

March 4, 2024

Jill F. Cramer, Rulemaking Coordinator
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Raleigh, NC 27699-1101

Submitted via email to jill.cramer@labor.nc.gov

Re: Proposed Rules, Chapter 16 – Migrant Housing

Dear Ms. Cramer:

The North Carolina Justice Center, Southern Poverty Law Center, and Lawyers Committee for Civil Rights Under Law write in support of the Proposed Rules adding a new Section .0700 – Airborne Infectious Diseases to Chapter 16.

The North Carolina Justice Center is a non-profit legal advocacy organization whose mission is to secure economic justice for disadvantaged persons and communities in North Carolina. The Justice Center’s Workers’ Rights Project litigates and advocates on behalf of low-wage workers, with a particular focus on farmworkers. During the COVID-19 pandemic, the Justice Center responded to hundreds of calls from workers struggling to maintain their employment while ill, exposed, or caring for impacted family members.

The Southern Poverty Law Center (SPLC) works to eradicate poverty in the Deep South through strategic advocacy that expands rights, demands dignity and builds power for low-wage Black and Brown workers. Over the course of nearly two decades, SPLC has represented thousands of workers in the agriculture and poultry and meat processing industries. SPLC has also published comprehensive reports on the particular challenges for workers in those industries, including [*Close to Slavery: Guestworker Programs in the United States*](#) and [*Unsafe at These Speeds*](#).

The Lawyers’ Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to enlist the private bar’s leadership and resources in combating racial discrimination and the resulting inequality of opportunity—work that continues to be vital today. As part of this work, the Lawyers’ Committee uses legal advocacy to achieve racial justice, fighting inside and outside the courts to ensure that Black people and other people of color have voice, opportunity, and power to make the promises of our democracy real. The Lawyers’ Committee has participated as counsel or *amicus curiae* in cases addressing barriers to healthcare that contribute to racial health and economic disparities. *See, e.g., Mississippi v. Becerra*, No. 22 CV 113 HSO (S.D. Miss. 2022); *Hernandez v. Monsanto Co.*, No. 23 CV 1 JPJ-PMS (W.D. Va. 2023). In addition, our experience advocating for low-paid workers of color, including farmworkers, has provided us with direct knowledge of the uneven burdens that the absence of safety standards impose on essential workers. We recognize that workplace safety protections are fundamental to achieving economic and racial justice and serve the rights of all workers to lead healthy and prosperous lives.

Our organizations' experiences during the COVID-19 pandemic, and our long history working with migrant workers undergirds our support for the Proposed Rules. We commend the Proposed Rule's requirements that agricultural employers enact common sense health and safety measures that protect farmworkers and allow the agricultural industry to continue operating during a public health emergency stemming from an airborne infectious disease outbreak. Thus, we urge the Department to enact the proposed rule. This comment explains the need for the Proposed Rule's requirements and the NCDOL's authority to promulgate the rule.

I. Introduction

Migrant workers were among the frontline workers who bore the brunt of the COVID-19 pandemic. Traveling together for long distances and living in congregate housing, these workers were vulnerable to infection and at great risk for bringing illness home to co-workers and their communities. The wellbeing of North Carolina's agricultural industry is critical to the state's economy. It is therefore imperative that we prepare so that, if there is another airborne infectious disease pandemic, our agricultural industry can continue to operate, and workers can remain safe.

In recognition of the unique vulnerabilities of migrant workers, the NC Department of Health and Human Services (NCDHHS) issued guidance for migrant farmworkers, employers, and housing providers on March 26, 2020. Among other things, the guidance recommended that employers have an emergency plan for the care for and isolation of infected and symptomatic workers, take steps to protect workers in group transportation and group housing, provide hygiene supplies, and screen for symptoms (see attached). It was updated on October 8, 2020, with more specific recommendations about how to isolate sick and exposed workers, and with recommendations for testing and separating newly arrived workers and providing face coverings and requiring their use (see attached). The North Carolina Department of Labor (NCDOL) also published a guidance regarding temporary worker housing and COVID-19, urging employers to develop a plan for isolating sick and exposed workers, clean and disinfect housing and vehicles, and to rearrange housing and organize workers to minimize contact between workers (see attached). The Proposed Rule tracks these recommendations but requires employers to engage in the planning phase before they find themselves managing an emergency.

Farmworkers harvest the crops the state depends on and are vital to the North Carolina economy. Their health and safety are thus intertwined with the overall health and wellbeing of the state's economy. To ensure the economy remains open and vibrant, we must mitigate the spread of airborne infectious disease in agricultural workplaces. Indeed, COVID-19 was not an isolated incident. Evidence suggests that we will experience another global pandemic as deadly as COVID-19 in our lifetime. The Proposed Rule does much to correct the safety issues that plagued migrant farmworkers in the last pandemic. The Proposed Rule provides commonsense measures that promote health and safety and allow farmworkers to do their job safely and efficiently. For these reasons, we support the Proposed Rule and strongly urge its adoption.

II. The Proposed Rule is necessary to protect farmworkers in a future pandemic.

A. The provisions requiring that newly arrived, exposed, and infected workers be separated can prevent the spread of infection.

The proposed rule correctly requires separate sleeping, bathing, toileting, and eating facilities for contagious and non-contagious groups where feasible. *See* 13 NCAC 16 .0704(d). These requirements track recommendations in the NCDHHS October 8, 2020 guidance and the NCDOL guidance, which recognized the risks inherent in communal migrant worker housing. The rule also provides for reporting of positive tests and cleaning and disinfection of facilities. *Id.* at 16.0704(d)-(e). Newly arrived workers must be screened for symptoms, tested, and housed separately until the conclusion of any recommended quarantine period. *Id.* These requirements would only go into effect when a public health emergency has been declared and are a necessary measure to protect against outbreaks in migrant housing.

B. The provisions requiring agricultural employers to make modifications to migrant worker housing can reduce risk.

Following the recommendations of both NCDOL and NCDHHS, the Proposed Rule requires that beds be separated by at least six feet during a public health emergency caused by an airborne infectious disease and that workers be provided with hygiene supplies. *See gen.* 13 NCAC 16.0704. We support the Proposed Rule's requirements, which create practical steps employers must take to maintain a safe and healthy housing environment for migrant farmworkers. Ensuring proper ventilation in the housing by opening windows and doors or providing air filters is both economical and an effective way to reduce risk.¹

C. The Proposed Rule protects migrant workers during group transportation.

In keeping with the NCDHHS recommendations, the Proposed Rule requires vehicles to be disinfected regularly, and workers should be seated at least six feet apart. *See* 13 NCAC 16.0703. The Proposed Rule further requires, when feasible, that workers be transported only with the persons residing in their same migrant housing unit, and that vehicles be ventilated by keeping windows open or circulating outside air. Proper air ventilation requirements are consistent with scientific research

² The Proposed Rule's requirements are critical to keeping migrant workers safe because the nature of their job requires them to often travel together to work in vehicles where infections could spread.

D. The Proposed Rule's training requirements will ensure migrant workers can take measures to protect themselves from airborne infectious disease.

¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html>

² Mathai, Varghese. *Aerosol transmission in passenger car cabins: effects of ventilation configuration and driving speed*. *Phys Fluids* 34, 2022 Feb; 34(2): 021904. Available at <https://pubs.aip.org/aip/pof/article/34/2/021904/2846481/Aerosol-transmission-in-passenger-car-cabins> (accessed February 21, 2024).

The Proposed Rule also requires housing operators to share information and resources for farmworkers on how to stay healthy, reduce risk of exposure, and increase their preparedness to respond to cases. See 13 NCAC 16.0704(b). Providing migrant workers with the information necessary to protect themselves from an airborne infectious disease, such as emergency phone numbers, the housing address, and information on how to control spread, is important for reducing the number of infections. Many farmworkers have limited access to information about health and safety protocols, are often isolated from the surrounding community, may not speak English, or know where to direct emergency medical personnel, making them particularly reliant on their employers for critical information.

E. The Proposed Rule’s mask and social distancing requirements are effective tools to protect migrant workers from infection.

Under the Proposed Rule, agricultural employers must provide face masks and enact social distancing measures in migrant housing and transportation settings. *See gen.* 13 NCAC 16.0703-04. Universal masking has been found to reduce exposure to respiratory aerosol particles regardless of the distance and orientation between the source and the recipient,³ and confers significant protection against infection against COVID.^{4 5} A review of the scientific literature concluded that wearing face masks was significantly protective against COVID for healthcare workers during the pandemic.⁶ Face masks have been shown to reduce both infections and deaths.⁷

There is no basis for the claims made during the public hearings on the Proposed Rule that wearing masks causes health problems. In fact, the North Carolina Department of Labor published FAQs debunking the myths that face masks cause oxygen deficiency, writing: “There is no scientific evidence that a cloth face covering would restrict oxygen levels in the breathing

³Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health. October 2021. *Efficacy of universal masking for course control and personal protection from simulated respiratory aerosols in a room.* Available at <https://www.cdc.gov/niosh/data/datasets/rd-1021-2021-0/default.html> (accessed February 16, 2024).

⁴ Andrejko, Kristin L., et al. Centers for Disease Control, Morbidity and Mortality Weekly Report. February 11, 2022. Effectiveness of face mask or respirator use in indoor public settings for prevention of SARS-CoV-2 infection – California, February-December 2021. Available at <https://www.cdc.gov/mmwr/volumes/71/wr/mm7106e1.htm> (accessed February 16, 2024).

⁵ Monica Gandhi and Linsey C. Marr. ScienceDirect Vol. 2, Issue 1, Jan. 15, 2021. Uniting infectious disease and physical science principles on the importance of face masks for COVID-19. Available at [https://www.cell.com/med/fulltext/S2666-6340\(20\)30072-6?_returnURL=https%3A%2F%2Flinkinghub.elsevier.com%2Fretrieve%2Fpii%2FS2666634020300726%3FshowaIl%3Dtrue](https://www.cell.com/med/fulltext/S2666-6340(20)30072-6?_returnURL=https%3A%2F%2Flinkinghub.elsevier.com%2Fretrieve%2Fpii%2FS2666634020300726%3FshowaIl%3Dtrue) (accessed February 16, 2024).

⁶ Daniela Schoberer, et al. Public Health Pract. 4:2022 Dec. Rapid review and meta-analysis of the effectiveness of personal protective equipment for healthcare workers during the COVID-19 pandemic. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9190185/#:~:text=Wearing%20PPE%20conferred%20significant%20protection,for%20wearing%20gloves%20and%20gowns>. (accessed February 16, 2024).

⁷ . Mahmoudi, Jina and Chenfeng Xiong. PLoS One. 2022; 17(2). February 17, 2022. *How social distancing, mobility, and preventive policies affect COVID-19 outcomes: big data-driven evidence from the District of Columbia-Maryland-Virginia (DMV) megaregion.* Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8853552/> (accessed February 16, 2024).

air.”⁸ NCDOL’s conclusions are backed by research. A study of masks conducted in 2021 found “near-zero” impacts on oxygen in mask wearers at rest and during physical activity.⁹

These measures are a critical component of the controls outlined in the Proposed Rule and eliminating them from the Rule would weaken its efficacy in ensuring the health and safety of workers and keeping the agricultural industry open during a future pandemic.

III. Voluntary guidances are helpful but were insufficient to protect migrant workers.

While some agricultural employers adopted at least some of the recommendations of NCDHHS and NCDOL, many did not. Many migrant farmworkers suffered illness and death as a result. During the summer of 2020, there were COVID-19 outbreaks at more than 30 farms in North Carolina.¹⁰ A study conducted in the fall of 2020 in North Carolina found a SARS-CoV-2 infection rate among farmworkers of 45%.¹¹ Because North Carolina growers employ a large number of workers from Mexico who come to work through the H-2A visa program, workers arrive in the state after traveling for several days on buses with dozens of others, putting them at risk of spreading infection.

Nationally, agricultural workers were more likely to test positive for COVID-19 than the general population between June to November 2020, with Hispanic/Latino workers who worked in food production or agriculture suffering from 73% of the COVID-19 cases reported in those industries, despite making up only 37% of the worker population. An estimated 600,000 farmworkers nationally were estimated to have contracted COVID by May 24, 2022, a number that is almost certainly an undercount.¹²

Adopting uniform rules for all agricultural employers levels the playing field and ensures all migrant workers are protected.

IV. The Proposed Rule helps prevent community spread by protecting migrant workers from infection.

The Proposed Rule requires the implementation of health and safety standards in the workplace, where community spread often starts. Studies have shown that COVID spreads from

⁸ North Carolina Department of Labor, FAQs regarding COVID-19, April 8, 2022.

⁹ Shein, Steven L., et al. PLoS One 2021; 16(2), February 24, 2021. The effects of wearing facemasks on oxygenation and ventilation at rest and during physical activity. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7904135/> (accessed February 19, 2024).

¹⁰ Clarissa Donnelly-DeRoven. NC Health News. January 10, 2022. *Vaccines become more accessible to farmworkers, but many still struggle with internet access.* Available at <https://www.northcarolinahealthnews.org/2022/01/10/vaccines-become-more-accessible-to-farmworkers-but-many-still-struggle-with-internet-access/> (accessed February 21, 2024).

¹¹ Melissa D. Klein, et al. *SARS-CoV-2 seroprevalence and risk factors among meat packing produce processing, and farmworkers.* PLOS Glob Public Health 2(7):e0000619. July 13, 2022. Available at <https://doi.org/10.1371/journal.pgph.0000619> (accessed February 21, 2024).

¹² National Center for Farmworker Health. *COVID-19 impact on agricultural workers.* Updated May 2022. Available at <https://www.ncfh.org/uploads/3/8/6/8/38685499/covid-19factsheety2q1.pdf> (accessed February 21, 2024).

the workplace to others in the employees' social networks,¹³ and that “[o]ccupational characteristics, such as interfacing with the public and being in close quarters with other workers, not only put workers at high risk for disease but also make them a nexus of disease transmission to the community.”¹⁴ Stopping the spread of infection in the workplace can have a significant impact on community spread.

V. The North Carolina Department of Labor has a legal obligation to adopt rules to protect employees from known workplace hazards.

NCDOL has both the authority and the obligation to adopt rules to protect employees from airborne infectious diseases, contrary to what some stated during the public hearing on this rule. The North Carolina General Assembly declared in legislative findings when enacting the Occupational Safety and Health Act of North Carolina (OSHANC) that “the burden of employers and employees of this State resulting from personal injuries and illnesses arising out of work situations is substantial,” and that “the prevention of these injuries and illnesses is an important objective of the government of this State.” N.C. Gen. Stat. § 95-126(b)(1). The General Assembly further declared that it was its

purpose and policy through the exercise of its powers to ensure so far as possible every working man and woman in the State of North Carolina safe and healthful working conditions and to preserve our human resources: a. By encouraging employers and employees in their effort to reduce the number of occupational safety and health hazards at the place of employment” and “e. [b]y providing occupational health criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience.

N.C. Gen. Stat. §§ 95- 126(b)(2)(a) and (e).

To further those ends, the North Carolina Commissioner of Labor (“Commissioner”) is statutorily authorized to develop occupational safety and health standards. N.C. Gen. Stat. § 95-126(c). The Commissioner also has the statutory authority “to secure the enforcement of all laws relating to the inspection of factories, mercantile establishments, mills, workshops, public eating places, and commercial institutions in the State,” N.C. Gen. Stat. § 94-4(4), and to take action in the courts to enforce such laws. N.C. Gen. Stat. § 95-13.

NCDOL additionally has specific authority over migrant housing, both by virtue of its obligation to enforce federal OSHA migrant housing standards and through the authority given to NCDOL by the Migrant Housing Act of North Carolina (“MHA”). N.C. Gen. Stat. § 95-225(a) (adopting all federal standards unless otherwise provided). NCDOL’s authority with respect to migrant housing applies to housing operators and migrants rather than employers and employees. N.C. Gen. Stat. § 95-227(a)(1). The MHA was enacted “to ensure safe and healthy migrant

¹³ Marian-Gabriel Hancean, *et al.* *Occupations and their impact on the spreading of COVID-19 in urban communities*. Scientific Reports 12. August 18, 2022. Available at <https://www.nature.com/articles/s41598-022-18392-5> (accessed February 23, 2024).

¹⁴ Baker, *et al.*

housing conditions,” N.C. Gen. Stat. § 95-222(b), and allows the Labor Commissioner to delegate to the Director of the Agricultural Safety and Health Bureau “the powers, duties, and responsibilities” to ensure such conditions. N.C. Gen. Stat. § 95-224(b)(1). Through the MHA, North Carolina exceeds federal migrant housing standards, providing additional protection related to fire safety, food preparation, and beds, among other things. N.C. Gen. Stat. § 95-225. The Department is statutorily authorized to require housing operators to provide alternative housing where the housing provided may “reasonably be expected to cause death or serious physical harm.” N.C. Gen. Stat. § 95-229.1. NCDOL is already statutorily authorized to investigate migrant housing and/or transportation if a complaint is filed alleging a violation of the OSH Act or the Migrant Housing Act. N.C. Gen. Stat. §§ 95-136, 95-227(a).

CONCLUSION

We are submitting a number of documents as attachments to our comments, which support the need for the Proposed Rule. We strongly support the Proposed Rule and urge its adoption.

Sincerely,

North Carolina Justice Center

By: /s/ Carol L. Brooke

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Co-Director, Workers’ Rights Project

Lawyers’ Committee for Civil Rights Under Law

By: /s/ Adria Bonillas

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Julia Solorzano

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Enc:

December 14, 2022 Petition for Rulemaking, with attachments

North Carolina Department of Labor, Farmworkers and the 2019 Novel Coronavirus (COVID-19): Temporary Worker Housing COVID-19 Guidance

North Carolina Department of Health and Human Services Interim Guidance for Migrant Farmworkers, Their Employers, and Housing Providers (March 26, 2020).

North Carolina Department of Health and Human Services Interim Guidance for Migrant Farmworkers and their Employees (October 8, 2020).

PETITION FOR RULE-MAKING

Rule-making Coordinator
N.C. Department of Labor
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Pursuant to N. C. Gen. Stat. §§ 150B-20 and 150B-21.1A, and 13 NCAC 01B.0101, the undersigned Petitioners, Episcopal Farmworker Ministry, North Carolina State AFL-CIO, the Hispanic Liaison of Chatham County/ El Vinculo Hispano, Western North Carolina Workers' Center, and the North Carolina State Conference of the NAACP, petition and request that the North Carolina Department of Labor (hereafter "NCDOL" or "the Department") adopt the proposed Rule attached to this petition as Exhibit A; or, in the alternative, the Department grant the Petition for Rulemaking and initiate rule-making proceedings, as allowed by N. C. Gen. Stat. § 150B-20(c).

I. Petitioners

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Petitioners, NC State AFL-CIO, Episcopal Farmworker Ministry, Western North Carolina Workers' Center, Hispanic Liaison of Chatham County / El Vinculo Hispano, and the NC Conference of the NAACP, submit this Petition through their undersigned attorneys.

Petitioners are organizations in North Carolina which seek to protect and advance the rights of North Carolina's workers to a safe and healthy working environment. Since March 2020 when the COVID-19 outbreak began, they have worked to connect their members and constituents to resources, assisted them with filing NCDOL complaints, led calls for action by state and federal leaders, drafted letters to state leaders, held press conferences, and organized workers to advocate for themselves. Many of them have also had to mourn the death of workers who lost their lives to COVID-19. They are calling on NCDOL to exercise its power to engage in rulemaking in order to protect migrant farmworkers in our state.

The Episcopal Farmworker Ministry ("EFWM") seeks to minister to farmworkers through direct services, development and support of programs that work towards the empowerment of farmworkers, and by advocating for systemic change of agricultural policy at local and state levels. Their mission is to respond to the physical, emotional, and spiritual needs of migrant and seasonal farmworkers and their families. During the COVID-19 pandemic, EFWM has served its community by providing food, personal protective equipment, cleaning supplies, and mental health services to agricultural workers. In addition, they have provided direct financial support to agricultural workers impacted by COVID-19, including payments to workers who did not get paid for time they were required to quarantine, workers who lost their jobs or had their hours reduced, and payments to relatives of workers who have been hospitalized or died as a result of contracting COVID-19 at work.

The North Carolina State AFL-CIO is the largest association of unions of working people in North Carolina, representing over a hundred thousand members in the private, public, and agricultural sectors. They work together for good jobs, safe workplaces, workers' rights, consumer protections, and quality public services on behalf of ALL working people. They have helped union members and local unions navigate issues related to COVID and other workplace safety concerns.

Western North Carolina Workers' Center builds power among immigrant workers in western North Carolina, including migrant farmworkers, through education, organizing and direct action to promote worker justice. Since the onset of the COVID-19 pandemic, WNCWC has focused on workplace health and safety for the immigrant community in Western North Carolina, using three strategies: building and strengthening the base of immigrant workers through the creation of innovative strategies rooted in local worker leadership circles; developing and strengthening a structured model of popular education in order to train immigrant workers around workplace health and safety; and promoting positive changes around workplace health and safety through direct actions planned and led by immigrant worker communities.

The Hispanic Liaison of Chatham County / El Vinculo Hispano ("EVH") is a non-profit organization serving the Hispanic communities of Chatham, Lee, Harnett, Alamance, and Randolph counties. Many of EVH's Latinx clients work in food processing, including at Mountaire Farms, Pilgrim's Pride, and Tyson poultry processing plants located in Siler City and Sanford, as well as in the service and construction industries, and were deemed an "essential" labor force by state and federal government officials during the COVID-19 pandemic. Due to the working conditions in these industries, EVH's clients are at an increased risk for contracting COVID-19 and other airborne infectious diseases. Hundreds of poultry workers and their family members in EVH's region have been infected with COVID-19; some have died. These workers have been subjected to dangerous working conditions without adequate personal protective

equipment, social distancing, COVID-19 prevention information and leave time necessary to ensure a safe workplace.

The North Carolina Conference of the NAACP (NC-NAACP) is North Carolina's branch of the nation's oldest and largest civil rights organization. It is the second largest state conference of the NAACP in the United States. For over 70 years, NC-NAACP has pursued its mission to ensure the political, educational, social and economic equality of rights of all persons and to eliminate racial hatred and discrimination. The organization has followed a variety of strategies to carry out this goal, including litigation and direct advocacy on behalf of workers' rights and economic justice.

II. Rule for Which Amendment is Requested and Text of the Proposed Rule

Petitioners request the Department adopt a new rule (attached as Exhibit A).

III. Effect of the Proposed Rule

The Proposed Rule outlines the responsibilities of employers and housing operators when an airborne infectious agent or disease is designated by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control as presenting a public health emergency.

Migrant farmworkers live and work across the state of North Carolina, and make up a significant part of our rural communities. The high risk faced by migrant farmworkers because of their living and working conditions and barriers to testing and treatment elucidate the significant risk to their health should another airborne infectious disease pandemic develop.

The Proposed Rule is designed to protect both the health of migrant farmworkers, as well as the health of all of those who come into contact with farmworkers. By limiting the transmission of a future airborne infectious disease that is designated by specific federal or state officials as

presenting a public health emergency, the rule provides a substantial benefit to many community members, including emergency workers, medical providers, school employees and students, and the farming community. Outreach workers, migrant education staff, outreach ministry participants, farmers, drivers, and others in regular contact with migrant farmworkers and other migrant housing occupants will similarly benefit from less exposure to potential infection. Migrant farmworkers and their family members who are occupants of migrant housing will be positively impacted by the rule, in that they will be less likely to be infected, become sick, and suffer long-term consequences from infection with an airborne infectious disease.

This rule shall apply to every agricultural employer, their employees, and places of agricultural employment, and to migrant housing operators in North Carolina within the jurisdiction of the Occupational Safety and Health Division (“OSH”) of the North Carolina Department of Labor.

A. Effect of the Proposed Rule on the Department

As with any new rule, the Department will face a learning curve and some costs associated with educating employees and employers about the new rule, training staff, making any necessary updates to computer or other administrative systems, and enforcing the rule. Such challenges are greatly overshadowed by the positive impact of a rule that will save lives and protect the health of the workers the Department is statutorily required to protect. The rule could also require the Department to expend resources to conduct additional pre-occupancy inspections to migrant housing sites that will be used for isolation housing. Department staff who respond to complaints related to alleged violations of the Migrant Housing or OSH Act will be better protected from becoming ill from the airborne infectious disease if there is less transmission among persons whose housing or workplaces they are inspecting.

B. Effect of the Proposed Rule on Employers Over Whom the Department Has Jurisdiction

Employers will benefit from the Proposed Rule. By having a plan already ready to go before a public health emergency is declared, they will avoid uncertainties and will be able to move forward quickly with necessary changes in the workplace. This is particularly important for the agricultural industry, where disruptions to the food supply could impact any public health crisis.

The various control measures employers will implement should result in fewer employee illnesses, which means lower absenteeism and healthcare costs, and a more productive workforce. There should be higher customer satisfaction if there is less disruption to staffing and to the supply chain because fewer employees need to miss work. Employee satisfaction will also be higher when employees see their employers are taking measures to protect their health and safety. This should reduce turnover.

Covered employers will need to review and understand the Proposed Rule. During the time the rule is in effect, they may need to change their schedule for transporting workers or procure additional vehicles to transport them, and will need to clean and disinfect vehicles. They will need to provide hygiene supplies and face masks for vehicle and housing occupants. They may need to rearrange or expand sleeping quarters to allow for adequate space, and will need to use the ventilation measures required by the rule. Employers may need to implement changes to the bathrooms. They will have to post information and request emergency contact numbers. They will also have to ensure they have access to sufficient housing to comply with the rule, and will need to do required cleaning of the housing. Employers must coordinate with local health departments and/or the NC Department of Health and Human Services to provide medical evaluation and testing, and to report positive cases. They will also need to arrange for symptom screening and testing of new arrivals to the housing.

C. Effect of the Proposed Rule on Employees Over Whom the Department Has Jurisdiction

Employees should experience greater job satisfaction when they see their employers taking measures to protect their health and safety. Lower rates of work-related illness will have a significant positive impact on employee health. Employees will not have to take what is most often unpaid leave in order to recover from the airborne infectious disease, losing necessary income. They will be less likely to expose their family members to illness. If they do not contract the illness, they will not suffer any long-term health impacts or the discomfort and expense of short-term illness.

When the Proposed Rule is triggered, employees will need to review, understand, and follow the rule. They will need to participate in a symptom screening process and testing upon arrival at the migrant housing, and to report symptoms and positive test results. They will be required to wear a face covering in vehicles and possibly for some time after arrival at the migrant housing. Employees who are contagious may need to move to separate housing or to a different location within the housing.

IV. Data Supporting the Petition

It is critical that employers of migrant workers and housing operators be prepared for a future airborne infectious disease pandemic. New reports of polio outbreaks in part of the United States highlight this threat. Additionally, the illness and death experienced by migrant farmworkers during the COVID-19 pandemic serves as a harbinger of what could happen if employers do not have plans in place. COVID-19 has had a devastating impact on migrant farmworkers in North Carolina. The National Center for Farmworker Health (NCFH) estimates that as of December 2021, one million agricultural workers across the country had been infected

with COVID, not including contracted and temporary labor.¹ Agricultural workers were more likely to test positive than the general population in a study examining June through November 2020 positivity rates.² Agricultural workers have high rates of underlying health conditions such as diabetes and factors like pesticide exposure that increase the possible impact of COVID-19.³ Most migrant farmworkers in North Carolina are Latinx, a group which has higher rates of COVID as well as higher mortality than many other groups.⁴ The NCFH identified difficulties maintaining social distance during field work and on transportation to and from work and overcrowded and substandard housing as risk factors for agricultural workers.⁵

In recognition of the special challenges facing migrant farmworkers in congregate living situations, North Carolina created a program to house farmworkers and others who tested positive for or were exposed to COVID and need a place to quarantine, isolate, or social distance.⁶ The state also provided funding in 2021 to H-2A employers whose employees need to quarantine.⁷

On October 8, 2020, the NC Department of Health and Human Services (NCDHHS) issued guidance for employers of agricultural workers recommending separate sleeping, bathroom, and kitchen facilities for farmworkers who are asymptomatic but exposed, symptomatic, or who have tested positive for COVID, warning that “COVID-19 can spread easily in settings where many people are in close proximity, such as the residential facilities that house migrant farmworkers.”⁸ NCDHHS also recommended testing newly arrived workers and housing them separately for 14 days, providing face coverings to all workers, not allowing farmworkers

¹ <http://www.ncfh.org/msaws-and-covid-19.html> (accessed April 13, 2022).

² *Id.*

³ *Id.*

https://www.gapconnections.com/uploads/Guidance%20for%20Migrant%20Farmworkers%20and%20their%20Employers_long%20version_10082020.pdf (accessed April 13, 2022).

⁴ <http://www.ncfh.org/msaws-and-covid-19.html> (accessed April 13, 2022).

⁵ *Id.*

⁶ <https://covid19.ncdhhs.gov/information/housing-and-sheltering/non-congregate-sheltering> (accessed April 13, 2022).

⁷ <http://www.ncagr.gov/QuarantineReimbursementProgram.htm> (accessed April 13, 2022).

⁸ https://www.gapconnections.com/uploads/Guidance%20for%20Migrant%20Farmworkers%20and%20their%20Employers_long%20version_10082020.pdf (accessed April 13, 2022).

who test positive to work, posting signs educating farmworkers about COVID in a language they understand, encouraging the reporting of symptoms, ensuring adequate ventilation in the housing, separating beds by at least 6 feet, requiring social distancing in employer-provided transportation, educating workers, and providing sanitary supplies. NCDHHS urged employers to obtain emergency contact information for workers, provide the number of the local health department and nearby clinic, and to post the address of the camp so workers can call 911 for emergency assistance.⁹ The recommendations in this guidance, however, are not enforceable.

Despite the known hazards to farmworkers concerning COVID-19, farmworkers faced barriers to testing and follow-up care once infected. Many farmworkers had to rely on their employers to provide transportation to get tested and/or get medical care for COVID-19, and outreach workers were not able to get medical providers to conduct large-scale testing in migrant labor camps.¹⁰ Some hospitals and health departments refused to test farmworkers, even when they are identified as being on the NC DHHS priority list due to their congregate living settings.¹¹ As a result, some workers had to travel to other counties in order to get tested.¹²

During the summer of 2020, there were COVID-19 outbreaks at more than 30 farms in North Carolina.¹³ Even these high numbers are likely to be an undercount. When workers were able to get tested, some hospitals and health departments were not asking patients about the type of work they do or their housing, likely leading to an undercount of infected farmworkers.¹⁴

⁹ *Id.*

¹⁰ Farmworker Advocacy Network letter to Governor Cooper and Secretary Cohen, Jun. 16, 2020, <https://ncfan.org/2020/a-letter-to-gov-cooper/>

¹¹ *Id.*

¹² *Id.*

¹³ <https://www.northcarolinahealthnews.org/2022/01/10/vaccines-become-more-accessible-to-farmworkers-but-many-still-struggle-with-internet-access/> (accessed April 13, 2022)

¹⁴ *Id.*

Compounding these issues, farmworkers were reluctant to report symptoms or get tested.¹⁵ Many workers could not afford to lose even a day's worth of income, and they feared causing trouble for their employer and inviting retaliation if a reported infection triggers a requirement for a large portion of the labor camp to be isolated.¹⁶ Language barriers posed an additional obstacle for farmworkers in accessing treatment and testing.

These experiences of high-risk living and working conditions, underlying risk factors, high rates of infection, and barriers to testing and treatment elucidate the significant risk to farmworkers' health should another airborne infectious disease pandemic develop.

V. Reasons for Adoption of the Proposed Rule

According to a recent scientific study, “the probability of a pandemic with similar impact to COVID-19 is about 2% in any year, meaning that someone born in the year 2000 would have about a 38% chance of experiencing one by now.”¹⁷ Another study similarly estimates “the annual probability of a pandemic on the scale of COVID-19 in any given year to be between 2.5-3.3%, which means a 47-57% chance of another global pandemic as deadly as COVID in the next 25 years.”¹⁸ And, as noted by a McKinsey Report:

Both the public and private sectors have played major roles in the response to the COVID-19 crisis, but collaboration has not always been as smooth as it might have been if collaboration channels had been preestablished . . . Predefining response roles for different stakeholders at the global, national, and local levels is also an important part of active preparedness, since well-defined roles prevent delays and confusion when an outbreak occurs.¹⁹

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Michael Penn. “Statistics Say Large Pandemics Are More Likely than We Thought.” *Duke Global Health Institute*, <https://globalhealth.duke.edu/news/statistics-say-large-pandemics-are-more-likely-we-thought>; Marani, Marco, *et al.* “Intensity and Frequency of Extreme Novel Epidemics.” *Proceedings of the National Academy of Sciences*, vol. 118, no. 35, 2021, <https://doi.org/10.1073/pnas.2105482118>.

¹⁸ Smitham, Eleni, “The next Pandemic Could Come Soon and Be Deadlier.” *Center for Global Development | Ideas to Action*, <https://www.cgdev.org/blog/the-next-pandemic-could-come-soon-and-be-deadlier>.

¹⁹ Craven, Matt, *et al.* “Not the Last Pandemic: Investing Now to Reimagine Public-Health Systems.” *McKinsey & Company*, 11 Mar. 2022, <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/not-the-last-pandemic-investing-now-to-reimagine-public-health-systems>.

The COVID-19 pandemic has shown that migrant farmworkers are at high risk from airborne infectious diseases. Because they typically reside in congregate housing, migrant farmworkers often cook, eat, bathe, use the restroom, and sleep in close proximity to their co-workers. They frequently rely on group transportation in vans or school buses to and from the worksite. Farmworkers who come to North Carolina with H-2A agricultural worker visas travel thousands of miles, usually from Mexico, with dozens of their co-workers on a bus for several days.²⁰ Those traveling from overseas to North Carolina may not have access to vaccines or testing in their home countries. These unique living and working conditions make migrant farmworkers particularly vulnerable to airborne infectious diseases. It is therefore essential that NCDOL exercise its power to adopt a permanent rule to protect migrant farmworkers from a future airborne infectious disease pandemic.

VI. Statutory Authority for the Proposed Rule

NCDOL has the statutory authority to enforce the Occupational Safety and Health Act of North Carolina (“OSHANC”). N.C. Gen. Stat. § 95-126(b)(2)(m). The North Carolina General Assembly declared in legislative findings when enacting OSHANC that “the burden of employers and employees of this State resulting from personal injuries and illnesses arising out of work situations is substantial,” and that “the prevention of these injuries and illnesses is an important objective of the government of this State.” N.C. Gen. Stat. § 95-126(b)(1). The General Assembly further declared that it was its

purpose and policy through the exercise of its powers to ensure so far as possible every working man and woman in the State of North Carolina safe and healthful working conditions and to preserve our human resources: a. By encouraging employers and employees in their effort to reduce the number of occupational safety and health hazards at the place of employment” and “e. [b]y providing occupational health criteria which will assure insofar as practicable that no

²⁰ Aaron Sánchez-Guerra, Victoria Bouloubasis, & Paola Jaramillo, *Coronavirus poses a threat to a major NC food producer: the immigrant farmworker*, The News & Observer, Apr. 8, 2020, <https://www.newsobserver.com/news/coronavirus/article241444926.html>

employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience.

N.C. Gen. Stat. §§ 95-126(b)(2)(a) and (e).

To further those ends, the North Carolina Commissioner of Labor (“Commissioner”) is statutorily authorized to develop occupational safety and health standards. N.C. Gen. Stat. § 95-126(c). The Commissioner also has the statutory authority “to secure the enforcement of all laws relating to the inspection of factories, mercantile establishments, mills, workshops, public eating places, and commercial institutions in the State,” N.C. Gen. Stat. § 94-4(4), and to take action in the courts to enforce such laws. N.C. Gen. Stat. § 95-13. Other than adopting the healthcare emergency temporary standard for COVID-19,²¹ the Department has not adopted or amended health and safety standards to protect North Carolina workers from airborne infectious disease.

NCDOL additionally has specific authority over migrant housing, both by virtue of its obligation to enforce federal OSHA migrant housing standards and through the authority given to NCDOL by the Migrant Housing Act of North Carolina (“MHA”). N.C. Gen. Stat. § 95-225(a) (adopting all federal standards unless otherwise provided). NCDOL’s authority with respect to migrant housing applies to housing operators and migrants rather than employers and employees. N.C. Gen. Stat. § 95-227(a)(1). The MHA was enacted “to ensure safe and healthy migrant housing conditions,” N.C. Gen. Stat. § 95-222(b), and allows the Labor Commissioner to delegate to the Director of the Agricultural Safety and Health Bureau “the powers, duties, and responsibilities” to ensure such conditions. N.C. Gen. Stat. § 95-224(b)(1). Through the MHA, North Carolina exceeds federal migrant housing standards, providing additional protection related to fire safety, food preparation, and beds, among other things. N.C. Gen. Stat. § 95-225. The Department is statutorily authorized to require housing operators to provide alternative housing

²¹ NCDOL repealed the emergency temporary standard effective March 4, 2022.

where the housing provided may “reasonably be expected to cause death or serious physical harm.” N.C. Gen. Stat. § 95-229.1. NCDOL is already statutorily authorized to investigate migrant housing and/or transportation if a complaint is filed alleging a violation of the OSH Act or the Migrant Housing Act. N.C. Gen. Stat. §§ 95-136, 95-227(a).

NCDOL also has the authority to enforce the state anti-retaliation statute, the Retaliatory Employment Discrimination Act (REDA), N.C. Gen. Stat. §§ 95-240, *et seq.* REDA protections could apply if an employer were found to have unlawfully discriminated against an employee under section 95-241.

The federal Migrant and Seasonal Agricultural Worker Protection Act (AWPA), 19 U.S.C. §§ 1801, *et seq.*, and its accompanying regulations, 29 C.F.R. Part 500, set forth protections related to migrant housing and transportation. This in no way preempts North Carolina’s ability to regulate in these areas. 29 U.S.C. § 1871 (“This chapter is intended to supplement State law, and compliance with this chapter shall not excuse any person from compliance with appropriate State law and regulation”); *DeBruyn Produce Co. v. Romero*, 508 N.W.2d 150, 155 (Mich. App. 1993), appeal denied, 447 Mich. 994 (Oct. 25, 1994) (“Although the AWPA serves to regulate the relationship between migrant workers and their employers, it does not occupy the entire field of regulation so as to preempt state regulation”). The proposed rule does not impact AWPA remedies in any way, and is not preempted by the AWPA. *Adams Fruit Co., Inc. v. Barrett*, 494 U.S. 638, 649 (1990) (“AWPA pre-empts state law to the limited extent that it does not permit States to supplant, rather than to supplement, AWPA’s remedial scheme”). *See also Saucedo v. NW Mgmt. and Realty Servs., Inc.*, No. 12-CV-0478-TOR, 2013 WL 12097442, at *3 (Oct. 10, 2013) (award of statutory damages under the state Farm Labor Contractors Act not preempted by the AWPA).

VII. Conclusion

For the reasons outlined in this petition, Petitioners request that NCDOL adopt the Proposed Rule.

This the 14th day of December, 2022.

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Exhibit A

Proposed Rule – Agricultural Employers and Migrant Housing Operators

Section 1. Purpose, Scope and Applicability

- (a) This standard is designed to establish requirements for agricultural employers and migrant housing operators, as defined in G.S. § 95-223, to assess the risk of, prepare for, control, prevent, and mitigate the spread of an airborne infectious disease to and among employees, employers, migrants, and any migrant housing occupants.
- (b) This standard is designed to supplement and enhance the Occupational Safety and Health Act of North Carolina (OSHNC) rules, regulations and standards applicable to airborne infectious disease-related hazards including, but not limited to, those dealing with personal protective equipment (“PPE”), respiratory protective equipment, face coverings, and sanitation, and the North Carolina Migrant Housing Act and its implementing regulations.
- (c) This standard shall not conflict with requirements and guidelines applicable to businesses set out in any applicable NC executive order or order of public health emergency, and shall take into account all applicable federal standards to the extent practicable. Employers are encouraged to follow public health guidance from the Centers for Disease Control and Prevention (CDC) even when not required by this section.
- (d) This standard shall apply to:
 - A. every agricultural employer, their employees, and places of agricultural employment, and to migrant housing operators in North Carolina within the jurisdiction of North Carolina Occupational Safety and Health Division of the North Carolina Department of Labor.
 - B. Only an airborne infectious agent or disease designated by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control as presenting a public health emergency;
- (e) This standard does not apply to any seasonal or endemic infectious agent or disease, such as the seasonal flu, that has not been designated as specified in (d)(B).

Section 2. Definitions

- (a) “Agricultural employer” means any person who recruits, solicits, hires, employs, furnishes, or transports any migrant.
- (b) “Agricultural employment”, “migrant”, “migrant housing”, and “operator,” all have the definitions provided in the Migrant Housing Act of North Carolina, G.S. § 95-223.
- (c) “Airborne infectious disease” shall mean any infectious viral, bacterial or fungal disease that is transmissible through the air in the form of aerosol particles or droplets and is designated by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control as presenting a public health emergency.
- (d) “Asymptomatic” means a person who does not have symptoms.
- (e) “CDC” means the Centers for Disease Control and Prevention.
- (f) “Cleaning” means the removal of dirt and impurities, including germs, from surfaces.
- (g) “Department” means the North Carolina Department of Labor.
- (h) “Disinfecting” and “disinfect” means using chemicals approved for use against the airborne infectious agent or disease, for example EPA-registered disinfectants, to kill germs on surfaces.
- (i) "Employee," “employer,” and “person” have the definitions used in the Occupational Safety and Health Act of North Carolina, G.S. § 95-127.
- (j) “Face covering” means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers. A face covering has no visible holes or openings and must cover the nose and mouth. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.
- (k) “Feasible” means capable of being done.
- (l) “Hand sanitizer” means alcohol-based hand sanitizer that is at least 60 percent alcohol or 70 percent isopropanol.
- (m) “NCDHHS” or “DHHS” means the North Carolina Department of Health and Human Services.

- (n) “Suspected to be infected with the airborne infectious agent or disease” means a person that has signs or symptoms of the airborne infectious disease but has not tested positive and no alternative diagnosis has been made (e.g., tested positive for influenza).
- (o) “Symptomatic” means the employee is experiencing symptoms similar to those attributed to the airborne infectious disease.

Section 3. Protections for Transportation of Migrants.

- (a) During the time a designation by the by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control of an airborne infectious agent or disease as presenting a public health emergency is in effect, all agricultural employers who provide transportation for migrants between worksites shall:
 - A. Transport migrants in vehicles that allow persons to sit at least six feet apart or maintain partitions in between the various persons inside the vehicle. For vehicles with aisles between seats, agricultural employers must ensure that migrants are positioned with one migrant per side, staggered in an alternating, diagonal arrangement.
 - B. Prioritize transporting only migrants residing in the same migrant housing unit in the same vehicle. Migrants who do not share the same household or work crew shall be transported in the same vehicle only when no other transportation alternatives are feasible.
 - C. Clean and disinfect work vehicles daily. Agricultural employers must pay employees for the time spent cleaning and disinfecting.
 - D. Use the vehicle’s ventilation system to exchange fresh air in from outside the vehicle. Lower the vehicle’s windows when weather permits.
 - E. Ensure that migrants and drivers wear a face covering while using employer-provided transportation and provide a face covering to anyone in the vehicle who does not have one.
 - F. Provide hand sanitizer in each vehicle and ensure that all drivers and riders sanitize their hands before entering and exiting the vehicle.

Section 4. Protections in Migrant Housing.

- (a) Housing Provisions. During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services,

North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control of an airborne infectious disease as presenting a public health emergency is in effect, all migrant housing operators shall:

- A. Provide at least seven washable face coverings or at least one disposable face covering per day at no charge to each resident of the housing.
- B. Separate beds by at least six feet or more in all directions and arrange the beds in head to toe sleeping arrangements. Only one person should be permitted to sleep in a bed or bunk bed. This provision does not apply to family members who live in their own family unit of the employer provided housing.
- C. If they do not already exist, install partitions between each toilet and between each shower stall.
- D. Ensure regular ventilation of rooms (e.g., by opening screened windows and doors to increase the introduction of outside air, or providing a portable high-efficiency particulate air (HEPA) filter in each room that is used for sleeping).
- E. Encourage anyone who delivers food and water to migrant housing occupants to wear r masks or other protective equipment as recommended by the CDC, NCDHHS, or the local health department.

(b) Communication. All migrant housing operators shall:

- A. Request emergency contact numbers from each housing occupant.
- B. Ensure that housing occupants have access to the phone number of the local health department. Housing operators are required to report immediately to the local health officer the name and address of any individual in the camp known to have or suspected of having a communicable disease. Additionally, housing operators must ensure that the name, phone number, and email address of the person trained to administer first aid is posted prominently in a central location.
- C. Conspicuously post the housing address in a central location to ensure that employees or housing occupants will be able to call a 911 operator if needed.
- D. Conspicuously post the phone number for the North Carolina Coronavirus hotline and/or any statewide hotline established by the State of North Carolina related to an airborne infectious disease, and include on the posting a statement that if migrants would like to make a CONFIDENTIAL complaint about unsafe migrant housing conditions related to an airborne infectious disease, they may call the hotline number. This posting must be in Spanish, English, and any other primary languages common in the migrant

population.

- E. Present any communication or training on airborne infectious disease control practices in Spanish, English, and any other primary languages common in the migrant population.
- F. If available from the CDC, NCDHHS, or the local health department, place posters in the migrant housing that encourage the use of airborne infectious disease prevention methods. If available, posters must be posted in the languages common in the migrant population.

(c) Sanitation in Migrant Housing. All migrant housing operators shall:

- A. Provide hand sanitizer that is readily available in multiple locations in employer-provided migrant housing.
- B. Ensure that supplies in restrooms, portable toilets, and handwashing/sanitizing stations in the migrant housing are monitored and immediately re-stocked.
- C. Monitor and immediately restock cleaning and disinfecting supplies for each migrant housing unit.
- D. Housing operators shall ensure that the manufacturer's instructions for use of all disinfecting chemicals and products are complied with (e.g., concentration, application method, contact time, personal protective equipment, etc.).

(d) Separate Facilities. During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control of an airborne infectious disease as presenting a public health emergency is in effect, all migrant housing operators shall:

- A. Provide separate sleeping areas for each of the following groups, if recommended by current CDC guidance:
 - 1. residents who are considered to be contagious based on current CDC guidance; and
 - 2. residents who are not considered to be contagious based on current CDC guidance.
- B. Separate bathing, toileting and eating facilities should be provided to each group in (d)(A)(1-2) where feasible. If it is not feasible to provide separate bathing, toileting and eating facilities, the housing operators must create schedules for when each group can use those facilities, and must clean and disinfect bathing, toileting, and eating facilities daily.

- C. The separate facilities described in (d)(A) and (B) shall be provided for the period of time recommended by the CDC.
 - D. If there is no separate space available on-site to provide separate housing as specified above, the housing operator must provide alternative housing off-site.
 - E. Within 24 hours of a resident becoming symptomatic, arrange for that person to be evaluated by a medical provider through the local health department or federally-qualified health center as defined in 42 U.S.C. § 1396d(1)(2)(A), and, if testing is feasible, for all residents to be tested for the airborne infectious disease.
 - F. To the extent permitted by law, housing operators shall establish a reasonable system to receive reports of positive airborne infectious disease tests by housing occupants within the previous 14 days from the date of the positive test, and to receive reports by occupants of the migrant housing, and the housing operator shall notify:
 - 1. All occupants of the migrant housing location where the person with the positive test resides;
 - 2. The North Carolina Departments of Health and Human Services and Labor and the county Department of Health within 24 hours of the discovery of a positive case and include in the notification the industry, person's occupation, and the type of housing the person lives in.
 - G. If a migrant housing occupant is confirmed to have the airborne infectious disease, the migrant housing operator shall conduct cleaning and disinfection as directed by CDC guidelines.
- (e) Screening and Testing. During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control of an airborne infectious disease as presenting a public health emergency is in effect, all migrant housing operators shall:
- A. Provide symptom screening, and testing if feasible, for all newly arriving residents within 48 hours after arrival unless the resident has already been tested in the 72 hours before arrival;

- B. Whenever new residents arrive, housing them in a separate living unit from current residents until newly arriving residents have a negative test result, or until either five days elapse in which the newly arriving resident does not become symptomatic or until the recommended CDC quarantine period. If separate living units are not available, newly arriving residents shall be required to wear a cloth or disposable face covering at all times except when eating, drinking, sleeping, or performing personal hygiene activities or if the resident cannot medically tolerate a face covering, until the newly arriving resident receives a negative test result or until five days or the CDC recommended time period elapses in which the newly arriving resident does not become symptomatic;
 - C. If a newly arriving resident tests positive on a test or becomes symptomatic, the procedures outlined in Section 4(d) should be followed.
 - D. Cooperate with local health departments to provide for regular testing, if feasible, of all occupants by coordinating with health departments and clinics to schedule planned testing events at times and locations that are convenient to the occupants, and affirmatively stating that occupants will not be retaliated against if they test positive.
- (f) During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control of an airborne infectious disease as presenting a public health emergency is in effect, during pre-occupancy inspections or when responding to a complaint, the Department shall review these rules and any relevant DHHS guidance with the agricultural employer and/or housing operator.



GUIDANCE

ALERT

Cherie Berry, Commissioner of Labor

1-800-625-2267 ♦ www.labor.nc.gov

Agricultural Safety and Health Division

1101 Mail Service Center, Raleigh, NC 27699-1101

Farmworkers and the 2019 Novel Coronavirus (COVID-19)

Temporary Worker Housing COVID-19 Guidance

PREPARE. EDUCATE. PREVENT. ISOLATE. COMMUNICATE.

NCDOL urges employers and employees to be aware of their role in preventing the spread of COVID-19. Employers have asked for guidance on what to do to respond to the spread of this disease. Employers should already be taking preventative actions now and should be using all resources available to prepare for and respond to the outbreak.

PREPARE - Develop a plan and be prepared

- Develop a plan for how you will care for and isolate sick farmworkers and how you will quarantine (separate) exposed farmworkers from nonexposed farmworkers.
 - o Your plan should include how you will communicate with and provide food, water, transportation, and other supplies to isolated and quarantined farmworkers.
 - o If you do not have adequate space on the farm to isolate sick workers or quarantine exposed workers, contact your local health department for their assistance in determining alternate housing arrangements. Staff at the local health department should also be able to answer any other questions or concerns you have about coronavirus disease 2019 (COVID-19).
 - o If you have separate housing available that has not been certified, **contact NCDOL at 919-707-7820.**
- Develop a regular cleaning and disinfecting schedule for farmworker housing (including kitchen, dining, and bathroom facilities), transportation vehicles, and other commonly used areas. Determine who will be responsible for cleaning/disinfecting and follow-up to confirm it is completed.
- Provide cleaning/disinfectant supplies, running water, soap, paper towels, tissues, gloves and masks in all housing and work sites. The Centers for Disease Control (CDC) recommends the use of non-medical, cloth-based face coverings. Surgical masks should be reserved for healthcare workers.
- Create a list of important phone numbers such as the local health department, the closest migrant health clinic, NCDHHS and NCDOL.

continued on page 2

EDUCATE - *Educate yourself, family members and farmworkers about COVID-19*

- The virus is thought to spread mainly from person-to-person.
 - Between people who are in close contact with one another (within six feet).
 - When an infected person coughs or sneezes.
 - When touching an object or surface with the virus on it, then touching your mouth, nose or eyes.
- The most common signs and symptoms of COVID-19 include:
 - Fever, cough, and shortness of breath/difficulty breathing.
 - Symptoms may not occur for two to 14 days after initial exposure.
- Isolation time frames per the CDC:
 - Persons with COVID-19 who have symptoms who were not tested and were directed to care for themselves at home may discontinue home isolation under the following conditions:
 - At least three days (72 hours) have passed since recovery defined as resolution of fever without the use of fever-reducing medications and improvement in respiratory symptoms (e.g., cough, shortness of breath); and,
 - At least seven days have passed since symptoms first appeared.
 - Persons with COVID-19 who have symptoms who were tested and were directed to care for themselves at home may discontinue home isolation under the following conditions:
 - Resolution of fever without the use of fever-reducing medications; and
 - Improvement in respiratory symptoms (e.g., cough, shortness of breath); and
 - Person receives clearance from a medical provider after two consecutive negative COVID-19 swab tests.
 - Persons with laboratory-confirmed COVID-19 who have not had any symptoms may discontinue home isolation when at least seven days have passed since the date of their first positive COVID-19 diagnostic test and have had no subsequent illness.

PREVENT - *The best way to prevent COVID-19 is to avoid being exposed*

- Arrange beds in all farmworker housing at least six feet apart, if possible.
- Encourage workers to practice social distancing (stay at least six feet away from other people); avoid touching their eyes, nose, and mouth; and to stay home when sick.
- Encourage workers to wash their hands often with soap and warm water for at least 20 seconds.
- Provide an alcohol-based hand sanitizer with at least 60% alcohol if soap and water are not available.
- Confirm that farmworker housing (including kitchen, dining, and bathroom facilities), transportation vehicles, and other commonly used areas and surfaces are cleaned and disinfected daily.
- Group workers into groups of fewer than 10 people that will share the same bathroom, kitchen, transportation and worksites. Workers should maintain a distance of six feet from other workers. Prevent contact between these groups as much as possible.
- Limit close congregation for social or dining activities.
- Post handouts about coronavirus prevention and symptoms in English and Spanish in multiple locations around the farm (e.g., housing, kitchen facilities, bathrooms, shop, break areas, porta johns, field sanitation units, etc.).

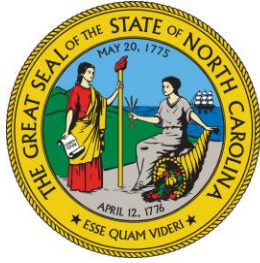
ISOLATE - Separate sick and exposed farmworkers from others

- If an individual is COVID-positive or is exhibiting symptoms, they should be separated from the rest of the farmworkers and put in an isolated area away from others. Separate sleeping, bathroom, and kitchen facilities for symptomatic or COVID-positive farmworkers are recommended per NCDHHS.
- If separate housing is not available, contact your local health department or NCDHHS to determine the best way to protect workers and what community resources are available.
- Farmworkers who are sick or showing respiratory symptoms should NOT return to work until they meet the CDC guidelines listed above.

COMMUNICATE - Communication is the key to success

- Seek medical advice if you or your farmworkers develop symptoms.
- Talk to your workers daily to determine if anyone is not feeling well, if additional supplies are needed, and to provide updates about COVID-19.
- Contact your local health department, as required, to report any suspected or known cases of communicable disease, such as COVID-19. The health department will guide you on your specific situation, including if, when, and how to test farmworkers.
- Contact NCDOL to report any changes related to migrant farmworker housing.





NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

Interim Coronavirus Disease 2019 (COVID-19) Guidance for Migrant Farmworkers, Their Employers, and Housing Providers

March 26, 2020

No one has immunity to the new coronavirus (COVID-19) that is currently causing this pandemic. COVID-19 can spread easily in settings where many people live in close proximity, such as the residential facilities set up to house migrant farmworkers. Farm owners, managers, and all who provide housing for migrant workers should implement plans to prevent exposure to the virus that causes COVID-19, care for individuals with suspected or confirmed COVID-19 infection and prevent the spread of the disease among their workers.

Individuals who are ≥ 65 years of age and people with pre-existing medical conditions such as diabetes, chronic lung or heart disease, or who have a compromised immune system (e.g. cancer or taking immunosuppressant medications) have a greater risk of severe illness due to COVID-19. Complications of COVID-19 infection include the need to be hospitalized, receive mechanical ventilation and death. Agricultural workers with chronic lung problems associated with exposure to common farming hazards such as pesticides and fungi found in crops, may also be at higher risk of severe illness.

The following recommendations from the North Carolina Department of Health and Human Services are intended to prevent exposure to COVID-19, when possible, and protect the health of North Carolina's communities which includes this important work force. Farmworkers are a uniquely vulnerable population given the many barriers to healthcare access they experience such as language barriers, lack of independent transportation, lack of insurance, fear regarding immigration status, and unfamiliarity with local resources and systems. The key components of a prevention plan for migrant farmworkers include 1) minimizing the risk for exposure to the virus, 2) early detection of people with symptoms of COVID-19, and 3) caring for individuals with COVID-19 while ensuring that they do not give the infection to anyone else.

If you have questions related to migrant farm worker housing, please contact the North Carolina Department of Labor's Agricultural Safety and Health Bureau at 919-707-7820.

Helpful definitions:

COVID-19 is the infection caused by the novel coronavirus identified for the first time in December of 2019.

A **COVID-19 case** is a person with a laboratory confirmed COVID-19 infection.

A **suspect COVID-19** case is a person with symptoms consistent with COVID-19 infection, but without a laboratory confirmed diagnosis.

Isolation is separating confirmed and suspect COVID-19 cases from other workers who have no signs or symptoms of infection.

Quarantine is keeping workers who have been exposed to a confirmed or suspect COVID-19 case, but have no symptoms of infection, away from non-exposed workers (as much as possible) for the duration

of the virus' incubation period (incubation period is 14 days after last exposure to a confirmed or suspect COVID-19 case).

A **significant exposure** is defined as being within 6 feet of a confirmed or suspect COVID-19 case for at least 10 minutes.

Be Prepared, Have a Plan

Have an emergency plan for how you will care for and isolate COVID-19 infected workers.

**Detailed guidance for COVID-19 infection prevention in congregate living settings can be accessed [here](#).*

- Make sure that you have emergency contact numbers for each of your workers that are willing to provide it.
- Make sure that you have the phone number of your local health department. OSHA requires "camp superintendents" to report immediately to the local health officer the name and address of any individual in the camp known or suspected of having a communicable disease. (29 CFR 1910.142(l)(1)). The health department will help to guide you on your specific situation, including how, if and when to test farmworkers with symptoms.
- People with symptoms of COVID-19 (e.g. fever, cough, shortness of breath) are considered suspect cases and must be housed in a separate room with a separate bathroom from people who are not sick. They should not share cooking or eating facilities.
- Confirmed COVID-19 cases should only be housed with other confirmed cases. They should have separate bathroom, cooking and eating facilities from people who are not sick.
- When available, provide surgical facemasks and store them near the doors for people with suspected and confirmed COVID-19 infections. Facemasks should be worn by both groups when they are outside of their room, when people are in their rooms, and by the people who enter their rooms to care for them.
- Ventilate the room where persons with COVID-19 are housed on regular intervals, as much as possible.
- Your plan should outline how and who will pay for and provide food, water, and medical supplies to symptomatic workers in isolation or exposed but asymptomatic workers in quarantine as they may be unable to provide for themselves during this time.
- Your plan should outline by whom and how transportation will be provided for ill workers who need medical evaluation or treatment. You must consider how the person doing the transporting is to be protected, where the closest facilities are located and how testing and/or care will be paid for.
- Create a plan for what to do if many workers are sick at the same time.

Identify the nearest healthcare facility that provides free or low-cost care to uninsured people.

- Most Migrant and Community Health Centers are able to provide telehealth evaluation, and some can provide COVID-19 testing at sliding scale fees.
- H2A workers have 60 days from entry into the country to sign up for heavily subsidized and thus affordable health insurance on the national marketplace. Migrant and Community Health Centers have bilingual patient navigators that can assist them in signing up. Contact your closest center to get your H2A farmworkers enrolled in health insurance plans when they first arrive and before anyone becomes ill.
- To view a list of healthcare facilities including Migrant and Community Health Centers providing care for uninsured patients, click [here](#).
- To view a map of farmworker clinics, click [here](#).

- If you cannot find a free or low-cost facility in your area, [contact your local health department](#) for assistance.

Promote Healthy Habits

Educate workers about hand hygiene, respiratory etiquette and emergency response

- Provide signs in English and Spanish with information about when and how to properly wash hands, physical distancing of at least 6 feet, need to cough and sneeze into an elbow instead of a hand to protect themselves and others from germs.
- Clean and disinfect farmworker housing, bathrooms and transportation vehicles daily.
- Transport farmworkers in ways that allow them to stay at least 6 feet apart on the bus even though this may mean multiple trips are required. Disinfect the bus between trips.
- Arrange beds in farmworker housing at least six feet apart, if possible.
- Post the address and phone number of your local health department centrally where your workers can find it.
- Post your camp address centrally so workers will be able to give to 911 operator if needed.
- Post all documents centrally in both English and Spanish where your workers can read them.

Provide weekly supplies to each farmworker to fight COVID-19 like alcohol-based hand sanitizer (if available), tissues, disinfectants and lined trash cans.

- Make sure that workers have access to these supplies at the worksite, in common areas, where they sleep, and where they eat.
- Use hand sanitizer containing at least 60% alcohol.
- Provide a disinfectant that is active against coronaviruses to sanitize counters, bathrooms and other areas. Create a daily schedule for this to be done.
- Ensure that field sanitation supplies of soap, single-use paper towels, and water are well stocked in each field location.
- Require farmworkers to wash hands **before and after** work, meals and bathroom breaks. Remind them to wash hands upon entering and exiting high-density areas such as stores, laundromats, buses and vans.
- Make sure that trash cans are emptied whenever full and at least weekly.

Prevent the Spread of COVID-19

Screen arriving workers for symptoms of COVID-19 such as fever, cough, or shortness of breath.

- Workers with symptoms should be housed in the area designated for suspect COVID-19 cases and arrange for them to consult with a medical provider. If the worker needs to be seen at a healthcare facility, call the medical provider in advance so healthcare workers can take appropriate precautionary measures. Be sure that the medical provider knows that this patient lives in a congregate living situation.
- Workers with symptoms of respiratory illness should take a private vehicle to get to the medical provider. If they do not have their own vehicle, you must assist with transportation. Circulate air by partially lowering windows (weather permitting) and have all people in the vehicle, including the patient, wear a surgical mask.

If a worker starts having symptoms of COVID-19 such as fever, cough, or shortness of breath:

- Have the worker stop working immediately and isolate the person from other workers. People with these symptoms should not be working.

- If there is an onsite room designated for ill workers, suspect COVID-19 cases should be directed to that room at the time of symptom onset until appropriate isolation plans can be enacted.
- Follow the instructions above to arrange for ill workers to be evaluated by a medical provider.

Let workers who have symptoms of respiratory illness rest until they feel better.

- Make sure they have enough food and water as they will not be able to go to the store and may not have the funds to buy their own.
- Check frequently on the ill worker in isolation to monitor for worsening symptoms. About 20% of infected people will develop severe respiratory symptoms that may require hospitalization.
- Public health officials (e.g., local health department staff) will provide further instructions about isolation and release from isolation.

If a worker is suspected or confirmed to have COVID-19 infection:

- Contact your local health department as required by OSHA.
- Instruct workers who have had close contact* with a COVID-19 patient to self-monitor for symptoms of COVID-19 (fever, cough, or shortness of breath) for 14 days. These exposed workers should be separated from non-exposed workers for 14 days (e.g. sleep in a separate room, work in a separate area, use a separate bathroom and cooking facility). If they develop symptoms of COVID-19, contact your local health department.

**close contact per the CDC is greater than 10 minutes in an enclosed space without personal protective equipment (mask)*

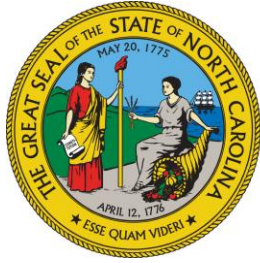
To learn more about caring for people with COVID-19 in a group setting, please read the [NC Congregate Living Guidance](#).

For additional information, please see the following resources:

- [NC DHHS Coronavirus Website](#)
- [CDC Coronavirus Website](#)
- [NC Environmental Cleaning Guidance](#)

Legal Considerations

- Failure to provide separate housing for infected workers could reasonably be expected to cause death or serious harm to the uninfected workers, which violates the Migrant Housing Act of North Carolina which requires housing providers to immediately provide safe housing.
- No infected or exposed farmworker should be allowed or forced to return home prior to being cleared by the health department for travel. This would present a public health risk and could be subject to prosecution pursuant to North Carolina's laws governing communicable disease control (G.S. 130A-25)
- If workers would like to make a CONFIDENTIAL complaint about unsafe working or migrant labor camp living conditions in English or Spanish, they can contact the NC Department of Labor at 1-800-NC-LABOR.
- It is unlawful for employers and migrant housing providers to retaliate/take any adverse employment action against any worker who files a complaint or otherwise asserts their right to safe working and/or migrant housing conditions in NC under the NC Retaliation Employment Discrimination Act.



NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

Recomendaciones provisionales sobre la enfermedad del Coronavirus 2019 (COVID-19) para trabajadores agrícolas migrantes, sus empleadores, y proveedores de vivienda

26 de marzo de 2020

Nadie tiene inmunidad al nuevo Coronavirus (COVID-19) que actualmente está causando esta pandemia. COVID-19 se puede propagar fácilmente en lugares donde muchas personas viven en condiciones apretadas, tales como viviendas para albergar a trabajadores agrícolas migrantes. Los dueños de granjas, gerentes, y todos los que proporcionan vivienda a trabajadores agrícolas migrantes deben implementar planes para evitar que se expongan al virus que causa el COVID-19, para que se atiendan a personas que posiblemente han sido infectadas por el COVID-19 o que ya han sido confirmadas con la enfermedad, y para prevenir la propagación de la enfermedad entre sus trabajadores.

Las personas mayores de ≥ 65 años de edad y personas con condiciones de salud preexistentes, tales como diabetes, enfermedades pulmonares o enfermedades coronarias crónicas, o aquellos con sistema inmunitario deficiente (por ejemplo, con cáncer o tomando medicamentos que producen inmunosupresión) tienen un mayor riesgo de enfermarse gravemente a causa del COVID-19. Las complicaciones causadas por la infección del COVID-19 pueden incluir: la necesidad de ser hospitalizado, tener que recibir ventilación mecánica, y la muerte. Los trabajadores agrícolas con enfermedad pulmonar crónica a causa de riesgos asociados con el trabajo agrícola, tales como el uso de pesticidas y los hongos en los cultivos, también pueden correr mayor riesgo de problemas de salud graves.

Las siguientes recomendaciones del Departamento de Salud y Servicios Humanos de Carolina del Norte tienen la intención de prevenir la exposición al COVID-19, cuando sea posible, y proteger la salud de las comunidades de Carolina del Norte, lo cual incluye esta fuerza laboral importante. Los trabajadores agrícolas son una población especialmente vulnerable debido a las múltiples barreras que existen para que tengan acceso a servicios de salud, tales como barreras idiomáticas, la falta de transporte independiente, la falta de seguro de salud, el sentir temor debido a su estatus de inmigración, y el desconocimiento de recursos y sistemas a nivel local. Los componentes clave del plan de prevención para los trabajadores agrícolas migrantes incluyen: 1) disminuir el riesgo a ser expuestos al virus, 2) detección temprana de personas con síntomas del COVID-19, y 3) cuidar a las personas que tienen COVID-19 y a la vez asegurar que no contagien a nadie más.

Si usted tiene preguntas relacionadas con la vivienda para trabajadores agrícolas migrantes, por favor comuníquese con la Oficina de Seguridad y Salud Agrícola del Departamento de Empleo (DOL) de Carolina del Norte al 919-707-7820.

Definiciones importantes:

COVID-19 es la infección causada por el nuevo coronavirus identificado por primera vez en diciembre de 2019.

Un **caso de COVID-19** es una persona con infección de COVID-19 con confirmación de un laboratorio.

Un **posible caso de COVID-19** es una persona con síntomas relacionados con la infección de COVID-19, pero sin una diagnosis confirmada por un laboratorio.

El aislamiento o confinamiento significa separar a casos confirmados y posibles de COVID-19 de otros trabajadores que no tienen señas o síntomas de infección.

La **cuarentena** es mantener a trabajadores que han sido expuestos a un caso confirmado o posible de COVID-19, pero que no tienen síntomas de la infección, lejos (lo más posible) de trabajadores que no han sido expuestos al virus durante el periodo de incubación (el periodo de incubación es 14 días después de la última exposición a un caso confirmado o posible de COVID-19).

Una **exposición significativa** ocurre al estar a menos de 6 pies de un caso confirmado o posible de COVID-19 por 10 minutos o más.

Prepárese, tenga un plan

Tenga un plan de emergencia para saber cómo cuidará y aislará a trabajadores infectados con COVID-19.

**Puede encontrar una guía detallada para prevenir la infección del COVID-19 en viviendas grupales [aquí](#).*

- Asegúrese de tener números de contacto de emergencia para cada uno de sus trabajadores que están dispuestos a proporcionarlos.
- Asegúrese de tener el número de teléfono de su departamento de salud local. OSHA requiere que capataces (“camp superintendents”) comuniquen de inmediato al funcionario de salud a nivel local el nombre y dirección de cualquier individuo en el campamento que tiene o puede tener una enfermedad transmisible. [29 CFR 1910.142(l)(1)]. El departamento de salud lo orientará según su situación específica, incluyendo cómo, si y cuándo se deben hacer pruebas los trabajadores agrícolas con síntomas.
- Las personas con síntomas de COVID-19 (por ejemplo, fiebre, tos, dificultad para respirar) deben ser consideradas como posibles casos y deben ser albergados en un cuarto separado con un baño diferente a las personas que no están enfermas. No deben compartir la cocina o comedor.
- Los casos confirmados de COVID-19 solo pueden vivir con otros casos confirmados. Deben tener baño, cocina, y comedor separados de las personas que no están enfermas.
- Cuando estén disponibles, proporcione máscaras quirúrgicas y téngalas disponibles cerca de las puertas para personas con posibles infecciones y casos confirmados de COVID-19. Los dos grupos deben usar máscaras cuando estén fuera de sus cuartos y cuando estén en sus cuartos. Las personas que entren a sus cuartos para cuidarlos también deben ponerse máscaras de protección.
- Debe airear el cuarto de las personas con COVID-19 a intervalos regulares, tanto como sea posible.
- Su plan debe hacer un resumen de cómo y quién pagará y proporcionará comida, agua, y suministros médicos a trabajadores con síntomas en confinamiento, o expuestos pero sin síntomas, que estén en cuarentena ya que no podrán hacerlo ellos mismos durante este tiempo.
- Su plan debe hacer un resumen de quién y cómo se proporcionará transporte a los trabajadores que estén enfermos y necesiten revisiones médicas o tratamiento. Usted debe tomar en cuenta cómo se va a proteger a la persona que esté proporcionando el transporte, dónde están las instalaciones médicas más cercanas, y cómo se pagarán las pruebas y/o el tratamiento.
- Haga un plan en caso de que muchos trabajadores se enfermen al mismo tiempo.

Identifique la instalación médica más cercana que ofrece atención gratuita o de bajo costo a personas sin seguro médico.

- La mayoría de los Centros de Salud Comunitarios y para Migrantes puede proporcionar evaluación por medio de tele salud a distancia, y algunos pueden ofrecer pruebas de COVID-19 con tarifas reducidas de acuerdo con los ingresos de la persona.
- Los trabajadores H2A tienen 60 días desde que ingresaron al país para inscribirse para recibir seguro médico altamente subsidiado y así económico en el mercado a nivel nacional. Los Centros de Salud Comunitarios y para Migrantes tienen coordinadores de apoyo al paciente bilingües que los pueden apoyar para inscribirse. Comuníquese con el centro más cercano para que sus trabajadores H2A se inscriban en planes de seguro de salud en cuanto lleguen y antes de que cualquier persona se enferme.
- Para ver una lista de centros de salud, incluyendo Centros de Salud Comunitarios para Migrantes que ofrecen atención a pacientes sin seguro, oprima [aquí](#).
- Para ver un mapa de clínicas para trabajadores agrícolas, oprima [aquí](#).
- Si no puede encontrar un centro gratuito o de bajo costo en su zona, [comuníquese con su departamento de salud](#) para recibir asistencia.

Promover Costumbres Saludables

Educar a los trabajadores sobre la higiene y cómo lavarse las manos, tener respeto al toser o estornudar, y cómo responder a emergencias

- Ofrezca letreros en inglés y en español sobre cuándo y cómo lavarse las manos adecuadamente, la importancia de alejarse de las personas (distanciamiento físico) un mínimo de 6 pies, y la importancia de taparse con el pliegue del codo al toser y estornudar en vez de en la mano para protegerse a sí mismo y a otros de los microbios.
- Lave y desinfecte las viviendas de los trabajadores agrícolas, los baños, y los vehículos para transportarlos cada día.
- Transporte a los trabajadores agrícolas de una manera en la que puedan permanecer a un mínimo de 6 pies de distancia de los demás en el autobús, aunque esto signifique que tenga que hacer varios viajes para transportarlos. Desinfecte el autobús entre viajes.
- Coloque las camas en las viviendas de los trabajadores agrícolas con un mínimo de seis pies de separación, si es posible.
- Muestre la dirección y el teléfono del departamento de salud local en un lugar central donde lo puedan ver los trabajadores.
- Muestre la dirección de su campamento en un lugar central para que los trabajadores se la puedan proporcionar al operador del número telefónico de emergencia 911 si es necesario.
- Muestre todos los documentos en un lugar central en inglés y español donde sus trabajadores puedan leerlos.

Proporcione suministros semanalmente a cada trabajador agrícola para prevenir el COVID-19, tales como gel antiséptico a base de alcohol (si está disponible), pañuelos desechables, desinfectantes, y botes de basura con bolsas.

- Asegúrese de que los trabajadores tengan acceso a estos suministros en el lugar de trabajo, en áreas comunes, donde viven, y donde comen.
- Use gel antiséptico que contenga un mínimo de 60% de alcohol.
- Proporcionar un desinfectante que funciona contra el coronavirus para limpiar superficies, baños y otras áreas. Fije un horario para desinfectar diariamente.

- Asegúrese de tener suministros bien surtidos en cada campo de trabajo, incluyendo jabón, toallas de papel desechables, y agua.
- Requiera que los trabajadores agrícolas se laven las manos **antes y después** de trabajar, comer, y tomar descansos para ir al baño. Recuérdeles que se laven las manos al entrar y salir de lugares con muchas personas, tales como tiendas, lavanderías, autobuses, y camionetas.
- Asegúrese de vaciar los basureros cuando estén llenos y por lo menos una vez a la semana.

Prevenir la propagación del COVID-19

Someta a un chequeo a los trabajadores recién llegados para detectar síntomas del COVID-19, tales como fiebre, tos, o dificultad para respirar.

- Los trabajadores que tengan síntomas deben ser alojados en un área designada para posibles casos de COVID-19. Haga los arreglos necesarios para que los atienda un proveedor médico. Si el trabajador debe ir a un centro de salud, primero llame para que el personal de salud pueda tomar las medidas de precaución necesarias. Asegúrese de que el proveedor de atención médica sepa que el paciente vive en una vivienda grupal.
- Los trabajadores con síntomas de enfermedad respiratoria deben ir en vehículo privado a la cita médica. Si no tienen su propio vehículo, usted debe ayudarles al proporcionar transporte. Se debe airear el vehículo al abrir las ventanas (si las condiciones climáticas lo permiten) y todas las personas en el vehículo deben ponerse mascarar quirúrgicas, incluyendo el paciente.

Si un trabajador empieza a tener síntomas de COVID-19, tales como fiebre, tos o problemas para respirar:

- Indique al trabajador que debe dejar de trabajar de inmediato y aisle a la persona de otros trabajadores. Las personas con estos síntomas no deben estar trabajando.
- Si hay un cuarto demarcado para trabajadores enfermos, las personas que podrían tener COVID-19 deben ser dirigidas a ese cuarto en cuanto tengan síntomas hasta que se puedan hacer planes adecuados de aislamiento.
- Siga las instrucciones descritas arriba para que los trabajadores enfermos sean evaluados por un proveedor de servicios médicos.

Permita que trabajadores con síntomas de enfermedad respiratoria descansen hasta que se sientan mejor.

- Asegúrese de que tengan suficiente comida y agua ya que no van a poder ir a la tienda y es posible que no tengan dinero pagar ellos mismos.
- Vea cómo sigue el trabajador enfermo en confinamiento frecuentemente para monitorear si sus síntomas han empeorado. Alrededor de 20% de personas infectadas tendrán síntomas respiratorios graves que pueden requerir hospitalización.
- Funcionarios de salud pública (por ejemplo, empleados del departamento de salud local) ofrecerán instrucciones adicionales sobre el aislamiento y cuándo se puede terminar el confinamiento.

Si se sospecha que un trabajador tiene, o se confirma que tiene, infección de COVID-19:

- Comuníquese con el departamento de salud local según lo requiere OSHA.
- Indique a los trabajadores que han tenido contacto cercano* con un paciente de COVID-19 que deben estar pendientes de cualquier síntoma que tengan de COVID-19 (fiebre, tos, o problemas para respirar) por 14 días. Estos trabajadores que han sido expuestos deben ser separados de los trabajadores no expuestos por 14 días (por ejemplo, dormir en otro cuarto, trabajar en otra

área, usar un baño y una cocina diferente). Si muestran síntomas de COVID-19, comuníquese con el departamento de salud local.

**el contacto cercano es más de 10 minutos en un lugar cerrado sin equipo de protección individual (máscara) según los Centros para el Control de Enfermedades (CDC)*

Para aprender más sobre cómo cuidar a personas con COVID-19 en una vivienda grupal, por favor lea los [Consejos para viviendas grupales en Carolina del Norte](#).

Para más información, por favor vea los siguientes recursos:

- [Sitio web del Departamento de Salud y Servicios Humanos de Carolina del Norte](#)
- [Sitio web de los Centros para el Control de Enfermedades \(CDC\) sobre el Coronavirus](#)
- [Guía de limpieza ambiental de Carolina del Norte](#)

Consideraciones legales

- El no proporcionar vivienda separada para trabajadores infectados podría razonablemente causar la muerte o gran daño a los trabajadores no infectados, lo cual infringe la Ley de Vivienda para Migrantes de Carolina del Norte, la cual requiere que proveedores de vivienda ofrezcan vivienda segura de inmediato.
- Ningún trabajador que ha sido infectado o expuesto debe ser permitido o forzado a regresar a casa antes de obtener permiso del departamento de salud para viajar. Esto podría presentar un riesgo de salud pública y podría ser sujeto a acción penal según las leyes de Carolina del Norte que rigen el control de enfermedades transmisibles (G.S. 130A-25).
- Si los trabajadores quisieran presentar una queja de manera CONFIDENCIAL sobre condiciones peligrosas de trabajo o de vivienda en campamentos de trabajadores migrantes en inglés o español, pueden comunicarse con el Departamento de Empleo al 1-800-NC-LABOR.
- Es ilegal que empleados y proveedores de vivienda para trabajadores migrantes tomen represalias/acciones contra el empleo de cualquier trabajador que presente una queja o que de otro modo afirme su derecho a condiciones seguras de trabajo y/o de vivienda para migrantes en Carolina del Norte bajo la Ley de Represalias y Discriminación en el Empleo de Carolina del Norte.



Interim Guidance for Migrant Farmworkers and their Employees (October 8, 2020)

Guidelines for Migrant Farmworkers and their Employees: COVID-19 can spread easily in settings where many people are in close proximity, such as the residential facilities that house migrant farmworkers. Farm owners, farm labor contractors, and all who provide housing for migrant workers should implement plans to:

- prevent exposure to the virus that causes COVID-19,
- provide care for individuals with suspected or confirmed COVID-19 infection, and
- prevent the further spread of the disease among their workers.

Farmworkers are a uniquely vulnerable population given the many barriers to healthcare access they experience, such as: language barriers, lack of independent transportation, lack of insurance, fear regarding immigration status, and unfamiliarity with local resources and systems. Agricultural workers are also at risk for chronic lung problems associated with exposure to common farming hazards such as pesticides and fungi found in crops, which might place them at higher risk of severe illness due to COVID-19.

The key components of a prevention plan for migrant farmworkers include:

1. minimizing the risk for exposure to the virus,
2. early detection of people with COVID-19 through symptom screening and testing, and
3. caring for individuals with COVID-19 while ensuring that they do not transmit the infection to anyone else.

The purpose of the following recommendations from the North Carolina Department of Health and Human Services is to prevent exposure to COVID-19 when possible, and protect the health of North Carolina's communities, which includes this important work force.

Helpful definitions:

COVID-19 is the disease caused by the novel coronavirus SARS-CoV-2.

Symptoms of COVID-19 include fever, shortness of breath or difficulty breathing, sore throat, headache, achy muscles, fatigue, cough, runny nose, nausea, vomiting, diarrhea and loss of appetite. One symptom very specific to COVID-19 is a new loss of taste or smell. It is important to note that many individuals with COVID-19 experience very mild symptoms or no symptoms.

Interim Guidance for Migrant Farmworkers and their Employees, October 8, 2020

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

Isolation is separating people with confirmed COVID-19 or with signs or symptoms of infection from people who are not infected.

Quarantine is keeping people who have been exposed to an infection, but have no symptoms themselves, away from each other and other people. The recommended duration of quarantine is based on the amount of time it could take the illness to develop, called the incubation period.

The **incubation period** for COVID-19 ranges from 2-14 days after last close contact with someone with confirmed or suspected SARS-CoV-2 infection. (The current definition of close contact can be found on the CDC website [here](#)).

Be prepared, have a written plan

Before migrant farmworkers are scheduled to arrive, develop a plan that includes: how you will minimize opportunities for transmission between new and current workers, such as testing and quarantining new workers on the farm; how you will monitor worker health and screen for COVID-19; what COVID-19 prevention measures you will use such as masks and decreased housing and transportation density; and how you will isolate and care for workers who test positive for the virus and/or have symptoms of COVID-19. You can access further [detailed guidance for COVID-19 infection prevention in congregate living settings here](#). Additional CDC guidance for agricultural workers can be accessed [here](#).

Ensure you have all important contacts and numbers

- Make sure that you have emergency contact information for each worker who is willing to provide it. Obtaining more than one emergency contact name and number is recommended.
- Make sure that you have the phone number of your [local health department](#). OSHA requires “camp superintendents” to report immediately to the local health officer the name and address of any individual in the camp known or suspected of having a communicable disease (29 CFR 1910.142(l)(1)). The health department will help to guide you on your specific situation, including how and when to test farmworkers with symptoms and those that were exposed.
- Post important phone numbers and addresses in your camps
 - Post the phone number of your closest [Community Health Center or farmworker health clinic](#) so workers can call for health care services from their housing facility. Facilitate access to these services by ensuring access to a telephone and wireless internet.
 - Post your camp address so that workers can call 911 for emergency assistance.
 - Post the address and phone number of your local health department so workers can call for assistance.

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- Post the phone number of the closest Farmworker Health Outreach worker so your workers can call for education and assistance. To find the name and number of the outreach worker, click [here](#).

Prepare for the arrival of workers

Prepare additional housing for

- People who are asymptomatic but have been exposed to COVID-19. They should be housed individually or in groups as small as possible for 14 days. They should have separate bathroom, cooking and eating facilities from all others. For quarantine to be most effective in stopping the spread of infection, exposed individuals should not be housed together, but should be housed in individual rooms with private bathrooms. They should not share transportation or kitchens. If this is not possible, they should be housed in the smallest groups possible.
- People with symptoms of COVID-19 who are awaiting their test results. They should be housed individually or in groups as small as possible. If individual housing is not possible then they should be housed in a separate room with a separate bathroom from well people, people with confirmed COVID-19, and asymptomatic but COVID-19 exposed people. They should not share cooking or eating facilities with any of these groups.
- People with confirmed COVID-19, regardless of symptoms. They should only be housed with other people with confirmed COVID-19. They should have separate bathroom, cooking and eating facilities from all other workers.

The North Carolina FEMA-supported non-congregate sheltering program is a collaborative effort between counties and local partners to provide individual housing for infected people who need to isolate, and exposed people who need to quarantine but are unable to do so because they live in congregate settings, like migrant farmworker housing. Often this involves providing motel rooms as well as food and other needed assistance. Work with your local health department and local emergency management to determine available isolation and quarantine housing resources in your area. Information on non-congregate shelter in North Carolina can be found [here](#).

Prepare to receive new workers

- When newly arriving workers are joining workers already living in the housing, the newly arrived workers should be separated (quarantined) from the established workers for 14 days to minimize exposure in case one of the newly arrived workers is infected with COVID-19. If possible, these newly arrived workers should be housed individually. This prevents an infected worker (who may not have any symptoms) from exposing other newly arrived workers or the workers already on the farm.

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- Housing providers unable to provide individual rooms, bathrooms and eating facilities should house newly arrived workers in small groups, as small as possible, or utilize the non-congregate housing resources in their county.
 - Testing newly arrived workers for COVID on arrival and/or during quarantine can help to rapidly identify infections and prevent introduction of the virus into the camp.
- Provide washable cloth face coverings (at least five) to all workers. Workers should wear face coverings when they are outside of their room. Facilities should be provided to ensure that washable cloth face coverings are washed and dried after each use. You can request face coverings from NC Emergency Management services [here](#).
- Outline who will pay for and provide food, water, clean laundry, and medical supplies to workers in isolation or quarantine as they may be unable to provide for themselves during this time. Determine how these supports will be provided.
- Determine by whom and how transportation will be provided for ill workers who need medical evaluation or treatment. Consider how to protect the person transporting ill workers, including the use of face coverings by both driver and worker, leaving windows down for maximum airflow and maintaining as much distance as possible between the driver and the worker.
- Create a plan for what to do if many workers are sick at the same time. Identify critical jobs on the farm that would need to continue if many workers are sick (in isolation) or exposed (in quarantine). Plan who will care for those who are isolated and in quarantine and be ready to provide the caregivers with surgical masks and disposable gloves.
- Workers who have tested positive or who are sick cannot work. Workers who have had a close contact, but have not tested positive and are not sick may be able to work to support critical farm functions if basic safety measures can be met.
- Determine how the costs of testing and medical care will be covered. Identify the nearest healthcare facility that provides free or low-cost care to uninsured people. To find healthcare facilities, including Community Health Centers, that provide care for uninsured patients, click [here](#). Most Community Health Centers can provide telehealth evaluation, and many can provide COVID-19 testing free or at sliding scale fees. [Farmworker health clinics](#) provide bilingual outreach services to farmworkers and a range of health services. If you cannot find a free or low-cost facility in your area, contact your [local health department](#) for assistance.
- H2A workers have 60 days from entry into the country to sign up for affordable health insurance on the national marketplace. [Community Health Centers](#) have bilingual patient navigators that can assist them in signing up. Contact your closest center to get your H2A farmworkers enrolled in health insurance plans when they first arrive and before anyone becomes ill.

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Promote and model healthy habits

Educate workers about hand hygiene, respiratory etiquette and emergency response.

Provide signs in English and Spanish with information about when and how to properly wash hands, the need for physical distancing of at least 6 feet, how to put on and remove a face covering, and the need to cough and sneeze into an elbow instead of a hand to protect themselves and others from germs. Signs and other educational materials in English and Spanish are available at <https://covid19.ncdhhs.gov/materials-resources/prevent-and-protect-media-toolkit>.

Provide training for your workers in a language that they understand and that covers:

- How COVID-19 is transmitted
- The symptoms of the COVID-19, including that many people do not have symptoms
- The proper use of personal protective equipment
- How to notify the employer of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19
- How to report unsafe working conditions
- That employers cannot retaliate against workers for reporting unsafe working conditions

Ensure workers wear face coverings when they are outside of their rooms, including in common areas, on transportation, at work, or out in public.

Require farmworkers to wash hands before and after work, meals and bathroom breaks. Remind them to wash hands upon entering and exiting high-density areas such as stores, laundromats, buses and vans.

Screen farmworkers for symptoms daily using the [NC DHHS Symptom Screening Checklist](#) prior to transporting them to work.

Encourage workers to speak up regarding any COVID-19 related symptoms by telling them clearly that they will not face retaliation for reporting COVID-19 symptoms, seeking testing, seeking care, or bringing an unsafe living or working condition to your attention. Create a safe space for workers to report COVID-19 related symptoms by emphasizing the benefits of early detection and isolation rather than talking about the downsides of discovering that workers are sick.

If applicable, let workers know that they are eligible for up to 80 hours of paid leave if they have COVID-19 or are looking for medical services due to symptoms of COVID-19. Pay sick or symptomatic workers their paid leave when you pay their co-workers.

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Provide safe living spaces, transportation, and work environments

- Provide socially distanced, outdoor, covered eating facilities to prevent spread of the virus while unmasked and eating.
- Clean and disinfect farmworker housing, bathrooms and transportation vehicles daily and ventilate housing and transportation vehicles as much as possible. This should not be the responsibility of the farmworkers, who may lack the information and supplies necessary to do this.
- Ventilate the rooms on regular intervals, as much as possible by using fans in the windows to pull air from outside.
- Transport farmworkers in ways that allow them to stay at least 6 feet apart on the bus, even though this may mean multiple trips are required. Disinfect the bus between trips.
- Arrange beds in farmworker housing at least six feet apart. Place the head of a bed across from the foot of the next bed. Do not use bunk beds.
- Consider cohorting your workers in groups as small as possible. This means that workers who are living together also travel and work together and have no contact or minimal contact with other cohorts of workers.
- Provide supplies to fight COVID-19 to each farmworker, like alcohol-based hand sanitizer containing at least 60% ethanol or 70% isopropanol per [CDC recommendations](#), tissues, lined trash cans, and [a disinfectant that is active against coronaviruses](#). Make sure that workers have access to these supplies at the worksite, in common areas, where they sleep, and where they eat. If necessary, create a daily schedule for sanitizing all common areas.
- Ensure that field sanitation supplies of soap, single-use paper towels, water, and disposable cups are well stocked in each field location.

Newly arrived workers

- Immediate testing of newly arrived farmworkers prior to contact with your existing employees is highly recommended. You can [find the closest testing center to you here](#). This is recommended even when the newly arrived farmworkers have no symptoms of COVID-19 infection. Many people who have COVID-19 have no symptoms but can still infect others.
- Because test results can be negative in people who are infected but do not yet have detectable levels of virus, keep newly arrived farmworkers separate from existing employees for a **14-day quarantine period**. This is recommended even for those who have tested negative for the virus. They may continue to work, but should not share sleeping, kitchen, restroom or

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transportation facilities with any other workers during this time. They should be screened daily for symptoms of the virus and be retested and isolated if they develop symptoms.

If possible, newly arrived workers should be housed individually. This prevents an infected worker from further exposing other newly arrived workers. Housing providers unable to provide individual rooms, bathrooms and eating facilities should house newly arrived workers in small groups, as small as possible, or utilize non-congregate housing resources in their county.

Workers with suspected COVID-19

Have the worker stop working immediately and isolate the person from other workers. People with these symptoms should not be working.

If there is an onsite room, bathroom, and/or kitchen facilities designated for ill workers, workers with suspected COVID-19 should be directed to those facilities at the time of symptom onset until appropriate isolation plans can be enacted. Many counties in North Carolina now have isolation housing for people unable to isolate at home. Work with your local health department and local emergency management to find out about non-congregate housing resources in your area.

Arrangements should be made for them to consult with a medical provider within 24 hours and to be tested. If the worker needs to be seen at a healthcare facility, call the medical provider in advance so healthcare workers can take appropriate precautionary measures. Tell the medical provider that this patient lives in a **congregate living situation**. The state has prioritized the testing for COVID-19 in patients living in congregate living situations such as farmworker camps.

- Workers who require non-emergency medical care should take a private vehicle to get to the medical provider. If they do not have their own vehicle, you should assist with transportation.
- No one other than the driver and the ill farmworker should ride in the car. The ill farmworker should sit as far behind the driver as possible, such as at the back of a multi-passenger van or bus.
- Circulate air by lowering windows as much as weather permits. The vehicle's ventilation system should be set to exchange fresh air from outside the vehicle.
- Have both people in the vehicle, including the patient, wear a face covering.

If the worker tests positive, they must be moved to isolation housing. All workers who test positive, even if they are asymptomatic, must be in isolation housing. **They must not work until released from isolation.**

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- Remember to provide identification documents to any worker being moved to alternate housing and to notify the NC Department of Labor of their move.

Workers with confirmed COVID-19

- Contact your local health department as required by OSHA.
- ALL workers with confirmed COVID-19 must remain in isolation until released by the local health departments. Workers in isolation may not work, even if they are asymptomatic.**
- Public health officials such as local health department staff will provide further instructions about isolation and release from isolation. Current CDC recommendations are that non-hospitalized people sick with COVID-19 stay isolated until all of the following have been met:
 - at least 10 days from the first symptom (or date of positive test if no symptoms are present), AND
 - at least 24 hours from last fever (without use of fever lowering medications), AND
 - improvement in all other symptoms.

Workers who require hospitalization may need to be isolated for a longer period of time. The local health department will determine when each worker can be released from isolation.

- Make sure workers in isolation have enough food and water as they will not be able to go to the store. Ensure they can communicate with family members.
- Check frequently on the ill worker in isolation to monitor for worsening symptoms. Some infected people will develop severe symptoms such as shortness of breath, chest pain, confusion or inability to walk unassisted that will require hospitalization. This can happen quite suddenly and be life-threatening.
- Workers do not need to test negative prior to returning from work following appropriate isolation as workers may continue to test positive for up to three months after recovery even though they will no longer infect others.

Workers exposed to someone with COVID-19

- All workers exposed to someone with COVID-19 must quarantine for 14 days and are recommended to be tested.**
 - Your local health department can help you determine the best way to get all exposed workers tested.
 - You can find the closest testing facility near you here.

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- Exposed workers should ideally be separated from each other and from any other non-exposed workers for 14 days (e.g. sleep in an individual room, use an individual bathroom and cooking facility). This is very difficult to achieve in most farmworker camps and growers may need to access non-congregate housing resources in their county.
- If individual quarantine housing is not available for all workers, they should be housed in groups as small as possible. Workers at high risk of serious COVID-19 infection (over 65 years of age or with chronic illnesses such as hypertension, diabetes or obesity) should be housed individually for 14 days to decrease their risk of infection.
- All exposed workers should be tested as some of them may be positive and contagious, although only mildly symptomatic or asymptomatic. If they test positive, they must be moved to housing with others who have tested positive.
- Workers in quarantine must be monitored daily for symptoms. If they develop symptoms while in quarantine, they must be retested.
- Agriculture is considered a critical infrastructure industry. As such workers who are in quarantine and **remain asymptomatic** may be permitted to work if necessary for continuity of operations for critical farm functions as long as [all CDC criteria](#) can be met.

Legal Considerations

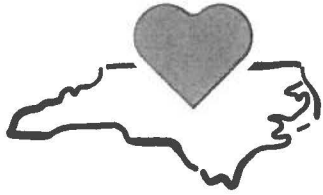
- Failure to provide separate housing for infected workers could reasonably be expected to cause death or serious harm to the uninfected workers, which violates the Migrant Housing Act of North Carolina requirement that housing providers immediately provide safe housing.
- Forcing or requiring an infected or exposed farmworker to return home prior to clearance for travel by the health department would present a public health risk and could be subject to prosecution pursuant to North Carolina's laws governing communicable disease control (G.S. 130A-25)
- If workers would like to make a CONFIDENTIAL complaint about unsafe working or migrant labor camp living conditions in English or Spanish, they can contact the NC Department of Labor at 1- 800-NC-LABOR.
- It is unlawful for employers and migrant housing providers to retaliate or to take any adverse employment action against any worker who files a complaint or who otherwise asserts their right to safe working and/or migrant housing conditions in NC under the NC Retaliation Employment Discrimination Act.

Other Resources

Interim Guidance for Migrant Farmworkers and their Employees, October 8, 2020

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- [NC DHHS COVID-19 Website](#)
- [CDC Coronavirus Website](#)
- [NC Environmental Cleaning Guidance](#)
- [North Carolina Department of Labor's Agricultural Safety and Health Bureau](#)



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Protect your family and neighbors.

Learn more at nc.gov/covid19.



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