

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 2 CONSUMER PROTECTION
PART 15 SALE OF RECYCLED METALS

12.2.15.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department.

[12.2.15.1 NMAC - Rp, 12.2.15.1 NMAC, 8/12/12]

12.2.15.2 SCOPE: This part sets forth definitions to the department pursuant to the Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-17 NMSA 1978.

[12.2.15.2 NMAC - Rp, 12.2.15.3 NMAC, 8/12/12]

12.2.15.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-17 NMSA 1978.

[12.2.15.3 NMAC - Rp, 12.2.15.2 NMAC, 8/12/12]

12.2.15.4 DURATION: Permanent.

[12.2.15.4 NMAC - Rp, 12.2.15.4 NMAC, 8/12/12]

12.2.15.5 EFFECTIVE DATE: August 12, 2012 unless a later date is cited at the end of a section.

[12.2.15.5 NMAC - Rp, 12.2.15.5 NMAC, 8/12/12]

12.2.15.6 OBJECTIVE: The purpose of this part is to define language required pursuant to Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-17 NMSA 1978.

[12.2.15.6 NMAC - Rp, 12.2.15.6 NMAC, 8/12/12]

12.2.15.7 DEFINITIONS:

A. Secondhand metal dealer: means a scrap metal processor in the business of operating or maintain a scrap metal yard in a physical location in which scrap metal or cast-off regulated material is purchased for shipment, sale or transfer.

B. Aluminum material: means a product made from aluminum, an aluminum alloy or an aluminum byproduct. Aluminum material includes an aluminum beer keg but does not include other types of aluminum cans used to contain a food or beverage.

C. Bronze material: means a cemetery vase, receptacle or memorial made from bronze; bronze statuary; or material readily identifiable as bronze.

D. Copper or brass material: means insulated or noninsulated copper wire, hardware or cable of the type used by a public utility, commercial mobile radio service carrier or common carrier that consists of at least twenty-five percent copper; or a copper or brass item of a type commonly used in construction or by a public utility, commercial mobile radio service carrier or common carrier.

E. Business day: means any calendar day except Sunday and following holidays: New Year's day, Washington's birthday, Memorial day, Independence day, Labor day, Columbus day, Veterans' day, Thanksgiving day, Christmas day, Martin Luther King Jr.'s birthday and any other legal public holiday of the state of New Mexico or the United States.

F. Department: means the regulation and licensing department.

G. Superintendent: means the superintendent of the regulation and licensing.

H. Peace officer: means any full-time salaried and commissioned or certified law enforcement officer of a police or sherriff's department that is part of or administered by the state or a political subdivision of the state.

I. Personal identification document: means a driver's license; a military identification card; or a passport issued by the United States or by another country and recognized by the United States.

J. Regulated material: means aluminum material; bronze material; copper or brass material; steel material; a utility access cover; a water meter cover; a road or bridge guard rail; a highway or street sign; a traffic directional or control sign or signal or a catalytic converter that is not part of an entire motor vehicle.

K. Steel material: means a product made from an alloy of iron, chromium, nickel or manganese, including stainless steel beer kegs.

[12.2.15.7 NMAC - Rp, 12.2.15.7 NMAC, 8/12/12]

HISTORY OF 12.2.15 NMAC: [RESERVED]

History of Repealed Material:

12.2.15 NMAC, Sale of Recycled Metals, filed 12-23-10 - Repealed, effective 8-12-12.

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 2 CONSUMER PROTECTION
PART 16 APPLICATION FOR REGISTRATION

12.2.16.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department.
[12.2.16.1 NMAC - N, 8/12/12]

12.2.16.2 SCOPE: This part sets forth application procedures to the department pursuant to the Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-17 NMSA 1978.
[12.2.16.2 NMAC - N, 8/12/12]

12.2.16.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-17 NMSA 1978.
[12.2.16.3 NMAC - N, 8/12/12]

12.2.16.4 DURATION: Permanent.
[12.2.16.4 NMAC - N, 8/12/12]

12.2.16.5 EFFECTIVE DATE: August 12, 2012 unless a later date is cited at the end of a section.
[12.2.16.5 NMAC - N, 8/12/12]

12.2.16.6 OBJECTIVE: The purpose of this part is to register secondhand metal dealers pursuant to 57-30-14 NMSA 1978.
[12.2.16.6 NMAC - N, 8/12/12]

12.2.16.7 DEFINITIONS: [Reserved]
[12.2.16.7 NMAC - N, 8/12/12]

12.2.16.8 APPLICATION REQUIREMENTS:
A. Effective July 1, 2012, all secondhand metal dealers shall not buy or sell regulated material without a valid registration issued by the department.
B. Applications for registration shall be completed on a form provided by the department.
C. Electronic signatures will be acceptable for applications submitted pursuant to section 14-16-1 through section 14-16-19 NMSA 1978.
D. Information submitted shall include:
 (1) the full name and business address of the applicant;
 (2) a list of all locations at which the applicant engages or will engage in the business of buying or selling regulated material;
 (3) a non-refundable registration fee as set forth in 12.2.16.9 NMAC;
 (4) affirmation of compliance with all federal requirements;
 (5) affirmation of registration with metal theft alert system as described in Paragraph (3) of Subsection A of 12.2.18.8 NMAC.
[12.2.16.8 NMAC - N, 8/12/12]

12.2.16.9 FEES:
A. The fee for application registration is twenty-five dollars (\$25.00).
B. The fee for renewal of registration is twenty-five dollars (\$25.00).
[12.2.16.9 NMAC - N, 8/12/12]

12.2.16.10 RENEWAL REQUIREMENTS:
A. Original and renewed registrations shall be valid for a period of three years from the date of issuance, unless the registration is suspended or revoked.
B. Prior to the expiration of the license, all registered secondhand metal dealers shall apply for registration renewal and shall pay the renewal fee as set forth in 12.2.16.9 NMAC.
C. A current registration shall be posted in the business of operation.
[12.2.16.10 NMAC - N, 8/12/12]

HISTORY OF 12.2.16 NMAC: [RESERVED]

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 2 CONSUMER PROTECTION
PART 17 REPORTING REQUIREMENTS

12.2.17.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department.
[12.2.17.1 NMAC - N, 8/12/12]

12.2.17.2 SCOPE: This part sets forth reporting procedures to the department pursuant to the Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-13 NMSA 1978.
[12.2.17.2 NMAC - N, 8/12/12]

12.2.17.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-13 NMSA 1978.
[12.2.17.3 NMAC - N, 8/12/12]

12.2.17.4 DURATION: Permanent.
[12.2.17.4 NMAC - N, 8/12/12]

12.2.17.5 EFFECTIVE DATE: August 12, 2012 unless a later date is cited at the end of a section.
[12.2.17.5 NMAC - N, 8/12/12]

12.2.17.6 OBJECTIVE: The purpose of this part is to standardize the reporting procedures to the department required pursuant to 57-30-8 NMSA 1978.
[12.2.17.6 NMAC - N, 8/12/12]

12.2.17.7 DEFINITIONS: [Reserved]
[12.2.17.7 NMAC - N, 8/12/12]

12.2.17.8 REPORTING REQUIREMENTS:

A. All secondhand metal dealers are required to report all transactions of regulated material. Reports of such transaction shall be uploaded to the database maintained by the department.

B. Reports shall be in English and shall include:

- (1) the place and date of the purchase;
- (2) the name and address of each person from whom the regulated material is purchased or obtained;
- (3) the identifying number of the personal identification document of each person from whom the regulated material is purchased or obtained;
- (4) the year, make, model and license plate number of the motor vehicle used to transport the regulated material;
- (5) a description made in accordance with the custom of the trade of the type and quantity of regulated material purchased; and
- (6) affirmation that the seller has signed a written statement that he or she is the legal owner of or is lawfully entitled to sell the regulated material offered for sale as required by Paragraph (2) of Subsection A of Section 4 (57-30-4 NMSA 1978) of the Sale of Recycled Metals Act.

C. Electronic submission of data by secondhand metal dealers to the department prior to January 2014 will be done via the department's file transfer protocol (FTP) site or other similar system maintained by the department in an excel or equivalent format.

D. After January 2014 secondhand metal dealers will be required to submit their data in the format(s) specified by the department for direct loading into its database.

E. The department will specify the acceptable format(s) of data for electronic submission to the department's database. Data submitted electronically after January 2014 will be transferred directly into the department's database via a web interface or other electronic system developed and maintained by the department.

F. Secondhand metal dealers will be responsible for correcting any formatting errors or data validation errors that occur during the transfer of data or the loading of data into the database. Secondhand metal dealers will be responsible for re-submitting corrected data to the department.

G. A secondhand metal dealer shall comply with the waiting period for disposal of regulated material.

- (1) Secondhand metal dealer shall not process or permit regulated material to be removed from the dealer's premises until at least twenty-four hours have elapsed since the dealer acquired the regulated material.

- (2) A person shall not with intent to deceive display to a secondhand metal dealer a false or invalid personal identification document in connection with the person's attempted sale of regulated material.

H. A secondhand metal dealer may take a digital photograph, with a date and time stamp, of:

- (1) the seller of the regulated material, and

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(2) the regulated material in the form in which it was purchased or obtained by the secondhand metal dealer.

[12.2.17.8 NMAC - N, 8/12/12]

12.2.17.9 RESTRICTED TRANSACTIONS:

A. A secondhand metal dealer shall not purchase any of the following without written documentation indicating that the seller is the rightful owner or has permission from the rightful owner or that the material was otherwise lawfully obtained.

B. Infrastructure grade regulated material that has been burned to remove insulation unless the seller can produce written proof that the regulated material was lawfully burned.

C. Regulated material where the manufacturer's make, model, serial or personal identification number or other identifying marks engraved or etched upon the material have been conspicuously removed or altered.

D. Regulated material marked with the name initials or otherwise identified as the property of an electrical company, telephone company, cable company, water company or other utility company, a railroad or a governmental entity to include: a utility access cover; a water meter cover; a road or bridge guard rail; a highway or street sign; a traffic directional or control sign; a metal beer keg that is clearly marked as being the property of the beer manufacturer; or a catalytic converter that is not part of an entire motor vehicle.

E. An additional form will be required to be completed by all second hand metal dealers who purchase material listed in 12.2.17.9 NMAC.

[12.2.17.9 NMAC - N, 8/12/12]

HISTORY OF 12.2.17 NMAC: [RESERVED]

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 2 CONSUMER PROTECTION
PART 18 DUTIES AND RESPONSIBILITIES

12.2.18.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department.
[12.2.18.1 NMAC - N, 8/12/12]

12.2.18.2 SCOPE: This part sets forth application procedures to the department pursuant to the Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-17 NMSA 1978.
[12.2.18.2 NMAC - N, 8/12/12]

12.2.18.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Sale of Recycled Metals Act, Sections 57-30-1 through 57-30-17 NMSA 1978.
[12.2.18.3 NMAC - N, 8/12/12]

12.2.18.4 DURATION: Permanent.
[12.2.18.4 NMAC - N, 8/12/12]

12.2.18.5 EFFECTIVE DATE: August 12, 2012 unless a later date is cited at the end of a section.
[12.2.18.5 NMAC - N, 8/12/12]

12.2.18.6 OBJECTIVE: The purpose of this part is to facilitate compliance of all registered secondhand metal dealers pursuant to 57-30-1 through 57-30-17 NMSA 1978.
[12.2.18.6 NMAC - N, 8/12/12]

12.2.18.7 DEFINITIONS: [Reserved]
[12.2.18.7 NMAC - N, 8/12/12]

12.2.18.8 DUTIES: Effective July 1, 2012, all secondhand metal dealers shall maintain a valid registration issued by the department.

A. A current registration certificate must be posted in the business of operation or posted in a physical location of a registrant who maintains a scrap metal yard in which scrap metal or cast-off regulated material is purchased for shipment, sale or transfer.

B. Comply with all federal requirements for scrap metal dealers, including maintain storm water permits.

C. Register for the metal theft alert system, maintained by the institute of scrap recycling industries or its successor organization.

[12.2.18.8 NMAC - N, 8/12/12]

12.2.18.9 RESPONSIBILITIES:

A. A secondhand metal dealer who becomes aware that the dealer is in possession of regulated material that was stolen or unlawfully obtained shall not remove the material from the dealer's premises and shall report the same to a local law enforcement agency within twenty-four hours.

B. A secondhand metal dealer must inform all employees who are involved in the purchasing or receiving of regulated material of alerts received on theft of regulated material in the geographic area.

C. A secondhand metal dealer maintain an accurate and legible written record, in a form approved by the department, of each purchase made in the course of the dealer's business of the following:

- (1) copper or brass material;
- (2) bronze material;
- (3) aluminum material in excess of ten pounds;
- (4) steel material in excess of one ton, and
- (5) written record shall be kept of each purchase of a stainless steel beer keg.

D. The records shall be in English and shall include:

- (1) the place and date of the purchase;
- (2) the name and address of each person from whom the regulated material is purchased or obtained;
- (3) the identifying number of the personal identification document of each person from whom the regulated material is purchased or obtained;
- (4) the year make, model and license plate number of the motor vehicle used to transport the regulated material;
- (5) a description made in accordance with the custom of the trade of the type and quantity of regulated material purchased.

E. A secondhand metal dealer may take a digital photograph with a date and time stamp of:
(1) the seller of the regulated material;
(2) the regulated material in the form in which it was purchased or obtained by the secondhand metal dealer.
[12.2.18.9 NMAC - N, 8/12/12]

12.2.18.10 RETENTION OF RECORDS:

A. A secondhand metal dealer shall preserve each record required until the first anniversary of the date the record was made.

B. A secondhand metal dealer shall produce to a peace officer upon request the requested record of purchase.

[12.2.18.10 NMAC - N, 8/12/12]

12.2.18.11 CIVIL PENALTY, SUSPENSION OR REVOCATION OF REGISTRATION:

A. A person who violates any provision of the Sale of Recycled Metals Act may be assessed a civil penalty by the superintendent not to exceed one thousand dollars (\$1,000) per violation.

B. The superintendent may suspend or revoke the registration of a secondhand metal dealer when the superintendent finds that the dealer has intentionally violated a provision of the Sale of Recycled Metals Act.

C. Prior to the imposition of a civil penalty or the suspension or revocation of a registration, the superintendent shall provide notice and an opportunity to be heard pursuant to the pertinent notice and hearing provisions of the Uniform Licensing Act.

[12.2.18.11 NMAC - N, 8/12/12]

HISTORY OF 12.2.18 NMAC: [RESERVED]