

FEDERAL CONSULTATION ON THE HOUSING CONDITIONS OF MIGRANT FARMWORKERS - DECEMBER 2020

*RECOMMENDATIONS SUBMITTED BY THE MIGRANT
WORKER HEALTH EXPERT WORKING GROUP**



**Migrant Worker
Health Project**

Authored by (alphabetical order):

Susana Caxaj, PhD, RN, Assistant Professor, School of Nursing, University of Western Ontario

Jill Hanley, PhD, Associate Professor at the McGill School of Social Work

Jenna L Hennebry, PhD, Associate Professor, International Migration Research Centre, Balsillie School of International Affairs, Wilfrid Laurier University

Stephanie Mayell, MA, Doctoral Candidate, Department of Anthropology, University of Toronto

Janet McLaughlin, PhD, Associate Professor of Community Health, Research Associate, International Migration Research Centre, Wilfrid Laurier University

Michelle Tew, RN, BScN, DOHS, COHN(C), Occupational Health Nurse, Occupational Health Clinics for Ontario Workers

Leah F. Vosko, PhD, Professor and Tier 1 Canada Research Chair, Department of Politics, York University, Ontario.

Contributors:

Donald Cole, MD, MA, FRCP(C), Emeritus Professor, Dalla Lana School of Public Health, University of Toronto

Eduardo Huesca, MA, Program Coordinator, Occupational Health Clinics for Ontario Workers (OHCOW), Ontario

**Perspectives expressed in this document do not necessarily represent views of all members of the expert working group, nor their organizations.*

INTRODUCTION

Thank you for the opportunity to provide feedback on the proposed accommodation requirements for migrant workers in primary agriculture. We write to you today in our capacity as members of the Migrant Worker Health Expert Working Group (MWH - EWG¹), an interdisciplinary team of scholars and clinicians with decades of experience working with, and studying the experiences of, migrant agricultural workers in Canada. Since the onset of the COVID-19 pandemic, the MWH-EWG has provided evidence-based guidance to federal and provincial agencies, sending country officials, local public health units, and the Public Health Agency of Canada, and we have authored several recommendations for overcoming health challenges faced by migrant agricultural workers, as well as general guidance related to workplace and living conditions.²

Migrant worker housing is about more than a place to sleep and eat. Employer-provided housing is where migrant agricultural workers live, often for eight months of the year, for an average of over 10 years.³ While they engage in essential work for Canada's food system, migrant workers contribute to the tax base and to local economies and communities across Canada. The consequences of substandard housing include poor physical and mental health and indicate a lack of fundamental respect for workers' human dignity. A National Housing Standard must do more than address the shortcomings of migrant worker housing, but also ensure the dignity, security, and privacy of that housing, to recognize the humanity of workers. For too long, workers' substandard and unsafe living conditions have been normalized by racist and xenophobic claims. Raising the standard for workers' housing thus represents an opportunity for the Canadian government to honour their commitments to racial equity and justice. For decades, researchers and advocates have documented that housing conditions greatly influence the physical and mental health of migrant agricultural workers.^{4,5,6} Housing provided to workers is often "dilapidated, unsanitary, overcrowded and poorly ventilated," as well as lacking in privacy and

¹ Migrant Worker Health Expert Working Group (2020a). *About the Expert Working Group*. <https://www.migrantworker.ca/expert-working-group/overview/>

² Migrant Worker Health Expert Working Group (2020b). *Recommendations for Overcoming Health Challenges Faced By Migrant Agricultural Workers during the COVID-19-Virus Pandemic*. <http://www.migrantworker.ca/wp-content/uploads/2020/06/June-9-2020-HC-recommendations.pdf>

³ McLaughlin, J., Wells, J., Díaz Mendiburo, A., Lyn, A & B. Vasilevska (2017). 'Temporary Workers', Temporary Fathers: Transnational Family Impacts of Canada's Seasonal Agricultural Workers' Program. *Relations Industrielles*, 72(4): 682-709. <https://www.erudit.org/en/journals/ri/2017-v72-n4-ri03400/1043172ar/>

⁴ Preibisch, H. & Hennebray, J. (2011). Temporary migration, chronic effects: the health of international migrant workers in Canada. *Canadian Medical Association Journal (CMAJ)*, 183(9), 1033–1038. <https://doi.org/10.1503/cmaj.090736>

⁵ Hennebray J, McLaughlin J, & Preibisch K. (2016). Out of the Loop: (In)access to Health Care for Migrant Workers in Canada. *Journal of International Migration and Integration*, 17(2), 521–538. <https://doi.org/10.1007/s12134-015-0417>

⁶ Vosko, L. F., Tucker, E., & Casey, R. (2019). Enforcing Employment Standards for Migrant Agricultural Workers in Ontario, Canada: Exposing Underexplored Layers of Vulnerability. *International Journal of Comparative Labour Law and Industrial Relations*, 35(2), 227-254.

security,⁷ and workers often lack adequate access to private space, bathrooms, kitchen amenities and laundry facilities. Too many workers trying to use too few showers, stoves or washing machines after long hours of work create added risks to health and well-being.⁸ Research from the US and Canada has documented a range of heightened health risks to migrant agricultural workers from on-farm housing: crowding⁹, insufficient handwashing and toilet facilities¹⁰, inadequate food refrigeration and storage¹¹, proximity to sources of pathogenic microorganisms¹² and reliance on temporary wastewater infrastructure including septic tanks, and as well as gaps in accessibility to municipally supplied treated drinking water common in rural areas.¹³ A 2011 survey with 600 migrant workers in Ontario found that 44% of workers indicated having no secure area to store belongings, 33% share a bedroom with more than 5 people, 14% lived in close proximity to pesticides and fertilizers, 14% had no clean drinking water, 12% lived near livestock, and nearly 30% of the workers surveyed claimed their residence in Canada was hazardous to their health.¹⁴ Such inadequacies heighten risks of infectious and communicable diseases¹⁵, as well as a range of other mental and physical health concerns, including depression, anxiety, stress, malnutrition, and chronic diseases (e.g., diabetes, hypertension).¹⁶

⁷ Preibisch & Hennebry (2011); Hennebry, McLaughlin & Preibisch (2016); Perry, A. (2018) Living at Work and Intra-worker Sociality Among Migrant Farm Workers in Canada. *Journal of International Migration and Integration*, 19(4), 1021–1036. <https://doi.org/10.1007/s12134-018-0583-z>.

⁸ Villanueva, F., Crespo Villareal, D., Gravel, S., Bernstein, S., Hanley, J. (2015). Les travailleurs étrangers temporaires au Québec : le paradis un peu plus loin. *Revue de droit comparé du travail et de la sécurité sociale*, 1, 58-69. http://digitool.Library.McGill.CA:80/R/-?func=dbin-jump-full&object_id=168448&silos_library=GEN01; Vosko, Tucker, & Casey (2019).

⁹ Preibisch & Hennebry (2011).

¹⁰ Salami, B., Meharali, S., & Salami, A. (2015). The Health of Temporary Foreign Workers in Canada: A Scoping Review. *Canadian Journal of Public Health*, 106(8), e546–54.

¹¹ Preibisch, K., & Otero, G. (2014). Does Citizenship Status Matter in Canadian Agriculture? Workplace Health and Safety for Migrant and Immigrant Laborers. *Rural Sociology*, 79(2), 174–99.

¹² Arcury, T. A., Lu, C., Chen, H., & Quandt, S. A. (2014). Pesticides Present in Migrant Farmworker Housing in North Carolina. *American Journal of Industrial Medicine*, 57(3), 312–22. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4028316/>

¹³ VanDerslice, James. (2011). “Drinking Water Infrastructure and Environmental Disparities : Evidence and Methodological Considerations.” *American Journal of Public Health* 101: 109–14.

¹⁴ Hennebry, J. Preibisch, K., & McLaughlin, J. (2011). “Health Across Borders Survey – Health Status, Risks and Care among Transnational Migrant Farm Workers in Ontario.” *CERIS Ontario Metropolis Centre of Excellence for Research on Immigration and Settlement*.

¹⁵ Hennebry, J. (2008). *International Agricultural Migration and Public Health: Examining Migrant Farm Worker Health and the Public Health Implications of Agricultural Labour Migration in Canada*. Public Health Agency of Canada; Hennebry, J. (2007). *Public Health Risks and Infectious Disease Exposure for Migrant Workers in Rural Ontario*. Public Health Agency of Canada.

¹⁶ McLaughlin, J. (2009). *Trouble in our Fields: Health and Human Rights among Mexican and Caribbean Migrant Farm Workers in Canada*. PhD Dissertation. Department of Anthropology, University of Toronto.

Despite the inclusion of housing provisions in the employment agreement tied to the bilaterally negotiated Seasonal Agricultural Worker Program (mandatory to employers in certain jurisdictions), there are few to no consequences for employers who fail to comply with even modest housing standards. Research has documented that migrant agricultural workers face serious obstacles to reporting concerns about their housing conditions both to federal agents and local authorities. Furthermore, the current regulation system pertaining to migrant workers' housing enables excessive employer control of workers' mobility, social lives and ability to refuse work.^{17, 18, 19} Insufficient jurisdictional clarity, a lack of opportunities for confidential reporting (without the presence of a boss/supervisor), and a patchy inspection system, also contribute to the failure of authorities to address housing concerns, even when such concerns have been previously raised. Strengthened regulations must prevent employer exploitation and coercion, given the power imbalance created by employer-provided housing.

We would like to underscore that, while many of the recommendations are formulated for employer-provided, on-site aggregate accommodations, we believe the same standards must be ensured in off-site (often private rental) accommodations provided by the employer. Advocates have often documented that weekly charges in off-site accommodations exceed the \$30 limit for "low-wage" workers or the 30% of earnings²⁰ of "high wage" workers. We believe that responsibility for the costs associated with dignified housing (whether on or off-farm property) must be borne by employers, not migrant workers, and this should be standardized and regulated federally across the country. However, we also insist that workers must retain similar rights to tenants in terms of their right and freedom to enjoy the use of their housing as they wish, with freedom of movement, unencumbered ability to receive guests, prohibition of curfews and other arbitrary restrictions on personal time, and the option to remain in employer-provided housing during sick leaves or labour disputes, or for the employer to compensate the worker for alternative housing.

We wish to emphasize that the federal government must play a leadership role in ensuring that housing standards for migrant agricultural workers across Canada are improved and that migrant workers' housing and human rights are protected while in Canada. While other parties (e.g., employers, workers and their representatives, industry associations, sending countries) can and must play a role in efforts to address issues related to housing, the ultimate responsibility for ensuring the safety and well-being of this essential workforce rests with the federal government. We further recognize the inter-jurisdictional realities of the regulatory environment pertaining to migrant worker housing, and look to the federal government for its continued and expanded leadership to harmonize across levels of governments and policy domains to ensure consistency at the highest standard, guided by a commitment to migrant workers' health and human rights, consistent with

¹⁷ Perry(2018)

¹⁸ Villanueva et al. (2015)

¹⁹ Smith, A. (2015). The bunk house rules: Housing migrant labour in Ontario. *Osgoode Hall Law Journal* 52(3).

²⁰ It is of note that rent at the rate of 30% of high wage workers' salaries can in some cases lead to workers collectively paying more for accommodation than local market rates. In other words, employers can make a profit, receiving more from workers than what they are paying to rent the private accommodation.

international human rights frameworks.²¹ We urge the Canadian government to adopt guidelines and practices detailed by the UN Special Rapporteur on Adequate Housing, who affirms that: “all levels of government should be coordinated through national-level leadership and oversight as well as by intergovernmental bodies with an explicit mandate to promote and ensure compliance with the right to housing. Provision should be made for promptly resolving questions of jurisdiction on the basis of the principle that human rights should never be compromised by jurisdictional disputes.”²² Protocols for coordination between different levels of government around housing enforcement, however, should prohibit sharing any information acquired about the immigration status of workers with Canadian Border Services Agency. Failure to create such a firewall will serve to undermine workers’ agency in reporting concerns and asserting their rights to dignified housing.

In this submission, we begin by elaborating on the MWH-EWG’s key recommendations related to housing and other cross-cutting issues associated with housing. We then proceed to offer our feedback specific to the Consultation’s queries related to minimum accommodation requirements for primary agriculture proposed in Annex A; public health considerations; impacts of new requirements; and inspections.

RECOMMENDATIONS

1. A National Housing Standard

To improve living conditions for workers and safeguard their health and safety, a federal housing standard must be established and enforced for the SAWP and **all** other agricultural workers coming through the Temporary Foreign Worker Program’s primary agriculture streams. The National Housing Standard should align with recognized standards for housing and related infrastructure, specifically the right to adequate housing without discrimination based on international human rights standards, outlined by numerous internationally agreed upon UN conventions and treaty bodies, many of which Canada is a signatory. The National Standard should, further, adhere to the *Guidelines for the Implementation of the Right to Adequate Housing* (2019) provided by the UN Special Rapporteur on adequate housing, who articulates that “specific protective measures and remedies are required for migrant workers living in housing provided by employers.”

23

²¹ See the Committee on Economic, Social and Cultural Rights’ general comment No. 20, the Committee on the Elimination of Racial Discrimination’s general recommendation No. 30 (2004) on discrimination against non-citizens, para. 32, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 43 (1) (d). See also the Global Compact for Safe, Orderly and Regular Migration, objective 15.

²² UN (United Nations) General Assembly (2019). Guidelines for the Implementation of the Right to Adequate Housing. Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. *Guideline No. 10. Ensure the right to adequate housing for migrants and internally displaced persons*, Forty-third session, Human Rights Council, 24 February–20 March 2020. A/HRC/43/43. Available at: <https://undocs.org/en/A/HRC/43/43>. UN Habitat’s *Right to Adequate Housing* is available here: https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf

²³ Ibid.

The National Housing Standard should thereby encompass "security of tenure; availability of services, materials, facilities, and infrastructure, including... [potable] water, energy and space for food storage and preparation, etc.; affordability; habitability, i.e., protected against cold, damp, heat, wind, other threats to health, etc.; accessibility; location (i.e., not cut off from health-care services, grocery stores, and social facilities; and cultural adequacy)".²⁴ Below, we present our key recommendations.

GENERAL PRINCIPLES

- (a) Employers should have the obligation to provide clean, adequate living accommodations for workers and to maintain them in that condition for the duration of the contract. The worker should not incur costs associated with employer compliance to housing standards.
- (b) All costs associated with housing/accommodations should be borne by employers, who have access to federal grants and programs to help them meet the new requirements.
- (c) In cases where workers do pay for accommodations, the fee must adhere to the \$30 per week maximum stipulated by the federal standard or provincial labour standards for employer-provided housing, whichever is lower. This rate should also apply to high-wage agricultural stream workers who live in employer-provided housing.
- (d) Workers must retain the right to refuse employer-provided housing and seek independent housing accommodation, without any implication for their employment relationship.
- (e) Employer-provided accommodations must respect all local and provincial housing standards, as specified under, for example, residential tenancy law, building codes, fire codes and health and safety codes. In cases where federal standards differ from local or provincial standards, the higher standard should apply.
- (f) Accommodations must be gender-sensitive and responsive (i.e., ensuring privacy and security for men and women workers) and free of gender-based violence or harassment.
- (g) These standards must also ensure mechanisms for enforcement and recourse (addressed in a later section).

PHYSICAL HOUSING CONDITIONS

- (h) Employer-provided accommodations must be designed for residential use. Makeshift or modified housing in garages, barns, sheds or other such structures is unacceptable. Housing in proximity to greenhouses should not be permitted due to exposure to fertilizers and other hazardous chemicals.
- (i) The height of a livable space or room, as measured from floor to ceiling, must be at least 2 metres.
- (j) Building and fire codes:

²⁴ Ibid.

- (i) Housing must comply with building codes of the highest standard²⁵ for residential dwellings re: adequate doors, windows, lighting, ventilation, electricity, plumbing and other physical elements.
 - (ii) Housing must comply with fire codes of the highest standard, and include fire extinguishers, alarms and sufficient and marked egress and exit (and exiting quarters must not require keys or other instruments).
 - (iii) Information and training on how to operate extinguishers and how to call ambulance, firefighters, or police must be provided.
 - (iv) Storage or use of flammable materials within or in close proximity to worker housing should not be permitted.
 - (v) Compliance must be enforced through inspections carried out while workers are onsite and involve inspectors from the local fire department.
- (k) Shared bedrooms:
- (i) We recommend no more than two individuals share one bedroom and that adequate distance be able to be maintained between each of these individuals, as per National Occupancy Standard.
 - (ii) Each person within a bedroom must have: an adult sized twin or larger bed (not bunk beds), a chair, a place to store clothing and other personal items, and a secure locker to store valuables (e.g. passport, health card, money)
 - (iii) Bedrooms must have locking doors and a window.
- (l) Shared common space:
- (i) There should be a requirement for provision of shared common spaces as necessary for mental health and well-being, with a maximum ratio of people per square footage of shared common spaces. Shared furniture should allow all individuals to use the common area with 2m between them if necessary, under current health conditions (i.e. without requiring use of the room in 'shifts'), and be made of material that is easy to clean (e.g. a smooth surface).
 - (ii) Common areas should include adequate table space for meals (space at the table with a chair for each worker resident), and couches or comfortable chairs able to accommodate the number of individuals sharing the space for socializing and recreation (i.e. space at the table and one chair per each person to ensure workers do not have to stagger their use of furniture).

²⁵ Models such as the International Building Code (IBC), which cover fire protection systems and egress considerations for all occupancy types, including building separation distances and the effects of windows and doors on these calculations, must be reviewed in consultation with public health officials and the highest standard must be utilized to guide specific parameters for migrant worker housing.

(m) Shared washrooms:

- (i) There should be a maximum ratio of four people per shared washroom, which must include a sink with mirror, toilet and shower with adequate supply of hot and cold water for four individuals to be able to shower within a reasonable time after work. Toilet and shower stalls must have lockable doors for safety and privacy. Washrooms must have either a window that opens or a fan.

(n) Shared kitchens:

- (i) Kitchens must provide access to a sink, microwave, stove with oven, fridge and secure storage for dishes and non-perishable food.
- (ii) Provision of adequate food preparation amenities (including but not limited to cutlery, dishes, cooking utensils, etc.) and safe food storage (e.g. sealed containers, refrigeration, etc.) mitigating foodborne disease, vermin, insects and other pests should be ensured.
- (iii) There should be a maximum of four people per shared kitchen appliances (fridge, stove, sink), a refrigerator with at least 3 cubic feet capacity per each occupant, and stoves with 4 functioning burners.

(o) Shared laundry facilities:

- (i) Workers must have access to on-site laundry facilities.
- (ii) There should be a maximum of five people per shared laundry and dryer facilities.

HEALTH AND SAFETY WITHIN HOUSING

- (p) AC and heating must be in good conditions, houses must be properly winterized. All livable spaces, rooms and bathrooms, must be provided with a permanent heating system maintaining a minimum temperature of 18°C in the winter, and 23°C in the summer.
- (q) Worker accommodation must include access to potable water and sanitation to mitigate exposure to waterborne disease, enteric disease, and other microbial disease.
- (r) There must be rigorous standards to prevent the spread of infectious and communicable diseases, including:
 - (i) adequate ventilation (with air filtration systems and a minimum number of windows per square foot)²⁶,

²⁶ A useful resource is the American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE]: https://www.energy.gov/sites/prod/files/2014/12/f19/ba_innovations_2014_ASHRAE%2062_2.pdf. Another useful source of guidance on heating, ventilation and air conditioning to protect health comes from the European Centre for Disease Prevention and Control: <https://www.ecdc.europa.eu/sites/default/files/documents/Heating-ventilation-air-conditioning-systems-in-the-context-of-COVID-19-first-update.pdf>.

- (ii) provision of cleaning supplies (renewed on a monthly basis), and regularly scheduled professional cleaning for all common areas in order to mitigate risks of microbial pathogen transfer and infectious disease (e.g. enteric illness);
- (s) In situations of epidemics or communicable disease such as with COVID-19:
 - (i) floor to ceiling barriers to prevent airborne spread of viruses and communicable disease (e.g. COVID-19, tuberculosis),
 - (ii) adequate housing provisions for the purposes of private quarantine in situations where communicable disease is present and to ensure the ability to physically distance post-quarantine (see MWH-EWG recommendations, June 2020)²⁷
- (t) Prior to occupation, accommodations must be tested for presence of pesticides or other hazardous materials, and documented to be free of mold, mites, and asbestos. An additional unannounced assessment of the presence of pesticides and hazardous materials should be carried out once workers arrive.
- (u) Hazardous materials (including but not limited to pesticides, manure-based or reconstituted manure fertilizers) must be stored at a safe distance from housing to mitigate health risks, including from both physical and airborne transmission of microbial pathogens, infectious and communicable disease (e.g. enteric disease).

ENJOYMENT OF TENURE OF HOUSING

- (v) Workers' right to security, privacy and autonomous use of accommodations must be respected.
 - (i) Workers must be provided with locked accommodations and keys or coded entry to housing that ensures their security and with locked storage for belongings.
- (w) Employers may not impose "house rules" beyond the usual expectations of tenants (e.g. no constraints on social or recreational activities, no prohibition of guests or visitors, including family members; no curfew).
- (x) Employer access to worker housing should follow similar guidelines to landlords accessing rental units. Employers and persons sent on behalf of employers (e.g. supervisors) may only enter with permission of the residents of the housing, must give 24 hours advance notice, and must enter only between 8am and 9pm unless the employer and worker agree on another time.
- (y) Wi-Fi and a landline telephone must be available at all housing facilities, at a ratio that allows practical and private access to all workers (we recommend a ratio of 4 to 1 to address the potential for medical emergencies, or issues meriting privacy/sensitivity to address).

²⁷ Migrant Worker Health Expert Working Group (2020b)

- (z) Access to housing in cases of illness or labour dispute: Employers should remain responsible (at no cost to the worker) for providing housing for workers who must quarantine, are on sick leave or who are in the process of contesting a dismissal.

2. **Enforcement of Housing Standards**

To be effective, housing standards require enforcement measures. In the absence of adequate oversight, violation of existing housing guidelines places workers at an increased risk of health problems (e.g., COVID-19 and other communicable diseases), injury, and stress and exhaustion, for example, if they are unable to make adequate and timely use of bathing, cooking and laundry facilities after work. Furthermore, failing to proactively and comprehensively address workers' housing challenges puts an unrealistic onus on workers, many of whom face veritable fears of employer reprisal,^{28,29} to come forward with complaints. Workers are well aware that making complaints risks jeopardizing their relationship with their employer (and thus poses a real threat to their job security). To ensure National Housing Standards are meaningful, they should be proactively enforced through regular, unannounced, on-site inspections conducted by federal inspectors³⁰ coupled with unannounced and announced inspections to encourage deterrence. Where standards are found to be deficient, meaningful administrative and monetary penalties should be imposed and measures should be taken to prevent repeat violations. In the course of inspections, to ensure that migrant workers are able to participate freely irrespective of their citizenship status, a firewall between housing inspectors and Canadian Border Service Agency officials must be created and workers and employers should be made aware of its existence.

3. **National Integrated Complaints Hotline**

In addition to proactive federal enforcement, we recommend developing accessible mechanisms for workers, their representatives, and third parties to make anonymous complaints about their living accommodations. This is important given the veritable threats of reprisal many workers confront. A federal hotline should be launched that can provide a centralized method for workers to make complaints to facilitate enforcement; hotline staff members should also be mandated to refer workers to an overarching resources helpline (introduced and described below) providing for support in areas such as health care. To be effective, this complaints hotline must:

- (a) Be available via multiple pathways (e.g., phone, WhatsApp, website chat).

²⁸ Basok, T., Bélanger, D., & Rivas, E. (2014). Deportability, Discipline, and Agency: Migrant Agricultural Workers in Southwestern Ontario. *Journal of Ethnic and Migration Studies*, 40(9), 1394–1413. <https://doi.org/10.1080/1369183X.2013.849566>;

²⁹ Vosko, L. (2019). *Disrupting deportability: transnational workers organize*. Ithaca: Cornell University Press.

³⁰ We argue that the federal government must retain responsibility for inspection of employer-provided housing accommodations of migrant agricultural workers. As noted by the UN Special Rapporteur on adequate housing (2019), "local and regional governments are often inattentive to or unaware of their obligations with respect to the right to adequate housing under international human rights law. They are often allocated responsibilities without a commensurate allocation of resources, knowledge, capacity and accountability mechanisms for the realization of the right to housing."

- (b) Be staffed in real-time by individuals trained to understand barriers faced by migrant agricultural workers, who speak the languages of workers and/or have immediate access to interpretation for the many workers who do not speak English or French.
- (c) Operate at times that are accessible to workers, including evenings and weekends.
- (d) Accept anonymous complaints (including from third parties) and funnel them to the federal inspectors to conduct follow up investigations in a manner that preserves complainants' and/or aggrieved parties' confidentiality to the extent possible.
- (e) Include a protocol for follow-up with workers following the individual's initial conversation with staff at the complaints hotline. A lack of transparency and a perception of inaction contributes to workers' mistrust in the current regulatory regime.
- (f) Ensure adequate coordination between the complaints hotline and the general resources helpline. Hotline staff can serve as a bridge to relevant government (municipal, provincial or federal) or community agencies, if it is determined that such agencies are best placed to address the workers' concerns. Migrant agricultural workers will not always be able to identify whether or not an issue has a legal remedy, and furthermore, they should be apprised of all of the resources that are available to them even if they are seeking to make a formal complaint or report about their housing.
- (g) Mechanisms to ensure that workers have meaningful knowledge and access to the integrated COMPLAINTS HOTLINE. Strategies towards this end must include:
 - (i) A protocol to ensure that workers can make queries and initiate reports via WhatsApp; this is the most common way that workers communicate. To ask workers to rely on another method to initiate this process does not address digital and formal literacy barriers, and may likely contribute to under-reporting/engagement.
 - (ii) Close coordination with enforcement officials, health and safety committees, community service organizations and other relevant stakeholders providing services and/or accompaniment to migrant agricultural workers.
 - (iii) Enforcement officials in particular must develop material, and review the role of the complaints hotline when visiting farms, especially during pro-active on-site inspections. Furthermore, key information about the COMPLAINTS HOTLINE should be sent regularly to workers via group phone lists (and other accessible methods) via both written and audio-messages.

RESPONSES TO PROPOSED MINIMUM ACCOMMODATION REQUIREMENTS

We commend the federal government for taking important steps towards detailing the many housing requirements that could be improved for migrant agricultural workers. Below, we provide detailed responses to the “Minimum Accommodation Requirements” in the right-hand column under “Our Response” in the table below. In several instances, we endorse the minimum requirements proposed by the federal government. In other instances, we recommend that minimum requirements be enhanced beyond what is being proposed. Furthermore, we share additional considerations that are important to ensuring adequate, healthy and dignified housing for this population.

PROPOSED MINIMUM ACCOMMODATION REQUIREMENTS FOR PRIMARY AGRICULTURE

HOUSING ELEMENT	PROPOSED FEDERAL REQUIREMENTS FOR THE TFW PROGRAM	JUSTIFICATION	RESPONSE FROM MWH-EWG
BUILDING STRUCTURE	<ul style="list-style-type: none"> • Accommodations must be sound as per PT building codes, fire codes and health and safety legislation e.g. <ul style="list-style-type: none"> o no leaks, electrical issues, mould, or pest infestations o proper safety equipment (e.g. smoke alarms, fire extinguishers, etc.) o proper and adequate structural features (windows, separate 	<ul style="list-style-type: none"> • According to the Primary Agriculture Housing Policy, employers should provide the worker with adequate housing as defined by the Canadian Mortgage and Housing Corporation and in accordance with applicable provincial/territorial/municipal (P/T/M) authorities. • <i>Adequate</i> housing is defined as housing that does not require any major repairs, which include those to defective plumbing or electrical wiring, or structural repairs to walls, floors or ceilings. 	<p>We agree but believe further detail is required. For example:</p> <ul style="list-style-type: none"> • Employer-provided accommodations must respect all local and provincial housing standards, as specified under, for example, residential tenancy law, building codes, and health and safety codes. In cases where federal standards differ from local or provincial standards, the higher standard should apply. • These standards must also ensure mechanisms for enforcement and recourse (addressed in a later section). • Employer-provided accommodation must be designed for residential use. Makeshift or modified housing in garages, barns, sheds or other such structures is unacceptable. • Building codes:

	<p>spaces, doors)</p> <ul style="list-style-type: none"> o any hazardous materials must not be kept close to living quarters o required egress, emergency exits and lighting 	<ul style="list-style-type: none"> • Employer-provided housing must meet a minimum standard of structural soundness and overall condition to provide workers with a certain level of day-to-day comfort based on applicable PT standards and laws. 	<ul style="list-style-type: none"> o Housing must comply with guidelines for adequate doors, windows (with appropriate coverings), lighting, ventilation, electricity, plumbing, insulation, heating, air conditioning and other physical elements. o Ventilation is especially important in a context such as the COVID-19 pandemic. Worker housing should ensure “air in which there are no known contaminants at harmful concentrations as determined by cognizant authorities.”³¹ <ul style="list-style-type: none"> • Fire codes: <ul style="list-style-type: none"> o Housing must comply with local fire codes, and include fire extinguishers, alarms and sufficient and marked egress and exit. Storage or use of flammable materials within or in close proximity to worker housing should not be permitted. Compliance must be inspected while workers are onsite by local fire departments • Pro-active, unannounced inspections while workers are housed at site (rather than only prior to being housed onsite) must be carried out to adequately evaluate housing conditions. Inspectors must be able to communicate with workers who do not speak English or French and do so under conditions of confidentiality.
<ul style="list-style-type: none"> • The building must be accessible to the public. 	<ul style="list-style-type: none"> • New TFWP Requirement to ensure that workers have freedom of movement and can receive guests without restriction. 	<p>We again agree, but suggest further precision:</p> <ul style="list-style-type: none"> • Employers and persons sent on behalf of employers (e.g. co-workers) may only enter with permission of the residents of the housing, must give 24 hours advance notice, and must enter only between 8am and 9pm unless the employer and worker agree on another time. • In addition, ‘house rules’ limiting workers’ movement and leisure 	

³¹ ASHRAE 62.1-2019 “Ventilation for Acceptable Indoor Air Quality” https://ashrae.iwrapper.com/ASHRAE_PREVIEW_ONLY_STANDARDS/STD_62.1_2019

<p>COMMON LIVING SPACES</p>	<ul style="list-style-type: none"> • Housing must allow for a temperature range of 20°C-25.5°C (68°F-78.8°F) can be maintained in all areas and at all times. 	<ul style="list-style-type: none"> • Typical temperature range in provincial requirements provides a temperature between a minimum of 20 degrees and maximum of 23.5°C (ON and QC) - 25.5°C (BC). 	<p>activities (e.g. music, alcohol consumption, curfews) should be explicitly prohibited. In order for workers to receive guests freely, they must be afforded the same level of privacy expected of a tenancy-property owner agreement.</p> <ul style="list-style-type: none"> • Inspectors must monitor and inquire regarding surveillance of guests, inadequate locks, curfews, etc. Employers should be made aware of their obligations under provincial residential tenancy regulations.
	<ul style="list-style-type: none"> • Housing must have proper, functional heating and A/C equipment to maintain specified temperature range and humidity control e.g. central or room AC; central heating, space heaters (depending on the time of year the accommodations are inhabited). 	<ul style="list-style-type: none"> • NEW TFWP requirement that accommodations must have proper heating and cooling equipment to maintain proposed temperature range. • Based on existing requirements for accommodations in <i>Construction Camp Rules and Regulations for Construction Camps</i> (2018-2025) (Alberta). 	<p>Yes. Given the aggregate living conditions and the long hours that this workforce may spend outdoors, it is necessary for the indoor environment to provide reprieve from extreme weather conditions (e.g. heat waves, forest fires, etc.)</p> <ul style="list-style-type: none"> • Indoor environments should promote access to health through the highest level of infection prevention control and food safety standards.
			<p>There is also an urgent need for specific guidelines on ventilation. We suggest:</p> <ul style="list-style-type: none"> • Consulting the American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE]. https://www.energy.gov/sites/prod/files/2014/12/f19/ba_innovations_2014_ASHRAE%2062_2.pdf • Ventilation standards should be kept up-to-date with emerging best practices for preventing aerosol-based viral transmission. • Workers should also have adequate access to fans that permits them to adjust their home environment to their specific preferences. Fans are also sometimes preferred by workers over air conditioning.

	<ul style="list-style-type: none"> • Sufficient furniture should be provided dependent on the number of workers housed in the accommodations. 	<ul style="list-style-type: none"> • Consistent with existing requirements that furnishings in accommodations should be provided according to the number of occupants. 	<p>If specifics aren't detailed it is more difficult for both employers and workers to understand rights and responsibilities. Details that can be outlined include:</p> <ul style="list-style-type: none"> • Couches or comfortable chairs, tables per person • Storage spaces, space afforded for individual privacy and secure keeping of belongings • WiFi and landline phone • And given that there will be times that workers are housed without the option of work (i.e. 2-week quarantine, rainy days, low season) provision of entertainment devices (i.e. TVs, DVDs, radios, sound-systems) is necessary
<ul style="list-style-type: none"> • Furniture should be of sound construction and in good condition. 	<ul style="list-style-type: none"> • Based on existing requirements for accommodations in <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). • Existing requirements require that accommodations have "basic furnishings" only. 	<ul style="list-style-type: none"> • Spacing requirements are adopted from existing requirements from FARMS (ON) and BCAC (BC) and are consistent with requirements found in <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). 	<p>Yes. However furniture must be made of materials that are easy to clean (smooth surfaces) to address increased risk of communicable spread of illnesses in aggregate setting.</p>
<ul style="list-style-type: none"> • A maximum occupancy rate of 7.44 sq. m (80 sq. ft) of total usable, and unobstructed floor area per person for common living spaces. 			<p>Common living areas require ratios based on practical use needs of workers as well as overall space requirements.</p>

		<ul style="list-style-type: none"> Existing space requirements range from 7 sq. m. (75 sq.ft) (Schedule F and QC) to 7.44 sq. m (80 sq. ft). (BC and ON) do not specify occupancy rates for square footage. 	
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SLEEPING QUARTERS	<ul style="list-style-type: none"> Each bedroom should have a maximum of four (4) workers per room with a minimum distance of 2.0 m (approx. 72 inches) maintained between all beds. 	<ul style="list-style-type: none"> New TFWP Requirement to address concerns regarding overcrowding and to make accommodations more adaptable to future infectious illness outbreaks. 	We suggest a maximum of two (2) workers per bedroom, with one (1) worker per room preferred.
	<ul style="list-style-type: none"> Each bedroom should be supplied with: <ul style="list-style-type: none"> A desk A waste basket A padded chair At least four (4) coat hooks on 	<ul style="list-style-type: none"> Based on existing requirements for accommodations in <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). Existing requirements state that workers should be provided with storage facilities, but do not provide explicit 	Yes. Rather than measuring the spacing between beds, spacing can be calculated based on “individual bedroom set” where the entirety of furniture (e.g., waste basket, padded chair, etc.) is spaced between another worker’s bedroom set.

	<p>interior walls</p> <ul style="list-style-type: none"> Each room should be fully enclosed with a door and a mortise-type lock and the occupant(s) shall be supplied with one (1) key per occupant at no cost. 	<p>requirements.</p>	
<ul style="list-style-type: none"> All beds must consist of a proper bed base/frame at least 20 cm (7.87 inches) off the floor, a clean pillow, a clean, supportive mattress of sound construction with a minimum width of 38" (95.6 cm), a minimum length of 75" (190.5 cm), and a minimum height of 25" (63.5 cm). 	<ul style="list-style-type: none"> Provide clear requirements for the minimum size of a mattress (length, width, height) equal to a single twin bed and construction of bed frame to ensure proper bed for an adult. Requirements for mattress dimensions from QC limited to the minimum length of 99-109 cms. 		<p>Yes, beds must be adult sized twin or larger bed (not bunkbeds, cots or hospital beds).</p> <p>Mattresses must be replaced every 10 years or earlier in case of bed bug infestation, if they become dirty or if they lose their supportive qualities.</p>

	<ul style="list-style-type: none"> Each worker should be supplied with: <ul style="list-style-type: none"> A linens package in clean and good condition (no holes) upon arrival, which includes a minimum of two (2) pillowcases, two (2) sheet sets and at least one (1) blanket per bed. An adequate, enclosed, storage space/compartment within a reasonable distance from the bed, which may take the form of one locker OR one shelf OR a small dresser (2-4 feet in size). 	<ul style="list-style-type: none"> Provide clear requirements for a minimum linen package and for type of storage facilities. Specific requirements for linen package generally not specified, except in BCAC (BC) guidelines, which provide for only one linen package. Proposal would ensure spare linen package available. Existing provincial requirements only require 'adequate' storage for workers. Proposed storage facility requirements based on BCAC (BC) and existing requirements for accommodations in <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). 	<p>This guideline works well if there are adequate per capita laundry facilities in the housing. In addition, we recommend:</p> <ul style="list-style-type: none"> We recommend ensuring linens are seasonally appropriate (e.g., hot summer conditions vs. cold weather). Workers should also receive two large towels for bathing. Each worker must have access in their bedroom to a space to store clothing and other personal belongings as well as a secure locker or safe to store valuables (e.g., Passport, health care, money).
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	<ul style="list-style-type: none"> Review approach to bunkbeds, including alternative designs/approaches that would meet public health objectives and improved living conditions. 	<ul style="list-style-type: none"> New TFWP Requirement to address concerns regarding overcrowding and to make accommodations more adaptable to future infectious illness outbreaks. 	<p>We recommend against bunkbeds because they present the risk of injury (e.g. falls), discomfort, and reduced worker privacy.</p>
	<ul style="list-style-type: none"> <i>Males and females cannot share a bedroom (unless they are spouses).</i> 	<ul style="list-style-type: none"> This requirement is also found in the Primary Agriculture Policy but not generally specified in housing standards. <ul style="list-style-type: none"> Based on existing requirements from BCAC (BC) and on existing requirements for accommodations in <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta) that stipulate that the employer must provide segregated living accommodation by gender. 	<p>We agree that co-workers of opposite genders should not be required to share a room unless they are spouses. Spouses should also not be required to sleep in the same bed but this option could be made available to them.</p> <p>However, this regulation should not enable employers to surveil visitors (based on gender) that migrant agricultural workers may have in their homes. It should be clear that this is in regards to employee accommodation requirements, not who is permitted entry into the housing.</p>

	<ul style="list-style-type: none"> Workers should be provided their own individual bed and are not required to share a bed with anyone other than a spouse. 	<ul style="list-style-type: none"> Based on current requirement outlined and provincial requirements for BC and in Schedule F. 	<p>We agree, including during situations in which workers may be travelling for work and staying in hotels.</p> <p>This does not prohibit workers from sharing a bed with a guest</p>
	<ul style="list-style-type: none"> Spouses should be provided with a double/queen size mattress. 	<ul style="list-style-type: none"> Based on requirement outlined in guidelines for BCAC (BC) and Schedule F. 	<p>We agree.</p>
<p>WASHROOM FACILITIES</p>	<ul style="list-style-type: none"> All washrooms must be within worker accommodations. 	<ul style="list-style-type: none"> New TFWP Requirement to improve living conditions. Existing provincial requirements state that toilets should be no more than 30m away from sleeping quarters (BC) and that portable toilets are permissible (ON). 	<p>Yes. This is an important step to improve the sanitary conditions of washrooms. For the safety of workers, this requirement should be mandated for the 2021 season.</p>

	<ul style="list-style-type: none"> Washrooms to be separated from sleeping rooms by full partitions and lockable doors and to have separate ventilation with exhaust fan. 	<ul style="list-style-type: none"> Based on guidelines from <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). Existing provincial requirements and Schedule F state that washrooms facilities must be separate and have privacy barriers from living areas but do not require that washrooms have an exhaust fan. 	<p>We agree.</p>
<p>Ratios:</p> <ul style="list-style-type: none"> One (1) toilet for every five (5) workers. 	<ul style="list-style-type: none"> Based on guidelines from <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). Current provincial guidelines allow for up to 10 workers per toilet. 	<p>We suggest (1) toilet for every four (4) workers. We also suggest that employers provide adequate toilet paper and soap throughout the season, and particularly if workers must quarantine upon arrival.</p>	
<ul style="list-style-type: none"> One (1) shower, with opaque privacy barriers and in good working condition and sanitary, must be accessible for every four (4) workers. Each shower should be accompanied 	<ul style="list-style-type: none"> Based on guidelines from <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). Current provincial guidelines allow for up to 10 workers per shower. 	<p>We agree.</p>	

	<p>with an adjacent dressing cubicle with curtains, a hinged seat on the wall or a bench seat and two (2) double clothes hooks.</p>		
<ul style="list-style-type: none"> • One (1) sink furnished with a mirror above for every four (4) workers with hot (>43C) and cold running water. 	<ul style="list-style-type: none"> • Based on guidelines from <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). • Current provincial guidelines allow for up to 7 workers per sink. 	<p>We agree.</p>	
<ul style="list-style-type: none"> • Urinals shall be furnished at the ratio of one (1) per fifteen (15) persons. 	<ul style="list-style-type: none"> • Based on guidelines <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta) provides for 25 urinals per person. 	<p>The presence of urinals does not replace the need for toilet ratios as stipulated above. We would suggest one urinal for every eight (8) male workers.</p>	

<p>EATING FACILITIES</p>	<p>Ratios:</p> <ul style="list-style-type: none"> • One (1) dining set with table and chairs in good condition for every ten (10) workers • One (1) microwave for every ten (10) workers • One (1) oven and stove (with minimum of four (4) functional burners) available for every six (6) workers • One (1) refrigerator (able to keep foods at 4°C or lower), with sufficient space for food storage, must be provided for every six (6) workers • Adequate cabinets and shelves for cooking equipment and food 	<ul style="list-style-type: none"> • Existing requirements are one oven/stove and refrigerator per 6 workers, based on provincial sources (BC, ON and QC) and Schedule F. An “adequate amount” of other kitchen supplies (e.g. dishes, utensils, furniture) must be provided. 	<p>We propose that the sink, stove with oven, fridge and microwave be shared by only four (4) workers. For cooking, there is often high demand directly after work, meaning some workers can only begin cooking late at night, or are waking up excessively early in order to be able to eat. These inadequate cooking facilities contribute to stress and exhaustion.</p> <p>Since most workers only grocery shop once a week, they need to store a lot of food at once. Insufficient space to store food in the fridge can contribute to food spoiling and to food safety hazards.³² Secure cupboards are necessary to deter vermin.</p> <p>Two full sets of cutlery, plates, bowls, glasses and cups must be provided for each worker.</p> <p>A full set of pots, frying pans, baking trays and cooking utensils must be provided for every four (4) workers.</p>
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³² See: Weiler, A., McLaughlin, J. & D. Cole (2017). Food Security at Whose Expense? A Critique of the Canadian Temporary Farm Labour Migration Regime and Proposals for Change. *International Migration* 55(4), 48-63.

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LAUNDRY FACILITIES	<ul style="list-style-type: none"> • Worker accommodations must contain free laundry facilities for the workers. • One (1) full-sized washer and dryer in good working order for every ten (10) workers. 	<ul style="list-style-type: none"> • Based on guidelines from BCAC (BC) and the requirements of <i>Construction Camp Rules and Regulations for Construction Camps (2018-2025)</i> (Alberta). • QC guidelines require 1 washer and dryer for every 10 workers, while BCAC (BC) requires one washer for every 15 workers with separate drying facilities and ON requires one laundering tub for every 15 bunks. 	<p>We propose a maximum of 5 workers per set of washer/dryer. Again, high demand after work means some workers are not able to clean their clothes or sheets when necessary. This is also important given potential exposure to agrochemicals and to outdoor elements. Employers should provide adequate laundry soap throughout the season.</p> <p>Laundry facilities cannot overlap</p>
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				with bedroom quarters or common living areas.
	<ul style="list-style-type: none"> Additional drying facilities (e.g. clotheslines) must be in laundry area and not in the bedrooms. 	<ul style="list-style-type: none"> The requirement is consistent with housing guidelines from BCAC (BC). While ON guidelines state that drying facilities should be available, there are no further requirements for the location of these facilities. 	We agree.	
	<ul style="list-style-type: none"> Facilities used to clean personal protective equipment (e.g. spray masks, rain gear, gloves) must be separate from laundry machines and living areas. 	<ul style="list-style-type: none"> Based on guidelines from BCAC (BC). 	This is important, and we agree. We recommend employers provide an area that is protected from the elements, but outside of housing quarters for cleaning personal protective equipment.	
	<ul style="list-style-type: none"> Access to phone service and free internet will be provided where available. 	<ul style="list-style-type: none"> New TFWP Requirement to enable workers to connect with their families and support organizations, and to access services without the assistance of the employer. 	This is extremely important to worker well-being. We recommend a phone service ratio of 4 to 1 to address the potential of medical emergencies, or issues meriting privacy/sensitivity.	
AMENITIES				

PUBLIC HEALTH CONSIDERATIONS

Although the health risks associated with migrant agricultural workers' housing are not exclusive to the current global health pandemic, in the face of COVID-19, the Government of Canada has recently acknowledged these problematic conditions through Employment and Skills Development Canada's (ESDC) introduction of new guidelines for employers of temporary foreign workers (TFWs). These guidelines include recommendations that employer-provided shared accommodations allow for physical distancing such that beds "be at least two metres meters apart" and that common spaces be cleaned and disinfected on a regular basis in recognition that COVID-19 is not transmitted solely by droplets.³³ However, during the 2020 season, the standard to which these and other expectations were to be met was unclear, especially in the absence of proactive monitoring and enforcement. Furthermore, recent evidence that illustrates that aerosol transmission of COVID-19 is possible as acknowledged by the Public Health Agency of Canada³⁴ suggests that existing ventilation and distancing standards for accommodations are inadequate.

Furthermore, essential services and government agencies have recently focussed their attention on digital communication, which poses significant barriers to services, support and communication for migrant agricultural workers. Lack of reliable internet connection in their accommodations coupled with a dearth of phone lines is particularly problematic for migrant workers who may only have access to WhatsApp, which does not permit toll-free calls or calls to 911. Addressing such barriers for workers is especially crucial during the COVID-19 context and beyond.

Early in the pandemic, some local health units in Canada took steps to curb foreseeable on-farm outbreaks linked to shared housing. For instance, in Ontario, Haldimand-Norfolk's medical officer of health implemented requirements, through a Section 22 Order of the *Health Protection and Promotion Act* (1990), that no more than three workers could be housed together during the self-isolation period. This requirement was overturned in July on the basis that more than three people can safely practice physical distancing if a bunkhouse is large enough. Yet, subsequent outbreaks at large farms demonstrated the high risks of community-to-farm transmission associated with over-capacity and poor-quality congregate accommodations in the industry.

³³ Van Doremalen, N., Bushmaker, T., Morris, D. H., Holbrook, M. G., Gamble, A., Williamson, B. N., ... & Lloyd-Smith, J. O. (2020). Aerosol and surface stability of SARS-CoV-2 as compared with SARS-CoV-1. *New England Journal of Medicine*, 382(16), 1564-1567.

³⁴ Government of Canada (November 5, 2015). *COVID-19: Main modes of transmission*. Retrieved November 13, 2020 from:

<https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/health-professionals/main-modes-transmission.html>

Consequently, in August 2020, a divisional court ruling reinstated the public health order of a maximum of three in shared accommodation to limit transmission.³⁵

In many ways, the proposed changes do address public health considerations within the context of the COVID-19 pandemic or in the event of other communicable diseases. However, certain gaps remain:

- Clear guidelines on ventilation are necessary.
- Public health authorities must ensure workers have access to adequate housing and services (e.g. groceries, communications, health check-ins through clinician outreach) in cases of quarantine or self-isolation (with no more than three workers housed together in self-isolation accommodations). Employers must fully cooperate with these health authorities, and not hinder workers' access to these services in any way (e.g. through company rules, surveillance, etc.)
- Low ratios of workers per bedroom/kitchen/laundry/common areas are helpful in avoiding the transmission of communicable diseases, as well as in helping to promote workers' well-being.
- In situations of health crisis, regular professional cleaning of aggregate housing, paid for by the employer, is necessary in order to address the fact that workers may otherwise rely on their employers to access cleaning supplies and products to maintain their homes. And furthermore, if an outbreak of any kind occurs on a farm, workers may be weakened or limited in their ability to maintain their living quarters.
- Access to adequate internet service and a land-line which permits confidential conversations are even more necessary during a pandemic in order to access health information and services.
- Employers should remain responsible for providing housing for workers who must quarantine or are on sick leave.

IMPACTS OF NEW REQUIREMENTS

As a result of their status as temporary labourers, migrant agricultural workers in Canada can be terminated and repatriated without cause or explanation, and thus are disempowered to protect their health and/or advocate for their rights. Such unequal power relations are exacerbated when employers simultaneously operate as landlords. We recommend that all costs associated with housing/accommodations be borne by employers, who have access to federal grants and programs to help them meet the new requirements. The federal government should evaluate existing funding opportunities for employers to ensure they are able to meet the new housing requirements. It is essential that workers be conferred the same rights as tenants in Canada, despite their not paying fees or rent.

³⁵ Schuyler Farms Limited v. Dr. Nesathurai, 2020 ONSC 4711 https://www.cavalluzzo.com/docs/default-source/default-document-library/schuyler-farms-limited-v-dr-nesathurai-final-for-signing-aug-27-20-signed.pdf?sfvrsn=97e459d5_0.

INSPECTIONS

In response to the COVID-19 protocols, the federal government of Canada decided to conduct desk-based federal inspections of agricultural worksites and living quarters. Furthermore, this year the federal government permitted some employers of migrant agricultural workers to submit three-year-old housing inspection reports instead of requiring up-to-date evidence of compliance with the TFWP.³⁶ These virtual inspections relied on photographs supplied by farmers and interviews with workers onsite as evidence, thus exacerbating the absence of enforcement measures in this policy response to COVID-19 in agriculture. As a mode of labour inspection, desk-based inspections are well-documented to be unreliable means of assessing the presence or absence of violations of minimum standards.^{37 38 39}

- The federal government should retain ultimate responsibility for housing inspections, both before workers' arrival (during the LMIA process) and after, as contracts progress. Recognising that migrant work in agriculture is often governed by bilateral agreements, federal officials must be responsible for enforcing a National Housing Standard.
- Inspectors must be trained and knowledgeable about the particular constraints facing migrant agricultural workers when it comes to both maintaining the conditions of their housing and the difficulties in reporting problems.
- Regular, unannounced housing inspections must be the norm, as desk-based inspections are inadequate in identifying housing problems. Inspections should take place multiple times throughout the season, especially upon/shortly after the arrival of new workers to a given farm.
- Inspections must include the meaningful participation of workers, whose involvement must be kept confidential from the employer. Recruitment of worker informants must also be done at arms-length from an employer or employer representative (e.g., a supervisor or foreman).
- Inspections must take place in-person at a location at which workers are comfortable participating.
- Inspectors must either be able to speak the language of the workers or be accompanied by an independent interpreter (i.e. not provided by either the employer or a consulate).

³⁶ Baum, K. B. & Grant, T. (2020, July). Ottawa didn't enforce rules for employers of migrant farm workers during pandemic. *The Globe and Mail*. Retrieved from <https://www.theglobeandmail.com/canada/article-how-ottawas-enforcement-regime-failed-migrant-workers-during-the/>.

³⁷ Ibid.

³⁸ Vosko, L. F., Tucker, E., & Casey, R. (2019). Enforcing Employment Standards for Migrant Agricultural Workers in Ontario, Canada: Exposing Underexplored Layers of Vulnerability. *International Journal of Comparative Labour Law and Industrial Relations*, 35(2), 227-254.

³⁹ Hardy, T., & Howe, J. (2019). Out of the Shadows and into the Spotlight: The Sweeping Evolution of Employment Standards Enforcement in Australia. In L. Vosko (Ed.), *Closing the Employment Standards Enforcement Gap: Improving Protections for People in Precarious Jobs*. Toronto, CA: University of Toronto Press.

- In instances in which anonymity of workers is to be maintained in which workers are not comfortable participating in person, the federal government should enter into agreements with groups representing workers that recognize them as official conduits for worker complaints to the federal inspectors.
- Where inspections occur, be they proactive or reactive (i.e., in response to complaints), comprehensive follow up should be provided to the reporting party in the reporting party's preferred language using a medium that is accessible to them (e.g., phone, WhatsApp). It should be clear to the reporting party what action was taken arising from their concern, and if no action was taken, the rationale for this decision should be fully explained.
- Given the evidence that they play a constructive role in deterrence, announced and unannounced blitzes should also be carried out.
- To ensure employers exercise due diligence in ensuring violations of standards do not occur in the first place, the federal government should instruct federal housing inspectors to impose monetary penalties for violations of the National Housing Standard and provisions of the SAWP Contract, and more serious penalties for flagrant or repeat violations.
- Workers who report violations (or on whose behalf third parties report violations) should be provided with off-site short-term accommodation and wage compensation, where required
- Workers whose housing rights have been violated should also be guaranteed positions in the relevant TFWP for a minimum for two years going forward and/or made immediately eligible for permanent residence.

CONCLUSION

We are pleased that the federal government is moving ahead to improve the housing accommodations of migrant agricultural workers. Decades of worker organizing, advocacy and research have documented the problems in housing accommodations standards. Beyond the key housing specific recommendations that we have outlined in this submission, we echo calls for permanent residency and for family reunification. While not directly part of a national housing standard, family reunification and PR would make considerable steps towards an agricultural migrant worker stream that is human rights and people centred, and recognizes the importance of workers' dignity while they are living in Canada.

Poor housing conditions are linked to poor physical and mental health. Further, allowing the provision of substandard housing to migrant workers is at once a sign of disrespect and a violation of human dignity. The fact that poor housing conditions for this population have been normalized and long-standing reflects the systemic racism that characterises Canada's TFWP, and therefore it is of critical importance that reforms be imposed to improve the health and well-being of this essential workforce. We urge the federal government to bring these new regulations into effect by March of 2021, and to take retroactive action to ensure that workers who arrive as early as January of 2021 are protected by these improved housing provisions. We hope, however, that the final regulations will go beyond the initial proposal to provide housing conditions that respect international and Canadian standards of human rights and meet the highest requirements for health and well-being.

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