









DMS ANNUAL REPORT FY 2021/22

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STATEMENT OF THE SECRETARY

Here at the California Department of Food and Agriculture (CDFA), the Division of Measurement Standards (DMS) is responsible for the uniform and equitable enforcement of weights and measures laws throughout California.

In recent years, our workload has expanded and modernized considerably, including app-based business models to make purchases based upon weight or measure, and the continued expansion of zero-emission fueling technologies to transform the state's transportation sector. The science behind these new-tech developments is exciting, but because these



Karen Ross, Secretary

technologies all directly impact businesses and consumers, we have a responsibility to make sure fairness, equity, and uniformity are built into these new systems. DMS, in partnership with county weights and measures jurisdictions:

- Determine the accuracy of weighing and measuring devices used for commercial purposes
- Validate weighments of bulk loads of food products and other commodities destined for California's marketplace
- Establish and enforce quality, advertising, and labeling requirements for motor fuels, lubricants, and automotive products. This includes emerging alternative and zero-emission fuels like hydrogen and electricity.

Our state's diverse economy ranks among the top five in the world and the dedicated employees at DMS and county weights and measures jurisdictions do their part to support our diverse economy. Every year, harvested food products and other commodities produced in California are exported to countries all over the world or sold at retail right here in the Golden State. Weights and measures officials are essential to maintaining the transparency and equity of such transactions made between agricultural producers, packers, transporters, distributors, and retailers. This Annual Report to the Legislature is required pursuant to California Business and Professions Code, Division 5, Section 12102 and informs California citizens of the state's weights and measures activities during Fiscal Year (FY) 2021/22. If you or your staff have questions regarding this report, or if additional information is needed, please contact CDFA's Legislative Unit at 916-403-6726.

Karen Ross
CDFA Secretary

EXECUTIVE SUMMARY



\$3.12 trillion - California's GDP in 2021



\$1.56 trillion - Weights and Measures' impact on 2021 GDP



\$1.70 - Per Capita Cost of Weights and Measures in 2021

The total cost of weights and measures protection in FY 2021/22 includes the combined resources from CDFA and the county departments of weights and measures. And to think that this small cost is for all California, which has the 5th largest GDP in the world!



The Twin Goals of Weights and Measures:

- Consumer Protection (assuring buyers get what they pay for); and
- Equity in the Marketplace (providing a level playing field for sellers).

Enforcement authority is delineated between DMS and county weights and measures jurisdictions through a memorandum of understanding to prevent overlapping or duplicative efforts. In many of its programs, DMS' role is to provide oversight, support, coordination, technical training, and advice to county sealers and their staff. DMS' oversight of the state/county system helps ensure uniform application of weights and measures laws and regulations statewide. In turn, each county jurisdiction of weights and measures carries out local enforcement activities under the duthority and direction of the CDFA Secretary.

The following report is a compilation of both state and county activities relating to weights and measures activities in FY 2021/22.

DMS PROGRAMS



Precision Mass Standards

Metrology

Metrology is the science of measurement. CDFA is required to maintain the state's official standards of measurement: mass, volume, length, time, temperature, and electrical energy. These state standards are maintained in the DMS Metrology Laboratory, which is accredited by the National Voluntary Laboratory Accreditation Program (NVLAP).

The principal purpose of the DMS Metrology Laboratory is to certify the physical standards used by the county weights and measures officials who test commercial weighing and measuring devices, e.g., grocery scales, gas pumps, and livestock scales. The Laboratory also certifies standards used by industry and other state agencies.

The world is changing quickly, but regardless of the technology behind the measurement, the Metrology Laboratory's relevance remains unchanged. A case in point is the transition from petroleum to zero-emission fuels. DMS' Metrology Laboratory certifies the county standards that are used to test the accuracy of electric vehicle charging stations and hydrogen dispensers.

FY 2021/22 Results:

DMS' Metrology Laboratory tested and certified



Type Evaluation

Before any new type or design of weighing, measuring, or counting device can be sold and used for commercial purposes in California, it must be type evaluated and approved by DMS. Type evaluation certifies that new makes and models of commercial weighing or measuring devices comply with all applicable specifications and tolerances, that they are accurate and correct, and are designed to minimize the facilitation of fraud.



Identification Plate on CTEP-approved Electric Vehicle Charging Station

There are two avenues for manufacturers who seek type approval of their prototype devices; the California Type Evaluation Program (CTEP) and the National Type Evaluation Program (NTEP). California often sees new technology before the rest of the nation and is the only type evaluation lab capable of certifying electric vehicle charging stations and hydrogen fuel dispensers. CTEP evaluates devices for their accuracy and functionality in real-world operations. Only devices that have passed type evaluation may be sold and used in commerce in California. CTEP is also one of four participating laboratories for NTEP.

In FY 2021/22, CTEP received 32 applications for type evaluation. Although most applicants are U.S.-based, companies from Canada and Taiwan also applied for California type evaluation. 31 applicants received CTEP Certificates of Approval (CTEP COA) and of this number, 20 were for electric vehicle charging stations [aka electric vehicle fueling systems (EVFS)].

FY 2021/22 Results:

20
EVFS Evaluations

31
Total Device
Evaluations



Mass Standards (Test Weights) In Use During Testing of a Vehicle Scale

Commercial Devices

Examples of traditional weighing and measuring devices include supermarket scales, fuel dispensers, vehicle and livestock scales, taximeters, and propane meters.

Recent additions include hydrogen fuel dispensers, electric vehicle charging stations, and the measuring software in autonomous vehicles that is used for transportation of people and goods.

In California's state/county system of weights and measures, it is county officials who inspect and test all the commercial devices within their jurisdiction. The role of DMS' Device Enforcement Program is to provide training and technical support to local officials.

Devices found to be accurate and correct receive an official county approval seal.

In FY 2021/22, there were over 1.77 million registered commercial weighing and measuring devices in California. This number is expected to increase to accommodate the rapidly expanding sales of zero-emission vehicles in the state.

FY 2021/22 Results:

Common Commercial Measuring Devices:

- 719,351 Water Submeters
- 322,896 Electric Submeters
- 271,915 Vapor Submeters
- 293,140 Retail Fuel Dispensers

Common Commercial Weighing Devices:

Solano County Device

Approval Seal

- 74,539 Computing Scales
- 20.740 Platform Scales
- 13,875 Counter Scales
- 5,053 Vehicle Scales

Registered Service Agencies

Businesses owning commercial weighing and measuring devices must ensure their equipment operates properly throughout the year, not just when inspected. To meet this requirement, they rely on companies that specialize in device installation, service, and repair. These companies are referred to as Registered Service Agencies (RSAs).

RSAs must register with DMS and prove they have sufficient certified standards for the work they perform. Their employees (service agents) must pass an exam and be licensed before they may legally perform RSA work in California. RSAs have the authority to place a device into service pending official inspection by a weights and measures official. This delegated authority minimizes device downtime and business interruption after installation or repair.



Registered Service Agent Making Repairs

DMS' Registered Service Agency Program, with help from county officials, oversees the work of RSAs and their employees.



RSA Equipment at Retail Fueling Station

FY 2021/22 Results:

530Service Agencies

1,882 Service Agents



Gasoline Dispenser Octane Labeling

Fuels, Lubricants, and Automotive Products

DMS' Fuels, Lubricants, and Automotive Products Program (FLAPP) monitors the quality of fuels, automotive products and lubricants like motor oil, transmission fluid, brake fluid, diesel exhaust fluid (DEF), and engine coolants that are essential to the proper function of a motor vehicle. Samples are obtained by state and county officials, either openly or undercover, at service stations, retail stores, or quick lube and automotive repair shops. Samples are taken to one of two DMS laboratories in Anaheim and Sacramento where they are tested against established national quality standards.

California's combined on-road sales of gasoline and diesel in FY 2021/22 topped 17 billion gallons. That translates to 47 million gallons of gasoline and diesel sold each day throughout the state. While this is an increase in sales relative to the previous fiscal year, it was still a reduction from >18.5 billion gallons in FY 2018/19, prior to the outbreak of COVID-19. Regardless of the quantity sold, California's motorists and commercial transporters of food and commodities still need and expect to receive the proper grade and quality of fuel they paid for.

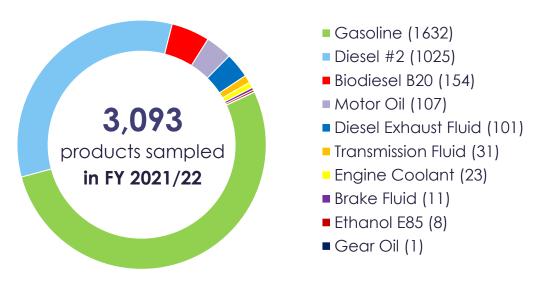
In 2021, California was still in the midst of the COVID-19 pandemic and there were supply chain shortages, disruptions at the ports, and transportation issues in general. DMS conducted a truck stop survey (https://storymaps.arcgis.com/stories/ac797ec77f64 45e782943eab3fabb43b) October – November 2021 at 240 truck stop and cardlock locations which represented nearly half of all statewide locations. 285 samples of diesel, biodiesel blended fuel, and diesel exhaust fluid (DEF) were collected and analyzed for quality. The survey results: 90 percent compliance on all fuel samples and 100 percent compliance on DEF.



Contaminated Diesel Vs. Clean Diesel

This demonstrated that the trucking industry had access to quality fuel and DEF as they transported goods throughout California.

FY 2021/22 Results:



Fuels, Lubricants, and Automotive Products Sampled and Analyzed

Overall FY 2021/22 Compliance Rates			
Gasoline	90%	Motor Oil	91%
Ethanol E85	75%	Transmission Fluid	52%
Diesel #2	91%	Engine Coolant	74%
Biodiesel B20	88%	Brake Fluid	100%
Diesel Exhaust Fluid	97%	Gear Oil	100%



Hydrogen Dispenser in Oakland, CA

Alternative Fuels

Governor's Executive Order N-79-20 requires that by 2035, all new passenger vehicles sold in California must be powered by zero-emission fuels. DMS maintains a "fuels agnostic" stance and will support all fuels sold at retail, but the primary focus of DMS' Alternative Fuels Program is to support the state's aggressive climate change goals, and specifically the development and infrastructure buildout to support zero-emission vehicle (ZEV) fuels, e.g., electricity as a motor vehicle fuel and gaseous hydrogen for light duty fuel cell vehicles. This includes efforts to standardize the method of sale and advertising of ZEV fuels, and ensure the accuracy of ZEV fuel dispensers.



DMS Staff Preparing for Hydrogen **Quality Testing**



Sampling Hydrogen at a Retail Station

The quality of available hydrogen continues to be of great importance to the owners of fuel cell vehicles. Gaseous hydrogen fuel

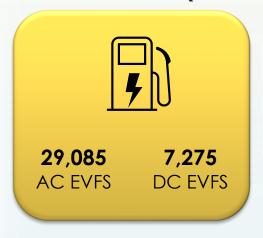
must be 99.97% pure. The effects of small contaminants (parts per million) in hydrogen can have irreversible effects whereby the fuel cell cannot be restored to an

operable condition.

Calendar Year 2021 marked the first year DMS and county weights and measures officials began accuracy testing and sealing (issuing a seal of approval) for alternating current (AC) electric vehicle charging stations [aka electric vehicle fueling systems or (EVFS)]. In FY 2021/22 DMS added five additional EVFS field test standards and trained fifty weights and measures officials in seven counties. It is important to note that not all EVFS are subject to regulation by State and county weights and measures officials. Only publicly accessible EVFS that charge for the amount of electrical power delivered (in kilowatt-hours) are considered commercial measuring devices.

FY 2021/22 Results:

Commercial EVFS (Individual Ports)



This is a 10% increase over the previous FY.

Source: <u>U.S. Department of Energy's Alternative Fuels</u>

<u>Data Center Station Locator</u>

https://afdc.energy.gov/fuels/electricity_locations.html#/analyze?fuel

Hydrogen Stations

60 Open 115 In Development

Hydrogen Fuel Quality Testing



Source: California Fuel Cell Partnership Stations Map https://h2fcp.org/stationmap



Recycled Material Truck Being Loaded and Weighed

Weighmaster

A "weighmaster" is an individual or business licensed by DMS to certify that the weight, measurement, or count of a commodity is accurate. Weighmasters fill a critical role, especially in agriculture and construction, because many times neither the seller nor the buyer is present to witness the weighment of the commodity.

DMS' Weighmaster Enforcement Program oversight includes: auditing weighmaster certificates and other business records; verifying



Single Animal Scale in Use

proper weighing procedures; reweighing vehicles and containers to confirm accurate net-weight statements; and conducting undercover sales at weighmaster locations to ensure proper procedures are being followed.

FY 2021/22 Licensees:

- 7,200 weighmasters (businesses)
- 48,552 deputy weighmasters (employees who perform weighing)

FY 2021/22 DMS Inspection Activities:

- Routine weighmaster inspections
 - o 890 audits
 - o 489 licensing calls
 - o 34 investigations
 - 811 Notice of Violations

Since 2015 and 2018, respectively, DMS' Weighmaster Program has assisted the California Department of Resources Recycling and Recovery (CalRecycle) via two interagency agreements (IAA):

- 1. DMS performs inspections for CalRecycle's Covered Electronic Waste Program to help improve compliance with electronic waste recycling requirements and CDFA weighmaster laws; and
- 2. DMS performs inspections of California Refund Value (CRV) Certified Processors who buy materials from recycling centers and package them into large bales, weigh them, and submit weight statements to receive payment from CalRecycle.



E-waste Being Processed and Shredded

FY 2021/22 Results:

- CalRecycle E-waste IAA Inspections
 - o 150 Inspections
 - o 28 Locations received Notices of Violation
- CalRecycle CRV IAA Inspections
 - o 100 Inspections
 - 45 Locations received Notices of Violations

DMS' Weighmaster Program fees have not been increased since 1984, with the exception of the Junk Dealer/Recycler business category; those fees were increased in 2013 when scrap metal theft was at an all-time high. DMS stopped subventing monies ten years ago to county sealers to perform boots-on-the-ground inspections. However, DMS is able to conduct periodic surveys to raise industry awareness of weighmaster laws. Two surveys were conducted in FY 2021/22:

- Public Scale Survey, Summer 2021. 156 locations were inspected. DMS staff found violations at 78% of locations, including incorrect issuance of weighmaster certificates with potential for financial harm.
- Rock, Sand, and Gravel Locations Survey, Fall 2021. 125 locations were inspected. DMS staff found violations at 88% of locations, including 32% that failed to use type evaluated scales and software with potential for inaccurate weighments.



Grocery Store Checkstands

Price and Quantity Verification Program

Shoppers are sometimes surprised to learn that in addition to checking the scales at grocery stores, California weights and measures officials also verify pricing accuracy. Inspectors randomly choose products from shelves and scan the bar codes. The price of the product is then verified at the register to ensure the price matches. Charging customers a higher price than advertised is a violation of weights and measures law.



Sacramento County Customer Notification Sticker

The California Business and Professions Code authorizes a county board of supervisors to establish an ordinance to register all retail stores with Point-of-Sale systems to recover the costs of their inspections. Currently twenty-two counties have established ordinances for this purpose; they annually register 40,000 retailers that use 164,000 scanner systems.

The Price and Quantity Verification (PQV) Program is also responsible for enforcing the federal Fair Packaging and Labeling Act (FPLA) enacted in 1967, which directs the Federal Trade Commission and the Food and Drug Administration to issue regulations requiring that all "consumer commodities" be labeled to disclose net contents, identity of commodity, and name and place of business of the product's manufacturer, packer, or distributor. FPLA also has provisions to prevent consumer deception (or to facilitate value comparisons) with respect to slack fill of packages, use of "cents-off" or lower price labeling, to make sure consumers are not misled.

DMS currently does not have an active PQV Program. General Fund shortfalls in 2011 eliminated state funding for this program but some counties still maintain active PQV inspection programs.



Price Verification Inspection Source: San Diego County Department of Agriculture, Weights and Measures



Package Inspection for Net Weight Accuracy

FY 2021/22 Results:

Annual PQV Data (All Counties)

Package	e Inspections	Packag	e Audits	
Lots Accepted	234 Lots 5,323 Packages	Packages	37,487	
Rejected	687 Lots 13,101 Packages	Samplea	g Actions	
Sampled	5,744 Packages	Rejected	27 Lots ,190 Packages	
Price V	Price Verifications Test Sales/Purchas			
Locations Tested	19,250	Locations Tested	884	
Locations Accepted	14,861	Purchases/Sales	5,580	
Items	366,162	Overcharges/	425	
Overcharges	8,068	Underpayments	.20	
Undercharges	3,297	Undercharges/ Overpayments	189	

For more information, visit:

https://www.cdfa.ca.gov/dms/notices/general/2023/G-23-02_2021-22_fiscal_year_expenditure_report.pdf



Produce Display in Grocery Store

Country of Origin Labeling

Country of Origin Labeling (COOL) is a federal consumer labeling law administered by the United States Department of Agriculture, Agricultural Marketing Service (USDA/AMS). Grocery stores must notify shoppers of the country of origin of certain regulated commodities. USDA/AMS contracts with DMS to audit retailer compliance. Annual audits are conducted at retail locations that are preselected by USDA/AMS.





COOL-compliant Labels

FY 2021/22 Results:

Inspection Activities

Initial Audits

Stores Visited

100,098

Covered

Commodities

Observed

100,098

Not Compliant

Observed

Follow-up Audits

35
Stores Visited

11,741
Covered
9.8%
Commodities
Observed

Not Compliant

For complete COOL labeling requirements, see the USDA COOL consumer information brochure at:

https://www.ams.usda.gov/sites/default/files/media/COOLBrochureConsumer.pdf

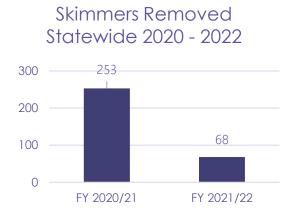


Keypad Overlay Skimming Device

Fraud Prevention

The rapid expansion of Europay, Mastercard, and Visa (EMV) chip technology for fuel dispenser card readers at retail fueling stations since 2017 has proven successful in stopping most payment card fraud at gas stations. This is because an EMV card (unlike a magnetic strip card) generates a one-time code for the transaction, making it more difficult for data thieves to steal consumers' card information.

For this reason, some criminals are reverting to older, less profitable technology. External skimmers are again becoming popular at retail fueling stations. The external skimmer typically uses an overlay that matches up with and looks like the buttons of the actual point-of-sale (POS) keypad underneath it. This kind of skimmer collects payment card information as the consumer keys in their PIN or other pertinent information using the fraudulent keypad. Another trend is that stolen card information is often used to perpetuate the cycle of fraud by illegally purchasing large amounts of fuel that is in turn sold on the black market. Of course, the sale of illegally obtained fuel offers no assurance of quality for buyers.



Despite the decrease in skimmer finds in FY 2021/22, DMS Special Investigators continued their efforts to educate government and industry personnel how to detect and remove payment card skimming devices. In total, 144 individuals received training; these included county weights and measures officials, law enforcement officials, fueling site owners, and fueling system service technicians.

FINANCIAL STATEMENT

FY 2021/22 Financial Data

REVENUE	Budgeted		Actual
Federal (United States Department of Agriculture)	\$ 245,000	\$	167,007
CDFA (General Fund)	\$ 582,817	\$	582,817
Industry (Fee-Based Funds)	\$ 9,287,690	\$	7,132,577
Other (AB 32 Cost of Implementation)	\$ 1,585,000	\$	1,585,000
Inter-Agency (CalRecycle)	\$ 575,632	\$	253,437
Total Revenue	\$ 12,276,139	\$ 9,720,838	

EXPENDITURES	Budgeted	Actual	
Personnel Services	\$ 7,086,060	\$ 5,505,664	
Operating Expenses (minus County payments)	\$ 4,961,062	\$ 3,798,579	
Total County Payments	\$ 697,935	\$ 416,595	
Total Expenditures	\$ 12,745,057	\$ 9,720,838	

For more information, visit:

https://www.cdfa.ca.gov/dms/notices/general/2023/G-23-02_2021-22_fiscal_year_expenditure_report.pdf

GLOSSARY OF ACRONYMS, ABBREVIATIONS, AND DEFINITIONS

Acronyms and Abbreviation

AC – Alternating Current (electricity)

AMS - Agricultural Marketing Service, administered by USDA

ATM - Automated Teller Machine

BPC – California Business and Professions Code

CalRecycle - California Department of Resources Recycling and Recovery

CDFA – California Department of Food and Agriculture

COOL – Country of Origin Labeling Program, Administered by the USDA/AMS

CRV - California Refund Value

CTEP – California Type Evaluation Program

CTEP COA – California Type Evaluation Program Certificate of Approval

DC - Direct Current (electricity)

DEF – Diesel Exhaust Fluid

DMS – Division of Measurement Standards, within CDFA

EVFS - Electric Vehicle Fueling Systems

EVSE – Electric Vehicle Supply Equipment

E-waste – Electronic Waste

FLAPP – Fuels, Lubricants, and Automotive Products Program

FY - Fiscal Year; July 1 through June 30 of the Following Year

GDP – Gross Domestic Product

IAA – Interagency Agreement

NIST – National Institute of Standards and Technology

NTEP - National Type Evaluation Program

NVLAP - National Voluntary Laboratory Accreditation Program

OIML – International Organization of Legal Metrology

POS - Point-of-Sale

PQV – Price and Quantity Verification

RSA - Registered Service Agency / Registered Service Agent

USDA – United States Department of Agriculture

Definitions

The following definitions are technical and industry trade terms that are defined either in Division 5 of the BPC; NIST Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices that is adopted and incorporated by reference in CCR Title 4, Sections 4000-4002.10.; or by DMS within the scope and purpose of this report.

Accurate – A commercial device is "accurate" when its performance or value – that is, its indications, its deliveries, its recorded representations, or its capacity or actual value, etc., as determined by tests made with suitable standards – conforms to the applicable tolerances and other performance requirements. Equipment that fails so to conform is "inaccurate" (NIST Handbook 44).

Alternating Current (AC) - An electric current that reverses direction in a circuit at regular intervals (NIST Handbook 44).

Alternative Fuel(s) – Are the following motor vehicle fuels: Biodiesel; Biodiesel Blend; Renewable Diesel; Dimethyl Ether; Electricity; Ethanol; Ethanol Fuel Blend; Hydrogen; Methanol Fuel Blend; Natural Gas; Propane; and other alternative fuels as determined by the CDFA Secretary (BPC Section 13400).

Commercial Equipment / Commercial Device / Device – Weights, measures, and weighing and measuring devices, instruments, elements, and systems or portion thereof, used or employed in establishing the measurement or in computing any basic charge or payment for services rendered on the basis of weight or measure. As used in this definition, measurement includes the determination of size, quantity, value, extent, area, composition (limited to meat and poultry), constituent value (for grain), or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award (NIST Handbook 44 and BPC Section 12531).

Correct – A commercial device is "correct" when, in addition to being accurate, it meets all applicable specification requirements. Equipment that fails to meet any of the requirements for correct equipment is "incorrect" (NIST Handbook 44).

Direct Current (DC) - An electric current that flows in one direction (NIST Handbook 44).

Electric Vehicle Charging Station – See Electric Vehicle Fueling Systems (EVFS) and Electric Vehicle Supply Equipment (EVSE).

Electric Vehicle Fueling Systems (EVFS) – The title of NIST Handbook 44, Section 3.40. Also see Charging Station and Electric Vehicle Supply Equipment (EVSE).

Electric Vehicle Supply Equipment (EVSE) - A device or system designed and used specifically to transfer electrical energy to an electric vehicle, either as charge transferred via physical or wireless connection, by loading a fully charged battery, or by other means (NIST Handbook 44). Also known as electric vehicle charging stations and Electric Vehicle Fueling Systems (EVFS).

Enforce / Enforcement / Enforcement Action – Actions of a sealer, allowed by statute or regulation, that may be non-punitive, punitive, or administrative against a regulated party that is observed to be out of compliance with statute or regulation. Some examples of enforcement action include issuing the regulated party a(n): Notice of Violation; Administrative Civil Penalty, Citation, Civil/Criminal Complaint, or revocation of a registration or license (defined by DMS within the scope and purpose of this report).

Sealer – When used without qualification, includes the State Sealer, county sealers, deputy sealers, or county inspectors (BPC Section 12008). Also known as "weights and measures officials."

Service Agency – A person, as defined in BPC Section 12011, that for hire, award, commission, or any other payment or any kind, repairs a commercial device (BPC Section 12531).

Service Agent – A person employed by a service agency to repair a commercial device (BPC Section 12531).

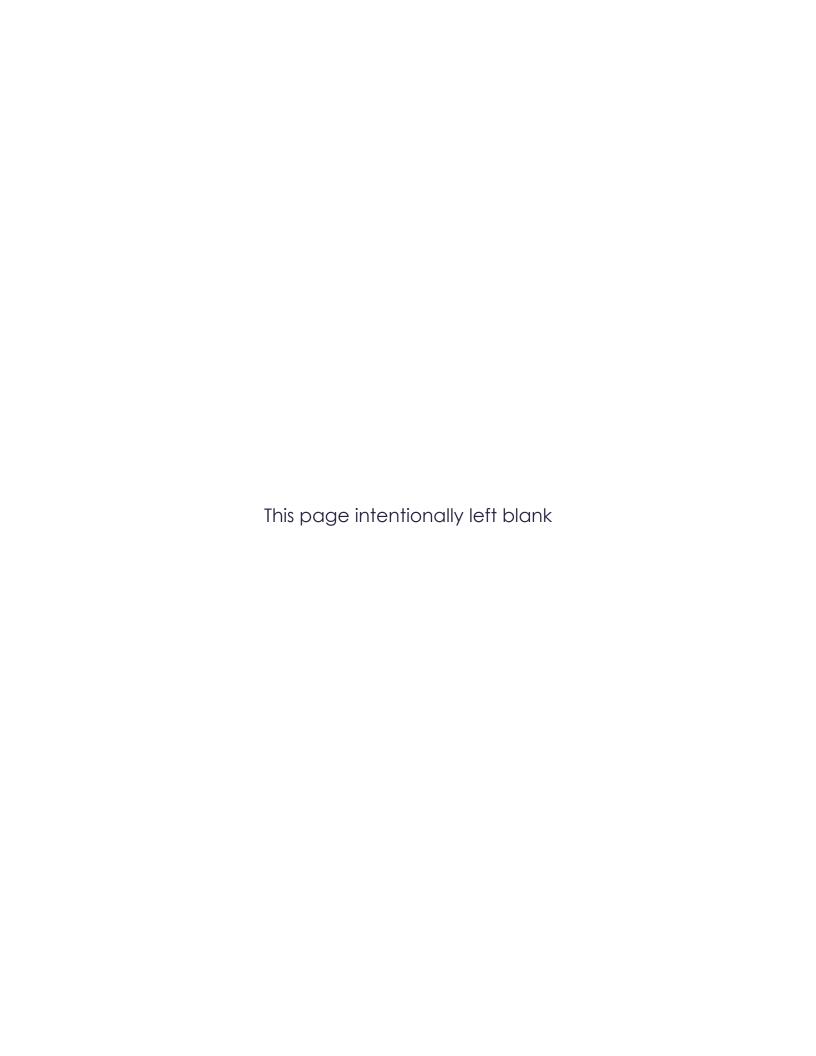
Skimmer – A mechanical or electronic device installed on or in a commercial device or its point-of-sale component, that is not part of the manufacturer's design specification, used to illegally capture consumer data from a payment card; installed at ATMs, fuel dispensers, and other commercial devices equipped with a point-of-sale component (defined by DMS within the scope and purpose of this report).

Specification – A requirement usually dealing with the design, construction, or marking of a weighing or measuring device. Specifications are directed primarily to the manufacturers of devices (NIST Handbook 44).

Submeter – A meter furnished, owned, installed, and maintained by the customer who is served through a utility owned master meter (4 CCR 4027.1).

Tolerance – A value fixing the limit of allowable error or departure from true performance or value (NIST Handbook 44).

Type Evaluation - A process for the testing, examination, and/or evaluation of a new device type or model under CTEP or NTEP.





California Department of Food and Agriculture

Division of Measurement Standards Annual Legislative Report FY 2021/22

For questions or comments regarding this report, please contact:

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