. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.**

K.S.A. 2015 Supp. 50-6,110 requires each scrap metal dealer to capture certain data elements and forward that data to the database. These regulations simply implement that statutory requirement. The proposed temporary and permanent regulations provide an option for the scrap metal dealers to request additional time to be in compliance and a way to provide the data if they are currently unable to meet the minimum requirements.

