

State of Kansas
Office of the Attorney General

Notice of Public Hearing on Proposed Administrative Regulations
K.A.R. 16-14-1, 16-14-10, 16-14-11

July 2, 2020

A public hearing will be conducted on September 3, 2020 at 1:00 p.m. in Memorial Hall Auditorium, 120 SW 10th Ave., 2nd Floor, Topeka, Kansas to consider the adoption of proposed rules and regulations, K.A.R. 16-14-1, 16-14-10, 16-14-11, of the Office of the Attorney General, 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 Office of the Attorney General Derek Schmidt, Scrap Metal Unit, 120 SW 10th Ave., 2nd Floor, Topeka, Kansas 66612 or by email to randy.slater@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 five working days in advance of the hearing by contacting Special Agent Randy Slater at (785) 432-2310 (or TYY 1-800-766-3777). The public entrance to Memorial Hall is accessible. Handicapped parking is located in front of Memorial Hall.

Summaries of the proposed regulations and their 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: www.ag.ks.gov/regulation-hearings.

2019 House Bill 2248 (HB 2248) delayed enforcement of most parts of the Scrap Metal Theft Reduction Act until July 1, 2020, thereby making it necessary to amend the following regulations to conform with the statutory changes.

K.A.R. 16-14-1. Fees. The proposed amendment changes the annual scrap metal dealer registration fee to \$350.00 per registered location.

K.A.R. 16-14-10. Submission of Required Information. The proposed amendment removes submission requirement language that is incompatible with the new statutory changes.

K.A.R. 16-14-11. Definitions. The proposed amendment amends the definition of “Database” to mean the central repository approved by the Kansas bureau of investigation.

Economic Impact. 2019 HB 2248 allows the Attorney General’s Office to charge an annual fee for scrap metal dealer registration starting July 1, 2020. The proposed permanent K.A.R. 16-14-1 will set the new fee at \$350.00 per registered location.

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~~ \$350

(b) Annual renewal of a scrap metal dealer's registration certificate \$~~1,000~~ \$350

(Authorized by K.S.A. 2018 Supp. 50-6,109a, as amended by L. 2019, ch. 66, sec. 2 ~~L. 2015, ch. 96, sec. 1~~; implementing K.S.A. ~~2014~~ 2019 Supp. 50-6,112a, as amended by L. 2019, ch. 66, sec. 10, as amended by L. 2015, ch. 96, sec. 15; effective, T-16-8-10-15, Aug. 10, 2015; effective Dec. 4, 2015; amended, T-_____, _____; amended P-_____.)

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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. ~~2016~~ 2019 Supp. 50-6,110 ~~(b) and (c),~~ and amendments thereto, by no later than 11:59 p.m. local time on the same day. 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. ~~2016~~ 2019 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. ~~2016~~ 2019 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 by no later than 11:59 p.m. local time on the same day:~~

~~(1) The time, date, and place of the transaction;~~

~~(2) the name of the licensed business;~~

~~(3) a general description of the predominant types of junk vehicle or other regulated scrap metal property being purchased in the transaction; and~~

~~(4) the weight, quantity, or volume, made in accordance with the custom of the trade, of the regulated scrap metal being purchased.~~

~~(d)~~ (c) 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 of one of the following:

(1) No satellite-based or land-based internet service providers offer internet service to either the scrap metal dealer's residence or the scrap metal dealer's place of business.

(2) Compliance with subsections subsection (a) and ~~(c)~~ would result in extreme hardship.

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(Authorized by K.S.A. 2018 2016 Supp. 50-6,109a, as amended by L. 2019, ch. 66, sec. 2;
implementing K.S.A. 2018 2016 Supp. 50-6,109a, as amended by L. 2019, ch. 66, sec. 2, and 50-
6,110, as amended by 2020 S Sub for HB 2137, sec. 4; effective, T-16-6-29-16, July 1, 2016;
effective Oct. 21, 2016; amended, T-_____, _____; amended P- _____.)

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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. ~~2016~~ 2019 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~~ Kansas bureau of investigation to be used by each scrap metal dealer to submit the information required by K.S.A. ~~2016~~ 2019 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. ~~2018~~ 2016 Supp. 50-6,109a, as amended by L. 2019, ch. 66, sec. 2; implementing K.S.A. ~~2018~~ 2016 Supp. 50-6,109a, as amended by L. 2019, ch. 66, sec. 2, and 50-6,110, as amended by 2020 S Sub for HB 2137, sec. 4; effective, T-16-6-29-16, July 1, 2016; effective Oct. 21, 2016; amended, T-_____, _____; amended P-_____.)

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Attorney General's Office
Agency

Randy Slater
Agency Contact

785-368-6581
Contact Phone Number

16-14-1, 16-14-10, 16-14-11 (Permanent Regulations)
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

These regulations are proposed for amendment following enactment of 2019 House Bill 2248 (HB 2248), which delayed enforcement of the Scrap Metal Theft Reduction Act until July 1, 2020. House Bill 2248 transfers responsibility for establishing and maintaining a database to serve as a central repository for information required to be provided under K.S.A. 2019 Supp. 50-6,110, and amendments thereto from the Attorney General to the Kansas Bureau of Investigation.

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II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

These regulations are not mandated by federal law.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

Beginning July 1, 2020, the Attorney General's Office will charge a fee for scrap metal dealer registration. K.A.R. 16-14-1 changes the fee to \$350 for a scrap metal dealer's initial registration certificate, and \$350 for the annual renewal of a scrap metal dealer's registration certificate.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

The attorney general's office does not anticipate an economic impact other than scrap dealer registration costs.

Public utility ratepayers, individuals, and local governments will not incur any costs.

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C. Businesses that would be directly affected by the proposed rule and regulation;

Scrap metal dealers.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The amendment to K.A.R.16-14-1 reduces scrap metal dealer registration fees from \$1000 to \$350.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The amendment to K.A.R.16-14-1 reduces initial and renewal scrap metal dealer registration fees from \$1000 to \$350.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$350.00 for the initial or annual renewals for scrap metal dealer registrations. The registration costs could be passed on to the members of the public depending on how the business chooses to pay for the costs of registration.

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$350 renewal fees paid annually by scrap metal dealers. There is no cost passed along to local governments or members of the public.

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

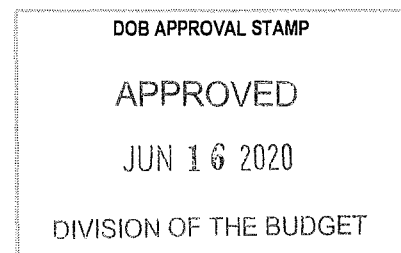
Give a detailed statement of the data and methodology used in estimating the above cost estimate.

Not applicable.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or



imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

Not applicable.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

The Attorney General's Office has sought input from law enforcement and scrap metal dealers regarding the regulations, however, input was not utilized for the amendments due to the limited scope of the changes.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

Not applicable.

