BC Pickers: A Report on Piece Rates in Agriculture

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Introduction

The Employment Standards Act and the Regulation issued pursuant to the Act contain several provisions that apply to farm workers in general. Overall they enjoy fewer rights under the Act than other workers. For instance, farm workers are not entitled to overtime or statutory holiday pay. Pertinent to this report, Section 18 (1) of the Regulation provides that hand harvest workers may be paid minimum piece rates specified in the regulation instead of the hourly minimum wage applicable to almost all other workers. Currently, the rates apply to 15 crops, all fruits and vegetables, plus daffodils. The food crops are: apples, apricots, beans, blueberries, Brussels sprouts, cherries, grapes, mushrooms, peaches, pears, peas, prune plums, raspberries and strawberries.

This report is a brief summary of the status of piece rate farm workers. In particular, the report consists of the following parts:

I. Review the literature pertinent to this group of workers;
II. The history of the piece rate minimum wage for harvest workers;
III. Increases in the piece rate minimum wage compared with increases in the general minimum wage;
IV. A comparison with the minimum wage regime for farm workers with other jurisdictions in Canada and the United States.
V. Analyze the characteristics of these farm workers with specific reference to gender age and any other characteristics available. Where possible, this analysis will refer to specific crops;
VI. As possible, analyze the effects of changes to the minimum wage on employment in the industry.

I. Literature Review

From a compensation perspective, piece rates seem archaic. Historically, piece rates were used in the early stages of manufacturing. As management practices developed, they were abandoned in favour of hourly pay, perhaps enhanced by bonuses to reward high productivity. Piece rate compensation is still common in certain branches of manufacturing, especially
clothing, in many countries. In North America agriculture remains one of the few sectors where piece rates are used, invariably for hand harvesting.

For this reason, most of the academic literature on piece rate compensation is based on farming. One common argument in favour of piece rates is that it enables workers of varying capabilities to work in a single operation, with minimal supervision. Employers do not have to monitor the productivity of piece workers closely. Workers who regard themselves as highly productive can opt for this form of compensation to maximize their earnings, as can workers with limited productivity who are relieved of the stress of close supervision (Newman and Jarvis, 2000; Bolanda, Drezeb and Leriu, 1999). In a modern economy, piece rate pay systems do not encourage either workers or employers to develop workers’ skills, so other pay systems, which may include productivity bonuses, are preferred.

Unions and other worker representatives generally oppose piece rates or other incentive systems. They are concerned that workers have an incentive to work long hours, avoid rest breaks and can be manipulated to compete with each others for the benefit of the employer. Piece rates systems, if fairly administered, are complex. The employer must first set the rate, with or without participation by employees. Then a system of measurement of results is necessary, together with checks that material produced or harvested is accurately credited to an individual worker. There also is evidence that piece rates are associated with higher rates of workplace accidents (Johansson, Rasko and Stenberg 2010).

British Columbia perspectives on piece rates are consistent with the general views on the subject. British Columbia farmers support the piece rate system for several reasons. The most important is the low level of close supervision required. Employment is short-term, work is carried out over large tracts of land and workers are motivated to work hard and require minimal supervision. In addition, the system accommodates workers with varying skills and earnings objectives. Some harvest workers are not very productive or have specific earnings targets. The employer does not have to screen the work force for productivity or motivation. Employers are free to switch between piece rate compensation and hourly wages, according to the dictates of the harvest, weather, etc.

Growers state, supported by government-commissioned reports, that productive piece workers earn considerably more than the hourly minimum wage. Growers who do use piece work may raise the rate to retain workers in seasons when crops are abundant.
Farm labour contractors are a significant factor in the harvest labour market in the Fraser Valley. They first appeared in the 1970s when large numbers of Indo-Canadian immigrants sought seasonal work in agriculture. Contractors are creatures of the Act. The Act enables growers to engage harvest labour without becoming an employer under other statutes, a role the contractors fill. Farm labour contractors must be licensed by the provincial government and meet standards for bonding, record keeping and the like. When workers are paid by piece rates, growers record workers’ production and pay a fee to the contractors to include compensation for workers, statutory deductions and transportation costs. Contractors have been the subject of enforcement actions described below.

Opposition to piece rates in British Columbia agriculture has been muted. The Canadian Farmworkers Union (CFU) opposed the introduction of the system when it was first proposed. Subsequently, the Union has been unable to establish bargaining rights in enough farms to affect compensation systems. Among the objections to piece rates has been the lack of checks on the measurement of production, the opaque system for establishing minimum piece rate, the tendency of some piece workers to endanger their health by working excessive hours, etc. At various times, complaints about abuse of piece rate workers in British Columbia have arisen (Thompson 1994), validating some of the concerns labour has expressed about piece rates (Moore 2004). These are discussed in Section II of this report.

II. History and Origins of the Piece Rate Minimum Wage

The provincial government established the current system of regulated minimum piece rates in 1981. This decision came when the issue of compensation systems for farm workers, especially hand harvest workers, was under discussion in BC and elsewhere in Canada. In 1979 and 1980, the CFU argued that farm workers should be included in the provincial labour standards legislation, including the minimum wage. The CFU organized workers on several farms and had some success in negotiating collective agreements. Simultaneously, government of Ontario permitted piece rates where the system was customary on the condition that employees “exercising reasonable effort” would earn at least the minimum wage. In 1980, the Quebec government extended minimum wage coverage to farms with over three workers, but exempted seasonal harvest workers and employees engaged in non-mechanical operations in
fruit growing or horticulture. It also exempted local labourers who had worked less than 18 weeks agriculture during the previous year.

Against this background, the BC Government promised in 1980 to include farm workers under the provincial Labour Standards law. Late in 1979, the BC Federation of Agriculture (predecessor of BC Agriculture Council) had agreed that farm work customarily done on an hourly basis should be subject to the minimum wage. On the other hand, the Federation supported minimum piece rates for those crops where this system was already used. The CFU advocated that all workers in agriculture should be covered by the minimum wage without any qualification.

Thus, by 1980, a consensus existed that the minimum wage should be extended to farm workers but without agreement about the application of minimum piece rates. The Ministry of Labour Research & Planning Branch commissioned a study by Colin Aykroyd on the subject “Application of the Minimum Wage to Farm Labour” (Aykroyd, 1981 the “Aykroyd Report”).

The study did not include a statement of its purpose or an explicit requirement that it provide recommendations on changes to any system of wage determination for agriculture. A close reading of the report revealed its purpose. The author reviewed the positions of the parties on the issue. He also reported that the Ministry wanted any system to be administratively feasible. Aykroyd concluded that the parties’ positions could not be reconciled and recommended that minimum piece rates be used in some sectors. These recommendations form the basis of the current piece rate system.

The scope of the Aykroyd report was not completely clear, beginning with the choice of crops included in the review. At several points in the report, the author refers to crops where piece rates were customarily used, so this was a clear criterion. Predictably, these crops relied on hand harvesters, rather than mechanical harvesting techniques. Evidently, some crops were not included because they were small, were harvested mechanically or were not sufficiently organized to provide data for Aykroyd or other reports that followed.

Aykroyd’s review of the arguments for hourly rates was less extensive. One example of the value of hourly rates was the need to attract experienced pickers to harvest crops where appearance and maturity and appearance were important, such as peaches and apples. From the perspective of pickers, the uncertainty of earnings or the possibility that posted piece rates may be too low can discourage pickers from accepting employment under a piece rate regime. Thus,
hourly wages are common at the beginning and end of the harvest cycle, when the condition of the product is not certain.

Aykroyd did not obtain the views of hand harvest workers themselves, other than receiving representations from the CFU and the BC Federation of Labour. He acknowledged that many workers were in fact employed by farm labour contractors, but did not obtain data from either the contractors or their employees. He did note in a small number of cases the piece rates growers paid contractors as contrasted with the rates that workers received. The margin was on the order of a 50 per cent mark up to the contractors, including transportation costs and statutory benefits.

After evaluating this evidence, Aykroyd made a number of recommendations to the Ministry of Labour, the most relevant of which were:

1. Establish a scale of minimum piece rates for fruits and vegetable crops “customarily harvested by piece rates such that a worker of ‘reasonable skill and diligence’ can earn the minimum wage.”

2. Piece rate workers under 18 years of age must be paid at least the minimum piece rate for hand harvesting.

3. Piece rate workers 18 years of age and older must be paid the minimum piece rate for the first five days of employment for full-time harvesters and the first 40 hours for casual or part-time workers. Thereafter they must be paid a rate sufficient to yield the hourly minimum wage for all hours worked.

4. Piece work earnings should be averaged over the whole period of employment by 5 days or 40 hours and should be adjusted to ensure that employees are earning the minimum wage.

5. A limited spot check of harvest productivity be carried out in the field to correct or extend the results presented in this report and the initial piece rate schedule. Several crops harvested at least in part by piece work remain to be harvested.

To support these recommendations, Aykroyd surveyed 60 farms producing a total of 11 crops to establish recommended piece rates for them. He examined productivity records, including earnings in some cases and included evidence provided by Farm Labour Pools in the two major agricultural areas. In addition, he incorporated productivity data from crops grown in some American jurisdictions, relying on data collected by the U.S. Department of Agriculture.
The conclusion of the Aykroyd report was a list of recommended piece rates for 11 crops: raspberries, blueberries, strawberries, cherries, apples, pears, apricots, peaches, prunes, grapes and Brussels sprouts,

The system Aykroyd proposed, outlined in the first paragraph of his summary recommendations, was the basis for government policy that has prevailed to the present. In essence, the government decided that piece rate workers would not be entitled to a minimum wage for time worked, but would be assured of a minimum payment per unit worked. The system was expanded some point, with the addition of beans, peas, mushrooms and daffodils to the list of crops in the Aykroyd report. There is no record of the recommendations regarding workers under 18 years of age or the averaging of hours were implemented.

Administration of the system in the Aykroyd Report after the initial implementation of the minimum rates has proven to be difficult. The Regulation that established the minimum piece rates has apparently never specified any criteria for the piece rate minimum. Aykroyd recommended that the piece rate be set at a level such that a worker of “reasonable skill and ability” should receive the equivalent of the hourly minimum wage. That principle has not formally guided adjustments to the piece rate minima since 1981. Some reports cited below noted that a rate would ensure that at least 50 per cent of piece rate workers earned the hourly minimum. Elsewhere, piece rates were sufficient to yield 75 per cent of workers “hourly minimum.

The author did not appreciate the dynamic nature of agriculture in the piece rate crops. Farmers seek new production techniques to improve yields, reduce costs and where possible reduce harvest labour. Crop varieties, the management of plantings, the use of technology, among other factors, evolve over time. As a result the potential earnings of piece workers change over time. Aykroyd did not discuss adjustments to piece rates over the longer term.

The partial history of the system is that the piece rates recommended by Akyroyd apparently were established about 1982. Increases were linked to changes in the minimum wage until 1993 (Malatest, 1995, the “Malatest Report”). The rates in place in 1992 were approximately 50 per cent higher than the recommendations in the Aykroyd Report. This arrangement proved to be unworkable, at least in the opinion of the growers, an issue that has risen on several occasions since then. (There is no record of any regular consultation with
workers or their representatives). The Ministry faced pressure to change the minimum piece rates, but lacked the tools to carry out this task.

One result has been two studies of piece rates approximately 14 years apart. Two large reports, carried out by private consulting firms, addressed the issues of the appropriate minimum piece rates. The first report the Malatest Report was issued at the end of 1995, and a second review was completed at the end of 2011 (Zbeetnoff, 2011, the “Zbeetnoff Report”). In each case the consultants pointed out discrepancies in existing piece rates vis a vis the minimum wage, based on earnings of piece rate workers, productivity and prices for the commodities involved. The reports did not analyze all of the crops subject to the minimum piece rate, but concentrated on the most important commodities and those in which piece rates were used most frequently.

Since 1992 the piece rates have been changed 11 times, generally timed to coincide with increases in the provincial minimum wage. According to the Malatest Report, the Ministry of Skills, Training and Labour commissioned the study because of “industry concerns,” about the piece rates. The report examined the appropriateness of piece rates prevailing in 1992.


The Report did not elaborate on the problems with administration of the piece rate program. It cited information provided by federal authorities who enforced the EI program (then Unemployment Insurance) and the RCMP as follows:

[EI] receives numerous complaints about contractors’ failure to pay wages, incorrect records of earnings and other matters connected with the administration of the Unemployment (UI) program. During the Commission’s work, one contractor was charged with falsification of employment records required by EIC and law enforcement stated that other investigations were underway (p. 43).

In addition, the Report stated that some contractors did not pay workers until farmers paid them, growers or contractors controlled the measurement of material pickers turned in for payment and pickers could not verify the amounts picked. Some workers complained that they worked without pay in exchange for false statements of earnings (p. 48).

Growers attacked the Report’s findings, including those regarding piece rate workers. The government of the day responded by establishing the Agriculture Compliance Team (ACT), comprising investigators from the Employment Standards Branch, Human Resource
Development Canada and Canada Custom and Revenue Agency. The ACT investigates a large number of farms and farm labour contractors, starting in May 1997.

The results of the ACT’s work were compelling. In the 1999 harvest season, they identified 82 farm labour contractors who had violated the terms of their licenses, issued 855 determinations against employers for violation of significant entitlements, collected over $100,000 in penalties and over $300,000 in unpaid wages (Moore, 2004). Many of these violations were connected to the farm labour contractor system in the Fraser Valley. However, the ACT found numerous violations related to the piece rate compensation system. The Regulation was amended to redress some of the deficiencies in requirements for labour contractors.

When the government changed in 2001, the new Minister of Agriculture, Food and Fishers opposed the ACT on the grounds that its investigations interfered with the harvest. In January 2002, the ministries of agriculture and labour essentially disbanded the ACT. The Ministry of Skills Development and Labour agreed with the BC Agriculture Council to ensure that farmers and contractors observed the laws and regulations that applied to harvesting in the Fraser Valley (Moore, 2004). The results of the agreement are not known. It has been renewed at least twice. No information is available on any abuses of the EI regulations by piece workers or farm labour contractors. The Employment Standards Tribunal has not adjudicated a significant of appeals against determinations on these subjects in the past 5 years. In short, no information is available to affirm or contradict of the Thompson report or the ACT investigations in the past 10 years.

The Malatest study was another response to the Thompson report. Malatest did not elaborate on the nature and of industry concerns about the 1993 piece rates, but the pattern of changes in the piece rates since 1992 indicates possible sources of complaints from growers.

The authors conducted a detailed examination of the piece rate system and the cost structures of growers in monitored production and productivity for 14 crops, the 11 crops Aykroyd reviewed, plus mushrooms, peas and beans. They interviewed farm owners, farm workers, government experts and industry representatives. The report also examined the current market prices for these crops, as well as labour’s proportion of operating cost for each commodity.
Stated briefly, the authors found that the piece rates for harvesting raspberries, strawberries, blueberries, apricots, Brussels sprouts and were too low to assure some proportion of workers received the minimum wage. The definition of “some portion,” varied between 50 and 75 per cent of the labour force. The analysis found that the piece rate for peaches, cherries, prunes, grapes and pears enabled most workers to earn as much or more than the minimum wage. The research team was unable to obtain enough information to determine if the piece rates for beans and peas enabled piece workers to earn the minimum wage. Almost all of the vegetable crops were harvested mechanically, so piece rates were not significant. In addition, the survey found that almost none of the apricot harvest workers would earn the minimum wage by working for the piece rate, but the use of piece rates also was very limited.

Although the relation between the regulated piece rates and the minimum wage was mixed, the Malatest found that many farmers paid more than the stipulated piece rates, particularly in raspberries, apricots, grapes and mushrooms. Overall, the 1993 rates provided the majority of harvest workers with the minimum wage or more for 7 of the 12 crops surveyed. Few piece rate workers were in the apricot harvest, one of the crops with a low piece rate.

Based on small samples, the Malatest study revealed deficiencies in the schedule of piece rates, but found that piece workers’ earnings exceeded the minimum wage. Since the harvests are time-sensitive, employers may offer competitive rates in order to obtain workers when needed. No evidence to support this practice was available.

The rationale for the changes in the piece rates since 1992 is not available. A Freedom of Information request in connection with this report did not provide information on changes in time for presentation to the Commissioners.

The results of the Malatest Report are unclear. The report appeared in December 1995. The minimum wage at that time was $6.50 per hour, effective March 1, 1995, an increase of 18.8 per cent over the previous rate of $5.50, which had been in effect since February 1, 1992. Based on a $6.50 hourly minimum wage Malatest had identified the minimum piece rates for blueberries, raspberries and strawberries as too low to produce earnings equal to the minimum wage for most workers. Brussels sprouts were also low, but the crop was small and partially mechanized. In particular, Malatest estimated that the minimum piece rate for raspberries, strawberries and blueberries “would have to be increased by 47.5%, 32.4% and 48.1% respectively in order to ensure that 50% of workers earned the minimum wage of $6.50/hour.”
The comparable increase for Brussels sprouts piece rates was approximately 32 per cent.

The provincial minimum wage rose to $7.00 per hour on March 1, 1996, an effective increase of 7.7 per cent over the 1995 rate. In 1996, minimum piece rates for blueberries, raspberries and strawberries were increased by 3.39 per cent, 7.84 per cent and 7.29 per cent, respectively. By contrast, increases for other crops ranged from 0 per cent (apples, cherries, grapes, mushrooms, peaches, pears, and prunes) to over 9 per cent (beans, peas).

No rationale for these disparities is available. One explanation might be in the timing of the increases and the harvest seasons of the crops. The minimum wage increased by a total of 27.7 per cent between March 1, 1995 and March 1, 1996. By contrast, the most generous increase in the minimum piece rate was for beans (20 per cent). The minimum piece rates for the berry crops Malatest highlighted increased by approximately 3.4 percent for blueberries and 17 percent for raspberries and strawberries. Malatest identified mushrooms, pears, grapes and cherries as crops where the minimum piece rate could be reduced to ensure that half of pickers earned the provincial minimum wage. Minimum piece rates for those crops had increased between 8.12 per cent (cherries) and 9.21 per cent (pears, grapes and cherries) in 1995, but did not increase in 1996. In March 1996, the BC Hort Coalition, the umbrella organization of fruit and vegetable growers’ associations announced that the

Ministry of Labour and horticulture industry have reached an agreement on the piece rates for 1996. . . It should be noted that the results for all berry crops, peas, beans and brussel (sic) sprouts were inconclusive. As a result, we have negotiated an agreement to conduct a further study, of these commodities, in 1996 (B.C. Hort Coalition: Issues and Answers, March 1996)

The newsletter contained 1996 piece rates for 6 commodities, including raspberries and strawberries, beans, peas, mushrooms and apricots, with increases of 8.3 per cent over the 1995 rates, and a 4 per cent increase for apricots. Other rates were unchanged. The rates in the newsletter were identical to the Regulation for 1996.

The Zbeetnoff Report’s stated objective was to provide information to assist the BC Ministry of Labour, Citizens’ Services and Open Government to determine whether existing minimum piece rates for hand harvesters meet minimum wage provisions, assess the effectiveness of piece rates in the provision of “competitive farm harvest labour for BC farmers,” gain an understanding of the role of piece rate employment in the sectors using the system.
The body of the study consisted of an examination of the piece rate system in the cherry, apple and blueberry harvests, using small samples and earnings data supplied by employers. Cursory descriptions of the economic conditions of peaches, pears, raspberries, and vegetable crops supplemented the more thorough review of the three major crops.

Zbeetnoff described the labour force for the cherry harvest as discussed in Part V of this report. Overall, 79 per cent of the workforce sampled worked on the piece rate. The cherry harvest is relatively short for each individual species. In a sample of 938 workers, the average earnings (converted to hourly rates) were $18.59 per hour. The survey found that 92 per cent of the piece rate workers earned more than $10.25 (the current minimum wage) per hour. A total of 75 per cent earned more than $15.00 per hour. Only 8.4 per cent of the workers earned less than the minimum hourly wage while they were working on piece rate.

The second most important crop in the Okanagan was apples. The survey of a small sample found that piece rate was the majority pay system. On average, these workers earned the equivalent of $16.43 per hour. A total of 93 per cent of the sample of piece rate workers earned the equivalent of 10.25 per hour and 58 per cent earned more than $15.00 per hour.

Analysis of a small sample of grape pickers revealed that the average equivalent rate for piece rate workers converted to hourly wages was $15.53. A total of 80 per cent of the pickers earned the equivalent of $12.00 per hour.

Brief discussions of harvests of apricots, plums, peaches and peaches did not yield any data on wages. In many cases, these crops are grown on farms with a larger share of their acreage dedicated to other commodities. The unspoken assumption of the review is that hand harvesters moved from one crop to another on the same farm so that piece rates would be comparable across crops.

Hand harvesting in the Fraser Valley is dominated by blueberries. The harvest period is about 13 weeks, since individual varieties have different harvest seasons. About two-thirds of pickers surveyed worked under piece rates, and hourly rates were paid at the beginning and end of the harvest season. The average hourly rate equivalent for piece rate workers was $9.91, approximately equal to the prevailing hourly minimum wage of $8.75. Approximately 48 per cent of the labour force earned less than the minimum wage, and 74 per cent earned less than $10.25, the May 2012 minimum wage.
Limited data were available for raspberries and strawberries. Blueberries drove the labour market, so there was an assumption that piece rates in the smaller berry crops were similar. All strawberries are hand-harvested.

The labour environment for the vegetable crops, peas, beans and Brussels sprouts were similar. These crops are mostly part of a crop rotation program. All Brussels sprouts are harvested mechanically by local and temporary foreign workers. The other two crops are hand harvested for the fresh market and mechanically for the processed market. An estimated 75 per cent of the beans and peas are processed. No wage data were available.

Mushrooms are harvested by hand during the entire year by piece rate. No firm data were available, but anecdotally, the growers were thought to pay about $12.00 per hour. They complained of labour shortages.

The Zbeetnoff report contained the only data on daffodils available to the public, and the sample was very small. In brief, the growers used foreign workers paid by the hour and a number of local piece workers who were thought to earn the equivalent of approximately $12.00 per hour.

The Ministry received the Zbeetnoff report and announced that “piece rates for hand-harvested crops listed in the employment standards regulation will remain unchanged as the review found that current rates are appropriate for both workers and employers.” (Fairey 2012). The BC Agricultural Council stated that it “coordinated discussions with the Ministry to address the importance of piece rates for some commodities.” (Ibid.) The report was dated December 31, 2005, and piece rates were next changed in 2011, when all rates increased in proportion to a new minimum wage.

In general, the review of piece rates shows several broad trends. Cherries and apples produce the highest earnings, although the cherry harvest is brief. The workers picking these crops are Canadians with a preponderance of males, with participation by younger females. The lower-paid crops are the berries and vegetables in the Fraser Valley, where the workforce is dominated by older females.

III. A Comparison of the Piece Rate Minimum Wage and General Minimum Wage

The common assumption is that minimum piece rates increases are linked to changes in
general minimum wage. A review of the data in Table 1 demonstrates that such linkages have been unusual. The rate of change in piece rates generally and a few crops in particular has deviated considerably from changes in the minimum wage. In the past 25 years, minimum piece rates were approximately the same as the general minimum wage for 5 of the 11 changes to piece rates since 1992, in the years 1998, 2000, 2001, 2016 and 2017.

For example, in 1995, the minimum wage rose by 18.18 per cent over the rate that prevailed in 1992. No piece rate rose by that amount, and most increased by about 9 per cent. The rate for blueberries was unchanged. Presumably, changes in technology, such as the varieties of crops, their spacing or the size of trees or bushes, had caused worker productivity to increase beyond the rate of change in the minimum wage. The changes piece rates reflected the public policy that piece rates should not exceed the minimum wage for most workers. In 1999, piece rates increased by approximately 7.6 per cent, and the minimum wage did not change. In 2003, the provincial government removed statutory holiday pay from piece rates, and reduced them by 3.6 per cent to reflect that change. The discrepancy is especially striking in 1999, when the minimum wage rose by 18 per cent, and piece rates increased by about half of that figure. The same difference occurred in 2011, when the minimum wage rose by over 18 per cent, double the rate of increase for piece rates. The final large difference was in 2015, when the minimum wage increased by 10 per cent, approximately 5 times the rate of increase to piece rates.

### Table 1 - Comparison of Minimum Wage and Minimum Piece Rates

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<td>$0.11</td>
<td>$0.11</td>
<td>$0.13</td>
<td>$0.13</td>
<td>$0.14</td>
<td>$0.14</td>
<td>$0.15</td>
<td>$0.14</td>
<td>$0.15</td>
<td>$0.15</td>
</tr>
</tbody>
</table>

**Hourly Minimum Wage** | $5.50 | $6.50 | $7.00 | $7.15 | $7.45 | $7.60 | $8.10 | $8.00 | $8.75 | $9.25 | $10.45 | $10.85 | $11.35
The cumulative effects of these changes is demonstrated in Table 2, which shows that over the past 25 years, the minimum wage has risen by a total of 106.4 per cent, while the average for the 14 food crops was approximately 60 per cent.

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Wage</td>
<td>18.18%</td>
<td>7.69%</td>
<td>2.14%</td>
<td>0.00%</td>
<td>6.29%</td>
<td>5.26%</td>
<td>0.00%</td>
<td>18.75%</td>
<td>10.00%</td>
<td>3.83%</td>
<td>4.61%</td>
<td>106.36%</td>
</tr>
<tr>
<td>Apples</td>
<td>9.21%</td>
<td>0.00%</td>
<td>2.13%</td>
<td>7.59%</td>
<td>6.29%</td>
<td>5.27%</td>
<td>-3.58%</td>
<td>9.36%</td>
<td>1.93%</td>
<td>3.85%</td>
<td>4.61%</td>
<td>56.76%</td>
</tr>
<tr>
<td>Apricots</td>
<td>9.21%</td>
<td>8.22%</td>
<td>2.11%</td>
<td>7.57%</td>
<td>6.31%</td>
<td>5.26%</td>
<td>-3.60%</td>
<td>9.36%</td>
<td>1.94%</td>
<td>3.85%</td>
<td>4.61%</td>
<td>69.63%</td>
</tr>
<tr>
<td>Beans</td>
<td>10.00%</td>
<td>9.69%</td>
<td>2.22%</td>
<td>7.61%</td>
<td>6.06%</td>
<td>5.71%</td>
<td>-3.60%</td>
<td>9.35%</td>
<td>2.14%</td>
<td>3.77%</td>
<td>4.44%</td>
<td>72.67%</td>
</tr>
<tr>
<td>Blueberries</td>
<td>0.00%</td>
<td>0.39%</td>
<td>2.30%</td>
<td>7.69%</td>
<td>6.25%</td>
<td>5.32%</td>
<td>-3.72%</td>
<td>9.39%</td>
<td>2.02%</td>
<td>3.71%</td>
<td>4.52%</td>
<td>48.47%</td>
</tr>
<tr>
<td>Brussel sprouts</td>
<td>9.52%</td>
<td>9.70%</td>
<td>2.40%</td>
<td>7.81%</td>
<td>5.80%</td>
<td>5.40%</td>
<td>-3.25%</td>
<td>9.40%</td>
<td>1.84%</td>
<td>3.61%</td>
<td>4.68%</td>
<td>71.43%</td>
</tr>
<tr>
<td>Cherries</td>
<td>8.12%</td>
<td>0.00%</td>
<td>2.21%</td>
<td>7.54%</td>
<td>6.22%</td>
<td>5.45%</td>
<td>-3.76%</td>
<td>9.27%</td>
<td>1.79%</td>
<td>3.95%</td>
<td>4.64%</td>
<td>55.00%</td>
</tr>
<tr>
<td>Grapes</td>
<td>9.21%</td>
<td>0.00%</td>
<td>2.14%</td>
<td>7.63%</td>
<td>6.24%</td>
<td>5.26%</td>
<td>-3.60%</td>
<td>9.33%</td>
<td>1.93%</td>
<td>3.84%</td>
<td>4.59%</td>
<td>56.67%</td>
</tr>
<tr>
<td>Mushrooms</td>
<td>9.70%</td>
<td>0.00%</td>
<td>2.21%</td>
<td>7.57%</td>
<td>6.53%</td>
<td>5.19%</td>
<td>-3.59%</td>
<td>9.30%</td>
<td>2.13%</td>
<td>3.75%</td>
<td>4.42%</td>
<td>57.58%</td>
</tr>
<tr>
<td>Peaches</td>
<td>9.21%</td>
<td>0.00%</td>
<td>2.14%</td>
<td>7.63%</td>
<td>6.24%</td>
<td>5.26%</td>
<td>-3.60%</td>
<td>9.35%</td>
<td>1.93%</td>
<td>3.84%</td>
<td>4.50%</td>
<td>56.67%</td>
</tr>
<tr>
<td>Pears</td>
<td>9.22%</td>
<td>0.00%</td>
<td>2.16%</td>
<td>7.60%</td>
<td>6.27%</td>
<td>5.32%</td>
<td>-3.62%</td>
<td>9.40%</td>
<td>1.93%</td>
<td>3.83%</td>
<td>4.62%</td>
<td>56.86%</td>
</tr>
<tr>
<td>Peas</td>
<td>8.42%</td>
<td>9.22%</td>
<td>2.22%</td>
<td>7.39%</td>
<td>6.48%</td>
<td>5.32%</td>
<td>-3.61%</td>
<td>9.36%</td>
<td>2.05%</td>
<td>3.69%</td>
<td>4.53%</td>
<td>70.00%</td>
</tr>
<tr>
<td>Prune plums</td>
<td>9.22%</td>
<td>0.00%</td>
<td>2.16%</td>
<td>7.60%</td>
<td>6.27%</td>
<td>5.32%</td>
<td>-3.62%</td>
<td>9.40%</td>
<td>1.93%</td>
<td>3.83%</td>
<td>4.62%</td>
<td>56.86%</td>
</tr>
<tr>
<td>Raspberries</td>
<td>8.51%</td>
<td>7.84%</td>
<td>2.18%</td>
<td>7.47%</td>
<td>6.29%</td>
<td>5.30%</td>
<td>-3.35%</td>
<td>9.51%</td>
<td>1.96%</td>
<td>3.85%</td>
<td>4.50%</td>
<td>65.09%</td>
</tr>
<tr>
<td>Strawberries</td>
<td>9.76%</td>
<td>7.39%</td>
<td>2.26%</td>
<td>7.75%</td>
<td>6.16%</td>
<td>5.16%</td>
<td>-3.68%</td>
<td>9.24%</td>
<td>2.04%</td>
<td>3.71%</td>
<td>4.68%</td>
<td>65.89%</td>
</tr>
<tr>
<td>Daffodils</td>
<td>1.82%</td>
<td>0.00%</td>
<td>0.00%</td>
<td>11.61%</td>
<td>0.00%</td>
<td>9.60%</td>
<td>2.19%</td>
<td>3.57%</td>
<td>4.83%</td>
<td>38.18%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The original plan to reconcile minimum wage increases with the circumstances of individual crops resulted in a low wage trap for hand harvesters working for piece rates. The rationale for the piece rate increases has never been stated, but appears to have reflected grower concerns that increased productivity in the sector resulted in at least some workers achieving earnings well above the general minimum wage. Thus, the general minimum wage reflects increases in compensation in the province which in turn reflects increased productivity for the provincial economy. Piece rates are based on other criteria.

IV. A Comparison of Minimum Wage Regimes in Canada and the US

British Columbia is the only province in Canada where the government sets minimum piece rates for a variety of commodities. The only other jurisdiction where piece rates are specified is Quebec, where the government sets piece rates for strawberries and raspberries.

Minimum wage legislation normally treats agricultural workers differently than other segments of the labour force, most commonly by denying overtime pay. However, with that
exception, the norm in Canada is that the minimum wage applies to all farm workers (Alberta, Saskatchewan, Manitoba, Newfoundland and Labrador and Prince Edward Island). Ontario requires that piece rates equal the minimum wage when an employee “using reasonable effort could earn at least the minimum wage.” Quebec, Newfoundland and Labrador and New Brunswick require that piece rates incomes must equal the minimum wage. Nova Scotia has adopted the opposite standard, by specifying that piece rates are not required to equal the minimum wage. Alberta and Ontario completed comprehensive reviews of employment legislation in 2017. Alberta extended the minimum wage to cover agriculture for non-family members. Ontario made no changes that affected farm workers.

Table 3 summarizes the legislative treatment of piece rates in the Canadian provinces. Data on the use of piece rates are not available. The mention of piece rates in four provincial statutes indicates that it is used at least occasionally.

<table>
<thead>
<tr>
<th>Province</th>
<th>Compensation System</th>
<th>Additional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>British Columbia</td>
<td>Piece wage</td>
<td>Farm workers who harvest specified crops by hand may be paid by piece rate, and must be paid the minimum rate set out for each crop. Farm workers are not entitled to overtime pay.</td>
</tr>
<tr>
<td>Alberta</td>
<td>Hourly wage</td>
<td>Farm workers who are not family members are covered by minimum wage.</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>Hourly wage</td>
<td>Farm workers covered by minimum wage.</td>
</tr>
<tr>
<td>Manitoba</td>
<td>Hourly wage</td>
<td>Minimum hourly wages of $11.15 (effective 10/01/17). Employees who work in climate-controlled facilities (e.g. hog barns, greenhouses) are covered by all provisions of The Employment Standards Code.</td>
</tr>
<tr>
<td>Ontario</td>
<td>Piece wage</td>
<td>Must receive at least what they would have earned per hour at the minimum wage ($14 effective 01/01/18). Not covered by limits on hours, rest days, overtime pay, and vacation pay provision in the Employment Standards Act.</td>
</tr>
<tr>
<td>Quebec</td>
<td>Piece wage</td>
<td>Must receive at least what they would have earned per hour at the minimum hourly wage ($11.25 effective 10/01/17). Paid on yield as per the following rates: - Raspberry pickers - $2.23/kg - Strawberry pickers - $0.89/kg When the yield is affected by crop conditions, he is entitled to the general minimum wage (his output is compared to other employees).</td>
</tr>
<tr>
<td>Newfoundland &amp; Labrador</td>
<td>Piece wage</td>
<td>Must receive at least what they would have earned per hour at the minimum wage ($11.00 effective 10/01/17). Agricultural employees are not eligible for overtime pay.</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>Piece wage</td>
<td>All employees paid by piece work must at least receive minimum wage per hour ($11/hour as of 04/01/17).</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>Piece wage</td>
<td>Minimum hourly wage of $10.85 (effective 04/01/17). Farm workers under the age of 16 are not required to be paid minimum wage. Farm workers who are paid on a piecework basis for harvesting of fruits, vegetables, and tobacco are not required to be paid the minimum wage. Farm workers are not entitled to overtime pay, holidays/holiday pay, and days of rest.</td>
</tr>
<tr>
<td>PEI</td>
<td>Hourly wage</td>
<td>Minimum hourly wage of $11.25 (effective 04/01/17).</td>
</tr>
</tbody>
</table>

**US Jurisdictions**

The Fair Labor Standards Act (FLSA) covers virtually all workers in the United States, including farms and their employees, in that they produce goods for interstate commerce. The
Act sets the minimum wage (currently $7.25 per hour), overtime entitlements, and restrictions on child labor, among other provisions. In general, agricultural workers are covered by all of the other provisions of the FLSA, with a few exemptions, most notably that agricultural workers do not receive overtime pay. In addition, immediate family members of an employer are not entitled to the minimum wage, as are inexperienced local hand harvest workers who commute daily from their permanent residence and are paid on a piece rate. With these exceptions, all agricultural employees must be paid the minimum wage.

Although the FLSA covers almost all employers, states may set standards equal to or above the federal levels. Table 4 summarizes the current legislation covering farm workers in Washington, California, New Jersey and Michigan, all jurisdictions with significant hand harvested crops.

Overall, the majority of hand harvest workers in the US are male, perhaps 75 percent. In 2016 estimations were that half of these workers were undocumented. Presumably, changes in US immigration policy have affected these figures.

<table>
<thead>
<tr>
<th>Province</th>
<th>Compensation Systems</th>
<th>Additional information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington</td>
<td>Makes reference to piece rate; no established rates</td>
<td>Workers paid on a commission or piecework basis, unless otherwise exempt. If outside salespersons, must receive wages at least equivalent to the applicable minimum wage ($11/hour as of 01/01/2017). The business must keep track of actual hours worked as well as the piece rate units or salary payment and if the piece rate or salary payment does not equal minimum wage in each work week, the employer must pay the difference. Employers must pay piece-rate agricultural workers a separate payment for their rest breaks in addition to their piece-rate wage payments. This separate payment must be based on the regular rate of pay or minimum wage, whichever is greater. Farm workers are not entitled to overtime pay.</td>
</tr>
<tr>
<td>California</td>
<td>Makes reference to piece rate; no established rates</td>
<td>Must receive at least what they would have earned per hour at the minimum hourly wage ($10.50 effective 01/01/2017).</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Makes reference to piece rate; no established rates</td>
<td>Farm workers 18 years of age and over must be paid the State minimum wage, even if they work at piece rates ($8.44/hour as of 01/01/2017). Farm workers are not entitled to overtime pay.</td>
</tr>
<tr>
<td>Michigan</td>
<td>Makes reference to piece rate; no established rates</td>
<td>Youth workers 16 and over on farms with two or more employees must be paid at least the Michigan minimum wage ($8.90/hour as of 01/01/2017).</td>
</tr>
</tbody>
</table>

All these states have minimum wages above the FSLA level. In every case, the legislation refers to piece rates and requires that workers employed under that system must receive at least the minimum wage. None establishes any piece rates for specific crops. In some cases, the law requires that piece rate workers receive meal breaks. All exempt farm workers from overtime rates.
V. Farm Workers’ Characteristics

No continuing data series on the personal characteristics of piece rate workers (or any agricultural workers) exists. Knowledgeable estimates are that about 7000 harvest workers are employed in the Valley. About half of these supplement their seasonal income with Employment Insurance in the winter seasons. A recent report (Weiler, et al. 2014) found that BC farms hired about 12,000 harvest workers in 2014. Data from the Zbetnoff report, plus discussions with employers permit a number of useful generalizations about demographic features of the harvest labour workforce. As a general comment, the composition of this workforce varies considerably by region and the crop harvested. For example, the proportion of males (approximately 60 per cent) is much higher in the Interior or Okanagan Valley, where most of the commodities covered by piece rate regulations are tree fruits, than in the Fraser Valley, where crops are on bushes or at ground level. A majority of the harvest workers in the Fraser Valley (about 60 per cent) are females. The local population matters too. For instance, recent immigrants are numerous in the Fraser Valley and can commute (or receive transportation) to work. Their legal employers are often farm labour contractors.

The Okanagan traditionally depends on local residents, temporary workers from Quebec and a small proportion of Canadian immigrants. In the case of the Okanagan, since the beginning of intensive agriculture, periodic labour shortages have occurred, perhaps because the onerous conditions of work and housing caused populations of migrant workers to leave the industry. The most recent group of Quebec migrants first arrived in the Valley in the 1970s, in response to a severe shortage of worker and the possibility of a pleasant location (Leibel 2007). A pattern of short-term migration has persisted to the present.

The Zbetnoff Report contains the most recent data on the labour force employed in the harvesting of the 14 food crops where piece rates are established by regulation, although some crops have small sample sizes. The BC Interior workforce consisted primarily of seasonal labourers under the age of 35 and 36 to 54 years of age in the tree fruit crops (apples, cherries, peaches, apricots, pears, plums) and grape sectors. Many of these workers were seasonal migrants from Quebec. Smaller orchards were often picked by family members and neighbours in a broader age range including seniors. Since the Zbetnoff report was prepared the gender composition of the labour force probably has increased, with the influx of workers from Mexico,
who are overwhelmingly male, under the age of 45 and normally work for an hourly wage. Farm labour contractors are rare in the region.

For example, 8 cherry farms were surveyed, and a majority were males, generally under 35 years of age. Most of the female workers were also under age 35. A total of 15 per cent of the workers were Mexicans. The Canadian workers were a mixture of local residents and seasonal workers from Quebec. Growers deployed different categories of workers during stages of the harvest, so Canadian piece rate workers were hired for the peak periods of the harvests and Mexicans brought in to finish the picking. A small sample of pear harvesters was about 75 per cent male, a majority between 36 and 54 years of age. While apples are an important crop in the Interior, the survey included only a small sample of the harvest workforce. Almost one-half of the workers were males under the age of 35. No females over the age of 55 were in the sample. The most rapidly expanding crop in the Thompson Okanagan region has been grapes, a trend which has continued since 2011. Grape harvests are relatively short, most less than two weeks. Zbetnoff surveyed 44 grape harvest workers and found that they were about evenly divided between men and women. Virtually all were under 55 years of age.

The demographics of the harvest labour force in the Fraser Valley are distinct from the Interior. The berry segment (blueberries, strawberries and raspberries) share many characteristics. Farm labour contractors have supplied a large proportion of the labour force to growers since the 1970s.

Blueberries are the largest crop. Zbetnoff surveyed 8 farmers and one labour contractor who provided data on 176 piece rate workers for 2011. A majority of the pickers (56 per cent) were females over the age of 55, followed by males (33 per cent) over the age of 55. Only 12 per cent of the picking workforce was under the age of 55. Overall, 64 per cent of the workforce was female. A large (but unknown) proportion of the labour force, especially the females, was Indo-Canadian.

Raspberry and strawberry production has declined since 1998. By 2011, the survey found that 85 per cent of the raspberry crop was machine harvested for processing, with the remainder hand harvested for the fresh market. Since 2011, the proportion of the raspberry crop harvested mechanically has increased, as new technology allows for mechanical harvesting for the fresh market. In 2011, two-thirds of the harvest workers were 55 years of age or older, evenly divided between men and women. The even gender distribution was repeated for workers
between 35 and 54 years of age. Employers report that the trend of fewer workers over the age of 55 has continued in the berry harvests.

The labour forces for vegetable crops (beans, peas and Brussels sprouts) vary considerably. In 2011, all Brussels sprouts were harvested mechanically, so no workers received piece rates. This situation has not changed in the past 6 years. A small sample of workers employed to harvest peas and beans revealed that a large majority (88 per cent) of pickers were males, with 28 per cent aged 55 years or more, and 27 aged 35 years or less and 10 per cent between the ages of 36 and 55. Approximately 40 per cent of the workforce was female, all of whom were over the age of 55. About 68% of the harvest workforce was 55 years of age or more. About one-third of the work force was SAWP (Seasonal Agricultural Workers Program) workers, a majority of 35 years or less.

The remaining “vegetable” crop, mushrooms, is unique in several respects. The sector is highly concentrated and faces problems with labour supply. Consequently, growers are reluctant to provide data on labour practices. Apparently, all mushroom harvesting in 2011 was by piece rates, although the demand for labour is not seasonal. Zbeetnoff found that a majority of piece workers were female, with 75% between the ages of 35 and 54 years of age, and the residual approximately equal younger and older workers.

The characteristics of the workforce described above have been relatively stable for over 35 years in many respects. The major exception to this generalization is the arrival of Mexicans through the Seasonal Agricultural Workers Program. The SAWP started in 1966 in Ontario, when the Canadian government arranged with several Caribbean countries to admit foreign workers to harvest crops (beginning with tobacco) on a temporary basis. The Program grew, principally in Ontario and Quebec, to include harvest workers in several other crops. In 2004, the British Columbia agreed to admit workers through this program. The overwhelming majority are Mexicans, augmented by a smaller number of Caribbean citizens and Guatemalans who are temporary workers under another program. The numbers of these workers, who typically begin arriving in February or March and who must depart in November, has grown steadily.

It is difficult to track the exact number of the SAWP workers, since they arrive and depart at different times of the year. The BC Fruit Growers Association (BCFGA) estimated that a total of 5,500 Mexican SWAP workers were in BC in 2016, and another 700 Caribbean workers came to the Okanagan. The BCFGA calculated that 2100 of the Mexican workers were
in the Okanagan and the remaining 3400 in the Fraser Valley (BCFGA, 2017). SAWP workers must be paid an hourly rate, either the minimum wage or another rate negotiated between the Mexican and Canadian government (presumably with representations by growers in BC). Employers must be screened before hiring SAWP workers and provide housing at a nominal cost and pay transportation costs. In practice, SAWP workers must remain with the employer who hired them from Mexico. Over 90 per cent of the SAWP workers are men, and all are between 25 and 45 years of age.

Looking ahead, if current trends continue, the number of elderly immigrants in the Fraser Valley harvest labour force will decline. According to the CFU and Fairey, et al. (2008), many of these workers prefer piece work because there is less supervision. These workers can set their own pace in exchange for lower incomes. Other workers can exert more effort for the greater earnings. Given the demands of the work and low wages, it is unlikely that local residents will replace the older IndoCanadian harvest workers. Labour shortages (and perhaps higher minimum wages) encourage growers to mechanize the harvesting of their crops, and Mexican workers frequently operate the harvesting equipment.

VI. Effects of Changes in the Minimum Wage

It is difficult to estimate the impact of changes in the piece rate minimum wage on employment or conditions of work in the affected crops. Accurate data on the number of hand harvesters are not available. However, a number of trends are obvious.

The supply of labour supporting this industry for the past 30 years, recent IndoCanadian immigrants, is shrinking. Younger immigrants, especially males, acquire job skills that enable them to find employment in other industries, or other segments of agriculture. The older workers who remained in hand harvesting are gradually “aging out,” i.e. no longer seek employment or are satisfied to work fewer hours than previously.

Growers complain about the shortage of labour, since other groups of immigrants are not willing to work in agriculture. The shortage is filled increasingly with SAWP worker. The other response of growers has been to mechanize the harvest of crops where possible, especially in the Fraser Valley. Estimates are that 85 per cent of the blueberry harvest is harvested mechanically, for example, and new machines will enable growers to increase that proportion. Tree fruits in
the Okanagan continue to be harvested by hand, and, except for apples the trend to mechanization is modest.

Overall, it is difficult to argue that the piece rate system has inhibited technological change or the introduction of new planting methods in the crops affected. The pattern of increases in the minimum piece rates has probably contributed to the suppression of pickers’ incomes in these crops; although employers argue that piece rates in some crops are higher than the minimum, especially in certain periods of the harvest.

The piece rate system in agriculture has operated as the theoretical literature predicts, in that there are no incentives for employers or workers to improve the productivity of individual workers or provide promotions into more stable or remunerative occupations.

Growers’ enthusiasm for this traditional compensation system indicates that they find it profitable for their enterprises. Workers’ voices are largely silent.
Bibliography


Johansson, Bo; Rasko, Kjell and Stenberg, Magnes, “Piece rates and their effects on health and safety: a literature review,” Applied Ergonomics, Vol. 41, No. 4, pp. 607-661.


