

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, 8/12/2012]

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]~~ 57-30-14 NMSA 1978.
[12.2.18.2 NMAC - N, 8/12/2012; A, 10/1/2023]

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]~~ 57-30-14 NMSA 1978.
[12.2.18.3 NMAC - N, 8/12/2012; A, 10/1/2023]

12.2.18.4 DURATION: Permanent.
[12.2.18.4 NMAC - N, 8/12/2012]

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, 8/12/2012]

12.2.18.6 OBJECTIVE: The purpose of this part is to facilitate compliance of all registered secondhand metal dealers pursuant to Sections 57-30-1 through ~~[57-30-17]~~ 57-30-14 NMSA 1978.
[12.2.18.6 NMAC - N, 8/12/2012; A, 10/1/2023]

12.2.18.7 DEFINITIONS: **[RESERVED]**
[12.2.18.7 NMAC - N, 8/12/2012]

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, 8/12/2012]

12.2.18.9 RESPONSIBILITIES:

A. A secondhand metal dealer or the dealer's agent shall visually verify the accuracy of the personal identification document and vehicle identification presented by the seller at the time of the dealer's purchase or acquisition. The dealer shall not substitute or rely upon information existing in the dealer's records system in place of such visual verification at the point of each sale.

~~[A.]~~ **B.** 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 24 hours.

~~[B.]~~ **C.** 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.]~~ **D.** A secondhand metal dealer shall 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 regulated material. ~~[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.]~~
~~E. A secondhand metal dealer shall preserve each record required until the first anniversary of the date the record was made, except for any record for the purchase of a catalytic converter, which shall be kept until the third anniversary of the date the record was made.~~
~~F. A secondhand metal dealer shall produce to a peace officer or compliance officer upon request the requested record of purchase.~~
[12.2.18.9 NMAC - N, 8/12/2012; A, 10/1/2023]

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.] [RESERVED]~~
[12.2.18.10 NMAC - N, 8/12/2012; Repealed, 10/1/2023]

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, 8/12/2012]

HISTORY OF 12.2.18 NMAC: [RESERVED]