



March 10, 2020

DMS Notice
WM – 20 – 01
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TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Weighmaster Survey – Walnut Industry

The Division of Measurement Standards (DMS) Weighmaster Program completed a statewide survey of licensed weighmasters who handle or process walnuts with applicable state weighmaster laws and regulations. The survey was done in two parts: Spring 2019 and Fall 2019.

Staff took baseline data at 51 locations and then performed a follow-up visit at locations where violations were found. Overall compliance improved between visits increasing from 18 % compliance to 53 % compliance. The following attachment provides detailed results of the survey.

If you have any questions regarding this notice, please contact DMS by email at dms@cdfa.ca.gov or phone at (916) 229-3000.

Sincerely,

Kristin Macey
Director

cc: Hyrum Eastman, County/State Liaison, CDFA

Attachment



DIVISION OF MEASUREMENT STANDARDS WEIGHMASTER SURVEY – WALNUT INDUSTRY

A statewide survey was performed by the Division of Measurement Standards (DMS) within the California Department of Food and Agriculture (CDFA), to determine compliance levels of walnut handlers/processors with applicable state weighmaster laws and regulations.

SCOPE OF THE SURVEY

The two-part survey of randomly selected licensed walnut handlers/processors was conducted by DMS's Weighmaster Enforcement Program. Part 1 occurred March 5, 2019 through May 10, 2019, to determine compliance with weighmaster laws and regulations. This was done through interviews with business representatives, by observing weighing operations, documenting devices used for grading and weight determinations for grower payments, and by records audits. Part 2 occurred October 1, 2019 through November 30, 2019. Only businesses where violations had been observed during Part 1 were included, and compliance was determined through a weighmaster inspection that included a records audit and verification of devices used.

LOCATION AND SAMPLE SELECTION

All locations were in northern California since that is where the industry is based. Ninety (90) locations, forty-five (45) each, were randomly selected from two sources: the DMS list of 61 licensed walnut weighmasters, and the CDFA Division of Marketing Services' Market Enforcement Branch (MEB) list of ninety-one (91) licensed walnut handlers/processors. Of the 152 possible locations, there was considerable overlap since many businesses are licensed by both divisions. During the survey, DMS found businesses on the MEB list not operating as a weighmaster (e.g., individuals with a broker's license that sold at informal markets or never took control of the product and several businesses that farmed walnuts but were not processors or handlers). Consequently, replacement locations were selected.

INSPECTION PROCEDURE

Selected locations were assigned to Weighmaster Special Investigators who went to the locations unannounced. In Part 1, staff started with an interview of the weighmaster or one of their deputy weighmasters using a questionnaire. The questionnaire covered basic business processes, basic weighing terminology to confirm understanding of the weighing process and procedures to follow if an incorrect certificate is issued, and questions to document the types of devices (e.g., truck scales, platform scales, analytical scales, moisture meters, etc.) used to determine the value of the nuts. Staff documented the types of devices being used and evaluated if they were suitable for the purpose. The final step was to perform an audit of weighmaster records and procedures and determine a

baseline of compliance (documented on Form 42-009, Weighmaster Inspection Report). During the inspection portion of the survey, staff verified that tares were established properly, scales were on zero, and paperwork was completed properly.

Part 2 consisted of performing another audit inspection (documented on Form 42-009, Weighmaster Inspection Report). The results of the first and second audit were used to determine compliance improvement.

During both visits, each investigator provided outreach and education to the business to improve compliance with weighmaster laws and regulations.

SURVEY RESULTS

Despite having replacement locations on both lists, staff were only able to collect survey data at fifty-one (51) locations during the first phase of the survey. Some businesses on the MEB list were nut retailers only, and therefore outside the scope of the survey. Some of the licensed weighmasters visited were incorrectly identified in the licensing database as handlers or processors of walnuts, when in fact the business did not handle walnuts, but had walnut acreage under production and sent their product to another business.

Data was analyzed for the fifty-one (51) weighmaster locations that handle walnuts. Thirty-three (33) of the weighmaster locations visited conduct both weighing and grading of walnuts for grower payments. Of those thirty-three processors, twenty-four (24) use the services of a third party to grade incoming walnuts, eight (8) use in-house staff to grade, and one (1) use the services of CDFA's Shipping Point Inspection Program to grade walnuts.

PART 1. March 5, 2019 to May 10, 2019

Survey Questionnaire/Interview

Staff were instructed to give the survey questionnaire to all businesses contacted that were operating as a weighmaster. Of the weighmasters contacted, one chose not to participate. For this reason, staff were only able to collect interview information from fifty (50) businesses that were licensed weighmasters. Several questions were designed to get respondents comfortable with being questioned and were not tallied (e.g., number of years the business has operated) or to provide an opportunity to determine what type of training the businesses provide their staff and to make them aware of DMS' website. The answers to the questions related to the business' understanding of the weighing process and weighmaster requirements for correction certificates were tabulated.

Most weighmasters understood the basic concepts of weighing and were able to define the terms "Gross Weight," "Net Weight," "Tare Weight," and "Commodity." However, when asked to explain how to make a correction to an issued certificate, only twenty-two percent (22%) of those responding knew the steps. When walnut weighmasters were asked how they determined tare for the certificates, only thirty-eight percent (38%) could

do so. Further, for those businesses using a predetermined tare or common tare, it was observed that these tares had not been properly established.

Below is a list of the survey questions given to walnut handlers and/or processors, along with the number of respondents answering correctly and the corresponding percentage. It excludes warm-up questions; however, includes those that demonstrate understanding of the duties of a weighmaster, recordkeeping requirements, basic weighing concepts (definitions), how to do a correction certificate, and the questions related to tare. Not all respondents answered every question.

Survey Questions Asked with Number and Percent of Correct Responses

1. What are the duties of a weighmaster?
 - 37 correct responses (74%)
2. How many years do you keep your (weighmaster) certificates and worksheets?
 - 50 correct responses (98%)
3. Define “Gross Weight?”
 - 50 correct responses (98%)
4. Define “Net Weight?”
 - 47 correct responses (92%)
5. Define “Tare Weight?”
 - 50 correct responses (98%)
6. Define “Commodity?”
 - 50 correct responses (98%)
7. Explain how to fix an error on a weighmaster certificate that has already been issued/issue a correction certificate?
 - 11 correct responses (22%)
8. Understand how to determine tare for a certificate.
 - 19 correct responses (38%)
9. Businesses using a correctly established Common Tare or Predetermined Tare.
 - 25 correct responses (50%)

Weighmaster Inspection Report

Fifty-one (51) walnut weighmaster locations were audited and inspection reports completed. Staff audited over 6,680 records and observed 116 individual violations. At twenty-four locations, it was observed that they utilized a third party for grading. This third party is a licensed weighmaster; however, the grading certificates used to set the value of the product were not issued to the business as a weighmaster certificate nor referenced separately on the issued certificates per Business and Professions Code Section 12712 for the grower. A compliance visit was done to discuss the need for a certificate with the third-party grader prior to the 2019 season. The following list summarizes overall compliance and the violations.

Number and Types of Violations Observed and Percent Compliance from March 5, 2019 to May 10, 2019 for Fifty-One Weighmasters

1. Of 51 weighmasters, 42 had at least one violation; compliance overall was 18%.
2. 24 instances were observed where the grading worksheets used to determine the value of the walnuts were done by another weighmaster, but not issued on a weighmaster certificate or properly referenced in the paperwork; 53% compliance.
3. Of 51 weighmasters, 15 had work performed by an unlicensed deputy; 71% compliance.
4. Of 51 weighmasters, 14 failed to properly document the vehicle ID on a certificate; 73% compliance.
5. Of 51 weighmasters, 13 failed to properly identify the commodity on a certificate; 75% compliance.
6. Of 51 weighmasters, 12 had an incorrect weighmaster legend on the certificates; 76% compliance.
7. Of 51 weighmasters, 11 had incorrect or improperly set Predetermined Tares; 78% compliance.
8. Of 51 weighmasters, 10 did not list the correct weighmaster name on their certificate; 80% compliance.
9. Of 51 weighmasters, 10 failed to assure deputies signed the weighmaster certificate; 80% compliance.
10. Of 51 weighmasters, 4 improperly identified containers; 92% compliance.

11. Of 51 weighmasters, 3 had certificates that were not legible or did not have consecutive numbering; 94% compliance.
12. Of 51 weighmasters, 2 issued certificates without a unit of measure; 96% compliance.
13. Of 51 weighmasters, 2 failed to submit the names of replacement deputies to the Division; 96% compliance.
14. Of 51 weighmasters, 2 issued certificates with altered or omitted weights; 96% compliance.
15. Of 51 weighmasters, 2 issued certificates with an incorrect location address; 96% compliance.

Other violations observed included: scales not sealed, truck scale not at zero prior to weighment, weighmaster license expired, no date on certificate, improper handling of voided certificates, failure to list owner/agent/consignee on a certificate, etc.

Device Information:

Staff looked at available devices at the walnut weighmaster locations. The following observations were made in relation to the devices used.

- Of 51 weighmasters, 49 (92%) operate a heavy-capacity/truck scale.
- All heavy-capacity scales had a current (2018 or newer) seal, placed by the County Agriculture/Weights & Measures Office.
- Of 51 weighmasters, 16 (30%) had laboratory or small scales to measure walnut defects available during visit.
- Lab or small scales were used for the grading of a 200 g sample. If a business used the third party for grading, then the third party would bring in their own scales. During a follow-up visit to the third party, staff were told that their scales were registered and verified by the county where they are stored.
- Of 51 weighmasters, 34 (64%) had moisture meters.
- While over 65% of the weighmasters visited had a moisture meter, they were not using them to adjust the weight of the loads, but to ensure proper drying of the walnuts prior to processing.
 - The most commonly used moisture meters were the GAC® 2100 Agri, manufactured by DICKEY-john Corporation and the SB900, manufactured by Steinlite Corporation.
 - The meters were certified by the manufacturer when purchased, but most have not been recertified.

PART 2. October 1, 2019 to November 30, 2019

Weighmaster Inspection Report

Forty-three (43) walnut weighmaster locations were audited in the second part of the survey and inspection reports completed. Staff audited over 1,397 records and observed 36 individual violations. Follow-up visits were directed at businesses where violations were found during the Part 1 of this survey.

Staff observed that walnut processor/handlers provided the required grading data on a weighmaster certificate to growers whether completed by in-house or third-party graders. The following list summarizes overall compliance and the violations.

Number and Types of Violations Observed and Percent Compliance from October 1, 2019 to November 30, 2019 for Forty-Three Weighmasters

1. Of 43 weighmasters, 23 had at least one violation; compliance overall was 53%
2. Of 43 weighmasters, 8 failed to properly document the vehicle ID on a certificate; 81% compliance.
3. Of 43 weighmasters, 8 had an incorrect weighmaster legend on the certificates; 81% compliance.
4. Of 43 weighmasters, 6 failed to assure deputies signed the weighmaster certificate; 86% compliance.
5. Of 43 weighmasters, 4 had incorrect or improperly set Predetermined Tares; 91% compliance.
6. Of 43 weighmasters, 1 failed to properly identify the commodity on a certificate; 98% compliance.
7. Of 43 weighmasters, 1 issued certificates without a unit of measure; 98% compliance.
8. Of 43 weighmasters, 1 issued certificates with altered or omitted weights; 98% compliance.
9. Of 43 weighmasters, 1 issued certificates with an incorrect location address; 98% compliance.

Other violations observed included: scales not sealed, using unapproved software with a device, and issuing a certificate for product loaded on site that was greater than 80,000 pounds.

CONCLUSION

The walnut harvest season in California typically runs from late August through late November. The follow-up inspections found improvement of compliance at all locations where violations were noted during the initial visit. A comparison of compliance between the two visits is in the following list.

Comparison of Compliance Between the First and Second Visits

Overall compliance improved from 18% of the businesses being compliant (no violations observed) to 53%.

1. Initially, there were 24 instances where grading by a third-party was not documented on a weighmaster certificate and properly referenced; by the second visit, 100% complied.
2. Initially, only 71% of the weighmasters had all their deputies on the license; by the second visit, 100% complied.
3. Initially, 73% of the weighmasters properly documented the vehicle and container IDs on a certificate; by the second visit, 81% complied.
4. Initially, 75% of the weighmasters properly identified the commodity on a certificate; by the second visit, 98% complied.
5. Initially, 76% of the weighmasters had a correct weighmaster legend on their certificates; by the second visit, 81% complied.
6. Initially, 78% of the weighmasters used properly established and correct Predetermined Tares; by the second visit, 91% complied.
7. Initially, 80% of the weighmasters had their weighmaster name listed correctly on their certificate; by the second visit, 100% complied.
8. Initially, 80% of the weighmasters assured that their deputies signed the weighmaster certificate; by the second visit, 86% complied.
9. Initially, 92% of the weighmasters properly identified containers; by the second visit, 100% complied.
10. Initially, 94% of the weighmasters had certificates that were legible and had consecutive numbering; by the second visit, 100% complied.
11. Initially, 96% of the weighmasters issued certificates with a unit of measure; by the second visit, 98% complied.

12. Initially, 96% of the weighmasters submitted the names of replacement deputies to the Division; by the second visit, 100% complied.

13. Initially, 96% of the weighmasters did not issue certificates with altered or omitted weights; by the second visit, 98% complied.

14. Initially, 96% of the weighmasters issued certificates with a correct location address; by the second visit, 98% complied.

Additionally, the following violations were corrected after the Spring 2019 visit: truck scale not at zero prior to weighment; weighmaster license expired; no date on certificate; improper handling of voided certificates; failure to list owner/agent/consignee on a certificate; etc. Follow-up will continue at locations where non-compliances were observed.