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Parliament of Canada

Independent Auditor's Report

COVID-19 PANDEMIC

REPORT 13

**Health and Safety of Agricultural Temporary
Foreign Workers in Canada During the COVID-19
Pandemic**



Office of the
Auditor General
of Canada

Bureau du
vérificateur général
du Canada

Performance audit reports

This report presents the results of a performance audit conducted by the Office of the Auditor General of Canada (OAG) under the authority of the *Auditor General Act*.

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- report both positive and negative findings
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- make recommendations for improvement when there are significant differences between criteria and assessed performance

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Introduction

Background

The Temporary Foreign Worker Program

13.1 Canada has been bringing agricultural workers to the country under the Temporary Foreign Worker Program since the late 1960s to fill labour shortages. Every year, thousands of agricultural employers bring tens of thousands of temporary foreign workers to Canada to work in seasonal jobs like farming fruits, vegetables, beef, and poultry and operating greenhouses and nurseries. Their presence helps these businesses maximize their productivity when not enough Canadian workers or permanent residents are available to do the work and helps keep Canada's food supply system running smoothly.

13.2 Canada's agricultural sector relies especially heavily on these workers. For example, in 2019, about 54,000 temporary foreign workers arrived in Canada to fill jobs with about 4,700 Canadian agricultural employers—this is the highest number of arrivals in the program's history. They work in both agriculture and horticulture operations: planting, tending, and harvesting outdoor crops and greenhouse produce, raising animals, and producing animal products. (This figure does not include those working in the fishery, food service, or meat processing sectors).

13.3 The Temporary Foreign Worker Program is governed by the *Immigration and Refugee Protection Act* and the *Immigration and Refugee Protection Regulations* and is administered by Employment and Social Development Canada in partnership with selected federal departments. To hire temporary foreign workers, employers must be approved to participate in the program, and they must meet certain requirements set out in the regulations or they may become ineligible for the program. Employment and Social Development Canada's inspections are intended to verify employers' compliance with requirements and determine consequences for those who violate them.

The COVID-19
pandemic and
emergency orders

13.4 On 11 March 2020, the World Health Organization declared the **coronavirus disease (COVID-19)** a pandemic. Canada responded with a series of actions and orders, including emergency orders issued under the *Quarantine Act*. An emergency order on 18 March 2020 prevented most foreign nationals from entering Canada, and an order that came into effect on 25 March 2020 required persons entering Canada to quarantine for 14 days. Recognizing, among other priorities, the role temporary foreign workers played in supporting Canada's food security, an order came into effect on 26 March 2020 that allowed certain foreign nationals, including temporary foreign workers holding valid work permits issued under the *Immigration and Refugee Protection Regulations*, to enter Canada. These workers were also subject to the order to quarantine for 14 days on arrival.

13.5 These restrictions were imposed as the largest number of agricultural temporary foreign workers was set to arrive for the 2020 season, and they were still in effect at the end of our audit period in June 2021. Canada also introduced new testing and travel requirements in 2021, including COVID-19 testing on arrival.

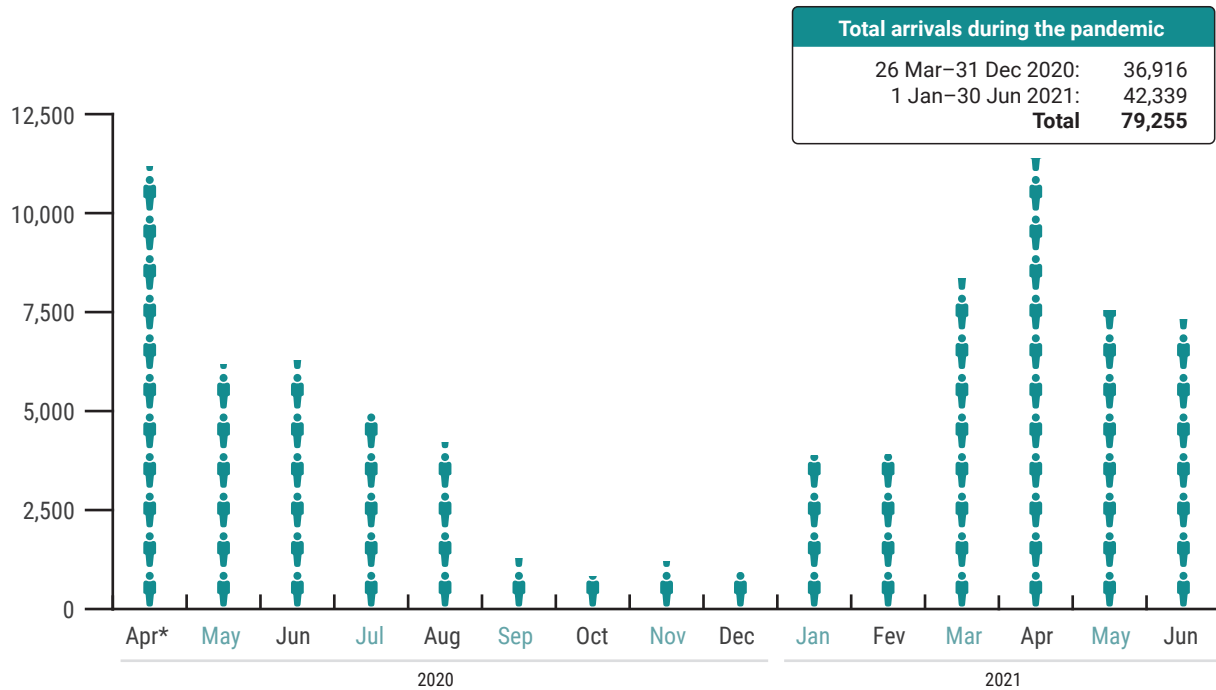
13.6 Canada amended the *Immigration and Refugee Protection Regulations* in April 2020 to place additional responsibilities on employers of temporary foreign workers to help prevent the spread of COVID-19 and to help protect workers' health and safety.

Workers' arrivals

13.7 Agricultural temporary foreign workers can arrive in Canada at any point in the year. Some begin arriving in January, and others arrive throughout the spring and summer for the growing season. From March 2020 to June 2021, more than 79,000 workers arrived to work in Canada's agricultural sector (Exhibit 13.1).

Coronavirus disease (COVID-19)—The disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

Exhibit 13.1—More than 79,000 agricultural temporary foreign workers arrived in Canada during the pandemic from March 2020 to June 2021



* In response to the pandemic, an emergency order was issued on 18 March 2020 that restricted the entry of most foreign nationals into Canada. A new emergency order that took effect on March 26 permitted certain foreign nationals, including temporary foreign workers holding valid work permits issued under the *Immigration and Refugee Protection Regulations*, to enter the country. April 2020 arrivals included 49 temporary foreign workers who arrived between 26 and 31 March 2020.

Note: In the first half of 2021, more workers entered the country each month than in the first half of 2020.

Source: Based on data provided by Immigration, Refugees and Citizenship Canada.

13.8 There have been several public reports about COVID-19 outbreaks among temporary foreign workers in Canada’s agriculture sector in both the 2020 and 2021 seasons, including reports of at least 3 deaths related to COVID-19. Our audit did not identify a causal link between these events and the inspections we examined in this audit.

Roles, responsibilities, and funding programs

13.9 Employment and Social Development Canada. This department is responsible for managing the Temporary Foreign Worker Program. It assesses employers’ applications to hire workers and inspects whether employers comply with program requirements and the applicable provisions of the *Immigration and Refugee Protection Regulations*. Through its inspections during the pandemic, this included verifying employers’ compliance with the regulatory amendments made in April 2020 to help prevent

the spread of COVID-19 and to help protect temporary foreign workers.

13.10 In July 2020, as part of a plan to better protect temporary foreign workers during the pandemic, the federal government announced \$16.2 million in funding for the department to conduct more agricultural inspections and inspect for a broader range of requirements applicable throughout the agricultural season, particularly those related to workers' accommodations.

13.11 Agriculture and Agri-Food Canada. This department managed the Mandatory Isolation Support for Temporary Foreign Workers Program. Announced by the federal government in April 2020 within a suite of COVID-19 supports, the program committed \$142 million to helping employers cover the costs associated with the quarantine of temporary foreign workers. The Mandatory Isolation Support for Temporary Foreign Workers Program ended in August 2021.

13.12 Agriculture and Agri-Food Canada also managed the Emergency On-Farm Support Fund jointly with the provinces and a third-party delivery agent. The federal government announced this \$35 million program in July 2020 as a temporary measure to help agricultural employers improve workers' health and safety on their farms, including by improving accommodations. The Emergency On-Farm Support Fund ended in February 2021.

13.13 Employers receiving support under either program were also required to comply with the new COVID-19 regulations. Agriculture and Agri-Food Canada conducted initial eligibility checks before approving employers for funding and then relied on the results of Employment and Social Development Canada's inspections to identify any employers that may not be meeting these program terms and conditions.

Focus of the audit

13.14 This audit focused on whether Employment and Social Development Canada managed the Temporary Foreign Worker Program to protect agricultural workers from COVID-19 in 2020 and 2021. We focused particularly on the

amended *Immigration and Refugee Protection Regulations* and the department's inspections, which were meant to verify whether employers followed the new COVID-19 regulatory requirements. These new requirements came into force in April 2020 and were in place for the duration of our audit. We also examined whether Agriculture and Agri-Food Canada verified that the recipients it funded under 2 of its COVID-19 support programs met program terms and conditions. These programs were intended to help protect the health and safety of workers on farms and support their ability to quarantine safely.

13.15 This audit is important because agricultural temporary foreign workers are an integral part of the workforce that supports Canada's food system. Since 2017, Employment and Social Development Canada has identified agricultural temporary foreign workers as highly vulnerable. Protecting those who live in group settings, which includes most agricultural temporary foreign workers, became even more important during the COVID-19 pandemic.

13.16 More details about the audit objective, scope, approach, and criteria are in **About the Audit** at the end of this report.

13.17 The Auditor General's 2021 reports also include an audit report on protecting Canada's food system, which examined whether selected federal organizations protected Canada's food system during the pandemic through selected food security programs. That audit did not examine the Mandatory Isolation Support for Temporary Foreign Workers Program or the Emergency On-Farm Support Fund.

Findings, Recommendations, and Responses

Overall message

13.18 Overall, we found that Employment and Social Development Canada's inspections under its Temporary Foreign Worker Program provided little assurance of protection for the health and safety of temporary foreign workers in Canada's agriculture sector during the 2020 and 2021 growing seasons.

13.19 We examined Employment and Social Development Canada’s inspections that began in April 2020. By the end of that year, we had identified significant problems in the department’s performance with respect to its own inspection policies and processes. For example, we found that the department assessed almost all employers as compliant with the COVID-19 requirements set out in the amended *Immigration and Refugee Protection Regulations*, despite having gathered little or no evidence to demonstrate this. In our view, inspections lacked the diligence and urgency that were needed in light of both the pandemic circumstances and the department’s own policies.

13.20 Both in December 2020 and February 2021, we reported these shortcomings to the department. The department committed to improve its inspections for the next wave of temporary foreign workers coming for the 2021 season. Given these significant problems, we extended our audit period into the 2021 season. We found that the quality and rigour of inspections worsened, and in addition, a large backlog developed—so much so that the department did not complete the vast majority of inspections in a timely manner. Many inspections that were meant to determine whether employers met regulatory requirements for safe quarantine conditions were still incomplete and inactive long after workers’ quarantines had ended. We also found significant problems in the department’s 2021 inspections of outbreaks in the agricultural sector—these also lacked diligence in evidence gathering and were backlogged, meaning the inspections were initiated quickly but were inactive for long periods.

13.21 We found that, when conducting inspections of compliance with regularly mandated requirements—such as verifying basic living conditions like running water, occupancy level, and whether workers’ housing was free from serious health and safety risks—the department collected no information in almost all cases but found employers compliant. These basic living conditions took on even greater importance in the pandemic context of social distancing and disinfection protocols.

13.22 The significant problems that we found in Employment and Social Development Canada’s inspections also affected Agriculture and Agri-Food Canada, because the department relied on these inspections to identify recipients of selected

COVID-19 support programs it managed—the Mandatory Isolation Support for Temporary Foreign Workers Program and the Emergency On-Farm Support Fund—that may not have met program terms and conditions.

13.23 We also found that Employment and Social Development Canada did little to meet the commitments to improve living conditions for agricultural temporary foreign workers that it had made in previous years. In the years leading up to the onset of the pandemic, advocates for temporary foreign workers had expressed concerns about the poor state of workers' living conditions. Prior to the pandemic, the department had acknowledged these concerns and committed to establishing minimum accommodation requirements for the Temporary Foreign Worker Program and bolstering its inspection processes. During the pandemic, it reiterated these commitments, but we found no evidence that it had done either of these things.

Inspections in 2020 and 2021

Inspections provided little assurance of protection for the health and safety of agricultural temporary foreign workers

What we found

13.24 We found weaknesses in the quality of Employment and Social Development Canada's inspections throughout the pandemic. These inspections provided little assurance that employers were meeting requirements to help protect the health and safety of temporary foreign workers in Canada's agricultural sector in 2020 and 2021.

13.25 In 2020, the department evaluated almost all employers as compliant with the COVID-19 regulatory requirements that the government had established, even though most quarantine inspections that we reviewed had little or no evidence to support that assessment. In some cases, we found evidence that employers might not be following the rules. In those cases, there was no evidence that the department challenged or followed up with employers. However, the department still found the employers compliant. In total, we found problems in about 73% of the quarantine inspections we reviewed.

13.26 In December 2020 and February 2021, we notified the Deputy Minister and senior officials at Employment and Social Development Canada that our audit had identified significant concerns with the quarantine inspections conducted in 2020. We found that the quality of the department's quarantine inspections worsened during spring and summer 2021, with problems in about 88% of the quarantine inspections we reviewed. The situation was further compromised by a large backlog of incomplete inspections, including quarantine and outbreak inspections, which were the department's priority. Although the majority of the quarantine inspections that we reviewed contained some information from employers, about 80% sat inactive—that is, they contained no evidence of follow-up with employers, even when there were indications of problems with workers' quarantine conditions. This means that the department was not acting quickly to verify quarantine conditions or address potentially problematic situations as soon as possible.

13.27 We found similar problems with the outbreak inspections we reviewed in 2021. Of these outbreak inspections, 60% did not contain enough information to determine whether sick or symptomatic workers were provided with separate accommodations in order to isolate as required. This is concerning because many temporary foreign workers live in shared employer-provided accommodations. Although the department initiated outbreak inspections quickly, about 80% of those we reviewed also sat inactive for at least 1 to 2 months, by which point workers' isolation periods had long passed.

13.28 We found that poor-quality evidence and backlogs were also issues in Employment and Social Development Canada's post-quarantine inspections. We found that the department completed about half of its post-quarantine inspections—meaning that the department completed its required review or arrived at a decision on whether the employer was compliant only half of the time—and furthermore, we found quality issues in those that the department did complete. These inspections were meant to verify compliance with both COVID-19 regulatory requirements and regularly mandated requirements—most notably those regular requirements that applied to workers' accommodations and that applied to most of the time that workers spent in Canada during the pandemic.

13.29 The analysis supporting this finding discusses the following topics:

- Poor-quality and incomplete quarantine inspections
- Quality problems and delays with outbreak inspections
- Poor performance on post-quarantine inspections
- Large backlog of agricultural inspections
- Many factors behind inadequate inspections
- Little assurance for Agriculture and Agri-Food Canada that all funded employers met program terms and conditions

Why this finding matters

13.30 This finding matters because inspections are the main tool that Employment and Social Development Canada uses to know whether employers are adhering to requirements to prevent the spread of COVID-19 and providing safe conditions for agricultural temporary foreign workers. Having identified temporary foreign workers in this sector as highly vulnerable during the pandemic, it is critically important that Employment and Social Development Canada implement a robust inspection regime.

Context

13.31 Prior to the COVID-19 pandemic, Employment and Social Development Canada had committed to improving its inspections, including to better safeguard workers' rights to safe and adequate housing. During the pandemic, in both the 2020 and 2021 seasons, the department further committed to increasing and strengthening inspections of agricultural employers to verify that they were meeting both new COVID-19 requirements in the amended *Immigration and Refugee Protection Regulations* and existing requirements under its Temporary Foreign Worker program. It received \$16.2 million in July 2020 in support of these commitments.

13.32 Canada's provinces and territories are responsible for setting the standards that apply to employer-provided accommodations used to house temporary foreign workers. Some provinces, territories, and municipalities have

guidelines relating to worker housing, but these vary widely. As a result, standards differ across the country. Most workers' contracts require them to stay in employer-provided housing, which means that workers have little control over the nature and quality of their accommodations.

13.33 When an employer applies for the Temporary Foreign Worker Program, they must include a completed housing inspection report that shows that their provincial, territorial, municipal, or relevant public health authority has inspected the accommodations that they will provide for workers and has found that the accommodations comply with the jurisdiction's applicable standards. The reports must also verify that workers will have access to amenities such as running water, a sufficient number of beds, and washrooms and kitchens in working order.

13.34 Once workers are living in employer-provided housing, Employment and Social Development Canada's inspections are supposed to verify that the accommodations continue to align with what was approved by the provincial, territorial, or local authority in their housing inspection reports. The department's inspections are also supposed to verify that the number of workers sharing accommodations does not exceed the occupancy limit identified by the provincial, territorial, or local authority and that there are no significant risks to workers' health and safety. During the pandemic, these checks were included in the scope of Employment and Social Development Canada's post-quarantine inspections (see Exhibit 13.3).

13.35 Employment and Social Development Canada's inspections are an essential tool to verify that employers fulfill their obligations and that temporary foreign workers are safe in Canada. Before the pandemic, employers had to comply with up to 21 federal regulatory requirements (some requirements applied only to certain sectors), including working and housing conditions and wage payment.

13.36 During the pandemic, the department was responsible for verifying that employers also comply with new requirements under the *Immigration and Refugee Protection Regulations* to help prevent the spread of COVID-19 and to help protect workers (Exhibit 13.2).




13.37 Throughout 2020 and 2021, Employment and Social Development Canada also undertook some initiatives to facilitate temporary foreign workers' continued entry into Canada during the pandemic and to assist in their safe arrival. These included communicating employer responsibilities for complying with the new COVID-19 requirements under the regulations, communicating information about COVID-19 public health measures and prevention to temporary foreign workers, and obtaining information from provinces and territories about their initiatives for vaccinating workers and testing them for COVID-19. Once workers were in Canada, Employment and Social Development Canada's inspections played a critical role by verifying that employers followed the new requirements.

Exhibit 13.2—Amendments made to the *Immigration and Refugee Protection Regulations* in April 2020 established new requirements

The relevant amendments required employers who provide accommodations to workers in the Temporary Foreign Worker Program to do the following:

	Provide housing during the 14-day quarantine mandated by the <i>Quarantine Act</i> or the <i>Emergencies Act</i> that allowed workers to remain 2 metres apart and separate from those not in quarantine.
	Provide cleaning products so that workers under quarantine could disinfect their accommodations regularly.
	Provide separate accommodations (bedroom and bathroom) for workers who became infected with, or showed signs or symptoms of, COVID-19.

The relevant amendments also required that all employers of temporary foreign workers do the following:

	Pay wages during a quarantine period as mandated by the <i>Quarantine Act</i> .
	Refrain from preventing workers from complying with any applicable order made under the <i>Emergencies Act</i> or the <i>Quarantine Act</i> .
	Refrain from preventing workers from complying with any applicable provincial public health laws enacted in response to the COVID-19 pandemic.

The consequences for employers who did not follow these regulations included monetary penalties ranging from \$1,000 to \$1 million. Employers could also be barred from hiring temporary foreign workers for a time frame ranging from 1 year to permanently.

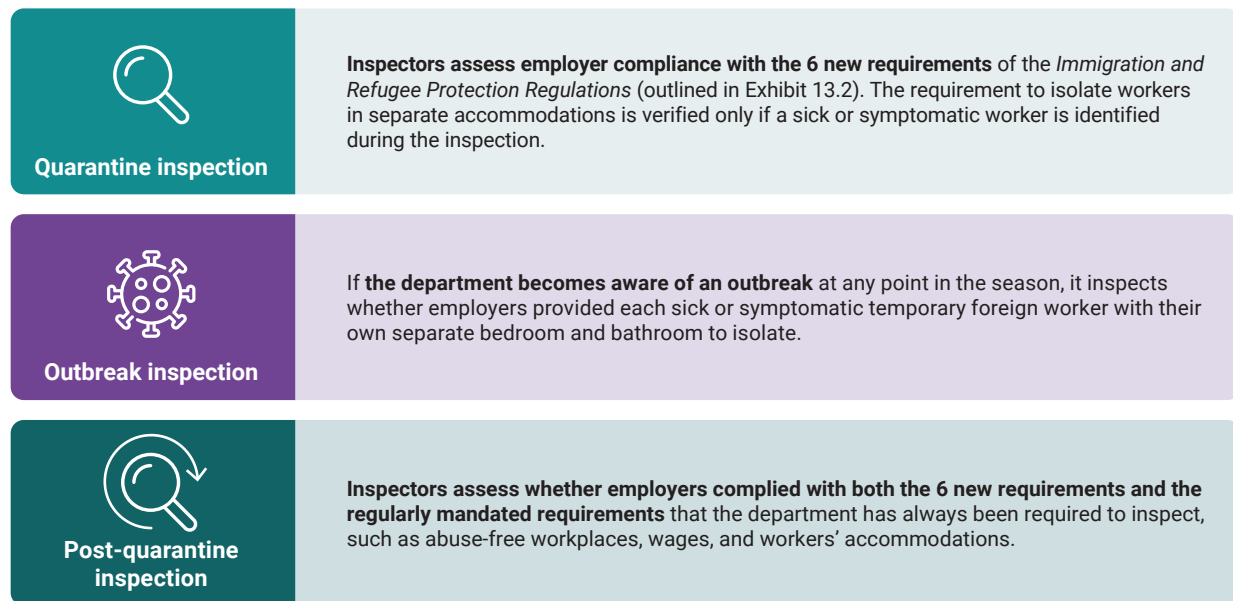
13.38 When the pandemic was declared in March 2020, Employment and Social Development Canada suspended all of its inspections. The department developed new policies and procedures for **virtual inspections** focused on verifying that employers complied with both new and existing requirements under the *Immigration and Refugee Protection Regulations*. These new policies and procedures set out clear information and inspection steps to be followed when verifying employer compliance. Employers had to submit photo and video evidence to confirm that they complied with requirements—both the amended regulations and the regularly mandated requirements. The department began to conduct these inspections on 24 April 2020. Since then, it has conducted more than 95% of its agricultural inspections virtually. These inspections relied heavily on photos, videos,

Virtual inspections—Evidence collected through email, phone, and video communication, including through phone or video interviews with employers and workers.

and interviews with workers to verify whether employers complied with requirements.

13.39 At the start of the pandemic and throughout the 2020 and 2021 seasons, the department identified the agriculture sector as the highest priority for inspection because of workers' reliance on employer-provided housing. It also identified the quarantine period as the time of highest risk for spreading the virus, and it identified quarantine and outbreak inspections as its top priorities. The department's new policies and procedures for virtual inspections established short timelines for all inspections conducted during the pandemic. This was to facilitate the timely assessment of workers' conditions, especially their quarantine and isolation conditions. Exhibit 13.3 explains the department's different types of inspections. Exhibit 13.4 shows the department's inspection priorities during the pandemic.

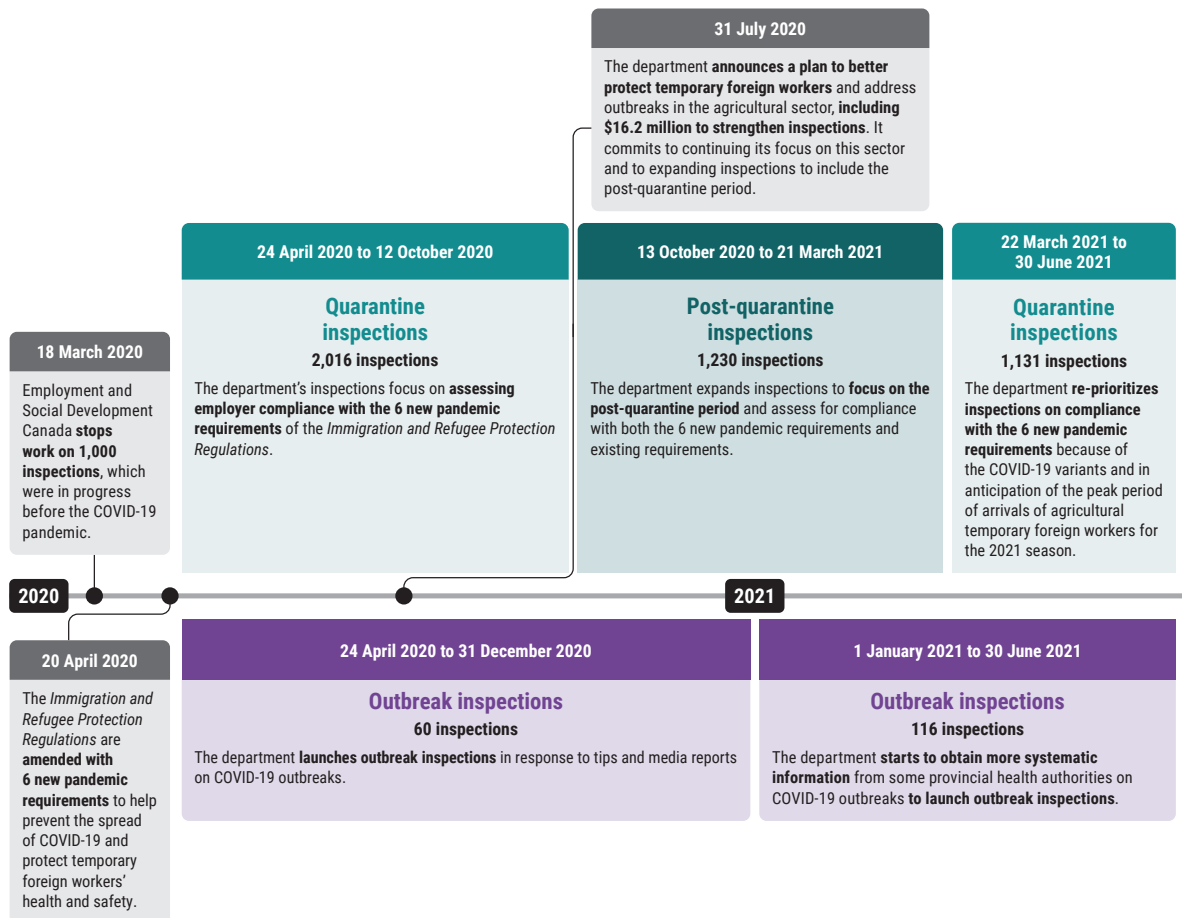
Exhibit 13.3—Employment and Social Development Canada conducted 3 types of inspections during the pandemic



Notes:

Employment and Social Development Canada randomly selects employers to inspect. The department can also launch an inspection in response to a tip or allegation. The scope of a tip or allegation inspection can target the source of a complaint and be expanded at the inspector's discretion.

Exhibit 13.4—Employment and Social Development Canada changed the focus of its agricultural inspections over the course of the pandemic



Recommendations

13.40 Our recommendations in this area of examination appear at paragraphs 13.69, 13.70, 13.71, and 13.72.

Analysis to support this finding

Poor-quality and incomplete quarantine inspections

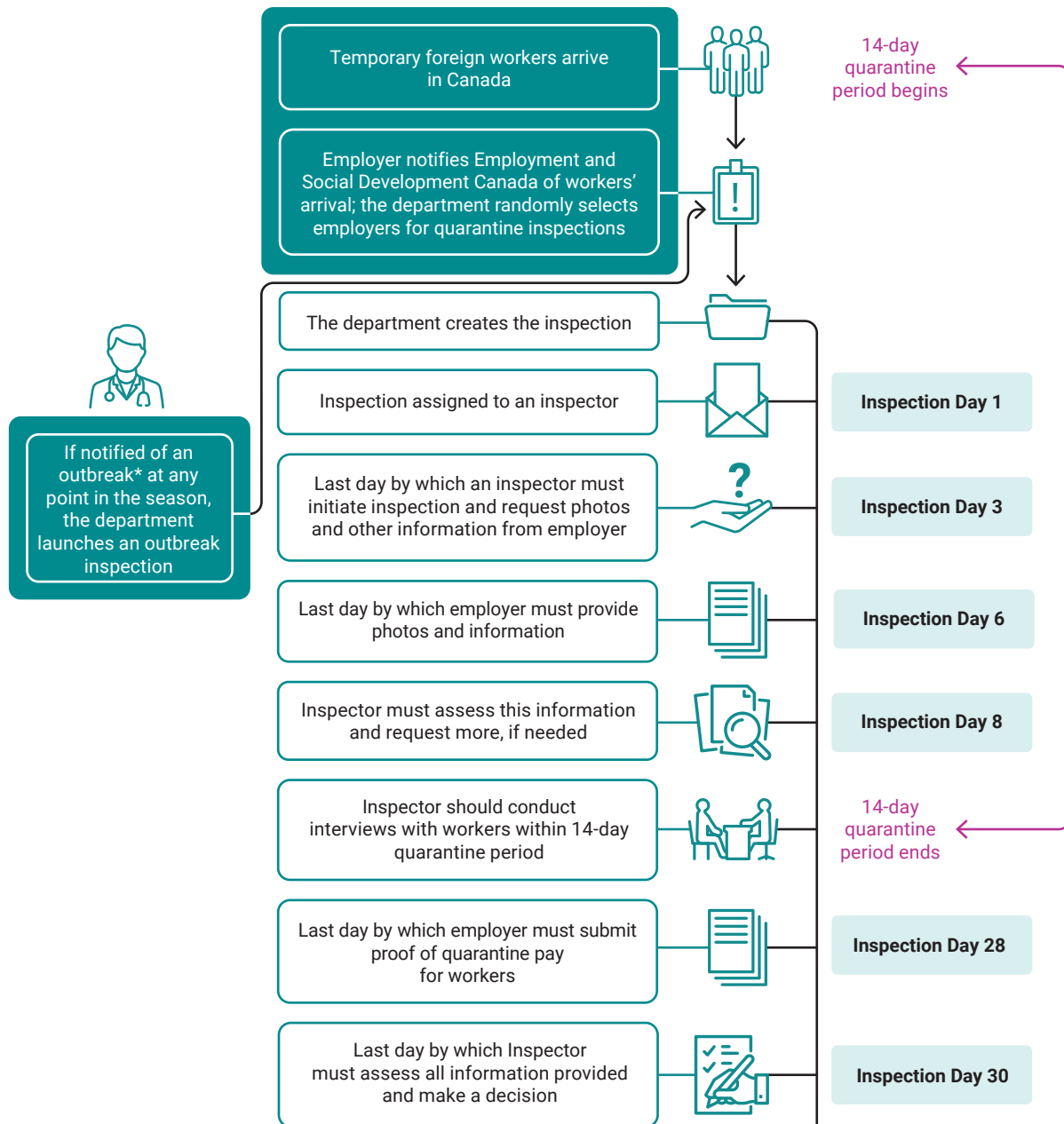
13.41 Employment and Social Development Canada identified the quarantine period as the period of highest risk for spreading the virus that causes COVID-19. We found significant problems with the quality of the department's 2020 quarantine inspections. Most inspections concluded that employers complied with the new requirements under the *Immigration and Refugee Protection Regulations* without

sufficient evidence or, sometimes, with no evidence at all. In some cases, the department accepted information that indicated possible non-compliance yet found employers compliant anyway.

13.42 In December 2020, the Auditor General of Canada met with the Deputy Minister and senior departmental officials to discuss the seriousness of these early audit findings. Senior officials committed to taking action. A follow-up letter was sent to the Deputy Minister in February 2021 outlining our findings and the need to take immediate action. We extended our audit and delayed reporting our findings to allow the department to focus its efforts on its inspections, given that a large number of temporary foreign workers were about to arrive in March and April. We expected to see improvements in the department's inspections in the 2021 season. However, the problems we found in 2020 persisted and worsened in 2021. In addition to quality concerns, a large backlog of inspections developed. The department did not complete timely quarantine and outbreak inspections as its processes require. (See paragraphs 13.60–13.64 for a more detailed discussion of the inspection backlog.)

13.43 Exhibit 13.5 shows the steps and timelines for quarantine inspections established by Employment and Social Development Canada. The department established short timelines to facilitate the timely assessment of workers' quarantine conditions. Most quarantine inspections in 2020 followed the established timelines; however, inspections often did not contain evidence to support decisions that were made on employers' compliance. In 2021, although the department initiated most quarantine inspections quickly, we found that about 80% of the inspections that we reviewed contained information provided by employers but sat inactive for 1 to 2 months or more and with no evidence of an assessment or decision. This means that the department missed the opportunity to act within this critical period to verify quarantine conditions and act when needed.

Exhibit 13.5—Employment and Social Development Canada requires timely completion of quarantine inspections



* Outbreak inspections must follow the quarantine inspection process and timelines.

Notes:

Sometimes inspections may be more complex, requiring additional steps and more time.

In certain circumstances, further extensions may be provided, which could lengthen the overall timeline.

The department can also launch an inspection in response to a tip or allegation.

13.44 Department officials told us that in 2021, inspectors were instructed to quickly initiate quarantine inspections and obtain and review information from employers. If the information demonstrated that the required quarantine conditions were met, an inspector could move to the next inspection and return later to close the file. We found no evidence that inspectors were directed to follow such a risk-based approach for inspections. More importantly, we found no evidence of an initial assessment or decision before files became inactive. Inspections that were inactive often had poor-quality or missing information that would have prevented inspectors from determining that quarantine requirements were met. In some cases, information on file indicated that employers were not complying with quarantine requirements, but inspectors did not follow up.

13.45 In total, we found problems in about 73% of the quarantine inspections that we examined in 2020. This rose to 88% when we examined the department's 2021 quarantine inspections. This means that in both years, the department's inspections provided little assurance that employers complied with the requirements to protect temporary foreign workers during quarantine. Exhibit 13.6 provides examples of our findings for each of the COVID-19 regulatory requirements we examined.



13.46 As of June 2021, the results of Employment and Social Development Canada's completed quarantine inspections showed the following:



- In 2020, 99.6% of inspected employers were found compliant with the new requirements (on the basis of the 1,964 inspections the department completed).
- In 2021, 100% of inspected employers were found compliant with the new requirements (on the basis of the 186 inspections the department completed).

On the basis of the problems we observed in our review of files, we determined that the inspections did not provide assurance that the employers were compliant. They instead provided an inaccurate picture of whether employers complied with the requirements to help prevent the spread of COVID-19 and to help protect workers.

13.47 In addition to inspecting compliance with health and safety requirements, quarantine inspections also looked at the payment of wages to temporary foreign workers during the mandatory 14-day quarantine period. We found issues with the department's assessments of wages paid to quarantined workers in 2020. We observed that inspectors tended to examine the assessment of wages more thoroughly, as it was an important area of pre-pandemic inspections. However, we found that 32% of quarantine inspections that we reviewed contained insufficient information to assess wages—either inspectors verified wage payment for fewer workers than required by the department's policies or there was no proof of wage payment on file at all. Yet, in these cases, inspectors found employers to be compliant. We could not review the department's assessment of wages paid in 2021 because many of the 2021 quarantine inspections were backlogged and the department's inspection processes allow for wages to be reviewed near the end of an inspection.

Exhibit 13.6—The quality of quarantine inspections worsened in 2021

2020 Findings (based on a representative sample of 57 quarantine inspections)	2021 Findings (based on a representative sample of 50 quarantine inspections)	
Immigration and Refugee Protection Regulations on accommodations during quarantine		
	Employment and Social Development Canada to assess whether employers provided temporary foreign workers with quarantine accommodations that met federal requirements	
	<p>In 50% of inspections, employers were found compliant on the basis of poor-quality evidence or no evidence.</p> <p>In 2% of inspections, employers were found compliant, even though information on file indicated possible non-compliance.</p>	<p>In 74% of inspections, poor-quality evidence or no evidence was collected before employers were found compliant or the inspection became inactive.</p> <p>In 16% of inspections, information that indicated possible non-compliance was on file, yet employers were found compliant or the inspection became inactive.</p>
<p>Examples:</p> <ul style="list-style-type: none"> • In a 2020 inspection, quarantine accommodations for 26 temporary foreign workers were being assessed. The only evidence collected to demonstrate that these 26 workers could physically distance as required was 2 photos of a table and photos of 2 bedrooms that showed the sleeping arrangements for only a small number of workers. No follow-up occurred, and the employer was found compliant. • In a 2020 inspection, quarantine accommodations for 3 temporary foreign workers were being assessed. The photos obtained from the employer clearly demonstrated that the distance between workers' beds in their shared bedroom was far less than the required 2 metres. No follow-up occurred, and the employer was found compliant. • In a 2021 inspection that had been inactive for more than 2 months at the time of our review, quarantine accommodations for 10 workers were being assessed. Only 1 photo of 1 bedroom was obtained from the employer. Information on the number of accommodations being used to quarantine these workers and how these accommodations allowed for required physical distancing was not collected. 		
Immigration and Refugee Protection Regulations on cleaning supplies during quarantine		
	The department to assess whether employers provided temporary foreign workers with cleaning supplies during quarantine according to federal requirements	
	<p>In 37% of inspections, employers were found compliant on the basis of poor-quality evidence or no evidence.</p> <p>In 2% of inspections, employers were found compliant, even though information on file indicated possible non-compliance.</p>	<p>In 30% of inspections, poor-quality evidence or no evidence was collected before employers were found compliant or the inspection became inactive.</p>
<p>Example:</p> <p>In a 2020 inspection, several temporary foreign workers living in the same accommodations reported to the inspector that they did not have access to cleaning supplies throughout their 2-week quarantine period. The employer was found compliant without the required follow-up. However, the file contained evidence that these supplies were purchased after the workers' quarantine period ended. Workers were also asked by the employer to sign an attestation that they had adequate supplies but told the inspector they did not understand what they were signing.</p>		

2020 Findings (based on a representative sample of 57 quarantine inspections)	2021 Findings (based on a representative sample of 50 quarantine inspections)	
Immigration and Refugee Protection Regulations on quarantine requirements		
	The department to assess whether employers did not prevent temporary foreign workers from following federal quarantine requirements	
	<table border="1" style="width: 100%;"> <tr> <td data-bbox="435 405 928 724"> <p>In 55% of inspections, employers were found compliant on the basis of poor-quality evidence or no evidence.</p> <p>In 4% of inspections, employers were found compliant, even though information on file indicated possible non-compliance.</p> </td> <td data-bbox="928 405 1430 724"> <p>In 58% of inspections, poor-quality evidence or no evidence was collected before employers were found compliant or the inspections became inactive.</p> <p>In 2% of inspections, information that indicated possible non-compliance was on file, yet employers were found compliant or the inspections became inactive.</p> </td> </tr> </table>	<p>In 55% of inspections, employers were found compliant on the basis of poor-quality evidence or no evidence.</p> <p>In 4% of inspections, employers were found compliant, even though information on file indicated possible non-compliance.</p>
<p>In 55% of inspections, employers were found compliant on the basis of poor-quality evidence or no evidence.</p> <p>In 4% of inspections, employers were found compliant, even though information on file indicated possible non-compliance.</p>	<p>In 58% of inspections, poor-quality evidence or no evidence was collected before employers were found compliant or the inspections became inactive.</p> <p>In 2% of inspections, information that indicated possible non-compliance was on file, yet employers were found compliant or the inspections became inactive.</p>	
<p>Example:</p> <p>In a 2021 inspection that had been inactive for more than 2 months at the time of our review, the inspection was initiated but no interviews took place with either the employer or the temporary foreign workers to verify the workers were able to quarantine as required. Interviews are the primary tool used to assess compliance with this requirement.</p>		
Departmental inspection requirement on interviews		
	The department to conduct interviews with temporary foreign workers to confirm quarantine living conditions and wages	
	<table border="1" style="width: 100%;"> <tr> <td data-bbox="435 1077 928 1291"> <p>In 32% of inspections, the required number of workers were not interviewed—and in some cases, none were interviewed—before employers were found compliant.</p> </td> <td data-bbox="928 1077 1430 1291"> <p>In 50% of inspections, the required number of workers were not interviewed—and in some cases, none were interviewed—before employers were found compliant or the inspections became inactive.</p> </td> </tr> </table>	<p>In 32% of inspections, the required number of workers were not interviewed—and in some cases, none were interviewed—before employers were found compliant.</p>
<p>In 32% of inspections, the required number of workers were not interviewed—and in some cases, none were interviewed—before employers were found compliant.</p>	<p>In 50% of inspections, the required number of workers were not interviewed—and in some cases, none were interviewed—before employers were found compliant or the inspections became inactive.</p>	
<p>Examples:</p> <ul style="list-style-type: none"> • In a 2021 inspection that had been inactive for 2 months at the time of our review, no interviews with any of the 6 temporary foreign workers took place. • In a 2021 inspection that had been inactive for 2 months at the time of our review, only 6 of the required 16 workers were interviewed, and none of the workers quarantining in 1 of the 2 quarantine accommodations were interviewed. 		
<p>Note: In 2021, even though we were reviewing inspections during the agricultural season, we allowed sufficient time for Employment and Social Development Canada to complete quarantine inspections according to its established time frames. We chose a representative sample of quarantine inspections from a population of files for which these established time frames had already passed.</p>		

Quality problems and delays with outbreak inspections

13.48 We found significant problems with Employment and Social Development Canada’s outbreak inspections throughout the pandemic, meaning that inspections offered little assurance that employers provided sick or symptomatic

workers with the isolation conditions required under the new federal regulations when outbreaks occurred. Employment and Social Development Canada considers outbreak inspections to be a top priority that requires immediate action.

13.49 Within our 2020 representative sample of 57 quarantine inspections, 4 employers had sick or symptomatic workers. In each of these cases, the isolation conditions had to be verified. In 2 of these cases, the employer was assessed as compliant with the isolation requirements for these workers without sufficient evidence on file. Because this indicated that there were also quality issues with the department's outbreak inspections, we expanded our work to examine these inspections in more detail in the 2021 season.

13.50 Following COVID-19 outbreaks among temporary foreign workers in Canada's agriculture sector in 2020, the department improved its information sharing with some provincial health authorities to help promote timely responses to outbreaks. Even though the department had access to better information about outbreaks in agricultural operations during the 2021 season, we were concerned because the periods of inactivity we found showed how little urgency was placed on assessing isolation conditions in these inspections. We were also concerned that the inspections offered little assurance that workers were provided with accommodations that allowed them to properly isolate. The required steps and timelines for outbreak inspections are the same as those for quarantine inspections (Exhibit 13.5).

13.51 As of the end of June 2021, Employment and Social Development Canada had undertaken 116 outbreak inspections since 1 January 2021. We examined all 62 outbreak inspections that the department conducted from 1 March to mid-May 2021 to determine whether the department had assurance that employers provided conditions that allowed sick or symptomatic workers to isolate, as required by federal regulations. We found that about 60% of the outbreak inspections we examined were missing the information that the inspection processes required (such as photos of workers' isolation space and confirmation of isolation through interviews) to determine

whether employers provided conditions that allowed workers to properly isolate. This was largely because inspections did not

- have interviews with the temporary foreign workers subject to isolation to verify their isolation conditions
- have photos of isolation accommodations to verify workers had a private bedroom and bathroom or have receipts to confirm hotels were used for isolation
- show that follow-up occurred when employers submitted photos that did not demonstrate that infected or symptomatic workers had a private bedroom and bathroom

13.52 In addition, about 15% of these inspections indicated possible non-compliance with isolation conditions. We found no evidence of further action—in 2 cases in particular, workers who tested positive for COVID-19 remained in shared accommodations with non-positive workers, increasing the risk of further spread of the virus. Exhibit 13.7 provides an example of 1 such case.

Exhibit 13.7—Improper isolation conditions increased the risk of the virus spreading among temporary foreign workers



In 1 outbreak inspection, the employer was interviewed 1 week after the case was opened. The interview indicated that **temporary foreign workers who tested positive for COVID-19 were not provided separate accommodations, which the *Immigration and Refugee Protection Regulations* required**, in order to isolate. The employer stated that workers who tested positive and who tested negative were sharing accommodations, including bathrooms and a kitchen. The employer also reported having declined the offer from the local public health unit to use a hotel to isolate workers.

Despite this information, **Employment and Social Development Canada did not follow up on corrective measures for more than 1 month and did not contact the local public health unit to ask for information until 3 months later**. At that time, the local public health unit shared the results of the inspection that it had undertaken at the outset of the outbreak, which had noted, among other things, that workers were living in a congregate environment with shared bathrooms and that cleaning supplies were inadequate.

At the time of our audit, 4 months had passed since the department's inspection had started. No photos of isolation accommodations requested from the employer had been received and there was no proof that workers had been interviewed as required by Employment and Social Development Canada's inspection procedures.

13.53 Furthermore, as with quarantine inspections, many of these 2021 outbreak inspections were backlogged. Although the department initiated them quickly (in most cases), significant delays followed. We found that almost 80% of the outbreak inspections we examined were inactive, most for at

least 1 to 2 months. When we concluded our file review in late June 2021, we found that fewer than 30% of the outbreak inspections we reviewed had decisions about whether employers followed the requirement to isolate sick or symptomatic workers. This means that the department was not acting quickly to verify whether workers were able to properly isolate or to address potential problems with workers' isolation.

Poor performance on post-quarantine inspections

13.54 In response to COVID-19 outbreaks in Canada's agriculture sector, on 31 July 2020, the federal government announced that Employment and Social Development Canada would receive \$16.2 million to conduct more inspections and also to assess for compliance with the regularly mandated requirements that applied in the post-quarantine period. The department committed to focusing on agricultural employers who provided housing to temporary foreign workers and to conducting 3,000 of these post-quarantine inspections by the end of the 2020–21 fiscal year. When the funding was announced, the department was still performing mostly quarantine inspections. By mid-October 2020, it had shifted its focus from quarantine to post-quarantine inspections. Exhibit 13.8 shows the steps and timelines the department established for post-quarantine inspections.

13.55 We found that despite the department's aim to concentrate on agricultural employers with this additional \$16.2 million in funding, about half of its post-quarantine inspections (1,230 of the 2,491 inspections actually undertaken) focused on the agriculture sector. We also found that in June 2021, when our audit period ended, only half of those inspections (609 of 1,230), in turn, were completed. Furthermore, we found significant problems with the quality of the completed agricultural post-quarantine inspections that we examined.

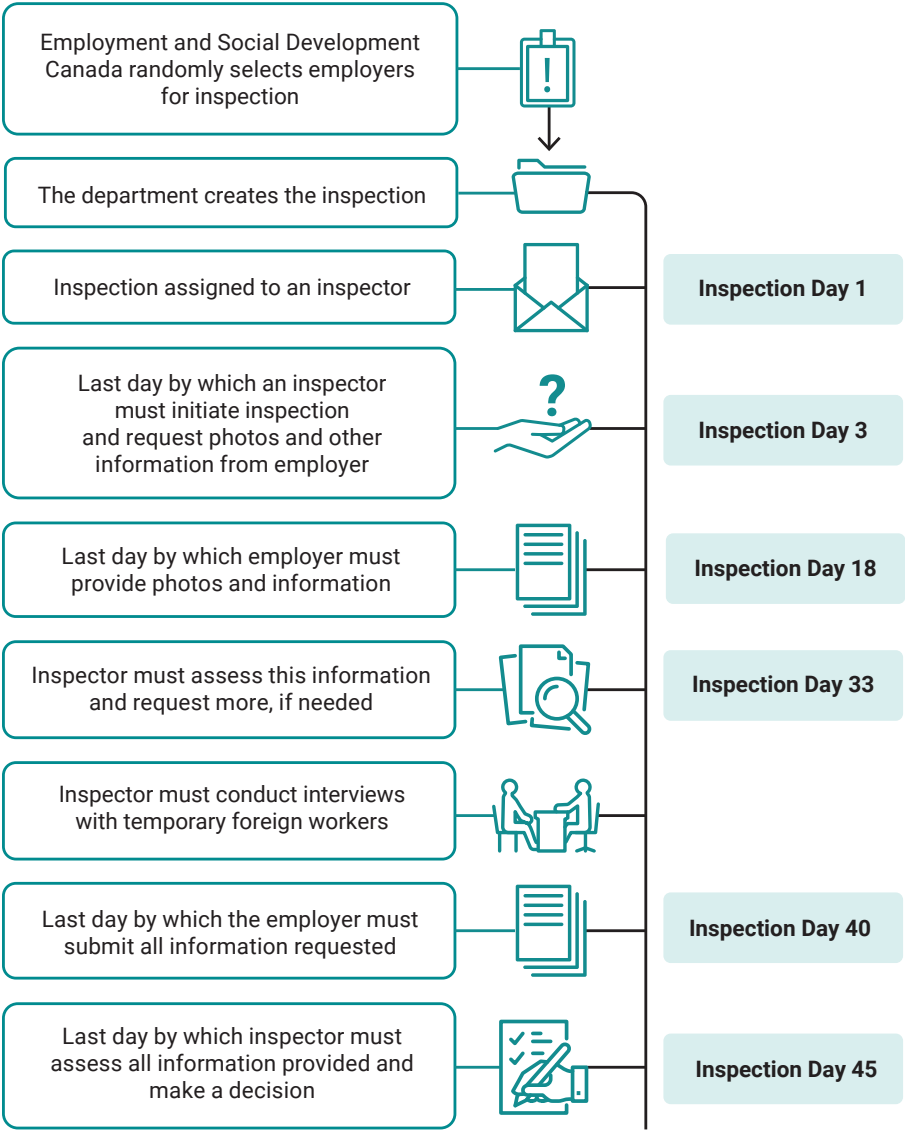
13.56 We examined a representative sample of 43 completed post-quarantine inspections in the agriculture sector and focused specifically on the department's checks of workers' accommodations. We found that the required checks on workers' basic living conditions were not done, such as checks to ensure the availability of running water, to verify that there were not more than the permitted number of

workers sharing accommodations, and to ensure there were no significant safety concerns:

- In 93% of inspections, there was little if any information on workers' accommodations, and in 84% of inspections, no photos were collected as required by virtual inspection procedures.
- In 81% of interviews with employers and 68% of interviews with temporary foreign workers, no questions were asked about workers' accommodations outside of the 14-day quarantine period, even though that was the period under inspection.
- In a small number of cases (3 of 43) where housing inspection reports issued by other jurisdictions included additional COVID-19 housing requirements, the inspections did not verify that employers continued to provide these conditions for workers. These requirements included the continued ability for workers to physically distance and access cleaning supplies in their post-quarantine accommodations.

Thus, the department did not have the evidence needed to conclude on workers' living conditions. Nonetheless, all employers were found compliant.

Exhibit 13.8—Employment and Social Development Canada also requires timely completion of its post-quarantine inspections



Notes:

Sometimes inspections may be more complex, requiring additional steps and more time.
 In certain circumstances, further extensions may be provided, which could lengthen the overall timeline.
 The department can also launch an inspection in response to a tip or allegation.

13.57 Another important aspect of ensuring compliance with the new COVID-19 requirements in the post-quarantine period was confirming that employers refrained from preventing workers from following any applicable provincial laws governing public health in response to COVID-19.

Verification of employer compliance with this requirement is important because it is one of the few requirements that extend beyond workers' quarantine periods (the other is the verification of isolation conditions, which applies at any time in the season if workers show signs or symptoms of COVID-19). It is also important because temporary foreign workers have little control over their living and working environments. The department identified the violation of this particular requirement as one of the most serious infractions and an important part of protecting temporary foreign workers post-quarantine, yet little guidance was provided to inspectors to properly assess compliance with this requirement. In June 2020, the department instructed inspectors to stop assessing employers for compliance with this specific requirement even though it remains in the *Immigration and Refugee Protection Regulations*. As of October 2020, the inspection policies required inspectors to use a risk-based approach to assess this requirement—by conducting interviews with workers and by looking for any other indications of possible non-compliance during inspections. Yet in practice, instructions not to assess this requirement were still in place at the end of our audit period.

13.58 In 2020, we found that in almost 50% of our sample of 57 quarantine inspections, which were supposed to assess all applicable requirements of the amended regulations, Employment and Social Development Canada found employers compliant with this requirement without assessing it. We also found several examples of this occurring in our review of 2021 inspections.

13.59 Department officials told us that they relied on the provinces and territories to inform them if they found workers who contravened applicable public health laws so that the department could then verify whether this was because employers prevented them from following these laws. However in 2020, it did not have mechanisms in place to receive this information. In 2021, the department began establishing mechanisms with some provinces to share information and data related to COVID-19.

Large backlog of agricultural inspections

13.60 Throughout the pandemic, Employment and Social Development Canada's stated priority was protecting vulnerable temporary foreign workers in the agricultural sector. For the first 6 months, inspections focused on quarantine inspections in the agricultural sector and the 6 new COVID-19 requirements, consistent with this priority. We found a backlog began to accumulate when the department shifted its focus to the post-quarantine inspections that it had committed to conducting by the end of the 2020–21 fiscal year. As of April 2021, inspectors did not make initial decisions on about 60% (709 of 1,230) of agricultural post-quarantine inspections. At the same time, a high number of temporary foreign workers were arriving for the 2021 season. As a result, many files were left incomplete when new quarantine inspections had to be prioritized.

13.61 We also found that the completion rate of quarantine inspections dropped from 85% in 2020 to 20% in 2021. In our view, one reason that the backlog continued to grow was that inspectors were also working on inspections that were not as time sensitive as quarantine inspections—for example, the post-quarantine inspections from 2020–21 that had not been completed. The department had also reactivated consideration of 1,000 pre-pandemic inspections, adding to inspectors' workloads.

13.62 Furthermore, we found that as of 30 June 2021, there were 1,385 agricultural inspections of all types in the backlog (meaning no decisions had been made on the inspections). Within this backlog were 894 new quarantine inspections that the department had initiated from 22 March to late May 2021 and that should have been completed by the end of our audit period. However, we found that 80% of these (714 of the 894 inspections) were still without decisions on whether employers had followed requirements—months after the quarantine periods had ended. This means the department missed the window to take corrective actions when needed.

13.63 The backlog also affected the department's new quality control process, which it introduced in February 2021 in response to our concerns. This new process required a second review of inspections (including quarantine inspections) to confirm that sufficient evidence had been gathered to conclude on employer compliance before informing the employer of the inspection result. The large backlog of inspections meant that most quarantine inspections did not have decisions, so they did not progress to the new quality control process.

13.64 Given the importance of Employment and Social Development Canada's inspections and its commitments to improvements, we continued to monitor the backlog in agricultural inspections after the end of our audit period. As of 10 September 2021, our monitoring indicated that the inspection backlog remained and delays persisted, even though the department's inspection data indicated that the department had significantly reduced the number of new agricultural inspections it had started between July and September 2021. For example, as of September 2021, the backlog of agricultural inspections stood at 1,377, including 765 quarantine inspections that still did not have a decision. These 765 quarantine inspections had been backlogged for an average of 3.5 months. According to our analysis, even with a lower number of inspections starting each month, the department's inspection backlog and long timelines to reach a decision will continue well into the 2022 season.

Many factors behind inadequate inspections

13.65 The new regulations and the inspection regime can only be as effective as their implementation. It was difficult to determine the root causes for the significant problems we found with Employment and Social Development Canada's inspections. The regulations, policies, and procedures confirm that the inspections needed to be timely, diligent, and thorough. On the basis of our review, we determined that most inspections did not meet these requirements because they lacked rigour and urgency. In our view, some contributing factors to inadequate inspections included the following:

- **The urgency of the new requirements and the effects on workers' health was not well understood.** Generally, the department did not seem to have a good understanding

of the importance and urgency of the new pandemic requirements and their effects on workers' well-being. We found files containing evidence of time-sensitive issues (such as problems with quarantine accommodations or with workers' isolation conditions) that were not followed up on for weeks or months, if at all.

- **Inspectors' workloads and capacity were poorly understood.** The department did not assess its capacity to conduct the volume of inspections that it initiated during the pandemic. Various sources of information—including inspector interviews and our detailed review of inspection files—indicated that in the 2021 season in particular, inspectors had trouble managing the volume of inspections that were assigned to them. This was evident in the long periods of inactivity that we found in most of the files we reviewed.
- **Inspectors lacked support.** Some inspectors noted that they did not have sufficient support and oversight when conducting inspections. This is important because according to information from Employment and Social Development Canada, about 50% of its 220 inspectors were new to the Temporary Foreign Worker program, either because they had transferred from other inspection programs or because they were hired by the department within the last 6 to 24 months. Inspectors also told us that they had difficulty keeping track of frequent updates to the guidance they received.
- **Interviews with workers were of poor quality.** The department developed additional guidance throughout 2020 to help inspectors improve the quality of their interviews, but we found no improvement. In many of the inspections we examined in 2020 and 2021, we found gaps and inconsistencies in what workers and employers reported to inspectors—including differing accounts of the quarantine and isolation accommodations and how many workers were housed together—and these issues were not investigated further. We also found instances where workers reported serious concerns, such as lack of food when in isolation, yet we saw no evidence that inspectors had acted to address these.
- **Quality control was poor.** We found issues with the department's quality control checks throughout the pandemic. In May and August 2020, the department checked a sample of inspections and found many of the same issues that we identified. However, we found no

evidence that the quality of inspections improved after these checks. Furthermore, for the small number of quarantine, outbreak, and post-quarantine inspections that went through the upgraded quality control process that the department established in February 2021, we found that reviewers missed obvious problems. In our view, reviewers seemed to check whether inspectors had gathered some evidence but did not check on the nature or quality of that evidence.

Little assurance for Agriculture and Agri-Food Canada that all funded employers met program terms and conditions

13.66 Employers receiving support under Agriculture and Agri-Food Canada’s Mandatory Isolation Support for Temporary Foreign Workers Program and the Emergency On-Farm Support Fund are required to comply with the new requirements under the *Immigration and Refugee Protection Regulations* put in place during the pandemic—including providing quarantine accommodations that allow for physical distancing, providing cleaning supplies for workers under quarantine, and paying workers’ wages during the quarantine period.

13.67 We found that because of all of the problems with Employment and Social Development Canada’s inspections, Agriculture and Agri-Food Canada did not know whether there were employers it supported under these programs that may not have met these terms and conditions. Most notably, the Mandatory Isolation Support for Temporary Foreign Workers Program was meant to offer financial support to employers to help cover the costs of quarantining workers. However, in most cases, Employment and Social Development Canada’s inspections did not provide assurance that workers had been able to quarantine as required.

13.68 It is worth noting that Agriculture and Agri-Food Canada has the ability to recover funds from employers who are later found to have violated program terms and conditions. However, the pervasive problems we found with the quality of Employment and Social Development Canada’s inspections throughout the pandemic, combined with the backlog that had developed in 2021, meant that Agriculture and Agri-Food Canada could not rely on the inspection results to identify potentially non-compliant employers.

13.69 Recommendation. Given the importance of rigorous assessment of employer compliance with the *Immigration and Refugee Protection Regulations*, Employment and Social Development Canada should, without delay,

- re-examine its system for identifying and assigning inspections to factor in the collective workload capacity of its inspectors to complete them in a timely manner
- train and support its inspectors to collect sufficient and appropriate evidence, as outlined in the department's policies and procedures
- improve its quality control system to monitor the progress and quality of inspections at various stages of completion and to ensure timely follow-up and application of appropriate corrective actions or consequences, as outlined in the department's policies and procedures

The department's response. Agreed. *The Temporary Foreign Worker Program was not designed to deal with a pandemic. As a result, rules, procedures, and training had to be developed in real time. The quarantine inspection compliance regime was developed in 2 weeks. Virtual inspections were initiated as an interim solution in order to comply with health requirements that did not permit in-person visits. The program had to adapt to continuously changing health directives and crisis conditions throughout the pandemic.*

Throughout the pandemic, Employment and Social Development Canada has attempted to a) adapt its inspection process to include new COVID-19 conditions; b) verify the quality and timeliness of inspections; and c) provide inspectors with updated guidance, training, and tools.

As per the Auditor General of Canada's findings, there were clear problems with achieving appropriate inspection outcomes. A national steering committee was created in May 2021 and developed an action plan to identify, implement, and track improvements to inspections. The department will closely monitor the impact of the action plan.

13.70 Recommendation. Given Employment and Social Development Canada's responsibility to assess employer compliance with all amendments made to the *Immigration and Refugee Protection Regulations* in response to the COVID-19 pandemic, including the requirement that

employers not prevent temporary foreign workers from complying with applicable provincial public health laws related to COVID-19, the department should

- obtain information from provincial and territorial authorities on applicable public health laws in order to facilitate a risk-based approach to inspecting employer compliance with this requirement
- inform, train, and support its inspectors in using a risk-based approach, in order to detect possible instances during their inspections where employers may be preventing workers from complying with applicable public health laws

The department's response. *Agreed. The provinces and territories are responsible for establishing and enforcing their public health and safety laws and policies, including those for COVID-19, in their respective provinces or territories.*

In April 2020, one of the new employer requirements introduced in the Immigration and Refugee Protection Regulations was to ensure employers did not prevent temporary foreign workers from complying with a provincial or territorial COVID-19 law that governs public health.

Employment and Social Development Canada introduced a risk-management approach in its inspection guidelines for inspectors to assess this condition when it becomes aware of potential employer non-compliance through tips or allegations or when detected during the course of an inspection.

The department has collaborated with provinces and territories throughout the pandemic and will continue to further its information-sharing agreements with provinces and territories, to ensure that protocols are in place to exchange information when an employer is suspected or found to be preventing a temporary foreign worker from complying with applicable provincial or territorial laws related to COVID-19.

The department commits to providing further training and support for inspectors to a) provide clarity on federal, provincial, and territorial roles and responsibilities; b) help identify possible instances of employer non-compliance; and c) follow up with the relevant provincial and territorial authorities.

13.71 Recommendation. Employment and Social Development Canada should take immediate action to ensure that its post-

quarantine inspections and its regular program inspections post-pandemic verify that employer-provided accommodations meet applicable requirements throughout the temporary foreign workers' stay, in accordance with its inspection policies. In particular, the department should

- verify that the condition and description of accommodations do not differ from those outlined in housing inspection reports approved by the provincial, territorial, or local authority
- verify that the accommodations do not exceed occupancy limits and that there are no reasonable grounds to believe that the accommodations pose any significant risk to workers' health and safety

The department's response. Agreed. Employment and Social Development Canada recognizes the importance of safe accommodations and remains committed to working with provinces and territories to help protect the health and safety of temporary foreign workers.

Provinces and territories are responsible for setting housing standards, inspecting against these standards, and approving the Housing Inspection Report, which is a prerequisite for employers to participate in the Temporary Foreign Worker Program. Once workers are living in the employer-provided housing, the department may conduct an employer-compliance inspection.

In line with jurisdictional responsibilities and using department policy and procedures, inspectors use the Housing Inspection Report as a reference tool to verify if accommodations are adequate, including verifying that the accommodations do not exceed occupancy limits and that there are no reasonable grounds to believe that accommodations pose a significant risk to workers' health and safety. If such issues are observed or uncovered during an inspection, the department will immediately inform the relevant provincial, territorial, and municipal authorities. In the event that the appropriate authority confirms a breach, the department will then reach a decision on employer compliance with the program.

13.72 Recommendation. Given long-past quarantine and outbreak periods, Employment and Social Development Canada should use a risk-management approach and consider information currently on file to assess the relevance and value of completing backlogged inspections. It should then balance the completion of inspections underway with

the need to undertake and complete new ones in a timely manner.

The department's response. *Agreed. Employment and Social Development Canada recognizes the importance of addressing the volume of inspections while remaining responsive to the continued pandemic context. Through the continuum of activities that are part of the compliance regime, inspections play a key role in temporary foreign worker protection.*

Throughout the pandemic, the department expanded its inspection regime and attempted to adapt to the unprecedented and evolving context. The newly established National Steering Committee is mandated to guide the development and implementation of a national workload strategy, using a risk-based approach to address the inventory of active inspections.

As the department has identified quarantine and outbreak inspections as priorities during the pandemic, the National Workload Strategy will be a key tool to balance the completion of active inspections with the introduction and timely completion of new inspection cases.

The department will also use program data to inform future enhancements to the operational model.

Living conditions for temporary foreign workers

Employment and Social Development Canada did not address long-standing concerns about worker accommodations

What we found

13.73 We found that, despite having made commitments since 2018 to make changes to its Temporary Foreign Worker program in order to improve workers' living conditions, Employment and Social Development Canada made little progress toward establishing minimum accommodation requirements as an eligibility requirement for the program. In addition, as noted in the previous section of this report, we found that because the department's inspections during the pandemic did not complete the required checks on workers' basic living conditions, the department did not enforce existing requirements for accommodations.

13.74 The analysis supporting this finding discusses the following topics:

- No concrete progress on program changes to improve workers' living conditions
- No knowledge of whether the Emergency On-Farm Support Fund improved worker accommodations
- Little assurance that inspections helped protect vulnerable temporary foreign workers

Why this finding matters

13.75 These findings matter because most agricultural temporary foreign workers who come to Canada are required to live in employer-provided housing. As such, they are dependent on their employers to provide safe, adequate accommodations. Living conditions became even more important against the backdrop of the pandemic.

Context

13.76 Each province and territory sets the housing standards that apply to accommodations used to house temporary foreign workers in its jurisdiction. As a result, there is no consistent national standard. This means that temporary foreign workers live in a wide variety of accommodations—from dual-purpose buildings (such as storage facilities) without bathrooms or kitchens on the premises to houses with full amenities.

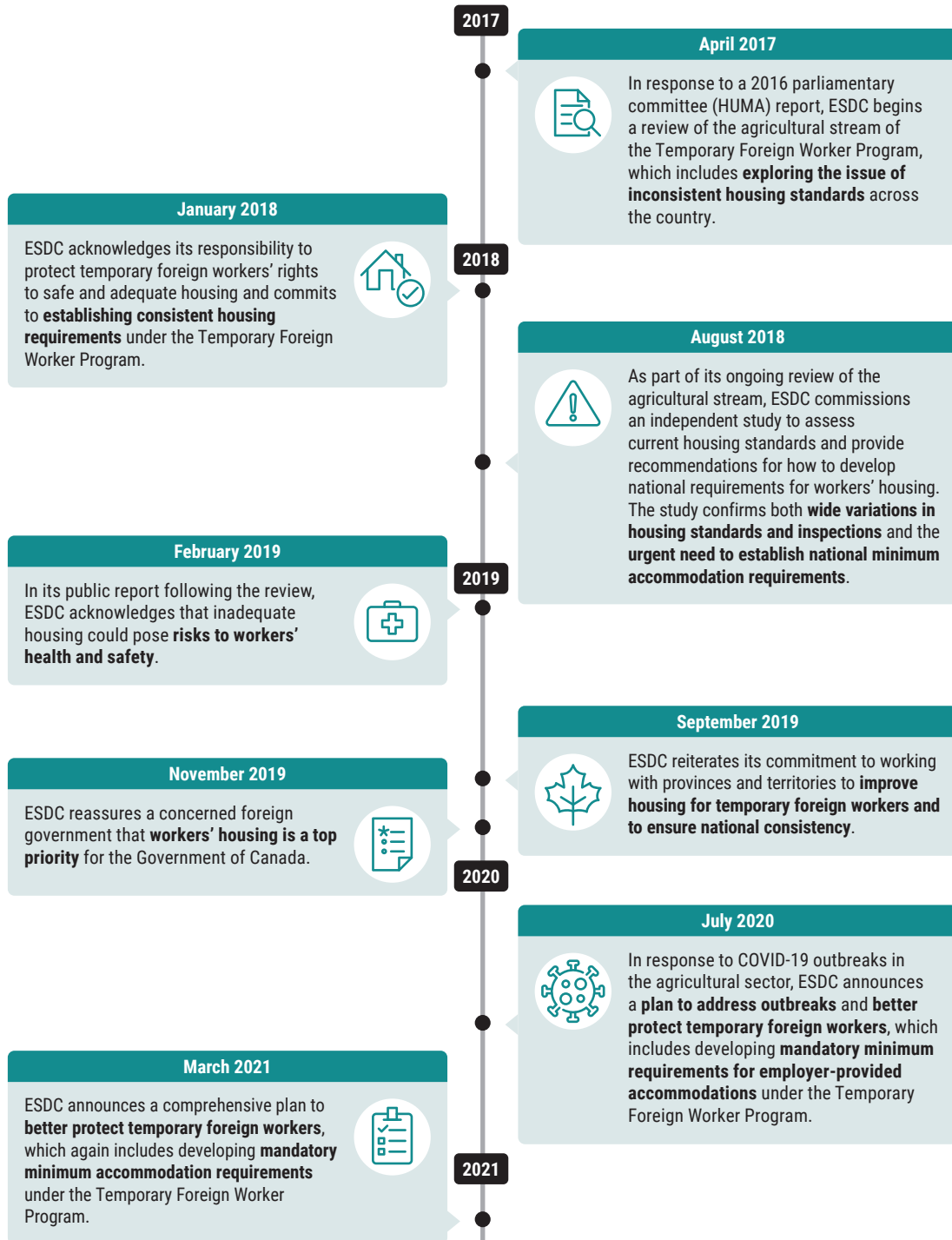
13.77 Employment and Social Development Canada requires employers to provide housing inspection reports from provincial, territorial, or local authorities when applying to hire temporary foreign workers. These housing inspection reports are meant to verify that basic building code requirements have been met and that certain required amenities (such as a toilet) are somewhere on site. These reports do not guarantee that a basic standard of living is being offered, as there is currently no minimum standard for temporary foreign workers' living conditions.

13.78 Employment and Social Development Canada made a number of commitments before and during the pandemic to

change the Temporary Foreign Worker Program to improve workers' living conditions and address the risks that poor conditions can pose (Exhibit 13.9).

13.79 In the years leading up to the pandemic, advocates for temporary foreign workers—and some foreign governments that send workers to Canada—had expressed concerns about the poor state of workers' living conditions, such as overcrowding. Employment and Social Development Canada acknowledged these concerns and, beginning in 2018, committed to improving workers' living conditions, including by coordinating with provinces and territories to develop minimum accommodation requirements that employers would need to meet in order to participate in the Temporary Foreign Worker Program.

Exhibit 13.9—Employment and Social Development Canada committed to improving temporary foreign workers’ living conditions



Abbreviations

ESDC: Employment and Social Development Canada

HUMA: House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

13.80 The pandemic made these housing issues even more pressing. Health-care experts and advocates repeated these concerns in April 2020 and again later in the pandemic, and they emphasized the risk of the virus spreading among workers in overcrowded group housing.

13.81 In summer 2020, in response to multiple outbreaks among temporary foreign workers in Canada’s agriculture sector, the Public Health Agency of Canada conducted 9 joint inspections with Employment and Social Development Canada and selected provinces. Soon after, the agency issued a report to the department that said it had determined that temporary foreign workers’ living conditions placed them at higher risk of exposure to the virus that caused COVID-19 and contributed to its transmission among workers. The report specifically identified the following as key contributors:

- densely populated shared housing, which made it difficult for workers to follow critical public health measures such as physical distancing
- inconsistent housing standards

13.82 As part of the federal government’s July 2020 plan to better protect workers and address outbreaks in Canada’s agriculture sector, Employment and Social Development Canada reiterated its commitment to developing minimum accommodation requirements for housing in its Temporary Foreign Worker Program. These requirements would establish consistent, mandatory requirements for living conditions that all employers would need to meet to be eligible for the program, such as the number of workers allowable per bedroom or bathroom.

Recommendations

13.83 Our recommendations in this area of examination appear at paragraphs 13.88 and 13.95.

No concrete progress on program changes to improve workers' living conditions

13.84 We found that Employment and Social Development Canada made little progress on its commitments dating back to 2018 to improving living conditions for temporary foreign workers. It committed to improvements through establishing minimum eligibility requirements under its Temporary Foreign Worker Program for the accommodations that employers provide to those workers.

13.85 This commitment gained much greater importance in 2020, given the link between the risk of spreading the virus that causes COVID-19 and the conditions found in typical housing for temporary foreign workers, such as crowded or congregate accommodations. As part of its pandemic response, the department recommitted to establishing these requirements and to enforcing them through its inspections.

13.86 In October 2020, the department launched consultations with stakeholders on its proposed minimum accommodation requirements, which would require employers to make changes to the accommodations they provide to workers, including the following

- limiting the number of workers that share bedrooms and specifying appropriate types of beds and minimum spacing between beds
- limiting the number of workers that can share washrooms and requiring that washrooms be within workers' accommodations
- specifying a maximum occupancy rate for common living spaces, including requiring that accommodations have sufficient furniture for the number of workers
- ensuring that accommodations have functional heating and cooling and have kitchens equipped with a refrigerator, oven, and sufficient tables, chairs, and food storage space for workers' use

In its consultations, Employment and Social Development Canada confirmed that these proposed requirements would not

require changes to existing provincial and territorial housing standards. Rather, the proposed minimum requirements would complement the aspects of housing over which provinces, territories, and municipalities have jurisdiction and which are covered by jurisdictional housing inspection reports, such as building codes, zoning bylaws, and fire codes.

13.87 As of June 2021, 7 months after the consultation ended, the department had neither completed its analysis of the responses received nor established timelines or an action plan to advance the development of these requirements. Department officials were unable to tell us when the minimum accommodation requirements would be in place.

13.88 Recommendation. Given Employment and Social Development Canada's repeated commitments over the years to improve workers' living conditions through the Temporary Foreign Worker Program, the department should expedite the development and implementation of minimum accommodation requirements as an eligibility condition of this federal program, in consultation with provinces, territories, and other jurisdictions.

The department's response. *Agreed. Employment and Social Development Canada recognizes the importance of safe accommodations. Living conditions for temporary foreign workers in the agricultural sector is a multi-stakeholder challenge, requiring cooperation among many players. The federal role in the context of the Temporary Foreign Worker Program includes setting eligibility conditions and enforcing compliance with applicable regulations governing the program. Provincial and territorial governments generally have exclusive jurisdiction over the development of accommodation rules. In 2020, the department undertook consultations on proposed minimum standards with provinces, territories, municipalities, and key stakeholders with a view to improving employer-provided accommodations.*

While the federal government cannot set standards in the areas of exclusive provincial jurisdiction, it will work with the provinces and territories to propose changes to help address health and safety concerns related to accommodations. The employers will need to demonstrate that they meet provincial or territorial requirements in order to participate in the program.

The department is also pursuing other actions such as the Migrant Worker Support Program, which will provide \$49.5 million over 3

years for migrant support organizations and regulatory amendments to help prevent mistreatment.

While advancing this work, the department is also implementing immediate measures to improve the review of housing inspection reports so that overcrowding can be addressed prior to the arrivals of temporary foreign workers.

No knowledge of whether the Emergency On-Farm Support Fund improved worker accommodations

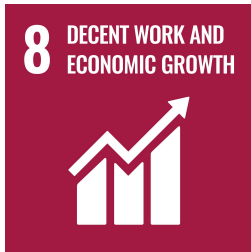
13.89 Employment and Social Development Canada told us that the 2020 Emergency On-Farm Support Fund would help mitigate risks related to workers' living conditions during the pandemic. This program, administered by Agriculture and Agri-Food Canada, was announced in July 2020 as part of the government's suite of measures related to COVID-19. It was intended to boost on-farm protections both for domestic and temporary foreign workers by improving health and safety. The program included funding for employers to invest in workers' post-quarantine accommodations in order to make them safer.

13.90 However, we found little available information on what the program achieved. Agriculture and Agri-Food Canada was able to track how much of the funding went to on-farm housing—about \$13.9 million—but was not able to assess whether this funding improved workers' health and safety and limited the spread of COVID-19.

13.91 We found that the program's performance indicators focused on farm productivity and were not linked to accommodation improvements. Agriculture and Agri-Food Canada established 1 performance indicator to measure improved worker safety, but it did not collect any information to report against it. Furthermore, Employment and Social Development Canada credited this program with helping to ensure employers were better prepared to receive temporary foreign workers and address the risks of virus transmission for the 2021 season. However, we found that Employment and Social Development Canada did not obtain information on the program's results to support this position.

Little assurance that inspections helped protect vulnerable temporary foreign workers

13.92 We found that Employment and Social Development Canada had identified agricultural temporary foreign workers as a vulnerable population on multiple occasions but missed opportunities to gather information and track progress against relevant government commitments in this area.



Source: United Nations

13.93 In September 2015, Canada committed to achieving the United Nations' 2030 Agenda for Sustainable Development. In its 2021–22 Departmental Plan, the department identified the activities it planned to support Canada's efforts to address the 2030 Agenda. The department identified programs and corresponding sustainable development goals that it contributed to achieving. However, the Temporary Foreign Worker Program does not appear on this list as a program tracked to demonstrate progress. In our opinion, this was a missed opportunity because Goal 8 (which promotes decent work for all) is relevant to the Temporary Foreign Worker Program. Particularly relevant is Target 8.8: "Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment."

13.94 Additionally, in the development of federal programs, departments are expected to factor in and respond to systemic inequality considerations using a **gender-based analysis plus** lens. In the context of its Temporary Foreign Worker Program, Employment and Social Development Canada identified agricultural temporary foreign workers as a vulnerable group. The department set out to protect these workers through its inspections; however, we did not see evidence that the department considered disaggregated data to help inform inspection decisions to support members of this vulnerable group. Given agricultural temporary foreign workers' reliance on employers for their living conditions and for their ability to follow public health requirements

Gender-based analysis plus—An analytical process that provides a rigorous method for the assessment of systemic inequalities, as well as a means to assess how diverse groups of women, men, and gender-diverse people may experience policies, programs, and initiatives. The "plus" acknowledges that gender-based analysis goes beyond biological (sex) and socio-cultural (gender) differences and considers many other identity factors, such as race, ethnicity, religion, age, and mental or physical ability.

Source: Adapted from Women and Gender Equality Canada

established in response to COVID-19, the department's poor-quality inspections meant that it had little assurance that workers were protected.

13.95 Recommendation. As the federal lead for Goal 8 of the United Nations' Sustainable Development Goals, Employment and Social Development Canada should use a gender-based analysis plus lens to develop new performance indicators for the Temporary Foreign Worker Program that would contribute to advancing the United Nations' 2030 Agenda for Sustainable Development and to promoting a safe and secure working environment for temporary foreign workers. The department should also monitor and track progress against these indicators and report on its progress.

The department's response. *Agreed. Employment and Social Development Canada recognizes the importance of the United Nations' 2030 Agenda for Sustainable Development and supports the aims of Sustainable Development Goal 8.*

The Temporary Foreign Worker Program will utilize a gender-based analysis plus lens in the implementation and measurement of actions, including in the department's inspection processes, to support worker protection within the department's mandate and jurisdiction. The department is currently working to implement proposed regulatory amendments and launch the Migrant Worker Support Program, which builds on a pilot in British Columbia launched in 2018 to support migrant workers dealing with abuse or mistreatment. In 2020, this funding was expanded to organizations elsewhere in Canada to assist workers affected by the pandemic.

The new Migrant Worker Support Program is part of the federal government's broader commitment to protect temporary foreign workers from mistreatment and abuse by supporting this population in learning about and exercising its rights. As part of this program, the department will conduct a survey with workers, and funded community organizations will report on the impact of enhanced supports.

The department will look for opportunities to integrate the results of this data collection into its gender-based analysis plus reporting in the Departmental Results Report and other public channels.

Conclusion

13.96 Since April 2020, Employment and Social Development Canada has been responsible for verifying compliance with the amended *Immigration and Refugee Protection Regulations*, which placed additional responsibilities on employers participating in the Temporary Foreign Worker Program to protect workers from COVID-19. We concluded that in 2020 and 2021, Employment and Social Development Canada's inspections of employers' compliance with new and existing regulatory requirements were poorly executed and provided little assurance that temporary foreign workers in Canada's agriculture sector were protected.

13.97 Although the department developed new policies and procedures to conduct virtual inspections, there were significant problems with the quality of inspections throughout the pandemic. In 2020, inspectors assessed almost all employers as compliant with the new requirements without gathering sufficient evidence, or they accepted information that indicated possible non-compliance without following up. Because of these problems, 73% of the quarantine inspections we examined had quality problems. In 2021, the quality of inspections worsened, with 88% of quarantine inspections we examined having quality problems. This situation was further complicated by a backlog of inspection files that were inactive. About 80% of both quarantine and outbreak inspections, which require the timely assessment of compliance, were still without decisions on whether employers followed requirements months after these periods had ended.

13.98 These problems meant that Employment and Social Development Canada did not have assurance that

- employers were providing the required accommodations to allow workers to quarantine upon arrival
- employers were not preventing workers from following the public health laws in place during their stay
- sick or symptomatic workers could properly isolate from others

13.99 We also concluded that Employment and Social Development Canada’s inspections did not verify that accommodations provided by employers in the post-quarantine period met program requirements and were safe for temporary foreign workers. The department also did not make any concrete progress on its commitment to address long-standing concerns with workers’ living conditions in employer-provided accommodations by developing minimum accommodation requirements under its program. These concerns took on even greater importance during the pandemic.

13.100 Finally, we concluded that because of the poor quality of Employment and Social Development Canada’s inspections in 2020 and 2021, Agriculture and Agri-Food Canada could not rely on these inspections to identify employers that it approved for funding under 2 of its COVID-19 response programs that may not have met these programs’ terms and conditions. These programs’ terms and conditions aimed at supporting the safe quarantine and improvement of other health and safety measures for temporary foreign workers.

About the Audit

This independent assurance report was prepared by the Office of the Auditor General of Canada on management of the Temporary Foreign Worker Program during the COVID-19 pandemic. Our responsibility was to provide objective information, advice, and assurance to assist Parliament in its scrutiny of the government's management of resources and programs, and to conclude on whether management of the program complied in all significant respects with the applicable criteria.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard on Assurance Engagements (CSAE) 3001—Direct Engagements, set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook—Assurance.

The Office of the Auditor General of Canada applies the Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we complied with the independence and other ethical requirements of the relevant rules of professional conduct applicable to the practice of public accounting in Canada, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

In accordance with our regular audit process, we obtained the following from entity management:

- confirmation of management's responsibility for the subject under audit
- acknowledgement of the suitability of the criteria used in the audit
- confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided
- confirmation that the audit report is factually accurate

Audit objective

The objective of this audit was to determine whether Employment and Social Development Canada managed its Temporary Foreign Worker Program to help protect workers in the agricultural sector from COVID-19 and whether Agriculture and Agri-Food Canada effectively managed selected funding programs* related to COVID-19 intended to support workers' safe quarantine and improve workers' health and safety on farms, with a view to supporting continued agriculture production in Canada.

* "Selected funding programs" refers to the Mandatory Isolation Support for Temporary Foreign Workers Program and the Emergency On-Farm Support Fund.

Scope and approach

During the audit, we examined whether Employment and Social Development Canada appropriately adapted the Temporary Foreign Worker Program to incorporate the additional measures required during the pandemic, specifically the change in scope and prioritization of inspections of agricultural employers. The audit also examined whether the inspections in the agriculture sector were conducted as designed to ensure that employers complied with the new regulations in place (specifically, the amendments to the *Immigration and Refugee Protection Regulations*), both during and after the mandatory quarantine period, and whether the department took appropriate and timely corrective action in response to inspection results. The audit examined these aspects in both 2020 and 2021 through several detailed file reviews and quantitative analysis of Employment and Social Development Canada's inspection data. Specifically the audit team conducted

- stratified representative sampling of 57 completed quarantine inspections created between 24 April and 30 September and completed by 5 November 2020 (out of 1,675 inspections)

Note: In 2020, provincial governments in British Columbia and Prince Edward Island managed the 14-day quarantine period for agricultural temporary foreign workers. Employment and Social Development Canada still conducted quarantine inspections of employers in these provinces. Our representative sampling approach accounted for this to ensure that our conclusions regarding all COVID-19 regulatory requirements remained representative of the entire population.

- stratified representative sampling of 43 completed post-quarantine inspections conducted between 1 November 2020 and 22 March 2021 (out of 263 inspections)
- stratified representative sampling of 50 quarantine inspections initiated between 23 March and 10 May 2021* (out of 598 inspections)

Note: In 2021, provincial governments in New Brunswick and Nova Scotia also began managing the 14-day quarantine period. Employment and Social Development Canada did not conduct random quarantine inspections in these 4 provinces.

- a review of the entire population of all outbreak inspections initiated between 1 March and 11 May 2021* (out of 62 inspections)

* In 2021, even though we were reviewing inspections during the agricultural season, we allowed sufficient time for Employment and Social Development Canada to complete quarantine and outbreak inspections according to its established time frames. Our review did not begin until these established time frames had passed.

We interviewed Employment and Social Development Canada officials involved at different levels of the Temporary Foreign Worker Program and communicated with staff both in regional offices and in the national headquarters for further information about the 212 inspection files we examined.

In December 2020 and February 2021, we reported shortcomings to the department. The department committed to improving its inspections for the wave of temporary foreign workers coming for the 2021 season. Accordingly, we extended our audit period into the 2021 season. With the extension of the audit into 2021, we assessed the department's efforts to improve the quality of its inspections in response to concerns highlighted by our audit and by its own internal evaluation and quality assurance processes. We also assessed how the department acted on its commitment to strengthening worker protections through its inspections in the 2021 season. Furthermore, we examined whether Employment and Social Development Canada, in preparation for the arrival of temporary foreign workers in 2020 and 2021, considered both emerging risks and existing program concerns that posed a particular concern in light of COVID-19 and whether the department put adequate mitigating measures in place. Our work in this area focused specifically on the living conditions of temporary foreign workers.

The audit also examined Agriculture and Agri-Food Canada's administration of the Mandatory Isolation Support for Temporary Foreign Workers Program and the Emergency On-Farm Support Fund, with emphasis on whether the department verified that program terms and conditions were met, most notably that temporary foreign workers were quarantined as required, and whether measures were taken if these conditions were not met. With respect to the Emergency On-Farm Support Fund, the audit examined whether Agriculture and Agri-Food Canada, in coordination with its provincial partners and a third-party delivery agent, collected information on the program results achieved by funding recipients to improve the health and safety of workers and limit the spread of COVID-19 on farms.

We did not examine

- Employment and Social Development Canada's processing and approval of labour market impact assessments when approving employers to hire temporary foreign workers, its management of complaints and allegations received through its tip line, or the funding that it provided to migrant worker support groups as part of the COVID-19 response
- the work undertaken by Employment and Social Development Canada's tiger team in 2021 to respond to changing border measures and to facilitate the arrival of workers during the pandemic, such as the coordination of flights and charters, COVID-19 testing on arrival and on day 8 (was previously day 10) of quarantine, and alternative testing protocols
- any temporary foreign worker who entered Canada under Immigration, Refugees and Citizenship Canada's International Mobility Program or any inspection of the program's employers by Employment and Social Development Canada during the pandemic
- any initiatives or programs related to permanent residency for temporary foreign workers

- temporary foreign workers' access to health services or associated programming, including access to vaccinations and COVID-19 testing both before workers arrived and when they were in Canada
- the Public Health Agency of Canada's monitoring of individual temporary foreign workers' compliance with mandatory quarantine.

Criteria

Criteria	Sources
<p>We used the following criteria to determine whether Employment and Social Development Canada managed its Temporary Foreign Worker Program to help protect workers in the agricultural sector from COVID-19 and whether Agriculture and Agri-Food Canada effectively managed selected funding programs* related to COVID-19 intended to support workers' safe quarantine and improve workers' health and safety on farms, with a view to supporting continued agriculture production in Canada.</p> <p>* "Selected funding programs" refers to the Mandatory Isolation Support for Temporary Foreign Workers Program and the Emergency On-Farm Support Fund.</p>	
<p>Employment and Social Development Canada adequately planned** for the arrival of temporary foreign workers and updated its controls accordingly to help prevent the spread of COVID-19 and facilitate access to labour.</p> <p>** "Adequately planned" means that Employment and Social Development Canada assessed the employers' ability to comply with applicable public health requirements in response to COVID-19 and acted to mitigate existing and emerging risks prior to the arrival of temporary foreign workers in Canada.</p>	<ul style="list-style-type: none"> • <i>Immigration and Refugee Protection Act</i> • <i>Department of Employment and Social Development Act</i> • Budget 2018: Equality + Growth—A Strong Middle Class, Department of Finance Canada • Policy on Results, Treasury Board • Directive on Results, Treasury Board • Transforming Our World: The 2030 Agenda for Sustainable Development, United Nations, 2015 • Departmental Plan 2021–22, Employment and Social Development
<p>Employment and Social Development Canada, in coordination with its partners (the provinces and territories, ministries of labour, and public health organizations), ensured that employers complied with the requirements of the Temporary Foreign Worker Program intended to help protect workers from COVID-19, including the mandatory 14-day quarantine period.</p>	<ul style="list-style-type: none"> • <i>Quarantine Act</i> • COVID-19 Emergency Orders-in-Council, Governor in Council • <i>Immigration and Refugee Protection Regulations</i> • <i>Department of Employment and Social Development Act</i> • Transforming Our World: The 2030 Agenda for Sustainable Development, United Nations, 2015 • Circulars regarding inspections under the Temporary Foreign Worker Program, Employment and Social Development Canada, 2020 and 2021 • Integrity Operations Manual, Service Canada, 2018
<p>Agriculture and Agri-Food Canada had assurance that employers approved for funding under selected funding programs*** complied with the programs' terms and conditions, including mandatory quarantine for temporary foreign workers entering Canada, and took timely corrective action where required.</p> <p>*** "Selected funding programs" refers to the Mandatory Isolation Support for Temporary</p>	<ul style="list-style-type: none"> • Policy on Transfer Payments, Treasury Board • Directive on Transfer Payments, Treasury Board • Contribution Agreement for the Mandatory Isolation Support for Temporary Foreign Workers Program, Agriculture and Agri-Food Canada • Mandatory Isolation Support for Temporary Foreign Workers Program: Program Delivery

Criteria	Sources
Foreign Workers Program and the Emergency On-Farm Support Fund.	<p>Risk Assessment, Agriculture and Agri-Food Canada</p> <ul style="list-style-type: none"> • Mandatory Isolation Support for Temporary Foreign Workers Program: Applicant Guide, Agriculture and Agri-Food Canada • Framework for Ineligibility for Agriculture and Agri-Food Canada's Grants and Contributions Programs in Relation to Applicants' Status Under Employment and Social Development Canada's Temporary Foreign Worker Program, Agriculture and Agri-Food Canada • Contribution Agreements for the Emergency On-Farm Support Fund, Agriculture and Agri-Food Canada • Emergency On-Farm Support Fund: Program Delivery Parameters, Agriculture and Agri-Food Canada • Emergency On-Farm Support Fund: Applicant Guide, Agriculture and Agri-Food Canada
Agriculture and Agri-Food Canada (in coordination with provinces) established mechanisms to measure and report on the results of the Emergency On-Farm Support Fund and its contribution to improved health and safety of farm workers.	<ul style="list-style-type: none"> • Policy on Transfer Payments, Treasury Board • Directive on Transfer Payments, Treasury Board • Policy on Results, Treasury Board • Directive on Results, Treasury Board • Contribution Agreement for the Emergency On-Farm Support Fund, Agriculture and Agri-Food Canada • Emergency On-Farm Support Fund: Program Delivery Parameters, Agriculture and Agri-Food Canada • Canadian Agricultural Strategic Priorities Program: Performance Information Profile, Agriculture and Agri-Food Canada, 2020 • Emergency On-Farm Support Fund: Internal Control Framework, Agriculture and Agri-Food Canada

Period covered by the audit

The audit covered the period from January 2020 to June 2021. This is the period to which the audit conclusion applies. However, to gain a more complete understanding of the subject matter of the audit, we also examined certain matters that preceded the start date of this period. After the end of our audit period, we continued to monitor the backlog in agricultural inspections up to 10 September 2021 and included information on the status of the backlog in the report.

Date of the report

We obtained sufficient and appropriate audit evidence on which to base our conclusion on 12 October 2021 in Ottawa, Canada.

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List of Recommendations

The following table lists the recommendations and responses found in this report. The paragraph number preceding the recommendation indicates the location of the recommendation in the report, and the numbers in parentheses indicate the location of the related discussion.

Recommendation	Response
<p>13.69 Given the importance of rigorous assessment of employer compliance with the <i>Immigration and Refugee Protection Regulations</i>, Employment and Social Development Canada should, without delay,</p> <ul style="list-style-type: none"> • re-examine its system for identifying and assigning inspections to factor in the collective workload capacity of its inspectors to complete them in a timely manner • train and support its inspectors to collect sufficient and appropriate evidence, as outlined in the department’s policies and procedures • improve its quality control system to monitor the progress and quality of inspections at various stages of completion and to ensure timely follow-up and application of appropriate corrective actions or consequences, as outlined in the department’s policies and procedures <p>(13.41-13.68)</p>	<p>The department’s response. Agreed. The Temporary Foreign Worker Program was not designed to deal with a pandemic. As a result, rules, procedures, and training had to be developed in real time. The quarantine inspection compliance regime was developed in 2 weeks. Virtual inspections were initiated as an interim solution in order to comply with health requirements that did not permit in-person visits. The program had to adapt to continuously changing health directives and crisis conditions throughout the pandemic.</p> <p>Throughout the pandemic, Employment and Social Development Canada has attempted to a) adapt its inspection process to include new COVID-19 conditions; b) verify the quality and timeliness of inspections; and c) provide inspectors with updated guidance, training, and tools.</p> <p>As per the Auditor General of Canada’s findings, there were clear problems with achieving appropriate inspection outcomes. A national steering committee was created in May 2021 and developed an action plan to identify, implement, and track improvements to inspections. The department will closely monitor the impact of the action plan.</p>
<p>13.70 Given Employment and Social Development Canada’s responsibility to assess employer compliance with all amendments made to the <i>Immigration and Refugee Protection Regulations</i> in response to the COVID-19 pandemic, including the requirement that employers not prevent temporary foreign workers from complying with applicable provincial public health laws related to COVID-19, the department should</p> <ul style="list-style-type: none"> • obtain information from provincial and territorial authorities on applicable public health laws in order to facilitate a risk-based 	<p>The department’s response. Agreed. The provinces and territories are responsible for establishing and enforcing their public health and safety laws and policies, including those for COVID-19, in their respective provinces or territories.</p> <p>In April 2020, one of the new employer requirements introduced in the <i>Immigration and Refugee Protection Regulations</i> was to ensure employers did not prevent temporary foreign workers from complying with a provincial or territorial COVID-19 law that governs public health.</p>

Recommendation	Response
<p>approach to inspecting employer compliance with this requirement</p> <ul style="list-style-type: none"> inform, train, and support its inspectors in using a risk-based approach, in order to detect possible instances during their inspections where employers may be preventing workers from complying with applicable public health laws <p>(13.57-13.59)</p>	<p>Employment and Social Development Canada introduced a risk-management approach in its inspection guidelines for inspectors to assess this condition when it becomes aware of potential employer non-compliance through tips or allegations or when detected during the course of an inspection.</p> <p>The department has collaborated with provinces and territories throughout the pandemic and will continue to further its information-sharing agreements with provinces and territories, to ensure that protocols are in place to exchange information when an employer is suspected or found to be preventing a temporary foreign worker from complying with applicable provincial or territorial laws related to COVID-19.</p> <p>The department commits to providing further training and support for inspectors to a) provide clarity on federal, provincial, and territorial roles and responsibilities; b) help identify possible instances of employer non-compliance; and c) follow up with the relevant provincial and territorial authorities.</p>
<p>13.71 Employment and Social Development Canada should take immediate action to ensure that its post-quarantine inspections and its regular program inspections post-pandemic verify that employer-provided accommodations meet applicable requirements throughout the temporary foreign workers' stay, in accordance with its inspection policies. In particular, the department should</p> <ul style="list-style-type: none"> verify that the condition and description of accommodations do not differ from those outlined in housing inspection reports approved by the provincial, territorial, or local authority verify that the accommodations do not exceed occupancy limits and that there are no reasonable grounds to believe that the accommodations pose any significant risk to workers' health and safety <p>(13.54-13.56)</p>	<p>The department's response. Agreed. Employment and Social Development Canada recognizes the importance of safe accommodations and remains committed to working with provinces and territories to help protect the health and safety of temporary foreign workers.</p> <p>Provinces and territories are responsible for setting housing standards, inspecting against these standards, and approving the Housing Inspection Report, which is a prerequisite for employers to participate in the Temporary Foreign Worker Program. Once workers are living in the employer-provided housing, the department may conduct an employer-compliance inspection.</p> <p>In line with jurisdictional responsibilities and using department policy and procedures, inspectors use the Housing Inspection Report as a reference tool to verify if accommodations are adequate, including verifying that the accommodations do not exceed occupancy limits and that there are no reasonable grounds to believe that accommodations pose a significant risk to workers' health and safety. If such issues are observed or uncovered during an inspection, the department will immediately inform the relevant provincial, territorial, and</p>

Recommendation	Response
	municipal authorities. In the event that the appropriate authority confirms a breach, the department will then reach a decision on employer compliance with the program.
<p>13.72 Given long-past quarantine and outbreak periods, Employment and Social Development Canada should use a risk-management approach and consider information currently on file to assess the relevance and value of completing backlogged inspections. It should then balance the completion of inspections underway with the need to undertake and complete new ones in a timely manner.</p> <p>(13.60-13.64)</p>	<p>The department's response. Agreed. Employment and Social Development Canada recognizes the importance of addressing the volume of inspections while remaining responsive to the continued pandemic context. Through the continuum of activities that are part of the compliance regime, inspections play a key role in temporary foreign worker protection.</p> <p>Throughout the pandemic, the department expanded its inspection regime and attempted to adapt to the unprecedented and evolving context. The newly established National Steering Committee is mandated to guide the development and implementation of a national workload strategy, using a risk-based approach to address the inventory of active inspections.</p> <p>As the department has identified quarantine and outbreak inspections as priorities during the pandemic, the National Workload Strategy will be a key tool to balance the completion of active inspections with the introduction and timely completion of new inspection cases.</p> <p>The department will also use program data to inform future enhancements to the operational model.</p>
<p>13.88 Given Employment and Social Development Canada's repeated commitments over the years to improve workers' living conditions through the Temporary Foreign Worker Program, the department should expedite the development and implementation of minimum accommodation requirements as an eligibility condition of this federal program, in consultation with provinces, territories, and other jurisdictions.</p> <p>(13.84-13.87)</p>	<p>The department's response. Agreed. Employment and Social Development Canada recognizes the importance of safe accommodations. Living conditions for temporary foreign workers in the agricultural sector is a multi-stakeholder challenge, requiring cooperation among many players. The federal role in the context of the Temporary Foreign Worker Program includes setting eligibility conditions and enforcing compliance with applicable regulations governing the program. Provincial and territorial governments generally have exclusive jurisdiction over the development of accommodation rules. In 2020, the department undertook consultations on proposed minimum standards with provinces, territories, municipalities, and key stakeholders with a view to improving employer-provided accommodations.</p> <p>While the federal government cannot set standards in the areas of exclusive provincial</p>

Recommendation	Response
	<p>jurisdiction, it will work with the provinces and territories to propose changes to help address health and safety concerns related to accommodations. The employers will need to demonstrate that they meet provincial or territorial requirements in order to participate in the program.</p> <p>The department is also pursuing other actions such as the Migrant Worker Support Program, which will provide \$49.5 million over 3 years for migrant support organizations and regulatory amendments to help prevent mistreatment.</p> <p>While advancing this work, the department is also implementing immediate measures to improve the review of housing inspection reports so that overcrowding can be addressed prior to the arrivals of temporary foreign workers.</p>
<p>13.95 As the federal lead for Goal 8 of the United Nations’ Sustainable Development Goals, Employment and Social Development Canada should use a gender-based analysis plus lens to develop new performance indicators for the Temporary Foreign Worker Program that would contribute to advancing the United Nations’ 2030 Agenda for Sustainable Development and to promoting a safe and secure working environment for temporary foreign workers. The department should also monitor and track progress against these indicators and report on its progress.</p> <p>(13.92-13.94)</p>	<p>The department’s response. Agreed. Employment and Social Development Canada recognizes the importance of the United Nations’ 2030 Agenda for Sustainable Development and supports the aims of Sustainable Development Goal 8.</p> <p>The Temporary Foreign Worker Program will utilize a gender-based analysis plus lens in the implementation and measurement of actions, including in the department’s inspection processes, to support worker protection within the department’s mandate and jurisdiction. The department is currently working to implement proposed regulatory amendments and launch the Migrant Worker Support Program, which builds on a pilot in British Columbia launched in 2018 to support migrant workers dealing with abuse or mistreatment. In 2020, this funding was expanded to organizations elsewhere in Canada to assist workers affected by the pandemic.</p> <p>The new Migrant Worker Support Program is part of the federal government’s broader commitment to protect temporary foreign workers from mistreatment and abuse by supporting this population in learning about and exercising its rights. As part of this program, the department will conduct a survey with workers, and funded community organizations will report on the impact of enhanced supports.</p> <p>The department will look for opportunities to integrate the results of this data collection into its gender-based analysis plus reporting in the</p>

Recommendation	Response
	Departmental Results Report and other public channels.