



Migrant Workers
Alliance for
Change

info@migrantworkersalliance.org
www.migrantworkersalliance.org
1-855-567-4722

Suite 223
720 Spadina Avenue
Toronto, ON, M5S 2T9

Heat Stress Consultation
Health, Safety and Insurance Policy Branch
Ministry of Labour, Immigration, Training and Skills Development
400 University Avenue, 14th Floor
Toronto ON M7A 1T7

September 6, 2023

Submitted online: <https://www.ontariocanada.com/registry/view.do?postingId=45108&language=en>

Re: Protecting Workers from Heat Stress and Heat-Related Illnesses

About Migrant Workers Alliance for Change

Migrant Workers Alliance for Change (MWAC) is a cross-country migrant-led body that supports the self-organization of working class migrants. We are led by migrants in agriculture, carework, fisheries, and healthcare work, as well as undocumented people and current and former international students, who are striving together for employment and immigration justice. With over 30,000 members, MWAC is the largest migrant-led organization in Canada, and also serves as the Secretariat of the Migrant Rights Network - Canada's largest migrant coalition.

For further information, please contact Syed Hussan, hussan@migrantworkersalliance.org.

About these submissions

These submissions are the demands of 67 migrant agricultural worker leaders of MWAC who consulted 1,454 migrant agricultural worker members of MWAC in Ontario.

Migrant agricultural workers in Ontario work in all weather conditions - in the heat, in lightning and thunderstorms, in the rain and snow. As the weather intensifies, so does the work. Most farm workers employed outdoors do not receive proper equipment to protect from the weather (gloves, rain jackets, rubber boots, hats, etc). Some workers arrive in January and spend the heaviest winter months working outside, with frozen feet and hands. When the rains come, they work outside risking lightning strikes or slipping in the mud. During the summer, outdoor farm workers work during extreme heat alerts for hours in the sun, from dawn to dusk - or longer - without consistent access to fresh water, shade, or necessary breaks to avoid heat-related illness.



For agricultural workers in greenhouses, heat stress is a concern year-round with high levels of heat and humidity regardless of the weather outdoors. Employers maintain full control over the operation of ventilation systems and at times refuse to allow proper ventilation for workers, in order to preserve heat for the plants.

For both indoor and outdoor farmworkers, there are currently no maximum temperatures set in provincial housing guidelines. This can mean that after a full day's work during heat alerts, workers are often returning to houses that can exceed internal temperatures of 35°-40° C with no air conditioning or proper ventilation available. Current regulations make it impossible for farmworkers to decrease their core body temperature before returning to work the next day. These conditions are a recipe for urgent and ongoing health concerns.

The [proposed stand-alone heat stress regulations under the OHS Act with specific requirements that would apply to all workplaces to which the OHS Act applies](#) are a step in the right direction. Specific changes however are required, which are outlined below.

First, there are two significant challenges and gaps that the proposed requirements are not able to resolve and therefore further requirements must be created.

(1) Proactive enforcement, migrant worker specific anti-reprisal mechanisms and protections

Migrant agricultural workers in Ontario are on sectoral or employer-restricted permits, denied permanent residency, and live in employer-controlled homes. When a worker speaks up for their rights, the employer can evict them, fire them, put them on a plane home, and bar them from returning to Canada. This is a well-documented fact, and has happened to at least 12 of our members just since last year.

These regulations, like most other parts of employment law, are complaints-driven. That is, employers can break the regulations, and it is up to the workers to make a complaint and have the practices changed. In the situation of migrant agricultural workers where there is fundamental power imbalance, a complaints-driven process may as well mean that there are no regulations at all. For these regulations to have any impact on migrant agricultural workers, we propose the following changes:

- Ontario must actively advocate for permanent resident status for all migrants, including migrant agricultural workers. Permanent resident status is the only mechanism through which migrants can access all other rights.



- These regulations must be accompanied by increased proactive enforcement. When there is a heat wave, occupational health and safety inspectors must fan across the province, visiting farms, and carrying out unannounced inspections to monitor and enforce regulations.
- Migrant workers must be able to make anonymous complaints in their own language and in a variety of accessible mechanisms. Many workers often speak Indigenous languages, or dialects; they may not have access to Canadian phone numbers and cannot call toll-free numbers; and often do not have access to the internet. Every complaint must be followed by an unannounced inspection, which must include interviews with many workers, on their own, and away from their employers. Results of all inspections, not just those where an employer has been found to have broken the regulations, must be publicly available.
- The complaints process must include providing information about the closest community legal clinic where migrant workers can access support.
- Where workers choose not to be anonymous, Ontario must advocate for them to be granted permanent resident status, as whistleblowers.
- The Employment Standards Act exemptions that apply for farm workers should be removed. All workers must be able to get minimum wage, overtime pay, daily and weekly limits on hours of work, time off between shifts, weekly/bi-weekly rest periods, and public holidays and holiday pay. These basic entitlements are a necessary precursor to heat stress regulations to ensure that migrant farm workers can manage their work without getting sick.
- All workers must have ten employer-paid sick days so that they can recover and recuperate following heat waves. Workers must be able to make complaints and get whistleblower protections if they face reprisals from taking sick leave.

(2) Migrant farm worker housing must be included in heat stress regulations

One of the most crucial components of managing heat stress is overnight cool down periods. Without them, the chances of sickness and injury greatly increase. Unlike other industries, migrant farm workers live in employer-controlled housing. Their housing is effectively part of their work site and usually located on the farm property. There is rarely fully functional heating or cooling in migrant farmworker housing. Often, workers are warehoused in cramped and inhumane conditions making it impossible to cool down and rest. Migrant farmworker housing is currently overseen by local public health units, using minimum standards set by the Ontario Ministry of Health, which are used differently by nearly two dozen public health units who conduct partial inspections on some of the housing in advance of workers' arrival. No complaints process exists, including no complaint forms, no ability to receive results of complaints, and no ability for public health units to ensure reparations for workers that have suffered.



Migrant Workers
Alliance for
Change

This year, as in previous years, migrant workers have experienced - and MWAC has received complaints of - overheated bunkhouses, which are sometimes even more humid and warmer than the extreme temperatures outside. In some cases, taking a break and going indoors into windowless, hot cramped spaces, is worse than staying outside. As a result, cooling down is impossible.

We propose that:

- All heat-stress regulations must also apply to migrant farmworker housing,
- All migrant farm worker housing must have air conditioning and maximum allowable temperature;
- Ontario must advocate for an enforceable national housing standard in line with proposals made by migrant workers themselves¹.

(3) Specific changes to proposed regulations

Proposed requirement 1: All employers would have a duty to take all measures reasonably necessary in the circumstances to protect workers from exposure to hazardous thermal conditions that may result in a heat-related illness or a worker's core body temperature exceeding 38°C (100°F).

We support the requirement with the following amendments:

- These measures must be created in coordination with the workplace Health and Safety Committee which must be comprised of migrant workers and be clearly communicated to workers on an annual basis in their own language. The exemption of many industries and employers from Health and Safety Committees must be ended.

Proposed requirement 2: Requiring compliance with heat stress exposure limits for light to very heavy work loads in accordance with methods used to determine heat exposures.

We support this requirement.

Proposed requirement 3: Allow for the use of methods other than the ACGIH method to assess a worker's exposure to heat stress if the method is in accordance with recognized industrial hygiene practices and equally protects the health and safety of workers.

We support the requirement with the following amendments:

¹ [Please see migrant farmworker proposal for national housing standards here.](#)



- There must be a simple method for employees and employee members of health and safety committees to determine heat stress and these measures must be shared in the requirements. An example of such a method is the "[Humidex-based heat stress calculator](#)" developed by the Occupational Health Clinics for Ontario Workers. Employees enter the temperature and humidity into an online calculator to determine humidex which then can be managed as per ACGIH guidelines.

Proposed requirement 4: If physiological monitoring is used as part of an alternative method of assessing exposure to heat stress, it must be conducted under the supervision of a person who is qualified, because of knowledge, training and experience, to recognize and assess heat strain and heat-related illness resulting from hot work conditions

We do not support this requirement:

- Proactive measures to determine risk of heat stress, such as the humidex calculator noted above, must be the first line response. Employers should not be allowed to use symptoms of heat stress to determine if heat stress exposure limits should be put into effect. That would be similar to saying employers should monitor for chemical burns before instituting safe handling of acid.

Proposed requirement 5: [Engineering controls](#) must be used to maintain a worker's heat exposure within the heat stress exposure limits, except if:

1. *The workplace is outdoors,*
2. *The workplace is indoors and engineering controls are sufficient to protect workers in usual thermal conditions, but there is a temporarily high level of heat unrelated to the workplace or work process being performed, such as a hot spell or heat wave, such that it is not reasonably practicable to protect workers through the use of engineering controls alone, or*
3. *The workplace is indoors and the usual thermal conditions related to the workplace or work processes are such that it is not reasonably practicable to control some or all of the sources of heat through the use of engineering controls alone.*

We support the requirement with the following amendments:

- There should be no exemptions from the requirement to use engineering controls outdoors. Engineering controls such as machines (for example, hoists and lift-tables) to reduce the physical demands of work are essential for reducing heat stress;
- There must be a requirement for fans, particularly in greenhouses, where the temperature is below 35°C (if fans are used when the temperature is above 35°C they may recirculate the hot air, which can prevent cooling), and;



- Cool, shaded and air-conditioned rest areas near indoor or outdoor work spaces must be mandated.

Proposed requirement 6: Any additional measures and procedures implemented, beyond engineering controls to control heat exposures must:

1. *Be developed in consultation with the joint health and safety committee or health and safety representative, if any;*
2. *Include administrative controls, such as reducing the amount of time a worker spends in exposure to heat through implementation of a work-rest cycle, adjusting the start of the work day, or provision of more frequent breaks;*
3. *Include the use of personal protective equipment, such as anti-radiant heat or reflective clothing and, in the case of outdoor work in exposure to solar radiation, the use of adequate head protection, clothing and sunscreen, and;*
4. *Be in writing.*

We support the requirement with the following amendments:

- Additional measures must be created by joint health and safety representatives which must be selected by migrants workers and workers must have final say;
- Administrative controls should not be optional;
- There must be a mandatory 10 minute paid break in a cool shaded area, every 2 hours during heat and humidity warnings added to regulations;
- The use of personal protective equipment must be mandated as an employer responsibility - there must be no cost to workers;
- Written materials of measures and procedures must be available in the language used by migrant workers;
- Heat stress related breaks must be paid at regular wages. If not, workers will pay the financial costs of health and safety regulations. Further, without a requirement for regular wages to be paid, low wage workers face a disincentive to take heat stress breaks; and
- Employers must be required to share their complete heat stress management protocols with the Ministry of Labour annually to ensure accountability.

Proposed requirement 7: A requirement that cool, potable drinking water or another adequate hydrating fluid be provided by the employer, close to the work areas, for the use of workers in hot conditions.

We support the regulation with the following amendments:

- Regulations must specify that water should be available at no cost to workers.



Proposed requirement 8: A requirement that workers be provided the following information and instruction where the thermal conditions in a workplace or related to a specific work process will pose or are likely to pose a hazard to the worker's health or safety:

- 1. The measures and procedures to be implemented to protect the worker, including the engineering controls to be implemented.*
- 2. The importance of staying hydrated and of taking breaks and all rest periods identified in the work-rest cycle set out in the measures and procedures.*
- 3. The early signs and symptoms of heat strain and heat-related illnesses and the precautions to be taken to avoid illness or injury.*
- 4. Steps the worker should immediately take if they suspect they are experiencing heat strain or heat-related illness.*

We support the requirement with the following amendments:

- The instructions should be in the form of mandatory annual paid training for all migrant farm workers in Ontario;
- This training must be provided by healthcare or worker organizations and not by employers;
- The training must include a section on complaints processes that workers can utilize as outlined above.

Proposed requirement 9: In areas where a heat warning has been issued by Environment and Climate Change Canada, a requirement for employers of workers working outdoors or workers who face an increased risk of developing a heat-related illness as a result of a change in their usual thermal workplace conditions to advise them of the heat warning, the importance of staying hydrated and taking breaks and all rest periods identified in the work-rest cycle set out in the employer's measures and procedures.

We support the requirement with the following amendments:

- Workers that continue to work in outdoor, or semi-outdoor settings like greenhouses, during heat warning must have mandated access to hazard pay. Increased wages will disincentivize employer coercion to discourage breaks; and is commensurate with the risk workers are taking.