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A paper on weights [and] measures
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A PAPER ON WEIGHTS & MEASURES FEE POLICY

Management Consulting Division

December, 1972

Alternative Policies (Revenue Generating)

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2. Device License System

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INTRODUCTION

This paper has been prepared at the request of Mr. J.B. Seaborn, A.D.M., Consumer Affairs. It discusses the question of Weights and Measures inspection fees under the following headings:

Present Policy

Alternative Policies (Revenue Generating)

Equity of Inspection Fees

Suggested Alternative

Compliance.

Present Policy

The Weights and Measures Inspection Service appears to have two specific functions:

- a) Inspection Function - Inspecting devices to ensure that they operate within the tolerances as specified by Legislation;
 - inspecting store-packaged goods to ensure that the weight or volume of contents is within the tolerances specified by Legislation.
- b) Calibration Function - calibrating of local standards, tank trucks, and other equipment, usually on a request basis, by field inspectors (calibration is also done by Standards Branch).

Both the inspection function and the calibration function at the field level are being done by the same inspectors.

1. Regular Inspections

According to present legislation, devices must be inspected every year; under the new Act this will change to every two years (between 21 and 27 months) except for a few devices where the inspection cycle has been increased to five years.

- 2. For all regularly scheduled inspections there are inspection fees charged which range from \$0.15 for some weights to \$20.00 or more for large capacity devices. A new schedule of fees has been proposed,

as part of the Regulations to the new Act, which ranges from \$0.35 for some weights to \$200.00 or more for large capacity devices.

2. Request Inspections

When a trader suspects that his device does not function correctly, or, in the case of vehicle scales, a clause in his contract requires an inspection, he can call our office and request an inspection. If these inspections necessitate a special trip on the part of the inspector, the trader is charged for the inspector's travelling expenses, travelling time, plus an hourly rate for the inspection, or the regular inspection fee for that particular type of device, whichever is the greater.

All weighing and measuring devices which are manufactured in or imported into Canada must be inspected and verified before they can be sold. The Weights & Measures District Office is notified when these are ready for inspection. These are also treated as request inspections for fee purposes.

When an inspector finds a device that does not conform completely to the Legislation, he may, at the request of the Trader, attempt to adjust that device in order to bring it within the allowable tolerances. The Trader is charged an hourly rate for this, in addition to the regular inspection fee.

The hourly rate for both request inspections and adjustment time is \$2.50 under the present fee schedule. Under the proposed schedule this has been increased to \$10.00.

The only device inspections for which fees are not charged are special inspections and re-inspections.

3. Special Inspections

Special inspections are those which are done more frequently than the schedule demands, where it is suspected that the Act is not being complied with. These happen very infrequently however, for two reasons:

- i) They do not generate revenue, and,
- ii) Lack of manpower (all available manpower is needed to attempt to complete as many scheduled inspections as possible).

4. Re-inspection

When a device is rejected because of non-compliance, it must be re-inspected after repairs have been made, before it can again be legally used for trade. As mentioned there is no charge for this inspection. The reason for this is that in most cases the trader has already paid his annual inspection fee at the time of the original inspection and fees cannot be charged more often than once per year.

NOTE: The total number of devices rejected in 1971 (and which were presumably re-inspected at no charge) was 14,807. The only time a charge is made for a re-inspection is when the trader asks for it to be done at a time other than when the inspector has scheduled it. In these cases a charge is made for travelling time and travelling expenses as per request inspections.

5. Revenue

The present fee schedule generates about \$1.1 million in revenue per year. The operating cost of the field inspection service is

in excess of \$2.2 million.

The proposed fee schedule is expected to generate about \$3 million in revenue which would offset both the direct operating cost and the shared laboratory and administrative costs of about \$2.9 million.

6. Analysis

The main advantage of the present policy is that, given the new fee schedule, it can be run as a cost recovery operation.

There are however, a number of serious disadvantages:

- a) The information generated by the Halifax pilot and by the extended national pilot to date appear to leave little doubt that inspection must become selective and random rather than 100% inspection on a regular schedule. If this does come about, it is difficult to continue charging fees. Some traders might have to pay several times per year while others might not have to pay for several years or even not at all. This would, of course, be unequitable.
- b) Fees are not collected for random, policing type inspections which are done more often than the schedule allows. This means that there is little incentive to do this type of inspection because they take away from the time required to do revenue generating work. Most districts feel they should generate as much revenue as is possible (particularly to meet the amount of revenue forecast in the budget). Generating revenue, however, contributes little to consumer protection.
- c) Under present policy, inspectors are often turned into bill collectors. Many of them feel that this puts them into a somewhat degrading position. Particularly traders who have a device inspection for the first time find it difficult to understand why they should have to pay for this inspection; and inspectors are hard pressed to give a sound explanation. This does not help to improve the morale of the inspectors.

- d) The cost of fee collection and administration is extremely high (presently about \$260,000 per year or about \$0.25 for every dollar collected). In a survey taken across the country, the District Inspectors estimated that the average inspector spends about 121 hours per year collecting fees at the time of inspection (a cost of over \$100,000 in inspector's salaries) and about another 74 hours per year in reporting fees on his daily report (a cost of about \$65,000 in inspector's salaries). Field and head office costs to administer and control revenue are about \$95,000. These costs can be greatly reduced however, with improved procedures. A revenue reporting procedure as a part of the upcoming automated Information System would almost eliminate the cost of inspectors reporting fees (\$65,000) and should reduce administrative costs by at least 50%, thereby effecting a saving of some \$112,500. Given that inspectors will continue to collect fees at the time of inspection however, it is difficult to see how the cost of this activity can be significantly reduced. In fact, this cost as well as the remaining administrative costs will increase every year as salaries and other costs increase.
- e) Inspectors are sometimes placed in the difficult position of inspecting a device, finding that he cannot verify it, rejecting it and sealing it against use and then having to ask for payment for this "service".
- f) Under present policy a large number of devices are adjusted by inspectors as part of the inspection. During the first 4 weeks of the extended national pilot it was found that 23% of all devices inspected were in error when the inspector arrived but only 6.4% were rejected. The difference, 16.6% were verified, suggesting that some adjustment must have been made to the location of the device, its environment, or to the device itself. If these percentages hold true for an entire year, the number of devices adjusted and verified would be 54,780 out of a total of 330,000 inspected. This large number of adjustments is causing concern to some District Inspectors. In a few districts, inspectors have been instructed to do as little adjusting as possible; in other cases no such instructions have been given.

7. Responsibility for Maintenance of Devices

The reason for the concern about adjustments hinges around the responsibility for the maintenance of devices. Many traders do not appear to realize that it is their responsibility to maintain their devices. According to inspectors, the vast majority of errors found are the result of user carelessness. This seems to be proven by statistics being gathered in the extended national pilot; of the 3790 devices in error in the first four weeks, 807 (21.3%) were found giving short weight or measure and 644 (17.0%) were found giving over weight or measure. If these errors were deliberate a much larger portion would be found giving short weight or measure (in the user's favour).

Present Policy however, does not provide a deterrent for this carelessness. Many traders appear to depend on our inspectors to maintain their devices. They know that if we find something wrong that is not too major, we will attempt to adjust it for them for a small fee and, as a rule, nothing else happens. There are virtually no penalties levied for having an unjust device even though the Act clearly indicates that it is the user's responsibility to maintain his device and penalties for non-compliance are prescribed. If our inspector finds he cannot adjust the device, the only penalty that usually results is that the trader may not use it until it has been repaired, re-inspected and verified -- hardly an effective deterrent.

Deterrents to non-compliance are further discussed under the "Compliance" section of this paper.

It is interesting to note that the authority for adjustments of devices has come about gradually in the past 30 - 40 years, while the emphasis on special or policing inspections has been decreasing over the same period.

In the 1935 version of the Weights and Measures Act, no mention was made of adjustments and up to and including 1949 this was also not mentioned in the Regulations. However, in 1951, while still not in the Act, section 30 of

the Regulations states:

"When an inspector has been authorized to make minor adjustments and has been requested to do so by the owner, he will include in the fee a charge for his time ..."

By 1971, it had been incorporated into the Act. Section 16 of the new Act states:

"When an inspector inspects any device he may with the consent of the owner or person in possession thereof, make such adjustments or alterations to that device as may be prescribed."

As far as the special or policing type of the inspection is concerned, recent versions of the Act (1935, 1951 and 1971) all state that the inspector may at any reasonable time enter the premises of the trader to inspect his device. In addition, Section 48 (2) of the 1935 Act states:

"He shall do so from time to time and without previous announcement, so as to best ensure compliance with the provisions of this act, the compliance of any related provision, governing the sale of any commodities by weight, measure or quantity, and the discovery and punishment of any violation thereof."

However, no mention of this stipulation is made in either the 1951 or the 1971 Acts.

Alternative Policies (Revenue Generating)

If it is a policy requirement that the system must generate sufficient revenue to recover direct operating costs, then there are several alternatives available. The two which appear to be the most feasible are discussed here.

1. Fees for Original Verifications and Re-inspections Only.

As mentioned, all weighing and measuring devices which are manufactured in or imported into Canada must be verified under present policy, before they can be sold. Under this alternative we would continue to charge a fee for this original verification. There would be no fees charged for scheduled or special inspections when devices are verified. If a device is rejected however, there would be a fee charged for the re-inspection. The amount of the re-inspection fee would be at least as high as the original verification fee.

A system of this type is used in Britain. Under their system, inspectors also do not adjust devices. If a device is found out of tolerance, it is rejected and the trader must pay for the re-inspection. This places the responsibility for maintaining the device with the user. The fee for re-inspection would also serve as a deterrent to non-compliance.

Under this system, selective inspection would not cause problems. As a matter of fact, if we wanted to increase revenue, selective inspection would be the way to do it; the more violators we discover, the more re-inspection fees we collect.

If the revenue generated by this type of system were to be sufficient to recover costs however, the original verification fees and the re-inspection fees would have to be quite substantial. Out of a total

of about 330,000 devices inspected in 1971, about 50,000 were original verifications and about 15,000 were re-inspections. While this system would probably bring about a greatly increased number of re-inspections, we would still be left with about 25% of all inspections having to generate all of the required revenue.

Original verification fees could all be invoiced under this system reducing the cost of collection on the part of the inspector. Collection of fees for re-inspections would not be as degrading since these would now be viewed as a penalty for non-compliance.

This system would also require that the present policy of 100% inspection at the manufacturer and importer level would have to continue. However, the benefit derived from this policy is open to question. Although exact figures are not available, the percentage of devices which cannot be verified at this level is extremely low. It appears therefore that a system of sampling should be considered if we are to inspect at this level. If this is done, are we then justified in charging fees for an entire lot if only a small sample are actually inspected?

2. Device License System

This system would revolve around the selling of an annual license to all device users. Failure to purchase a license would result in the device being sealed against use until one was obtained. The amount charged for licenses should be such that revenue would recover operating costs. This type of system is used with some success in several States of the U.S., notably Colorado.

Licenses could be sold through the Weights and Measures District Office but this might be difficult for many users since the majority of towns and cities do not have a Weights and Measures Office. They could be sold from a central point by mail, resulting in a high cost because we would have to keep accurate records of the names and addresses of all device users (approximately 500,000 devices); or we could have them sold by an

outside agency such as the Post Office. This would however, cause us to lose part of our revenue since we would have to pay for the administrative costs of selling them. While the cost of fee collection by inspectors would be eliminated with this system, there would be little or no saving of administrative costs.

There would be no difficulty in becoming more selective in our inspection under this system since all users would pay their annual fee, no matter how often their devices were inspected.

Licenses would have to be policed by our inspectors. On each inspection, the inspector would have to check if the trader has a current license. This would be an additional task for the inspectors and would probably cause repeat visits to remove the seals from devices after a license had been obtained. This additional task however, would not contribute in any way to consumer protection.

It is doubtful that this system would be attractive to traders. This would be one more in the long list of licenses required to operate a business. As such, this might not be a "politically" acceptable alternative.

Equity of Inspection Fees

Before discussing the preceding policy alternatives any further, we should look at the much more basic question of the equity of inspection fees. Is it equitable that device users pay for inspections? The answer to this question lies in the objective of the inspection function. There are a number of possibilities.

1. To protect the device owner/user (seller)
2. To protect the consumer (buyer)
3. To ensure equity in trader (for both buyer and seller)

From speaking to both the inspection personnel and headquarters staff, it appears that the objective is either to protect the consumer or to ensure equity in trade, or, perhaps a combination of these two.

To carry this even further, let us look at who derives the greatest benefit from this function.

When an inspector finds a device in error in the seller's favour and corrects this situation then the buyer benefits. If he finds an error in the buyer's favour then the opposite is true.

Statistics gathered to date indicate that there are slightly more errors in favour of the seller than there are in favour of the buyer (consumer); therefore finding and correcting these errors benefits the buyer at least as much, if not more than the seller. Furthermore, if the maintenance of the devices is the responsibility of the trader, and our inspection is primarily a policing function, is it equitable that the trader pays for the entire cost of this function?

Since the buyer (consumer) derives as much benefit from inspection as the seller it follows that he should also pay for a portion of the cost.

It would be difficult however to arrive at a proper cost sharing formula because of the variety of devices inspected in the large variety of trades. Perhaps the simplest and most equitable answer would be to have the entire cost paid for out of tax revenues; both the buyer and seller pay taxes. This then would eliminate inspection fees.

Suggested Alternative

1. Regular Inspections

Because of the foregoing, it is strongly suggested that a policy be adopted that eliminates fees for all normal inspections. This policy would not be without precedent. In the Retail Agriculture Products Inspection Service we do both scheduled and special inspections but charge no fees. The Weights and Measures inspectors inspect store packaged goods for correct weight or volume (Short Weight Inspection) but charge no fees. The objectives of these activities do not appear to differ significantly from device inspections and in all cases the major beneficiary is the buyer (consumer).

2. Request Inspections

We are still faced however, with the question of request inspections. We should continue to charge for those inspections which the trader requests because he is not sure if his device functions accurately, or because he has a contract which demands inspection, for two reasons:

- a) Since we are there at his request, he obviously expects to benefit from the inspection. Therefore, he should have to pay for it.
- b) If we did not charge, there would be a sharp increase in the number of request inspections.

Inspections of this type generated approximately \$125,000 in revenue in 1971. Under the proposed fee schedule this figure would probably increase to \$350,000 - \$400,000.

Consideration should perhaps be given to charging for this service at a straight hourly rate for inspector and equipment, plus expenses, rather than a detailed schedule of fees (the proposed schedule is 7 pages long).

It is essential however, that this rate be set at least as high, if not higher than that of the device repair trade. This would encourage the trader to go to them rather than to us. It should not be our objective to build up this type of activity with the object of growth and increased revenue. This type of objective should be left to private industry i.e. the device repair trade.

Most other request inspections are the result of present legislation. As mentioned earlier, device manufacturers cannot sell their devices unless they have been inspected and verified. If, as earlier suggested, this policy were changed to a sampling policy, to be done only when we felt it was required, fees for this would no longer be advisable.

Re-inspections

Present legislation also dictates that if a device has been repaired it must be re-inspected and verified within a time limit. If this re-inspection does not fit in the inspector's normal schedule, and a special trip is required, the fees are charged on the same basis as if it were a request inspection. It does not seem reasonable however, that a trader should pay for an inspection that he would not request if it were not mandatory by law. We suggest therefore, that if a trader requests an inspection because legislation demands it (such as re-inspections), there should be no fees charged.

A further question whether this should in fact be required by the legislation. If repairs have been made by a competent repairman, the device should be correct. The question is however, whether most device repairmen are competent. Indications are that while many of the device manufacturers have competent repair facilities, many repairs are being made by other service firms, mostly small, who do not have

adequately trained staff. Many of these are operators of the "fly by night" variety. We therefore suggest that serious consideration be given to instituting a system of control over the repair trade. Perhaps the most effective way that this can be done is through a licensing system. This is currently being done in several states of the U.S. with a good deal of success, notably Colorado and the Counties of Santa Barbara and Ventura in California. In Colorado the repair firms are licensed and are required to post a performance bond, while in California individual repairmen are licensed. Repairmen are required to undergo technical training and must pass an examination before they can apply for a license. With this system it is possible to control the quality of the trade since inferior work would result in the loss of the repairman's license and livelihood.

In effect, this would remove from our inspectors the adjusting and a good deal of the calibration function and place it with the device repair trade.

Consultation with the device manufacturers and service organizations would be needed in order to implement this type of system.

Compliance

The objective of the inspection function should be to compel device users to comply with the Weights & Measures Act, thereby ensuring some equity for both buyer and seller. From the statistics gathered from the Halifax pilot and from the extended national pilot to date, it appears that this can best be accomplished through more selective inspection. For example, dormant scales with a capacity of over 6,000 lbs. show an error factor of 46.1% while portable platform scales are only 23.8% in error and equal arm scales only 13.3% in error. From these figures it does not seem reasonable that we inspect these devices with the same frequency.

Most inspectors agree that the vast majority of devices found in error are not the result of intentional fraud, rather of carelessness or ignorance. However, this is small comfort to the consumer who is being short-changed. How can the inspection service encourage greater compliance? Is there presently a deterrent sufficiently strong to encourage compliance? It appears not. While we find that about 23% of all devices are in error, our record of prosecutions show only about one or two per year. The new Act, of course is meant to improve this. It contains provisions which should make it easier to prosecute and penalties upon conviction have been substantially increased. However, prosecution under this and most other Acts is a lengthy and expensive process. In order to encourage greater compliance with perhaps less administrative effort, we suggest the following alternative be investigated.

Since the inspection function is primarily one of policing, perhaps penalties can be handled in a similar way to other policing functions, specifically the enforcement of traffic laws. This would mean the introduction of a system of fines.

When an inspector finds a device in error, he would write a ticket, similar to a traffic ticket. If this were a first offence, the ticket could serve as a warning only since the offence was probably the result of carelessness or ignorance. A record of all warnings issued would be kept on file in the District Office. If the same trader were found in contravention again within

the same year, the inspector would write another ticket, but this one would carry an automatic pre-set fine (perhaps \$25.00). The trader would of course have the option of going to court to fight the charge (similar to the option available in traffic cases). For subsequent offences in the same year, the pre-set fines would be increasingly higher (perhaps as high as the maximum allowable under the new Act, \$5,000 for the fourth or fifth offence).

Together with this type of system, a great deal more trader education seems to be required. Most traders do not know how to check their own devices for accuracy nor how to perform simple maintenance operations such as zero balancing. Since it is their responsibility to ensure that their devices operate accurately, perhaps it should be a responsibility of the Weights & Measures Service to educate them.

The result of this type of policy should be a much greater percentage of compliance than is now the case (77%). The introduction of a system of pre-set fines should reduce the number of errors due to carelessness; while an education program should reduce the number of errors due to ignorance.

Conclusion and Recommendations

In this paper we have described present Weights & Measures fee policy in some detail. We have further described two alternative policies which would generate revenue with less serious disadvantages than present policy.

A discussion on the equity of charging a fee for inspections is followed by a suggested alternative which we feel is a good deal more attractive than the others. At the end of this paper we have shown that a strong deterrent to non-compliance is needed and that it should be possible to introduce this into the system.

The following is a point by point list of the advantages and disadvantages of all the alternatives discussed:

A. Present Policy

Advantages

1. Can be run as a cost recovery operation.

Disadvantages

1. Difficult to inspect selectively.
2. Little incentive to do policing type inspections.
3. Inspectors are often turned into bill collectors.
4. The cost of fee collection is extremely high.
5. Inspectors adjust a large number of devices.
6. Responsibility for maintaining devices is not clearly indicated.
7. Little deterrent to non-compliance.

B. Fees for Original Verifications and Re-inspections Only

Advantages

1. Can recover at least partial costs.
2. Responsibility for maintaining devices can be clearly indicated.
3. No difficulty with selective inspection.
4. Lower cost for fee collection.

Disadvantages

1. To recover total costs, fees would be exceedingly high.
2. 100% inspection at manufacturer or importer level would have to continue.
3. Inspectors would still often be bill collectors.
4. Re-inspection fee probably not a sufficient deterrent to non-compliance.

C. Device License System

Advantages

1. Can be run as a cost recovery operation.
2. Responsibility for maintaining devices can be clearly indicated.
3. No difficulty with selective inspection.

Disadvantages

1. Selling licenses quite costly.
2. Additional task for inspectors to police licenses.
3. Little deterrent to non-compliance.
4. May not be politically acceptable.

D. Suggested Alternative

Advantages

1. Fees would be more equitable (charges based on benefit; therefore charge for request inspections only).
2. Responsibility for maintaining devices would be clearly indicated.
3. No difficulty with selective inspections.
4. Cost of collecting remaining fees low.

Disadvantages

1. Total costs would not be recovered.

ted Alternative (Cont'd)

Advantages

Disadvantages

Original verifications and re-inspections
not mandatory.
Strong deterrent to non-compliance.
Control over device repair trade.
For a key factor analysis chart
see Appendix A.

are aware that all of the administrative, legal, and technical implications of
suggested alternative have not been discussed. These would require further
study. However, based on the above analysis we recommend that:

*A policy be adopted which eliminates fees for all regular inspections.
We continue to charge for request inspections, with fees sufficiently
high to recover total direct costs, and at least as high as those of
the device repair trade.*

*Original verifications to be on a sample basis, to be done only when
required.*

Re-inspections no longer be mandatory by law.

Control over the device repair trade be given serious consideration.

*Inspectors no longer adjust devices during a policing inspection but
that devices be rejected when any contravention is found.*

A system of fines be introduced as a deterrent to non-compliance.

A program of trader education be introduced.

KEY FACTOR ANALYSIS

	<div>Present Policy</div> <div>Fees for Original Verification and Re-inspection</div> <div>Device License System</div> <div>Proposed Alternative</div>			
1. Cost Recovery	Total	Possibly Total	Total	Partial
2. Cost of Fee Collection	High	Medium	High	Low
3. Difficulty with Selective Inspection	High	Low	Low	Low
4. Responsibility for Maintaining Devices Clear	No	Yes	Yes	Yes
5. Inspectors are bill collectors	Yes	Sometimes	Sometimes	Seldom
6. Sufficient deterrent to non-compliance	No	Some	No	Yes
7. Original Verifications and Re-inspections mandatory	Yes	Yes	No	No
8. Fees based on benefits received from inspection	No	No	No	Yes



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