

DEPARTMENT OF FOOD AND AGRICULTURE



Division of Measurement Standards
8500 Fruitridge Road
Sacramento, CA 95826

DMS NOTICE
W – 02 – 4

December 17, 2002

Discard: Retain

TO WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Reissue of DMS Notice W – 91 – 2 – Garbage, Refuse and Solid Waste Disposal Facilities

In November 1991, the Division of Measurement Standards was asked for an interpretation of Business and Professions Code, Chapter 7, Section 12701(h) as it relates to refuse disposal districts and solid waste facilities when owned/operated by municipalities or private entities. DMS Notice W – 91 – 2 was issued to answer the question and is restated below.

Section 12701(h), Chapter 7, Division 5, California Business and Professions Code, exempts garbage and refuse disposal districts, county sanitation districts and solid waste facilities (as defined in the Health and Safety Code and Public Resources Code) **from weighmaster licensing requirements**. This applies to both municipal (City, County, State) and private operations for the garbage, refuse and solid waste disposal portion of their business.

The Attorney General's opinion SO 77-13, November 22, 1977, concludes that municipally owned and operated commercial devices do not fall under county or State weights and measures jurisdiction. Therefore, those devices used by municipalities at garbage, refuse and solid waste disposal facilities are not subject to type approval, testing and sealing by weights and measures. Furthermore, it follows that, a municipality cannot be required to license as a weighmaster under Section 12733, Chapter 7, Division 5, Business and Professions Code, to sell scrap metal and salvage materials based on a weight or measure determined on their scale.

Commercial devices used by privately owned or operated garbage, refuse and solid waste facilities do fall under the jurisdiction of County and State weights and measures and as such require type approval, testing and sealing by weights and measures. If the facility becomes involved in the business of selling scrap metals or salvage materials where their quantity representations are the basis of purchase or sale of the material, licensing as a weighmaster is required under Section 12733, Chapter 7, Business and Professions Code. This is because that activity is outside the scope of the exemption found in Section 12701(h).

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Questions relating to Section 12701(h) or 12733 can be directed to David Lazier, Chief of the Weighmaster/Petroleum Branch at (916) 229-3044.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Cleary". The signature is stylized, with a long horizontal stroke for the first name and a more complex, looped structure for the last name.

Mike Cleary
Director
(916) 229-3000

cc: Ed Williams