

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Agriculture
(DLS Control No. 25-151)**

Overview and Legal and Fiscal Impact

This regulation amends the Maryland Department of Agriculture's fee structure for registering each class of weight and measure device used for commercial purposes.

The regulation presents no legal issue of concern.

The fiscal impact of this regulation was largely accounted for in the fiscal and policy note for House Bill 352 of 2025 (Chapter 604, the Budget Reconciliation and Financing Act of 2025). Chapter 604 authorizes the fees established in this regulation. The fees established in this regulation, however, are expected to result in a larger increase in annual special fund revenues than estimated in the fiscal and policy note for House Bill 352 (\$530,000 more than estimated, annually beginning in fiscal 2026). The larger amount of revenues also proportionally increases interest earnings from those revenues, which accrue to the general fund.

Regulation of COMAR Affected

Department of Agriculture:

Weights and Measures:

Registration of Commercial Weighing and Measuring Devices: COMAR 15.03.08.05

Legal Analysis

Background

The department's Weights and Measures Program inspects and regulates devices used to determine the quantity of commodities including fuel oil, fuel products, livestock, grain, and food products. Chapter 604 of 2025, the Budget Reconciliation and Financing Act of 2025, repeals statutory fees for registering each weight and measure used for commercial purposes effective June 1, 2025. Instead, the Secretary of Agriculture is authorized to set reasonable registration fees. The Department of Legislative Services notes that while there are registration fees under COMAR 15.03.08.05 (that are being amended by regulation), those fees are outdated (last modified in 2000) and had been superseded by the fees that existed in statute (last modified in 2012) until their repeal.

Summary of Regulation

The regulation (1) establishes increased fees for certain classes of commercial weights and measures (increased in comparison to those previously in statute); (2) establishes fees for certain new classes/types of commercial weights and measures (that were not a part of the fee schedule in statute), most notably for electric vehicle service equipment; and (3) sets the newly-authorized late registration fee. See **Exhibit 1**, below in the Fiscal Analysis for the specific fees that are increased and established under the regulation.

Legal Issues

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites §§ 11-203 and 11-204.7 of the Agriculture Article as statutory authority for the regulation. Although not cited by the department, § 11-204.2 of the Agriculture Article is also relevant. Section 11-203 requires the Secretary of Agriculture to adopt regulations, specifications, tolerances, and other technical requirements for regulated weights and measures and requires these the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices to be those adopted by the National Conference on Weights and Measures and included in the National Institute of Standards and Technology (NIST) Handbook 44, as amended. The NIST handbook includes standards for electronic vehicle fueling systems. Section 11-204.2 requires weights and measures used for buying and selling any commodity or object to be registered with the Secretary. Section 11-204.7 authorizes the Secretary to set reasonable fees for registering each weight and measure used for commercial purposes.

With the addition of § 11-204.2 of the Agriculture Article, the cited authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

The fiscal impact of this regulation was largely accounted for in the fiscal and policy note for House Bill 352 of 2025 (Chapter 604, the Budget Reconciliation and Financing Act of 2025). Chapter 604 authorizes the fees established in this regulation. The fees established in this regulation, however, are expected to result in a larger increase in annual special fund revenues than estimated in the fiscal and policy note for House Bill 352 (\$530,000 more than estimated, annually beginning in fiscal 2026). The larger amount of revenues also proportionally increases interest earnings from those revenues, which accrue to the general fund.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has no impact on State or local governments because the regulation mirrors a statutory change under Chapter 604. DLS disagrees that the

regulation mirrors the statutory change under Chapter 604 and that it has *no* impact on State government.

The regulation does not mirror a change in Chapter 604. Rather, it establishes a registration fee schedule for commercial weights and measures and a newly authorized late registration fee, pursuant to authority given to the Secretary of Agriculture under Chapter 604. Chapter 604 repealed an existing registration fee schedule in statute and established authorizations in statute for the Secretary to set reasonable registration fees for commercial weights and measures and a fee for late registration.

An increase in special fund revenues from fees established by the Secretary pursuant to the authority provided under Chapter 604 was accounted for in the fiscal and policy note for House Bill 352 through an estimate based on projected budgetary needs of the department's Weights and Measures Program. The specific fees were not known at the time but were expected to be increased in comparison to the repealed statutory fees to sufficiently fund the program. The specific fees set in this regulation, however, are expected to result in a larger increase in special fund revenues than estimated in the fiscal and policy note for House Bill 352.

The fiscal and policy note for House Bill 352 estimated that special fund revenues would increase by \$1.0 million annually beginning in fiscal 2026. The estimate (1) assumed the Secretary would set registration fees (and the newly authorized late registration fee) at a level that would generate enough new special fund revenue to sustain the Weights and Measures Program in the immediate future and (2) was based on the expected balance of special funds available to the program at the end of fiscal 2025 and projected revenues and expenditures in fiscal 2026 and future years. The fiscal and policy note also indicated that general fund revenues would increase minimally beginning in fiscal 2026 due to interest earnings generated by the new revenue, which accrue to the general fund pursuant to § 8 of Chapter 717 of 2024 and § 6-226(a)(2) of the State Finance and Procurement Article.

The increased and added fees established by this regulation are expected to result in an annual increase in special fund revenues of \$1.5 million beginning in fiscal 2026 (as shown in **Exhibit 1**), which is \$530,000 higher than the estimate in the fiscal and policy note for House Bill 352. The larger special fund revenue increase also results in a proportionally larger general fund revenue increase from interest earnings on those special fund revenues, which accrue to the general fund.

The estimate shown in Exhibit 1 is based on the revenue estimated to be generated under the fee schedule established in this regulation in comparison to the revenue that would have been generated under the statutory fee schedule that was repealed by Chapter 604, had it still been in effect in fiscal 2026. (As referenced in the Legal Analysis, the current fee schedule in regulation is outdated and is not currently used by the Weights and Measures Program.)

Exhibit 1
Fee Amounts and Estimated FY 2026 Revenue Increase

Device/Fee Type	No. of Devices	No. of Locations	Statutory Fees Repealed by Chapter 604	Fees Proposed in this Regulation	Estimated Revenue Increase
Scale 0 - 100 lbs	15,506	3,117	\$20 per device (maximum of \$375); \$50 per location	\$25 per device (no maximum); \$75 per location	\$215,390
Scale > 100 - 2,000 lbs	1,388		\$60	\$100	55,520
Scale > 2,000 lbs	779		\$100	\$125	19,475
Vehicle scale	707		\$250	\$350	70,700
Belt conveyor scale	23		\$300	\$350	1,150
Railroad track scale	14		\$300	\$350	700
Retail motor fuel dispenser meter < 20 gpm	42,980	2,057	\$12.50 per device; \$50 per location	\$20 per device; \$75 per location	373,775
Retail motor fuel dispenser meter ≥ 20 gpm	817		\$45	\$65	16,340
Bulk petroleum fuel vehicle mounted meter ≥ 20 gpm (referred to under repealed statutory fee schedule as Bulk petroleum fuel meter of 20 - 150 gpm)*	841		\$50	\$100	42,050
Bulk petroleum fuel meter stationary (referred to under repealed statutory fee schedule as Bulk petroleum fuel meter of ≥ 150 gpm)*	413		\$85	\$100	6,195
Liquified petroleum meter ≤ 3/4 inch	323		\$75	\$100	8,075
Liquified petroleum meter 3/4 - 2 inch	395		\$75	\$125	19,750
Liquified petroleum meter > 2 inch	30		\$75	\$150	2,250
Grain moisture meter	73		\$100	\$150	3,650
Point of sale system	1,000		\$100	\$125	25,000
Retail DEF dispenser (new category)	250			\$20	5,000
Electric vehicle service equipment (new category)	3,900			\$150	585,000

Mass flow meter (new category)	15	\$330	4,950
Delinquent account fee - 30 days past due (new category)	600	\$125	75,000
Total			\$1,529,970

Note: The device and location numbers are from the Weights and Measures Program's database, with the exception of the device numbers for the new device/fee categories (the four at the bottom of the table), which are Weights and Measures Program estimates.

*The Weights and Measures Program indicates that the changes in the descriptions of these categories are intended to be clarifying.

DEF: Diesel Exhaust Fluid
 gpm: gallons per minute
 lbs: pounds

Source: Maryland Department of Agriculture; Department of Legislative Services

Impact on Budget

While there is no direct impact on the State operating or capital budget, additional special fund revenues may be brought into the operating budget via budget amendment and, therefore, be available to be expended.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State because the regulation implements the same fee increases set forth in Chapter 604. DLS (1) disagrees that the regulation implements fee increases set forth in Chapter 604 and (2) concurs that the regulation has minimal or no economic impact on small businesses in the State.

As discussed above, Chapter 604 does not establish specific registration fees for commercial weights and measures – it only authorizes the Secretary to set reasonable registration fees and a late registration fee. This regulation establishes the specific fees, pursuant to the authority provided under Chapter 604.

DLS concurs that the regulation has minimal or no economic impact on small businesses in the State because the small business impact of the increased/added fees has already been broadly accounted for in the fiscal and policy note for House Bill 352. In the fiscal and policy note, DLS concurred with the Administration's assessment that the bill overall (which had many more provisions than the weights and measures fee provisions) would have a meaningful impact on small businesses, including the potential for increased costs for small businesses due to various fee and penalty provisions in the bill applied to programs administered by the department and the Maryland Department of the Environment.

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