

# Oklahoma Department of Agriculture, Food and Forestry



## Oklahoma Scrap Metal Dealer Law & Rules

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# Dealers Law and Rules

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## **§ 11-91 - Definitions:**

As used in the Oklahoma Scrap Metal Dealers Act:

1. "Aluminum material" means the metal aluminum or aluminum alloy or anything made of either aluminum or aluminum alloy, except aluminum beverage cans;
2. "Copper material" means the metal copper or copper alloy or anything made of either copper or copper alloy;
3. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry and its employees, officers and divisions;
4. "Exempted seller" means any person, firm, corporation or municipal corporation which constructs, operates or maintains electric distribution and transmission or communications facilities; or any person, firm or corporation that produces or otherwise acquires any scrap metal regulated by the provisions of the Oklahoma Scrap Metal Dealers Act in the normal course of business as:
  - a. mechanical, electrical or plumbing contractor licensed to do business in this state,
  - b. scrap metal dealer (Standard Industrial Classification Codes 5051 or 5093), licensed pursuant to the provisions of the Oklahoma Scrap Metal Dealers Act,
  - c. holder of a farm-use tax permit,
  - d. manufacturer,
  - e. distributor, or
  - f. retailer;
5. "License" means a scrap metal dealer license;
6. "Scrap metal" means any copper material or aluminum material or any item listed in Section 11-93 of this title, offered for sale or resale or purchased by any person, firm or corporation;
7. "Scrap metal dealer" means any person, firm or corporation being an owner, keeper or proprietor of a retail or wholesale business which buys, sells, salvages, processes or otherwise handles scrap metal materials regulated by the provisions of the Oklahoma Scrap Metal Dealers Act; and
8. "Yard" means the place where any scrap metal dealer stores scrap metal materials or keeps such materials for purpose of sale.

## **§ 11-92 – Records – Local Ordinance – Inspection – Purchases Exceeding Thirty-Five Pounds – Copper Wires – Minors – Declarations of Ownership – Vehicle Purchases**

A. Every scrap metal dealer shall keep a separate book, record or other electronic system as authorized by the Oklahoma Scrap Metal Dealers Act, to record and maintain the following data from any seller of any amount of scrap metal as defined by the Oklahoma Scrap Metal Dealers Act:

1. A legible photocopy of the seller's driver license or other form of government issued photo identification that contains his or her name, address, date of birth, weight and height;

2. Vehicle description and license tag number of the seller if the vehicle was used to transport the material being sold;
  3. Date and place of the transaction and the transaction number as provided by the scrap metal dealer;
  4. Description of the items sold and weight of the items as required by the provisions of the Oklahoma Scrap Metal Dealers Act;
  5. Whether the scrap metal is in wire, cable, bar, rod, sheet or tube form;
  6. If any insulation is on the scrap metal, the names and addresses of the persons, groups or corporations from whom seller purchased or obtained the materials; and
  7. If apparent on the scrap metal, the name of the manufacturer and serial number of each item of scrap metal.
- B. Municipalities or other political subdivisions may adopt, and scrap metal dealers shall abide by, local ordinances regarding the format of the information required by subsection A of this section, either written or electronic.
- C. Records required by this section shall be made available at any time to any person authorized by law for such inspection.
- D. Purchases of thirty-five (35) pounds or more of scrap metal containing a manufacturer's serial number or other unique label or mark shall be held separate and apart so that the purchased scrap metal may be readily identifiable from all other purchases for a period of not less than ten (10) days from the date of purchase. During the holding period the scrap metal dealer may not change the form of the purchased scrap metal and shall permit any person authorized by law to make inspection of such materials.
- E. Purchases of thirty-five (35) pounds or more of scrap metal which does not contain a manufacturer's serial number or other unique label or mark shall either be held for the same time and in the same manner as required by Subsection D of this section; or in the alternative, the scrap metal dealer shall be required to obtain a digital image of the items purchased, the seller of the items, a copy of the bill of sale and a copy of the seller's photo identification. The digital image shall contain a depiction that can reasonably be utilized for identification of the seller and the items sold and captured in the common JPEG format with a minimum resolution of 640 pixels by 480 pixels. The digital image shall be retained by the purchaser for a minimum of ninety (90) days from the date of purchase. For the purpose of this section a "digital image" means a raster-based two-dimensional, rectangular array of static data elements called pixels, intended for display on a computer monitor or for transformation into another format, such as a printed page.

- F. No purchase of any amount of scrap metal from an exempted seller, as defined by Section 11-91 of this title, shall be subject to any holding period or digital imaging identification required by subsection D or E of this section.
- G. It shall be unlawful for any person to sell or purchase copper material or copper wire from which the actual or apparent insulation or other coating has been burned, melted or exposed to heat or fire resulting in melting some or all of the insulation or coating. This provision shall not apply to sales by or purchases from an exempted seller.
- H. It shall be unlawful for any scrap metal dealer to purchase any item from a minor without having first obtained the consent, in writing, of a parent or guardian of such minor. Such written consent shall be kept with the book, record or other electronic recording system required by subsection A of this section and, if requested by a law enforcement agency where the purchase was made, shall be transmitted to the law enforcement agency and may be kept as a permanent record and made available for public inspection.
- I. A scrap metal dealer shall obtain from each seller of a scrap metal item regulated by the Oklahoma Scrap Metal Dealers Act, or a parent or guardian on behalf of a minor, a written declaration of ownership containing a legible signature of the seller. The declaration of ownership shall be in the following form and shall appear on the bill of sale or transaction ticket to be completed by the seller in the presence of the purchaser at the time of the transaction:

"I hereby affirm under penalty of prosecution that I am the rightful owner of the hereon described merchandise; or I am an authorized representative of the rightful owner and affirm that I have been given authority by the rightful owner to sell the hereon described merchandise.

\_\_\_\_\_  
Signature"

- J. If requested by a law enforcement agency, a scrap metal dealer shall report in writing all purchases of scrap metal as defined by the Oklahoma Scrap Metal Dealers Act within forty-eight (48) hours following such purchase. The report shall contain all the information required by this section.
- K. A scrap metal dealer purchasing a vehicle from any person shall be required to record the information required in subsection A of this section and the make, model, license tag number and vehicle identification number of the purchased vehicle. A person selling a vehicle to a scrap metal dealer shall be required to present to the dealer the title of the vehicle or a certificate of ownership, as approved by the Oklahoma Tax Commission and available at the Oklahoma Tax

Commission or through a motor license agent, in addition to signing a declaration of ownership as required by subsection I of this section. The provisions of this subsection shall not apply to sales, purchases or other transfer of vehicles between scrap metal dealers and licensed automotive dismantlers and parts recyclers.

- L. The provisions of the Oklahoma Scrap Metal Dealers Act shall not apply to the sale or purchase of aluminum beverage cans for recycling purposes.
- M. A scrap metal dealer shall not enter into any cash transactions in excess of One Thousand Dollars (\$1,000.00) in payment for the purchase of scrap metal that is listed in subsection B of Section 11-93 of this title unless the transaction is made with an exempted seller. Payment by check shall be issued and made payable only to the seller of the scrap metal whose identification information has been obtained pursuant to the provisions of this section.

### **§ 11-93 – Purchase Restrictions – Regulated Items**

- A. Scrap metal dealers permitted to do business in the state as required by the Oklahoma Scrap Metal Dealers Act shall not purchase any item listed in subsection B of this section without:
  - 1. Obtaining proof that the seller owns or is authorized to sell the property by evidence of a receipt of purchase or a bill of sale for the property; and
  - 2. Requiring the seller to sign a written declaration in the form required by subsection I of Section 3 of this act; or
  - 3. Obtaining proof that the seller is an exempted seller or an employee of an exempted seller, as defined in Section 2 of this act.
- B. The following items are regulated by the provisions of this act:
  - 1. Manhole covers, street signs, traffic signs, traffic signals including their fixtures and hardware, or any other identifiable public property;
  - 2. Electric light poles, including their fixtures and hardware, electric transmission or distribution cable and wires, and any other hardware associated with electric utility or telecommunication systems;
  - 3. Highway guard rails;
  - 4. Funeral markers, plaques or funeral vases;
  - 5. Historical markers or public artifacts;
  - 6. Railroad equipment;
  - 7. Any metal item marked with any form of the name, initials or logo of a governmental entity, utility, cemetery or railroad;
  - 8. Condensing or evaporating coil from a heating or air conditioning unit;
  - 9. Aluminum or stainless steel containers or bottles designed to contain fuel;

10. Metal beer kegs that are clearly marked as being the property of the beer manufacturer;
11. Metal bleachers or other seating facilities used in recreational areas or sporting arenas;
12. Automotive catalytic converters;
13. Plumbing or electrical fixtures;
14. Tools;
15. Machinery or supplies commonly used in the drilling, completing, operating or repairing of oil or gas wells; and
16. Stainless steel fittings and fixtures commonly used in the operation of car wash facilities.

### **§ 11-94 – Fines - Punishments**

- A. Any person found in violation of any provision of the Oklahoma Scrap Metal Dealers Act, with the exceptions as provided by subsections B, C and D of this section, shall, upon conviction, be guilty of a misdemeanor and punished by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) per offense. Any person convicted of a second violation of the Oklahoma Scrap Metal Dealers Act shall be guilty of a misdemeanor and punished by a fine of not more than Five Thousand Dollars (\$5,000.00) per offense or by imprisonment in the county jail for a period of not more than six (6) months. Any person convicted of a third or subsequent violation of the Oklahoma Scrap Metal Dealers Act shall be guilty of a felony punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) per offense or by imprisonment in the custody of the Department of Corrections for a period of not more than two (2) years, or by both such fine and imprisonment.
- B. Any person acting as a scrap metal dealer without a scrap metal dealer license or a sales tax permit as required by the Oklahoma Scrap Metal Dealers Act shall, upon conviction, be guilty of a misdemeanor and punished by a fine of not more than Five Hundred Dollars (\$500.00); provided, that each day of operation in violation of the Oklahoma Scrap Metal Dealers Act shall constitute a separate offense.
- C. Any person who knowingly provides false information with respect to the provisions of subsection I of Section 11-92 of this title shall, upon conviction, be guilty of a felony and punished by a fine of Five Thousand Dollars (\$5,000.00), or by imprisonment in the custody of the Department of Corrections for a period of not more than two (2) years, or by both such fine and imprisonment.
- D. Any person convicted of purchasing or selling burnt copper material or copper wire as prohibited by subsection G of Section 11-92 of this title shall, upon first conviction, be guilty of a misdemeanor and punished by a fine of Two Thousand Five Hundred Dollars (\$2,500.00). Any person convicted of a second or

subsequent violation shall be guilty of a felony punishable by a fine of Five Thousand Dollars (\$5,000.00), or by imprisonment in the custody of the Department of Corrections for a period of not more than two (2) years, or by both such fine and imprisonment.

- E. Each scrap metal dealer convicted of a violation of the Oklahoma Scrap Metal Dealers Act shall be reported to the Oklahoma Tax Commission by the clerk of the court rendering such verdict.
- F. The Tax Commission shall revoke the sales tax permit of any person convicted of three separate violations of the Oklahoma Scrap Metal Dealers Act. The person shall not be eligible to receive a sales tax permit for such purpose for a period of one (1) year following the revocation. The revocation procedure shall be subject to notice and hearing as required by Section 11-95 of this title.

### **§ 11-95 – Revocation or Suspension of Licenses – Injunction Against Dealers**

- A. Any sales tax permit, issued pursuant to Section 1364 of Title 68 of the Oklahoma Statutes, to any scrap metal dealer who violates any of the provisions of this act relating to the purchase of copper or aluminum materials or any scrap metal regulated by this act, may be canceled or suspended for a period not to exceed thirty (30) days by the Oklahoma Tax Commission. The Tax Commission may refuse the issuance of or extension or reinstatement of any permit where the applicant or holder of the permit shall have violated any provisions of this act or existing laws. Such cancellation or refusal shall be mandatory as to any scrap metal dealer having been convicted of three separate violations of this act. However, before the Tax Commission may cancel or suspend any permit or refuse the issuance, reinstatement or extension thereof, the Tax Commission shall give each holder of a permit or applicant ten (10) days' notice of a hearing before the Tax Commission, granting such person an opportunity to show cause why such action should not be taken. Upon notice given to any scrap metal dealer by the Tax Commission of its intention to cancel or suspend any permit or to refuse the issuance, reinstatement or extension thereof, the Tax Commission shall have the authority to enter its order suspending such permit or prohibiting the applicant from doing business without a permit pending the final hearing before it as provided for in this section.
- B. 1. After notice of the order of suspension or prohibition from doing business, it shall be unlawful for the scrap metal dealer to further engage in the business of a scrap metal dealer, as defined herein. In the event any such person shall conduct or at any time continue such unlawful operation, after notice of suspension or prohibition from doing business, the Tax Commission may institute or cause to be brought against such person or persons proceedings for injunction in any court of competent jurisdiction to enjoin and restrain such person or persons from doing business pending the order of the Tax Commission.



2. Upon cancellation of a permit by the Tax Commission, no new permit shall be issued to such dealer or any firm, corporation or other legal entity under his or her direct or indirect control or association, for a period of one (1) year from the date of cancellation.

3. In all cases where proceedings are brought for injunction under this act, no bond for injunction shall be required and in all such cases, after notice of suspension has been given, no further notice shall be required before the issuance of a temporary restraining order on any proceeding for injunction.

C. If an appeal is taken from the order of the Tax Commission issued pursuant to this section, the scrap metal dealer, in order to conduct business as a scrap metal dealer pending outcome of the appeal, shall be required to post a bond in the amount of Five Thousand Dollars (\$5,000.00).

### **§ 11-96 – Sales Tax Permits**

A. Any person, firm or corporation desiring to become a scrap metal dealer shall be required to obtain a sales tax permit as provided by Section 1364 of Title 68 of the Oklahoma Statutes, from the Oklahoma Tax Commission, for each scrap metal yard owned or operated by such person, firm or corporation.

B. The Tax Commission shall maintain a list of scrap metal dealers to whom sales tax permits have been issued and such list shall be made available for public inspection.

C. The Tax Commission shall not deny any person, firm or corporation desiring a sales tax permit for the purpose of scrap metal dealing due to insufficient quantity or dollar value of sales necessary to warrant such permit.

D. The Tax Commission is authorized to promulgate any rules necessary to implement the provisions of this act.

### **§ 11-97 – License Requirement**

A person shall not advertise, act, offer to act, hold himself or herself out, or engage in business as a scrap metal dealer in this state without a scrap metal dealer license issued by the Oklahoma Department of Agriculture, Food, and Forestry.

**§ 11-98 – Application for License – Investigation – Fee – Validity of License – Renewals – Rules, Procedures, and Forms**

- A. An applicant for a license to engage in business as a scrap metal dealer shall provide all of the following information on the license application:
1. If the applicant is an individual, the full name and place of residence of the applicant;
  2. If the applicant is a firm, corporation or other legal entity, the full name, place of residence, and the position of the individual filing the application on behalf of the entity;
  3. The business address of the location where the scrap metal dealer conducts business or will conduct business as a scrap metal dealer;
  4. Legal proof of ownership, lease agreement or contract for the business location;
  5. Proof of a dedicated telephone line for the business location;
  6. Proof of a general liability insurance policy for the business location;
  7. Proof of a current discharge permit issued pursuant to the provisions of the Oklahoma Pollutant Discharge Elimination System Act;
  8. Whether the person has been previously convicted of, or pled guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude or dishonesty; and
  9. Any other additional information that will sufficiently enable the Oklahoma Department of Agriculture, Food, and Forestry to determine if the scrap metal dealer is prohibited from being issued a license.
- B. The Department may conduct any reasonable inquiry or investigation relative to the determination of the fitness of the applicant to be licensed or continue to be licensed including, but not limited to, requiring a national criminal history record check as provided in Section 150.9 of Title 74 of the Oklahoma Statutes.
- C. The Department shall charge an application fee in the amount of One Hundred Dollars (\$100.00) for processing an initial application for a scrap metal dealer license. The Department shall also charge an investigative fee of One Hundred Dollars (\$100.00) to be used for the purpose of conducting an investigation of the applicant. All fees shall be nonrefundable.
- D. In addition to the application, each applicant shall submit a full set of fingerprints and a photograph with each application for an original license. The fingerprints shall be used for a national criminal history record check as provided for in subsection B of this section. The applicant shall be required to pay for fingerprints, photographs and the national criminal history records check required for licensure and renewals.

- E. If the results of the investigation of the applicant show no prohibition to granting a license, the Department shall issue the scrap metal dealer license. The scrap metal dealer license shall be valid for a period of one (1) year unless otherwise voluntarily surrendered, suspended or revoked by the Department.
- F. A scrap metal dealer license issued pursuant to the provisions of this act is valid for the conduct of business as a scrap metal dealer only at the location specified in the application. A separate scrap metal dealer license shall be required for each location specified in the application form and each license shall designate the location to which it applies. The business of the scrap metal dealer shall not be conducted in any place other than that designated by the license. The scrap metal dealer license shall not be transferable.
- G. The Department shall deny the license when the applicant fails to properly complete the application form or if it is determined that the applicant is not eligible to receive a scrap metal dealer license.
- H. A scrap metal dealer license may be renewed any time within sixty (60) days prior to the expiration date of the license. To renew a scrap metal dealer license, the licensee must first obtain a renewal form from the Department. The licensee must complete the renewal form and submit a renewal fee in the amount of One Hundred Dollars (\$100.00) to the Department. Upon receipt of the renewal application and fee, the Department shall conduct a national criminal history record check and investigate any other records or information deemed by the Department to be relevant to the renewal of the scrap metal dealer license. If the licensee appears not to have any prohibition to renewing the scrap metal dealer license, the Department shall issue the renewed license for a period of one (1) year.
- I. The Oklahoma Department of Agriculture, Food, and Forestry shall promulgate rules, procedures and forms governing the application and renewal procedures for scrap metal dealer licenses.

**§ 11-99 – Grounds for Suspension, Revocation, or Refusal to Renew License – Hearing**

- A. The Oklahoma Department of Agriculture, Food, and Forestry may suspend, cancel, revoke, or refuse reissuance of a scrap metal dealer license after the person has an opportunity for public hearing pursuant to the Administrative Procedures Act for any of the following causes:
  - 1. Engages in fraud or deceit in obtaining or renewing a license;
  - 2. Acts as a scrap metal dealer in this state without a license;

3. Aids or abets another person in acting as a scrap metal dealer without a license; or
  4. Violates any of the provisions of the Oklahoma Scrap Metal Dealers Act.
- B. After notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the Department finds any person in violation of the Oklahoma Scrap Metal Dealers Act or any rule promulgated or order issued pursuant thereto, the Department shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation. Each action or each day a violation continues may constitute a separate and distinct violation.
- C. In addition to penalties and fines, the Department shall have authority to apply to district court and obtain a temporary or permanent injunction against anyone who violates the Oklahoma Scrap Metal Dealers Act and shall have authority to obtain or impose civil monetary penalties on anyone who violates the Oklahoma Scrap Metal Dealers Act.
- D. Nothing in the Oklahoma Scrap Metal Dealers Act shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of the Oklahoma Scrap Metal Dealers Act and rules promulgated pursuant thereto.
- E. Any person assessed an administrative or civil penalty may be required to pay, in addition to the penalty amount and interest thereon, attorney fees and costs associated with the collection of the penalties.
- F. If any person refuses, denies or interferes with any right of access, the Department shall have the right to apply to and obtain from a district court an administrative or other warrant as necessary to enforce the right of access and inspection.
- G. If the Department finds any person operating as a scrap metal dealer without a license, the Department shall have the authority to tag as "Not For Commercial Use" any weight or measure utilized by the scrap metal dealer.

### **35:30-45-1. Purpose**

These rules establish regulation and licensing requirements for scrap metal dealers doing business in Oklahoma pursuant to the Oklahoma Agricultural Code, § 2-4(A)(33) and Oklahoma Scrap Metal Dealers Act, 2 O.S. § 11-90 et seq. the regulation and licensing of scrap metal dealers shall be administered by the Department and the State Board of Agriculture and shall conform to the Administrative Procedures Act, 75 O.S. §§ 250 et seq.; to the Oklahoma Agricultural Code, 2 O.S. § 1-1 et seq.; and to the procedural rules promulgated by the State Board of Agriculture, Title 35 of the Oklahoma Administrative Code.

### **35:30-45-2. Definitions**

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

- "Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.
- "Investigative fee" means the investigative fee charged by the Department for conducting an investigation of the applicant upon receipt of an initial application for a license as authorized by 2 O.S. § 11-98(C).
- "License" means a scrap metal dealers license.
- "License fee" means the application fee charged by the Department for processing an initial application for a license as authorized by 2 O.S. § 11-98(C) and the renewal fee charged by the Department for processing an application for the renewal of a license as authorized by 2 O.S. § 11-98(H).
- "Oklahoma Scrap Metal Dealers Act" means the Oklahoma Scrap Metal Dealers Act, codified at 2 O.S. §§ 11-90 et seq.
- "Scrap metal" means any copper material, aluminum material except aluminum beverage cans, or any item listed in 2 O.S. § 11-93(B) of the Oklahoma Scrap Metal Dealers Act, offered for sale, resale, or purchased by any person, firm, or corporation.
- "Scrap metal dealer" means any person, firm or corporation being an owner, keeper, or proprietor of a retail or wholesale business which buys, sells, salvages, processes, or otherwise handles scrap metal materials regulated by the provisions of the Oklahoma Scrap Metal Dealers Act.
- "Yard" means the place where any scrap metal dealer stores scrap metal materials or keeps such materials for purposes of sale.

### **35:30-45-3. License required**

- (a) No person or entity shall act, offer to act, or hold himself or herself out as a

scrap metal dealer in this state unless the person holds a license obtained from the Department.

- (b) Any person or entity who intends to become a scrap metal dealer shall obtain a license prior to operation.
- (c) A separate license shall be required for each yard.
- (d) The license shall begin on November 1 or on the date of issuance and shall expire on October 31 of each calendar year.
- (e) If the scrap metal dealer is a firm, corporation, or other legal entity; the scrap metal dealer shall designate a scrap metal dealer's representative to act as a contact person for the agency. The scrap metal dealer's representative shall be a natural person with the legal authority to bind the entity in a contract.
- (f) Any person or entity who does not meet the definition of a scrap metal dealer but chooses to voluntarily obtain a license shall comply with all rules as though they do meet the definition of a scrap metal dealer.

#### **35:30-45-4. Initial license application**

- (a) The Department shall issue a license to each person or entity who:
  - (1) Complies with the requirements of the Oklahoma Scrap Metal Dealers Act;
  - (2) Applies to the Department using the form prescribed by the Department; and
  - (3) Pays the license fee, investigative fee, and charges related a national criminal history check.
- (b) Each yard shall be licensed separately and shall require the submission of a separate application, along with payment of related fees and charges.
- (c) The applicant shall submit a completed license application containing the following information:
  - (1) If the applicant is an individual: the applicant's full name, telephone and email contact information, and place of residence;
  - (2) If the applicant is a firm, corporation, or other legal entity:
    - (A) The scrap metal dealer representative's full name, telephone and email contact information, residential address, and position with the entity, and
    - (B) The entity's full name as registered with the Oklahoma Secretary of State, any trade names, and the name and mailing address of the entity's registered service agent;
  - (3) The address of the yard where the applicant conducts or intends to conduct business or, if the yard does not have a physical address, driving directions from the nearest municipality, and a legal description of the yard;
  - (4) Proof of ownership, a contract, or lease agreement that permits the applicant to engage in business as a scrap metal dealer at the yard described in the license application;
  - (5) Proof of a dedicated telephone line for the yard;
  - (6) Proof of a general liability insurance policy for the yard verifying insurance in an amount not less than \$500,000;
  - (7) Proof of a current discharge permit for the yard issued pursuant to the provisions of the Oklahoma Pollutant Discharge Elimination System Act;

- (8) The sales tax identification number for the applicant;
  - (9) Whether the applicant has ever had a license refused, revoked, or suspended;
  - (10) Whether the applicant has been previously convicted of, or pled guilty or nolo contendere to any felony or misdemeanor, the court or governmental entity in which the matter was adjudicated, a description of the charges, the date of the conviction, and the sentence received;
  - (11) An Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;
  - (12) A notarized statement swearing that the information submitted on the application is true and correct;
  - (13) Any other relevant information required by the Department.
- (d) In addition to the application, each applicant shall submit a full set of fingerprints and a photograph to the Department. The fingerprints and photograph shall be used for a national criminal history check as provided in 74 O.S. § 150.9. The applicant shall pay for fingerprints, photographs, and the national criminal history records check separately from the license fee and investigative fee charged by the Department.
- (e) If the applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant may submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.
- (f) The applicant may withdraw its application from consideration at any time.
- (g) An applicant whose application is denied due to insufficient information provided by the applicant or the withdrawal of the application may submit a new application. Any fees and charges paid by the applicant in connection with the denied or withdrawn application shall not be applied to the processing of a new application.

### **35:30-45-5. License renewal application**

- (a) A scrap metal dealer may renew a license by:
  - (1) Complies with the requirements of the Oklahoma Scrap Metal Dealers Act;
  - (2) Applies to the Department using the form prescribed by the Department; and
  - (3) Pays the license fee and charges related a national criminal history check.
- (b) Any scrap metal dealer who fails to timely apply for a renewal in a manner prescribed by the Department, and whose license has expired, may not engage in activities that require a license.

- (c) Not later than sixty (60) days before the expiration of the license, the Department shall send written notice of the impending license expiration to the scrap metal dealer at the last known address according to the records of the Department.
- (d) A license shall not be valid after the expiration date. If the scrap metal dealer submits an application for license renewal after the license has expired, the application shall be considered an initial application and shall require the payment of all fees and charges associated with the submission of an initial application.

### **35:30-45-6. Fees and charges**

- (a) The Department shall charge the following nonrefundable license fees:
  - (1) License fee for an initial application: \$100.00;
  - (2) Investigative fee for an initial application: \$100.00;
  - (3) License fee for a renewal application: \$100.00; and
  - (4) Any expenses by the Department relating to the national criminal history check.
- (b) Expenses of the Department relating to the national criminal history check shall be paid by the applicant.
- (c) The Department shall not be required to obtain nor the applicant required to pay charges for more than one national criminal history check if the Department is processing several applications or renewals simultaneously for the same applicant and all pertinent information is identical.
- (d) If a national criminal history check was conducted for the Department in relation to an initial application or renewal and the resulting report is less than six (6) months old; the Department may use the older report and waive any requirement that requires the applicant submit to a new national criminal history check as a condition for an initial license or renewal.

### **35:30-45-7. Display of license**

A scrap metal dealer shall prominently display a copy of the license at the yard.

### **35:30-45-8. Changes of information**

A scrap metal dealer shall notify the Department in writing not later than thirty (30) days after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.

### **35:30-45-9. Purchases, sales and records**

A scrap metal dealer shall conduct business and maintain records of all business transactions in a manner consistent with the provisions of the Oklahoma Scrap Metal Dealers Act.



### **35:30-45-10. Complaints**

- (a) On receipt of a valid written complaint alleging a violation of the Oklahoma Scrap Metal Dealers Act, an authorized agent of the Department, a local law enforcement authority, or an inspector designated by the Department may investigate the alleged violation.
- (b) Any person may submit a written and signed complaint to the Department alleging a violation of the Oklahoma Scrap Metal Dealers Act or rules promulgated thereunder.
- (c) The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies appropriate to the circumstances.

### **35:30-45-11. Inspections**

The Department may inspect any licensed business location, including but not limited to, the premises and the books and records of the licensed scrap metal dealer. If the scrap metal dealer refuses, denies, or interferes with any right of access, the Department shall have the right to apply to a district court of competent jurisdiction and obtain an administrative or other warrant necessary to enforce the right of access and inspection.

### **35:30-45-12. Grounds for denial, suspension, or revocation of a license**

The Department may deny, suspend, cancel, revoke, or refuse reissuance of a license of any applicant or scrap metal dealer who:

- (1) Violates the Oklahoma Scrap Metal Dealers Act;
- (2) Violates or fails to follow administrative rules adopted by the Department;
- (3) Engages in fraud or deceit in obtaining or renewing a license;
- (4) Acts as a scrap metal dealer in this state without a valid license;
- (5) Aids or abets another person in acting as a scrap metal dealer without a license;
- (6) Is convicted of a crime involving moral turpitude or dishonesty;
- (7) Is convicted of a felony punishable under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; or
- (8) Fails to pay an administrative penalty or fine assessed by the Department against the scrap metal dealer.

### **35:30-45-13. Sanctions for misconduct**

(a) If the Department determines that a scrap metal dealer has violated the Oklahoma Scrap Metal Dealers Act, Department rules, or other applicable legal authorities, the Department may

- (1) Refer the matter to the appropriate law enforcement authority for criminal prosecution;
  - (2) Deny, suspend, cancel, revoke, or refuse reissuance of a license or licenses held by the scrap metal dealer after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;
  - (3) Tag any weight or measure device utilized by the scrap metal dealer as "Not For Commercial Use" after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;
  - (4) Assess an administrative penalty or fine of not less than One Hundred dollars (\$100) and not more than Ten Thousand dollars (\$10,000) against the scrap metal dealer after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;
  - (5) Apply to a district court of competent jurisdiction and obtain a temporary or permanent injunction prohibiting the continued commercial operation of the scrap metal dealer; and
  - (6) Apply to a district court of competent jurisdiction and obtain any civil penalties allowed by law, including interest, attorney fees, and costs of collection.
- (b) Each action of misconduct or each day a violation continues may constitute a separate and distinct violation.

#### **35:30-45-14. Other requirements or acts prohibited**

Scrap metal dealers shall comply with all applicable state and federal laws, municipal ordinances, and other reasonable requirements of the Department.