CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE
Karen Ross, Secretary

March 9, 2012

DMS NOTICE
G - 12 - 03
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Notice of Approval of Regulatory Action – Annual Device Administrative Fee

Title 4, Section 4075 of the California Code of Regulations has been approved by the Office of Administrative Law and became effective March 6, 2012.

These regulations establish an annual administrative fee on registered businesses operating commercial weighing, measuring, and counting devices. The fee is based on device type and is applicable to every commercial device registered with each county office of weights and measures. The regulations also establish a payment schedule, due dates, and the amount of the fee that counties may retain to cover their costs associated with the collection of the fee.

To view a copy of the rulemaking documents, including the text of this regulation, please visit http://www.cdfa.ca.gov/dms/regulations.html. Also, please see enclosed "Frequently Asked Questions" document for additional information concerning this regulatory action.

If you have any questions, please contact Dave Lazier, Assistant Director, at (916) 229-3000.

Sincerely,

Kristin J. Macey
Director

Enclosure

cc: Edmund Williams, Director, CDFA County/State Liaison

# Annual Device Administrative Fee
## Frequently Asked Questions
## March 9, 2012

## California Department of Food and Agriculture
## Division of Measurement Standards

Q. What is the Device Administrative Fee?

A. The Device Administrative Fee has been authorized by the California Legislature in Assembly Bill 120 and signed by Governor Brown on July 26, 2011. The fee will fund the California Department of Food and Agriculture's Division of Measurement Standards (CDFA DMS) Device Compliance Program which provides oversight and training to county weights and measures officials in the areas of commercial weighing and measuring device testing.

Q. Why is the Device Administrative Fee necessary?

A. CDFA experienced a $19.0 million General Fund reduction for the 2011-12 fiscal year which began July 1, 2011. Funding for many important programs was affected, including those in DMS. An industry led consortium guided CDFA through the reduction process, in which alternatives were considered, including reduction and elimination of programs, and other funding sources. The Device Administrative Fee was the agreed upon as an alternative funding solution for DMS' Device Compliance Program. Assembly Bill 120 provided authorization and the necessity for the proposed regulation.

Q. How will the fees be collected?

A. Sections 12240 and 12241 of Division 5 of the Business and Professions Code require this fee to be collected and remitted for all registered commercial weighing and measuring devices in counties with a device registration ordinance. Fifteen percent of the fees collected may be retained by counties for collection and processing.

Q. How were the fees calculated? Can they be adjusted?

A. Each year counties report the number of commercial weighing and measuring devices to CDFA. The fee amount was calculated to cover the cost of the DMS Device Compliance Program. CDFA applied the fees at the same approximate percentage for all categories of devices. Any changes to the fees will require new rulemaking. For information about the rulemaking process, visit the Office of Administrative Law's website at http://www.oal.ca.gov/.

Q. If a County Board of Supervisors does not want to charge the Device Administrative Fee, what can they do?

A. The fee is mandatory and not subject to Board approval. Section 12241 of the Business and Professions Code requires collection of the fee. If the County charges a device registration fee, they must also charge the state fee.

Q. Does the Device Administrative Fee apply to any non-commercial devices the County might test, e.g. scales for the high school football team?

A. No, the fee is only due on commercial weighing and measuring devices that are registered within the County.

Q. Some counties do not charge a location fee to people with small scales who bring them into the office for sealing. Does the Device Administrative Fee apply in those cases?

A. Yes, the fee applies to all devices registered by the County.