



July 17, 2020

DMS NOTICE  
G - 20 – 06  
DISCARD: RETAIN

**TO:** WEIGHTS AND MEASURES OFFICIALS

**SUBJECT:** Virtual Administrative Hearings

When a county sealer takes administrative action, the person charged with a violation shall be notified of the proposed penalty and the right to request a hearing [California Code of Regulations Section 4800(a)].

The COVID-19 pandemic has greatly reduced government operations since March 2020, but most county departments of weights and measures are again actively inspecting and enforcing the provisions of Division 5 of the Business and Professions Code (BPC). BPC Section 12015 requires sealers prosecute violators of weights and measures laws. Under the current circumstances, in-person administrative hearings may put staff, public members, and the hearing officers at risk.

A county official has asked the Division of Measurement Standards (DMS) if it supports the use of virtual administrative hearings (e.g., via Zoom meetings, Microsoft Teams meetings, etc.) as an acceptable substitute for in-person administrative hearings. DMS wholeheartedly endorses this alternative method. Using COVID-19 as the cause for delay in an administrative hearing would be a violation of due process. The opportunity to be heard, present evidence, and swift resolution are all basic elements to due process of law.

The California Department of Food and Agriculture's (CDFA) Legal Office offers the following tips for a successful virtual hearing:

Depending on the type of hearing, managing speakers can be a challenge, e.g., a public hearing where many people wish to provide testimony. However, court hearings on the merits, formal administrative hearings, and informal hearings do not have that challenge because the hearing is limited to the two parties, their witnesses and the Hearing Officer/Judge that will call on persons to speak. Others in virtual attendance are muted.

A good audio connection could be a problem, especially if participants are unfamiliar with the process and don't mute their phones/computers. This can be overcome by sending out detailed instructions on the specific software that will be used. It's recommended that all evidentiary documents be provided to the parties before the hearing and if possible, it helps if the Hearing Officer, IT tech, and Department/County





CALIFORNIA DEPARTMENT OF  
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Karen Ross, Secretary

representative are in the room – at least 6 feet apart.

A potential pitfall is that someone is able to disrupt the hearing or the appellant later claims he couldn't hear or didn't understand because of a bad connection. These claims can be overcome by recording the hearing that proves otherwise.

Please contact DMS by email at [dms@cdfa.ca.gov](mailto:dms@cdfa.ca.gov) or by phone at (916) 229-3000 if you have questions.

Sincerely,

Kristin Macey  
Director

cc: Hyrum Eastman, County/State Liaison, CDFA

