

Feedback on the Temporary Foreign Worker Program's New Foreign Labour Program for Agriculture and Fish Processing Stream

Authored by the Migrant Worker Health Expert Working Group, a group of clinical and academic experts on migrant agricultural worker health and health-related issues

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Introduction

Overall, it is encouraging to see the federal government engage in leadership to prescribe better national requirements for health and safety in housing for temporary migrant workers under the new proposed stream. We also appreciate the federal government's emphasis on more sustained engagement with provincial and territorial leadership. Nonetheless, we have several overarching concerns that point to urgent recommendations, specifically the need to: (1) improve inspection regimes; (2) develop and implement national housing standards; (3) the inclusion of some of the most common hazardous health and housing issues currently excluded in the 12 proposed housing requirements; and (4) address the underlying precarity in status that poses barriers for migrant workers to assert their rights to adequate housing and health.

Improving the Inspection Regime

The federal government has side-stepped a key underlying issue, which is the ineffectiveness of the current inspection regime. We know that employer self-reporting, 'desk' inspections, pre-season inspections, and announced inspections do not yield accurate information about temporary foreign workers' housing (Auditor General, 2021; Tucker and Vosko, 2021). Recent data indicate that 70% of employers are notified in advance of inspections (Lompe, 2024), advance warning that, as studies show (e.g., Weil, 2020), gives unscrupulous employers time to work to demonstrate met requirements. We thereby make the following recommendations:

- a. Inspections should be proactive, unannounced, and occur at multiple intervals during migrant workers' contracts.
- b. Inspections should allow for workers themselves to have meaningful input on accommodations in a way that protects them from reprisals.
- c. Workers should be kept up to date by inspectors when they launch complaints about housing
- d. When poor housing conditions are documented, government officials need to have clear follow-up procedures to keep all affected parties informed of steps to address identified concerns, including advising consular officials from migrant workers' sending countries.
- e. Inspections should not be conducted by private inspectors linked to employer associations; instead, inspectors who are well-trained public servants at arm's length from industry should be employed.

- f. Guarantee anonymity/confidentiality for workers who come forward with concerns and/or are interviewed in the context of inspections of all types.

National Housing Standards

The complexities of interjurisdictional governance, and the need to respect provincial and territorial jurisdiction, do not preclude the federal government from including national requirements that will ensure a more meaningful assessment of the actual state of workers' housing. In order to benefit temporary migrant workers, national housing requirements need to specify:

- a. *Methods* (e.g. unannounced, arms-length engagement with migrant workers, occurring within rather than only prior to the start of the season);
- b. *Specific guidelines* beyond generic health and safety requirements (e.g., a maximum heat threshold of 26C). Without clear guidance, public health staff and other inspectors will not be able to adequately enforce housing quality standards.
- c. *Significant improvements in baseline requirements* (e.g., one room per worker, an adequate ratio of workers to washrooms, no bunk beds); see below for additional detail.
- d. *Resources* (e.g., in terms of dedicated funding, staffing, training) for meaningful implementation of such requirements. In fact, national requirements without necessary improvements to the enforcement regime may further undermine migrant workers' access to quality housing by investing in the image of stronger standards, without the necessary resourcing to ensure it is in place. We believe that inspections should be carried out by public health agents who are accountable to the wider public, have the unique skill-set to assess common health hazards, and can acquire and use technology such as portable temperature and humidity monitors to monitor for compliance with heat thresholds.

In the meantime, if the government goes forward with the 12 proposed requirements outlined in the discussion paper, these same specifications must be applied to ensure meaningful oversight and enforcement of workers' housing.

Inclusion of some of the most common and hazardous health and housing concerns currently excluded in the 12 proposed requirements

The requirements proposed by the federal government do not address some of the most hazardous and common health and housing concerns faced by temporary foreign workers that are very well documented (Caxaj et al., 2022; Caxaj et al., 2024; Migrant Workers Alliance, 2024; Weiler and Caxaj, 2024; Perry, 2018). Furthermore, they do not address the key threats to workers' physical and mental health as evidenced during the COVID-19 pandemic, and that may likely put them at risk of future communicable diseases (Caxaj & Weiler, 2022; Vosko et al., 2023). Chief among these are overcrowding and lack of personal space, which presents threats to both physical and mental health (Mayell & McLaughlin 2016; Mayell 2024). Furthermore, housing studies and community-based surveys have identified that temporary foreign workers, largely as a result of depending on employer-provided accommodation, face significant (a) isolation and barriers to communication (e.g., lack of phone data, internet); (b) lack of access to independent transportation; and (c) issues of coercion, safety, health and privacy (Hennebry et al., 2016; Hennebry & McLaughlin, 2012; Weiler & Caxaj, 2024). Together, these challenges

result in a lack of access to timely medical care and/or legal navigation. If they are forced to leave their current place of employment, workers face the risk of becoming homeless.

In order to address these challenges, we recommend the following:

- a. Concrete and rigorous parameters for shared accommodation, furniture, and sleeping and bathroom space which affords workers some privacy (e.g., private bedrooms, separated toilet and shower/bathing stalls, no bunk beds);¹
- b. Specific indoor environment quality criteria including temperature (maximum and minimum), humidity (maximum and minimum), ventilation as per ASHRAE and other standards;
- c. Requirements for current and reliable phone data, internet, and other communication modalities (e.g., television), with clear ratios that ensure sufficient access given the number of workers present;
- d. Access to independent transportation requirements by assessing the suitability of workers' location in terms of walkability, access to public transportation, and/or carsharing services;
- e. Dedicated funding, emergency navigation, and housing services that are readily accessible to temporary foreign workers forced to leave accommodations on their employer's property;
- f. Facilitating affordable housing options that are not on the employer's property;
- g. We vehemently recommend that migrant workers should not face additional deductions to their wages, which are already low, in order to improve their housing conditions;
- h. Heat stress and heat-related illness are an increasing concern for farmworkers in the context of climate change (Arefin et al., 2024; Khayat et al., 2022). These challenges require more deliberate and specific oversight (please see below). Resources for insulating, providing shade, installing heat pumps which cool as well as heat, should all be funded to support employers in improving housing conditions.

Additional concerns with the 12 proposed requirements

As noted above, the proposed requirements exclude various important and necessary conditions to ensure safe, healthy, and dignified housing for migrant workers. In addition, there is a lack of clear parameters and indicators stated to ensure robust implementation of the proposed requirements. The use of words like 'sufficient,' 'adequate,' and 'reasonable' need to be defined and operationalized to ensure clarity and fidelity with health and safety principles. Maximum occupancy, distance from pesticides, temperature control, and many other issues should not be left open to interpretation, which will inevitably lead to inconsistencies. To further illustrate, given the danger posed by heat stress and related issues, the proposed requirement 2 regarding air quality and temperature control needs further refinement and specificity. In particular, it should include specific temperature and humidity maximums and minimums to be enforceable by federal, provincial, and regional public health authorities.¹ Issues of implicit bias

¹ For example, during the 2021 heat events in British Columbia the BC Centre for Disease Control (BCCDC) identified "that people were most in danger when indoor temperatures remained above 26 degrees" (BC Death Review Panel 2022, p. 22). The BCCDC's identification of the dangers of indoor

can further influence the inspection process when concrete and observable parameters are not defined, and when working with populations who often encounter racial discrimination and xenophobia. In fact, our recent research indicates that racist views may play a role in determining workers' poor housing conditions (Caxaj & Weiler, in press).

Furthermore, on page 22, section 4.3 under stakeholder considerations, the need for employers to have 'time to transition' to these new requirements is stated. If this consideration is to be addressed, the federal government needs to specify where workers will be housed in the meantime. It may be prudent for workers to be housed in hotels, with adequate communication with health and social care providers in the interim.

Permanent immigration status

Migrant workers' "unique economic and social vulnerabilities" (p. 22) do not occur as an anomaly or an accident. The federal government has itself created these vulnerabilities by categorizing these workers as 'temporary migrants' with precarious immigration status, who face a tremendous power imbalance with employers and little recourse in the face of abuse or health and safety violations. We therefore recommend instituting permanent immigration status on arrival, or at the very least making clear, straightforward paths to regularisation available to temporary foreign workers and those without a formal immigration status.

Conclusion and Final Thoughts

We have outlined several concerns and suggested various recommendations to improve the federal government's launch of the new Temporary Foreign Worker Agriculture and Fish Processing Stream. Specifically, we were asked to consider potential requirements to improve housing for temporary migrant workers who may come under this stream in future. Our main concerns are that the proposed requirements do not account for several common and hazardous health and housing concerns faced by migrant workers, and that the proposed changes should not preclude the need for national housing standards, and stronger and more meaningful housing inspections. Furthermore, without concrete and evidence-based parameters to enforce adequate housing quality standards, migrant agricultural workers will continue to be housed in substandard living quarters. In fact, the requirements without enforceable and clear parameters may actually undermine this group's health and safety, by giving the mere illusion of improvement in migrant workers' housing and overall health.

Lastly, some of the discussion questions outlined in instructional documents by the federal government ask stakeholders to comment, especially employers, on the burden that improvements on housing will place on them. Yet we cannot set a tone in which the conversation becomes a 'balance' between investments on the one hand, or people's health and lives on the other. Investments to improve migrant workers' housing are essential, and necessitate government commitment to decrease the spread of communicable diseases, heat stress, and other health issues of public interest.

temperatures above 26 degrees is very similar to Oregon's Occupational Health and Safety Administration's requirement that labour housing temperatures be kept below 78F (25.6C)

Appendices:

1. An earlier MWH-EWG (2020) housing submission with detailed recommendations:
Caxaj, S., Hanley, J., Hennebry, J.L., Mayell, S., McLaughlin, J., Tew, M., Vosko, L.F., & Weiler, A. (2020). *Federal consultation on the housing conditions of migrant farmworkers - December 2020*.
https://migrantworker.ca/wp-content/uploads/2021/06/Submission_National_Consultation_Housing_MWHEWG_2020.pagenumberscorrected-WEBSITE.pdf
2. An earlier MWH-EWG (2022) housing submission with detailed recommendations:
Caxaj, C.S., & Weiler, A. (2022). *Research Submission: Ministerial Roundtable on Housing Standards for Temporary Foreign Workers – July 2022*.
<https://migrantworker.ca/wp-content/uploads/2022/07/Caxaj-Weiler-2022-Research-Brief-Ministerial-Roundtable-on-TFWP-Housing-Standards.pdf>
3. A Research report on migrant farmworkers' housing and recommendations in Ontario and British Columbia authored by MWH-EWG members:
Caxaj, S.C., Weiler, A., & Martinez, N.S. (2024). *Raising the bar: Migrant agricultural workers' housing in Canada*. Farmworker Housing.
<https://farmworkerhousing.ca/wp-content/uploads/2024/05/Raising-the-Bar-Report.pdf>

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