

QUICK REFERENCE GUIDE

TO METAL RECYCLERS IN TEXAS



Texas Department of Public Safety

Austin, Texas

2019



**Texas Department of Public Safety
Regulatory Services Division**

P.O. Box 4087
Austin, Texas 78773
www.dps.texas.gov

Texas Metals Program

<http://www.dps.texas.gov/RSD/TexasMetalsProgram/index.htm>

DPS maintains a list of active Metal Recycling Entities (MREs), which can be accessed on the DPS website:

<http://www.dps.texas.gov/RSD/TexasMetalsProgram/reports.htm>

Law enforcement can obtain information about MRE purchases of regulated material from DPS' Texas Online Metals database (TOM), which can be accessed via the DPS website. Information in TOM is confidential and should only be accessed and used for authorized purposes.

To request law enforcement access to TOM, please visit

<http://www.dps.texas.gov/RSD/TexasMetalsProgram/leInstrLinks.htm> or call (512) 424-0290.

For law enforcement investigative support, call (512) 424-0290.

For certified metals recycling entity records, call (512) 424-7752 or contact us by email at rsd.certifications@dps.texas.gov.

Texas Administrative Code
www.sos.state.tx.us/tac

Texas Legislature Online
www.capitol.state.tx.us

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Texas Occupations Code, Chapter 1956. Metal Recycling Entities

The Texas Department of Public Safety registers and regulates all metal recycling entities (MREs) in Texas under the authority of the Texas Occupations Code, Chapter 1956 and the related administrative rules. DPS licenses businesses, evaluates the eligibility of applicants through criminal history background checks, oversees transaction record keeping, and conducts routine inspections to ensure compliance with all applicable laws and rules. DPS also provides on-line training to all MRE owners.

Metals statute and rule violations are a substantial threat in Texas. MREs buy regulated material from various sources for eventual re-manufacturing of the material. All transactions involving the sale of regulated materials are required to be reported to DPS through the Texas Online Metals (TOM) database. Statewide, the most common regulated material sold by total weight is aluminum, while copper is the most common by the number of transactions.

Failing to register and failing to report transactions are common violations by MREs. However, theft of stolen regulated materials such as copper is particularly problematic, costing citizens and businesses millions of dollars each year. Individuals and criminal organizations alike commit theft of regulated materials due to the quick profit potential and relative ease of doing so.

DPS is responsible for the oversight of the Texas Metals Program, in partnership with local law enforcement agencies across the state. The Regulatory Services Division is charged with this responsibility and does so through varying services within the division. DPS also works in conjunction with representatives from the metals industry and the industries impacted by theft towards the shared goal of combatting metals theft.

What is a Metal Recycling Entity?

“**Metal recycling entity**”(MRE) means a business that is operated from a fixed location and is predominantly engaged in:

- (A) performing the manufacturing process by which scrap, used, or obsolete ferrous or nonferrous metal is converted into raw material products consisting of prepared grades and having an existing or potential economic value, by a method that in part requires the use of powered tools and equipment, including processes that involve processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form of that metal;
- (B) the use of raw material products described under Paragraph (A) in the manufacture of producer or consumer goods; or
- (C) purchasing or otherwise acquiring scrap, used, or obsolete ferrous or nonferrous metals for the eventual use of the metal for the purposes described by Paragraph (A) or (B).

When does Chapter 1956 not apply?

Sec. 1956.002. Exception. This chapter does not apply to: a purchase of regulated material from a public utility or a manufacturing, industrial, commercial, retail, or other seller that sells regulated material in the ordinary course of the seller's business; a purchase of regulated material by a manufacturer whose primary business is the manufacture of iron and steel products made from melting scrap iron and scrap steel; or the transport or hauling of recyclable materials to or from the metal recycling entity.

Registration Required

Sec. 1956.021. Registration Required. A person may not act as a metal recycling entity or represent to the public that the person is a metal recycling entity unless the person is registered under this chapter.

Sec. 1956.023. Term of Certificate. A certificate of registration is valid for two years after the date of issuance.

Sec. 1956.003. Local Law; Criminal Penalty. A county, municipality, or political subdivision of this state may adopt a rule, charter, or ordinance or issue an order or impose standards that are more stringent than but do not conflict with this chapter or rules adopted under this chapter.

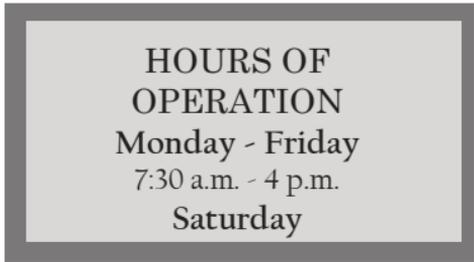
A county, municipality, or political subdivision shall submit to department information on each business that is issued a license or permit; including inspection reports, information regarding violations of this chapter by the business, and information

regarding disciplinary actions.

Hours of Operation

Sec. 1956.039. Hours for Purchasing Material.

- MRE may not purchase regulated material from the general public more than 15 consecutive hours in one day
- MRE may not purchase regulated material from the general public after 9 p.m.



Required Notices

Sec. 1956.031. Notice to Sellers. (a) A metal recycling entity shall at all times maintain in a prominent place in the entity's place of business, in open view to a seller of regulated material, a notice in two-inch lettering that:

(1) includes the following language:

"A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL MUST PRESENT SUFFICIENT IDENTIFICATION AND WRITTEN PROOF OF OWNERSHIP REQUIRED BY STATE LAW."

"WARNING: STATE

LAW PROVIDES A CRIMINAL PENALTY FOR A PERSON WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR OTHER FALSE INFORMATION TO A METAL RECYCLING ENTITY WHILE ATTEMPTING TO SELL ANY REGULATED MATERIAL."; and

(2) states the metal recycling entity's usual business hours.

(b) The notice required by this section may be contained on a sign that contains another notice if the metal recycling entity is required to display another notice under applicable law.



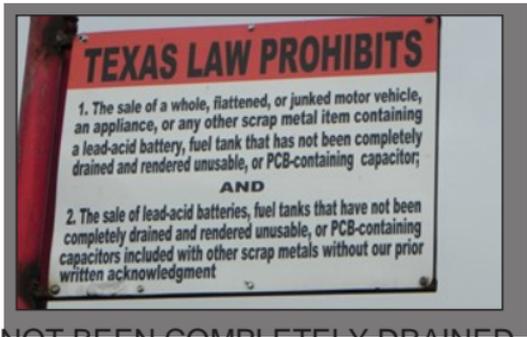
Sec. 1956.104. Notice of Restrictions

A metal recycling entity shall post in a conspicuous location a notice that:

- (1) is readily visible to a person selling material to the metal recycling entity;
- (2) is at least 24 inches horizontally by 18 inches vertically; and
- (3) contains the following language:

TEXAS LAW PROHIBITS:

1. THE SALE OF A WHOLE, FLATTENED, OR JUNKED MOTOR VEHICLE, AN APPLIANCE, OR ANY OTHER SCRAP METAL ITEM CONTAINING A LEAD-ACID BATTERY, FUEL TANK THAT HAS NOT BEEN COMPLETELY DRAINED AND RENDERED UNUSABLE, OR PCB-CONTAINING CAPACITOR; AND
2. THE SALE OF LEAD-ACID BATTERIES, FUEL TANKS THAT HAVE NOT BEEN COMPLETELY DRAINED AND RENDERED UNUSABLE, OR PCB-CONTAINING CAPACITORS INCLUDED WITH OTHER SCRAP METALS WITHOUT OUR PRIOR WRITTEN ACKNOWLEDGMENT.



Statewide electronic reporting system tracking sales of regulated metal

Sec. 1956.015. Statewide Electronic Reporting System.

(a) The department shall establish a statewide electronic reporting system to track the sales of regulated metal reported to the department under Section 1956.036. (*Furnishing report to department*)

Information MREs are required to obtain from a seller of regulated material

Sec. 1956.032. Information Regarding Seller.

- Personal identification document
- Description of motor vehicle used to transport regulated material (*make, model, color, license plate and state*)
- Documentation evidencing that the seller is the legal owner of lawfully entitled to sell
- Signed written statement provided by the MRE that the seller is the legal owner or entitled to sell the regulated material
- ***If applicable:***
 - Air conditioning and refrigeration license (*when required*)
 - Air conditioning and refrigeration technician registration (*when required*)
 - Receipt, bill of sale, or other documentation showing the seller purchased the coils attempting to sell
 - Receipt, bill of sale, or other documentation showing the

seller has purchased a replacement central heating or AC unit

- Acceptable documentation for burned insulated communications wire salvaged from a fire
- Verification that the seller was an MRE

Information MREs are required to maintain on each purchase of regulated material

Sec. 1956.033. Record of Purchase.

- Accurate electronic or written record (*in English*)
- Place and date of purchase
- Name and address of seller
- Identifying number of seller's personal identification document
- Description made in accordance with the custom of the trade of the commodity type and quantity of regulated material purchased
- Description of motor vehicle used to transport regulated material (*make, model, color, license plate and state*)
- Documentation evidencing that the seller is the legal owner or lawfully entitled to sell the regulated material or sign a written statement provided by the MRE that the seller is the legal owner or entitled to sell the regulated material
- Applicable receipts and documentation of payment made to seller must be included by MRE in the record of purchase
- ***If applicable:***
 - Coils - air conditioning and refrigeration license
 - Coils - air conditioning and refrigeration technician registration
 - Coils - receipt, bill of sale, or other documentation showing the seller purchased the coils attempting to sell
 - Coils - receipt, bill of sale, or other documentation showing the seller has purchased a replacement central heating or air conditioning unit
 - Burnt insulated communication wire - acceptable documentation/affidavit for burned insulated communications wire salvaged from a fire
 - If MRE selling to another MRE - documentation that the seller was an MRE

Additional requirement of MRE, If regulated material

Sec. 1956.0331. Photograph or Recording Requirement for Regulated Metal Transaction.

- Obtain a digital photograph or video recording of the seller's entire face and each type of regulated metal purchased
- Retain video recording for 91 days after transaction
- Retain digital photograph for 181 days after transaction

MRE Record Retention Requirements

Sec. 1956.034. Preservation of Records.

- Preserve records until the second anniversary of the date the record was made
- Keep records in easily retrievable format (paper or electronic)
- Must have records available for inspection not later than 72 hours after time of purchase

Who can inspect & what can be inspected

Sec. 1956.035. Inspection of Records.

- A Texas peace officer, representative of the department, or representative of a county, municipality, or other political subdivision that issues a license or permit
- All records required by Section 1956.033, digital photographs and/or video recordings, regulated material in the MRE's possession, or application for cash transaction card may be inspected

What MREs are required to report

Sec. 1956.036. Furnishing of Report to Department.

- Furnish report by close of business on second working day after purchase
- Notify about purchase of bronze material that is a cemetery vase, receptacle, memorial, or statuary or aluminum irrigation pipe by close of business on the first working day after the purchase (*Does not apply if seller: (1) is the manufacturer or fabricator of the material or pipe; (2) presents a bill of sale for the material or pipe; or (3) the owner of the material or pipe.*)
- Notify about possession of explosive device by close of business on the first working day after possession of device is discovered

How long MREs are required to hold regulated metal and material

Sec. 1956.037. Placement of Items on Hold.

- 72 hours, excluding weekends and holidays, before the disposal, processing, sale, or removal of regulated metal
- Other - eight days, excluding weekends and holidays, before the disposal, processing, sale, or removal if the item is a cemetery vase, receptacle, or memorial made from a regulated material other than aluminum material
- Exception - the entity purchased the item from a manufacturing, industrial, commercial, retail, or other seller that sells regulated material in the ordinary course of its business.

Payment Requirements

Sec. 1956.0381 Payment by Metal Recycling Entity

- MRE may only pay seller in cash or debit card if seller has been issued a cash transaction card under Sec. 1956.0382
- MRE may also pay seller by check, money order, or direct deposit
- Applicable receipts and documentation of payment made to seller must be included by MRE in the record of purchase required by Sec. 1956.033

Sec. 1956.0382 Cash Transaction Card

- Seller must present valid cash transaction card to MRE, or MRE must obtain copy of seller's cash transaction card in order for seller to be paid by cash or debit card
- Application for cash transaction card must include:
 - Name, address, sex, and birth date of applicant
 - Identification number from applicant's personal identification document
 - Digital photograph that accurately depicts applicant's entire face taken at the time of application
 - Clear and legible thumbprint of applicant
 - Signature of applicant
- Newly issued cash transaction cards must be mailed to address provided on application, NOT given to applicant in-person
- MRE must retain applications for cash transaction cards until second anniversary of date of application, and copies of cash transaction cards until second anniversary of date cards were issued or renewed

Other Violations

Sec. 1956.038. Prohibited Acts.

- Seller may not display to MRE a false or invalid personal identification document
- Seller may not make a false statement to an MRE or provide any information known to be false
- MRE may not pay for purchase in cash without DPS issued certificate of registration and local permit (if required)

Sec. 1956.040. Criminal Penalty.

- Knowingly buys stolen regulated material
- Knowingly buys insulated communications wire that has been burned wholly or partly to remove the insulation without proper documentation
- Knowingly buys an explosive device

Sec. 1956.103. Restriction on Transfer of Certain Property.

(Lead-acid battery, fuel tank, PCB-containing capacitor)

- Sell or transfer to MRE a lead-acid battery, fuel tank, or PCB-containing capacitor that is included with another type of scrap, used, or obsolete metal without obtaining written acknowledgment from MRE
- Sell or transfer to MRE a motor vehicle, appliance, or any item of scrap, used or obsolete metal containing a lead-acid battery, fuel tank, or PCB-containing capacitor
- Sell or transfer to MRE a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle if the motor vehicle includes, contains, or encloses a tire or scrap tire
- Metal alcoholic beverage keg, regardless of condition, unless the seller is the manufacturer of the keg, the brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller

Sec. 1956.104. Notice of Restrictions. *(Lead-acid battery, fuel tank, PCB-containing capacitor)*

- No notice posted
- Incorrect notice (*wrong size 24" x 18", incorrect language*)

Rule Violations

RULE §36.3 Address on File

- No/incorrect current mailing and principal place of business address
- No current and valid electronic mail address
- Fail to notify the department of any changes of their mailing

or electronic mail address prior to the effective date of the change of address.

RULE §36.12 Statutory Agent Disclosure

- Wrong statutory agent on file
- Wrong physical address of statutory agent on file

RULE §36.13 Change in Ownership

- Fail to notify the department about any change in ownership structure or registrant status within five business days of the effective date of the change

RULE §36.15 Term of Certificate of Registration

- Act, represent, or perform as a metal recycling entity with expired registration
- Fail to display copy of current certificate of registration

RULE §36.31 Reporting Requirements

- Fail to report no later than second working day the purchase or other acquisition of regulated material

RULE §36.33 Documentation on Fire-Salvaged Insulated Communications Wire

- No acceptable documentation/affidavit for burned insulated communications wire salvaged from a fire

RULE §36.34 Texas Metals Program Recycler Training

- Fail to complete required online training and maintain copy of proof of training at place of business and have available for inspection by anyone authorized to inspect

RULE §36.37 Cash Transaction Card

- Made of incorrect material (card must be laminated or made of rigid plastic or other durable material)
- Card is missing MRE name and/or certificate number
- Cardholder photo is not in color
- Card bears Texas state seal or name or insignia of Department
- Card is valid for more than two (2) years from date of issuance

Definitions and Photos

“Aluminum material” means: aluminum, an aluminum alloy, or an aluminum by-product, aluminum wiring and an aluminum beer keg but does not include another type of aluminum can used to contain a food or beverage.



“Bronze material” means: cemetery vase, receptacle, or memorial made from bronze; bronze statuary; or material readily identifiable as bronze, including bronze wiring.



“Copper or brass material” means: insulated or non-insulated copper wire or cable used by a public utility or common carrier that contains copper or an alloy of copper or zinc; a copper or brass item of a type commonly used in construction or by a public utility; or copper pipe or copper tubing.



“Explosive device” means: A device or material that contains explosive powder, primer, fluid, or gas or a detonator.



“Lead material” means: a commercial grade lead battery, lead-acid battery, or spiral cell battery or a material readily identifiable as being made of or containing lead.



“Metals Recycling Entity” means a business that is operated from a fixed location and is predominantly engaged in:

(A) performing the manufacturing process by which scrap, used, or obsolete ferrous or nonferrous metal is converted into raw material products consisting of prepared grades and having an existing or potential economic value, by a method that in part requires the use of powered tools and equipment, including processes that involve processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form of that metal;

(B) the use of raw material products described under Paragraph (A) in the manufacture of producer or consumer goods; or

(C) purchasing or otherwise acquiring scrap, used, or obsolete ferrous or nonferrous metals for the eventual use of the metal for the purposes described by Paragraph (A) or (B).

“Regulated material” means: aluminum material; bronze material; copper or brass material; or regulated metal.

Insulated Wire



Copper Tubing with brass valves



Examples of Regulated Metals

Manhole Covers



Guard Rails



Metal Cylinders (designed to contain compressed air, oxygen, gases or liquids)



Beer Kegs made from metal, other than aluminum



Historical Markers, Cemetery Vases, Receptacles, Memorials made from metal other than aluminum



Unused Rebar



Street Signs



Drain Gates



Safes



Communication, Transmission and Service Wire or Cable



Condensing or Evaporator Coils for Central Heating or Air Conditioning Units



Utility Structures, including Fixtures and Hardware



Aluminum or Stainless Steel Containers designed to hold propane for fueling forklifts



Metal Railroad Equipment, including Tie Plates, Signal Houses, Control Boxes, Signs, Signals, Traffic Devices, Traffic Control Signals, Switch Plates, E-Clips and Rail Tie functions



Catalytic Converters not attached to a vehicle



Fire Hydrants



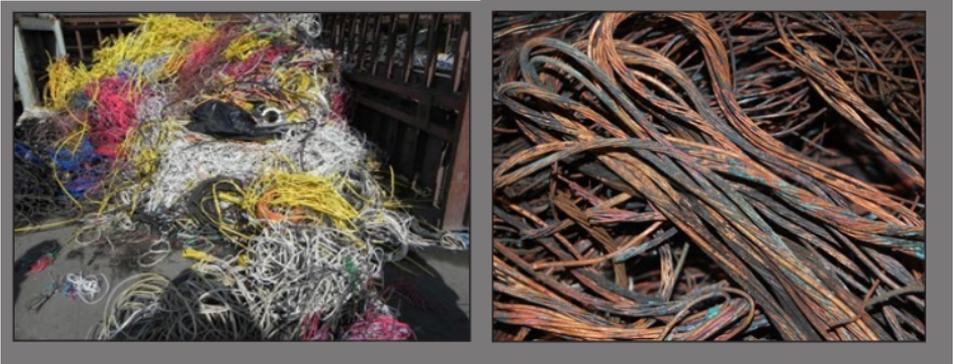
Metal bleachers or other seating facilities used in recreational areas or sporting arenas



Metal items clearly and conspicuously marked with any form of the name, initials or logo of a governmental entity, utility, cemetery or railroad



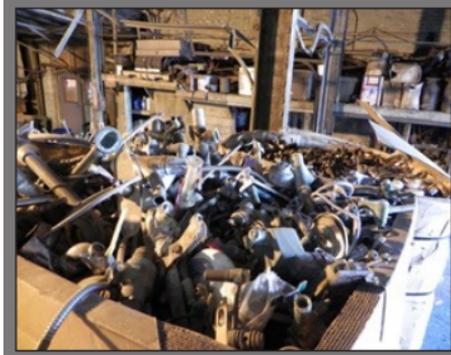
Insulated Utility, Communications or Electrical Wire that has been burned in whole or in part to remove the insulation



Backflow Valves



Metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals





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