



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

June 9, 2023

DMS NOTICE
WM - 23 – 01
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Industry Survey of Weighmasters who have established Common Tares

The California Department of Food and Agriculture, Division of Measurement Standards (Division) Weighmaster Program (Program) completed a statewide survey of licensed weighmasters who have established Common Tares (C.T.). [A Common Tare is the average weight of a group (lot) of containers or pallets under the control of one user; the weight is determined by a weighmaster prior to use.]

The survey was conducted from April 4, 2022 through June 15, 2022. Data was collected from eighty-two (82) randomly selected weighmaster locations, which is 59.4% of available locations. All participating businesses answered a series of questions related to weighmaster practices, had records inspected, and Program staff documented compliance with weighmaster rules on Weighmaster Inspection Forms. In addition, Program staff verified the weights of fifty-eight (58) established common tares.

Staff audited over 2,751 records and observed 215 individual violations. Violations were observed at seventy-one (71) of the eighty-two (82) weighmaster locations visited (86.6 %). Perfect compliance was achieved by only 13.4 % of the weighmaster locations. Non-compliant locations had approximately three (3) documented violations each. Thirty-six (36) of the businesses inspected, which is 43.9 %, no longer use the C.T. established. Forty (40) or 69.0 % of the C.T.s verified were still within tolerance. Only forty (40) or 48.8 % of the businesses complied with C.T. regulations. Twenty-nine (29) businesses were assisted with setting new C.T. and fifteen (15) businesses were instructed to establish or reestablish their C.T. The following attachment provides detailed results of the survey.

If you have any questions regarding this notice, please contact the Division 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 2022 COMMON TARE WEIGHMASTER SURVEY

June 9, 2023

A statewide survey of licensed weighmasters who have established Common Tares¹ was performed by the California Department of Food and Agriculture, Division of Measurement Standards (CDFA DMS) Weighmaster Program to determine compliance levels with applicable state weighmaster laws² and regulations³. Statewide surveys allow CDFA DMS to investigate the conditions of the marketplace as required in California Business and Professions Code (BPC) § 12101.

SCOPE AND PURPOSE OF THE SURVEY

The survey included only licensed weighmasters who have established Common Tares. The survey was conducted by CDFA DMS Weighmaster Enforcement Program's investigative staff. The survey was conducted from April 4 through June 15, 2022.

The purpose of this survey was to determine if common tare users were knowledgeable and in compliance with weights and measures laws specific to the Weighmaster Program. This survey included weighmaster-related questions along with additional specific questions regarding a business' tare practices. There were 138 Weighmasters with established common tares in DMS' database with 103 businesses selected for participation in the survey. Of these locations, seven (7) were no longer weighmasters and fourteen (14) locations were no longer in business or had moved without giving a forwarding address. The Survey Questionnaire/Interview was completed at eighty-nine (89) locations and weighmaster audits at eighty-two (82) locations. Program staff verified the weights of fifty-eight (58) common tares.

LOCATION AND SAMPLE SELECTIONS

Locations were selected randomly from the Common Tare Database and six (6) Special Investigators completed inspections at a minimum of seventeen (17) locations. At each location, staff were to verify up to two common tares and choose the oldest and newest

¹ A Common Tare is the average weight of a group (lot) of containers or pallets under the control of one user. The weight is determined by a weighmaster prior to use.

² California Business and Professions Code, Division 5, Chapter 7:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=5.&title=&part=&chapter=7.&article=

³ California Code of Regulations, Title 4, Division 9, Chapter 9:

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IB08A8720D45911DEA95CA4428EC25FA0&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IB08A8720D45911DEA95CA4428EC25FA0&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

available. If circumstances limited the completion of two verifications, investigators were to prioritize the older established tare.

The survey consisted of a Weighmaster Inspection Report form, a questionnaire, data sheets for common tares verified, and a brief narrative summarizing the findings of the inspection with photographs taken during the verification process.

Not all counties have businesses with established common tares and were excluded from the survey. Counties with no common tare notice on file include Alameda, Alpine, Amador, Calaveras, Del Norte, Humboldt, Imperial, Inyo, Lassen, Mariposa, Modoc, Mono, Nevada, Placer, Plumas, San Mateo, Sierra, Siskiyou, Trinity, San Benito, and Tuolumne.

INSPECTION PROCEDURE

Locations were assigned to CDFA DMS Weighmaster Enforcement Program's investigative staff (Special Investigators) who visited each business location during the survey period. Special Investigators interviewed the weighmaster or one of their deputy weighmasters using a questionnaire. The questionnaire verified the participant's ability to explain the duties of a weighmaster; knowledge of records retention and where records were stored; knowledge and understanding of the weighing process; and knowledge of the procedures to follow if an incorrect common tare is being used.

Once the questionnaire was completed, the CDFA DMS Special Investigator conducted an inspection to further determine compliance and assure correct application of the law. This included an audit of weighmaster records (issued weighmaster certificates and worksheets), observation of the weighing process, and verifying the common tares in use. Findings that are documented on a Weighmaster Inspection Report Form include the following:

1. Businesses have an active/current weighmaster license;
2. Deputies performing the weighing are listed on the weighmaster license;
3. Device(s) registration and county approval seal are current, scale meets marking requirements, etc.;
4. Weighmaster records have been properly completed;
5. Required records for common tares are retained and available for inspection; and
6. Common tares being used are within applicable tolerance.

SURVEY RESULTS

Of the 138 licensed weighmasters listed in the Common Tare Database as having established Common Tares, 103 or 74.6 % were randomly selected to be surveyed. During the survey, staff found that fourteen (14) locations had moved or closed, and seven (7) locations were open, but no longer conducting weighmaster activities. This reduced CDFA DMS' sample size to eighty-nine (89) locations that responded to the Survey Questionnaire/Interview (64.4 %), and eighty-two (82) weighmaster locations where a weighmaster records audit was performed.

Common tares were verified at fifty-two (52) of the eighty-nine (89) business locations because thirty-seven (37) were no longer using the common tares that were established. In some cases, the common tares being used were no longer at the storage location on file. Businesses currently have no legal requirement to notify CDFA DMS if they choose to stop using an established common tare or if they change storage locations.

Survey Questionnaire/Interview and Percent Responding Correctly

The survey questions asked of the eighty-nine (89) participants of the 2022 Common Tare Survey, the number of respondents answering the questions correctly, and the corresponding percentage of compliance are listed below. These questions demonstrate understanding of: the weighmaster's recordkeeping requirements, the duties of a weighmaster, and proper use and requirements related to common tares. Warm-up questions used to get respondents comfortable during the interview are not listed. Not all respondents answered every question.

1. Where are your completed weighmaster certificates and worksheets kept?
 - Eighty-one (81) responded that records were kept in either their office, in storage, on their computer, or a combination of office/storage/computer (92.0 %).
2. How many years do you keep your (Weighmaster) certificates and worksheets?
 - Seventy-eight (78) knew records must be kept at least four years (95.1 %).
3. What is your understanding of a Weighmaster's duties?
 - Eighty-six (86) could explain the duties of a weighmaster (96.6 %).
4. Do you use common tares in your Weighmaster duties?
 - Sixty-seven (67) responded that they use common tares in their weighmaster duties (75.3 %).
5. Where are Common Tare Notices and the weighmaster certificates for the Common Tares used kept?
 - Forty-four (44) respondents knew where their business kept a copy of the Common Tare Notices used (63.8 %).

6. How many common tares does your company use?
 - Thirty-seven (37) do not use common tares for their company (41.6 %).
 - Twenty-eight (28) use one common tare for their company (31.5 %).
 - Thirty-eight (38) use multiple common tares (between two and four) for their company (42.7 %).

7. Request to look at their Common Tares Notices. (Count how many they have and document the age of the oldest ones they currently use).
 - Staff requested to look at a business' Common Tare Notice/s, but many were unable to provide them. Forty-one (41) had their Common Tare Notices available for inspection (62.1 %).

8. Do you know the difference between the common tares used?
 - Sixty-seven (67) of the common tare users knew the difference between their common tares (98.5 %).

9. Where are bins and pallets stored?
 - Sixty-eight (68) of the common tare users knew where bins and pallets are stored (98.6 %).

10. What action do you take if you believe the tare weight is incorrect?
 - Sixty (60) of the common tare users could explain the correct action to take if they believed the tare weight was incorrect (88.2 %).

11. How often do you check the weight of your common tare bins and how do you select which bins from the lot to use for a common tare re-weigh?
 - Thirty-four (34) reweighed their common tares annually (38.2 %).
 - Two (2) reweighed their common tares bi-annually (2.2 %).
 - Seventeen (17) reweighed their common tares other than annually or bi-annually (19.1 %).
 - Twelve (12) never reweighed their common tares after they were established (13.5 %).

12. How do you establish a common tare for a new lot?
 - Forty-nine (49) weighmasters could explain their procedure to establish a new common tare for a lot (72.1 %).

Weighmaster Records Audit Results

CDFA DMS Weighmaster staff audited over 2,751 records and observed 215 individual violations at the eighty-two (82) locations who have established Common

Tares surveyed. The following lists the number of businesses with a violation and the corresponding compliance percentage.

1. Seventy-one (71) businesses had at least one violation; compliance overall was 13.4 %.
2. Twenty-three (23) failed to list the container/tare code on a certificate; compliance overall was 72.0 %.
3. Twenty-three (23) had weighmaster certificates that lacked the required information when using a common tare such as the letters "C.T." or a description of the container, the weight of an individual container, the name of the person who the common tare was set for, etc.; compliance overall was 72.0 %
4. Twenty (20) businesses failed to properly document the vehicle ID on a certificate; compliance overall was 75.6%.
5. Fourteen (14) businesses failed to provide a copy of the Common Tare Notice when asked; compliance overall was 82.9 %.
6. Thirteen (13) businesses had an incorrect weighmaster legend on a certificate; compliance overall was 84.1 %.
7. Twelve (12) businesses failed to assure deputies signed weighmaster certificates; compliance overall was 85.4 %.
8. Eleven (11) businesses failed to establish the common tares being used correctly; compliance overall was 86.6 %.
9. Ten (10) businesses did not list the weighmaster's name correctly on certificates; compliance overall was 87.8 %.
10. Nine (9) businesses did not list the correct address for the weighing location on their certificate; compliance overall was 89.0 %.
11. Nine (9) businesses had common tare bins that were out of tolerance; compliance overall was 89.0 %.
12. Eight (8) businesses failed to correctly establish predetermined tares being used; compliance overall was 90.2 %.
13. Seven (7) businesses failed to license deputies who performed duties of a weighmaster; compliance overall was 91.5 %.

14. Seven (7) businesses failed to have their scales tested, approved, and sealed by the county department of weights and measures; compliance overall was 91.5 %.
15. Five (5) businesses' weighing equipment was incorrect and lacked proper marking requirements; compliance overall was 93.9 %.
16. Four (4) businesses incorrectly established carried tares, compliance overall was 95.1 %.
17. Four (4) altered/omitted weights on a certificate, compliance overall was 95.1 %.
18. Four (4) businesses failed to indicate the commodity on a weighmaster certificate; compliance overall was 95.1 %.
19. Four (4) businesses failed to present a current weighmaster license upon request as required; compliance overall was 95.1 %.
20. Three (3) businesses failed to maintain an active weighmaster license; compliance overall was 96.3 %.
21. Three (3) businesses failed to license a location on which weighing, measuring, or counting devices are used; compliance overall was 96.3 %.
22. Three (3) businesses incorrectly issued certificates for Gross, Tare, or Net Only; compliance overall was 96.3 %.
23. Three (3) businesses failed to issue a certificate when required; compliance overall was 96.3 %.
24. Three (3) businesses improperly weighed a net load weighing less than 20 scale divisions; compliance overall was 96.3 %.

Other Violations Observed

Other violations observed included the following:

1. Two (2) businesses failed to document a transferred weight.
2. Two (2) businesses issued weighmaster certificates for vehicles that exceeded the legal load limit and that were loaded on site.
3. Two (2) businesses failed to record the date weighing occurred on a weighmaster certificate.

4. Two (2) businesses failed to present legible or consecutively numbered weighmaster certificates.
5. One (1) business weighed the vehicle with the driver on.
6. One (1) business failed to issue a correction certificate as required.
7. One (1) business failed to list the Owner/Agent/Consignee name on a weighmaster certificate.
8. One (1) business failed to indicate the unit of measure on a certificate.
9. One (1) business failed to add a replacement deputy name on their license.

Common Tare Verification Findings

Fifty-eight (58) common tares were verified at fifty-two (52) weighmaster locations. Forty (40) common tares were compliant and eighteen (18) common tares were out of tolerance by 2 % or more; compliance overall was 69 %.

The common tares verified were established as far back as 1994 and as recently as 2022. When analyzing common tare compliance based on year established, minimal differences were observed. The differences were more apparent based on whether a business verified their established common tares on a regular basis. Businesses that verified their common tares were compliant about 76.1 % of the time, but those who never verified their common tares were only compliant 41.7 % of the time.

CDFA DMS Staff assisted twenty-three (23) businesses, establish twenty-nine (29) common tares, and directed an additional thirteen (13) businesses to establish new common tares during the survey.

CONCLUSION

During the 2022 Common Tare Survey, 215 violations were observed at seventy-one (71) of the eighty-two (82) weighmaster locations visited. Only eleven (11) locations, or 13.4 % of the businesses inspected, had no violations observed.

Of the 215 violations observed during the 2022 Common Tare Survey, ninety-five (95) or 44.2 % were technical violations for issuing weighmaster certificates that had incorrect legends, address or business names, lacked required information such as the vehicle or container ID, no date or deputy signature, no unit of measure (e.g., pounds), name of the owner/consignee missing, container or tare code missing, and/or no commodity listed. These violations occurred at forty-seven (47) of the eighty-two (82) weighmasters who have established common tares or 57.3 % of the locations.

Twelve (12) or 14.6 % of the weighmasters were using scales that either had not been sealed by the county or were missing required markings. Forty-six (46) or 21.4 % of the 215 violations observed, were related to the establishment and use of common tares. These violations might affect the documented weight on a weighmaster certificate and cause financial harm to either the buyer or seller of a commodity.

While survey respondents who have established common tares could verbalize basic weighmaster duties, knew if they were using common tares, and where to find the common tare weights, they were not as familiar with how common tares were established and the requirement to submit a Common Tare Notice to the Division of Measurement Standards. Forty-four (44) businesses were able to explain where the common tare notices were kept, but only forty-one (41) or 62.1 % were able to provide a copy of the Common Tare Notices used to create weighmaster certificates.

During the survey visits, CDFA DMS staff provided outreach and education to weighmasters. Staff assisted businesses with establishing new common tares and correcting deficient common tares. Overall, only 69 % of the common tares reviewed complied with requirements (weighed within 2 % of the common tare weight established) and tares that were not verified by the business after being established were only compliant 41.7 % of the time. Because of the high risk for financial harm to buyers or sellers, additional outreach is needed.

It was observed that the rate of failure increases with the amount of time that passes between establishing a common tare and verification that the common tare is still compliant. While there was little difference between common tares established and checked annually or those done with a less frequent time-period (between 74 to 76 %), compliance dropped about 24 % for those that are never checked after being established. To avoid these lower levels of compliance, the data suggests that common tares should have an expiration date and not extend beyond the four (4) years a business is required to retain its weighmaster records. This would also help assure that more businesses would still have the records used to establish the common tares they use and be able to present them to a sealer during an inspection.

Another issue discovered during the survey is that many locations listed in CDFA DMS' files as having common tares, no longer use them or no longer use the ones on file. Businesses are not required to notify CDFA DMS if they are no longer using the common tare established or move them to another location, other than what was listed on the initial Common Tare Notice. An expiration date would assist with purging outdated files as there are common tare notices on file as far back as 1995.

Upon completion of the survey, Notices of Violations were issued where necessary, and deficiencies were brought to the attention of the weighmaster. Follow-up inspections will be performed at the locations with violations.