CLASS ORDER

Made pursuant to section 22 of the Health Protection and Promotion Act, R.S.O. 1990, c.H.7, as amended

DATE: April 6 2021

TO: All persons, including temporary help agencies, who employ migrant workers and/or house migrant workers, or intend to employ migrant workers and/or house migrant workers, at any location within the Waterloo Health Unit / The Regional Municipality of Waterloo;

Under Section 22 (5.0.1) of the Health Protection and Promotion Act, a Medical Officer of Health may make an order to a class of persons who own, are engaged in or administer an enterprise or activity, or are present in the health unit served by the Medical Officer of Health to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

For the purposes of this Order,

a. “cohort” means a team, group, crew or work pod that is consistently made up of the same persons;
b. “employ” and “employment” includes the use of a worker on a master-servant, contract, full-time, part-time, permanent, seasonal and/or temporary basis;
c. “house” means the provision of housing accommodation to a person as part of the person’s employment and can include housing accommodation in a house, townhouse, apartment, mobile trailer, hotel, motel or other structure, whether it is on a permanent or temporary basis;
d. “migrant worker” means a person, including a person who is a participant of the Temporary Foreign Workers program as administered by the Government of Canada, who has traveled from his or her normal residence to any other location for the purpose of employment and receives housing accommodation on a communal basis, being the use of a shared bedroom, bathroom, kitchen, dining area and/or living area with one or more other employees, as part of that employment;
e. “quarantine” means to quarantine as defined and/or required pursuant to the Quarantine Act, S.C. 2005, c. 20, as amended;
f. “ROWPHES” means the Region of Waterloo Public Health and Emergency Services; and
g. “Waterloo Region” means the Waterloo Health Unit / The Regional Municipality of Waterloo.

I, Dr. Hsiu-Li Wang, Medical Officer of Health, for Waterloo Health Unit / The Regional Municipality of Waterloo, ORDER YOU TO TAKE THE FOLLOWING ACTIONS, effective 12:01 a.m. on April 7 2021.

1. Develop and submit a COVID-19 Workplace Safety Plan to ROWPHES for approval in writing two weeks in advance of the arrival of any migrant worker that you intend to employ and/or house within Waterloo Region. If any migrant worker has already arrived as of the date of this Order, then you are to develop and submit a COVID-19 Workplace Safety Plan to ROWPHES for approval by April 30, 2021. Ensure any COVID-19 Workplace Safety Plan includes all components as outlined in Schedule “A” of this Order;

2. Develop and submit an Arrival/ Quarantine plan to ROWPHES for approval in writing one week in advance of arrival of any migrant worker from outside of Canada that you intend to employ and/or house within Waterloo Region. The Arrival/ Quarantine plan shall include all components as outlined in Schedule “B” of this Order;

3. No migrant worker that you intend to house within Waterloo Region can be moved into a living accommodation unless the living accommodation has been inspected and approved in writing by ROWPHES. Ensure that ROWPHES, and any other applicable fire, building and municipal authority, is contacted for written approval if renovations are planned within pre-existing and approved living accommodations that impact ventilation, floor space, number of faucets, toilets, showers, and/or bathtubs;

4. Ensure that all migrant workers who have arrived in Canada and that you employ and/or house within Waterloo Region are quarantined for 14 days from the date of arrival in Canada. New arrivals are not to be placed in a communal setting that has active COVID-19 cases, and upon arrival, these migrant workers are to be quarantined individually or in cohorts and separated from existing cohorts already in quarantine;

5. Ensure that any migrant worker(s) that you employ and/or house within Waterloo Region and that is/are in quarantine is/are kept at a minimum of two (2) metres apart or provide a separate bedroom or alternative accommodation. Cohorts of workers may be considered under certain conditions (i.e., arrival date, number of workers, structure of facility etc.) and upon written approval by the ROWPHES;

6. Ensure that any migrant worker that you intend to employ and/or house within Waterloo Region complies with the Government of Canada’s testing requirements prior to departure and after arrival into Canada. Ensure that any migrant worker who is arriving from another area within Canada to Waterloo Region has tested negative for COVID-19 within 48 hours prior to arrival;
7. Ensure that any migrant worker that you employ and/or house within Waterloo Region works exclusively at one farm or workplace. ROWPHES may allow an exception in writing to this provision if satisfied that a migrant worker or cohort of migrant workers can work safely at more than one farm or workplace based on the provision of adequate safeguards and separation from other persons and employees;

8. Ensure that any migrant workers that you employ and/or house within Waterloo Region that have been provided to you through a temporary help agency are cohorted together and are kept separate from other persons, employees and cohorts;

9. Ensure that any migrant worker subject to a quarantine / isolation period does not provide any work to you or any other person during their quarantine / isolation period.

10. Ensure that arrangements are made for sufficient provision of food, potable water, masks (non-medical or medical), laundry, linens, a means of communication (internet, television and phones; individuals and employees should not be sharing one phone with more than 5 people and the phone should be disinfected between uses), and personal cleaning and disinfectant supplies (e.g., soap, shampoo, sanitizers with 60-90% alcohol concentration, etc.) for any migrant worker that you house within Waterloo Region and who is placed under quarantine/isolation as per this or any other Order. Meals should be nutritious and well-balanced and you should try to accommodate any cultural and dietary restrictions and ensure food is stored in a safe manner;

11. Conduct daily active screening of all migrant workers that you employ within Waterloo Region at the beginning of each day/shift, including any other persons on the farm or business;

12. Ensure that each migrant worker that you employ within Waterloo Region is assigned to a cohort, and that cohort is kept separated from other persons, employees and cohorts. Cohorts should be kept as small as possible. Within each cohort, the migrant workers should maintain a two-metre physical distance from other people as best as possible. If workers cannot reliably maintain a physical distance of two metres from each other then each worker shall wear a mask and eye protection;

13. Ensure that surfaces in the accommodations for any migrant worker that you house within Waterloo Region are cleaned and disinfected with a Health Canada approved product (which is able to kill viruses and is supported by an 8-digit DIN# on the product label) following manufacturers instructions on a daily basis, including surfaces in bathrooms, kitchens and common areas, or more often as required, and that a log be maintained of when each area was cleaned. The migrant worker may do this or you may hire the services of a professional cleaner. Regardless, you are required to provide the necessary cleaning materials (e.g. paper towels, household cleaning and disinfection products, dish soap and laundry soap);
14. Ensure all migrant workers that you employ and/or house within Waterloo Region understand their rights and entitlements, including access to healthcare services and other supports that may be available if a worker becomes sick and is required to self-isolate;

15. Manage positive COVID-19 cases of any migrant worker that you employ and/or house within Waterloo Region as determined and directed by the ROWPHES, including immediately providing accommodations that enables the migrant worker to be isolated from others, including a private bedroom and private bathroom;

16. Ensure that contact information of any migrant worker that you employ and/or house within Waterloo Region (including names, telephone numbers, cohort details, housing location such as bunkhouse or off-site address, etc.) is provided to ROWPHES within 24 hours when requested to support case and outbreak management;

17. Ensure that any migrant worker that you employ and/or house within Waterloo Region and who is under quarantine / isolation notifies ROWPHES immediately if they have any COVID-19 symptoms;

18. Notify ROWPHES if any migrant worker that you house within Waterloo Region needs to leave your accommodations for any reason during any quarantine / isolation period, such as to seek medical attention;

19. If any migrant worker that you house within Waterloo Region develops symptoms of COVID-19 at any time, contact ROWPHES and immediately provide accommodations that enables the migrant worker to be isolated from others, including a private bedroom and private bathroom; and

20. Follow any directions provided to you by the ROWPHES pertaining to COVID-19 and the terms of this Order. This may include ensuring adherence to self-isolation orders issued to the migrant workers that you employ and/or house within Waterloo Region, ensuring that required public health measures such as active screening and physical distancing are maintained at all times within your workplace and/or accommodations, and supporting all aspects of investigations related to communicable diseases, including COVID-19, conducted by the ROWPHES.

For greater certainty, if a migrant worker is placed at a farm or business within Waterloo Region through a temporary help agency then both the owner and operator of the farm or business and temporary help agency shall ensure that the terms of this Order are satisfied, as applicable.
The instructions to follow during isolation / self-isolation are in the Public Health Ontario fact sheet, How to Self-Isolate, dated July 31, 2020 (or as current), found at:


This fact sheet may be updated from time to time. If so, Region of Waterloo Public Health will advise persons with whom they are in contact of the updated instructions and the updated instructions will be posted here: https://www.regionofwaterloo.ca/en/health-and-wellness/2019-novelcoronavirus.aspx.

Notwithstanding any provisions in the above, persons subject to this Order must comply with all relevant and applicable federal and provincial legislation, as well as applicable requirements and guidance from, but not limited to, the Ministry of Labour, Training and Skills Development (MLTSD) and Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA).

I hereby rescind my class order, dated June 29, 2020, which was to all owners and operators of agricultural farms in the Waterloo Health Unit / The Regional Municipality of Waterloo who: a. Employ migrant farm workers in any capacity. b. Participate in the federal Temporary Foreign Worker program and/or c. Operate any model of seasonal housing accommodations.

THE REASONS for this ORDER are that:

1. COVID-19, a disease caused by a novel coronavirus, is designated as a disease of public health significance and a communicable disease pursuant to Ontario Regulation 135/18 under the Health Protection and Promotion Act.

2. COVID-19 can cause acute and severe respiratory illness and death in humans.

3. The spread of COVID-19 is of immediate and compelling public health importance in the jurisdiction of the Waterloo Health Unit:
   a. On March 11, 2020, the spread of COVID-19 was declared a pandemic by the World Health Organization;
   
   b. On March 15, 2020 the first case of COVID-19 was reported in the jurisdiction of the Waterloo Health Unit.
   
   c. On March 17, 2020 the spread of COVID-19 was declared an emergency in Ontario pursuant to the Emergency Management and Civil Protection Act, R.S.O. 1990, c.E.9, as amended, on the basis that COVID-19 constitutes a danger of major proportions;
   
   d. States of Emergency were subsequently declared by The Regional Municipality of Waterloo in response to COVID-19; and
e. There is evidence of continued community transmission of COVID-19 in the jurisdiction of the Waterloo Health Unit / The Regional Municipality of Waterloo, as evidenced by newly identified cases not connected to facility outbreaks or travel;

4. COVID-19 is transmitted from person to person predominantly through respiratory droplets that are released from the nose and mouth, through contact with contaminated surfaces, and through poor hand hygiene;

5. COVID-19 may be transmitted from persons who have minimal or no signs or symptoms of illness and/or up to 48 hours before symptoms begin;

6. Migrant workers have a greater risk of COVID-19 infections because they commonly reside in communal housing accommodations;

7. Between May 2020 and March 2021, outbreaks of COVID-19 occurred at agricultural farms in numerous Ontario jurisdictions where migrant workers living in seasonal / communal accommodations with three deaths as a result;

8. As a result of the large outbreaks of COVID-19 involving agricultural workers, including migrant workers on farms, the Chief Medical Officer of Health for the Province of Ontario has strongly recommended that local Medical Officers of Health continue to consider using their authority under the Health Protection and Promotion Act to issue orders to ensure that employers of all agricultural workers take action to minimize the risk of Covid-19 transmission on farms;

9. There are seventeen (17) businesses known to ROWPHES within the Waterloo Health Unit / The Regional Municipality of Waterloo, with the potential of more, that employ migrant workers living in seasonal / communal accommodations; and

10. There are also an unknown number of migrant workers being employed and/or housed within the Waterloo Health Unit/The Regional Municipality of Waterloo.

I am of the opinion, on reasonable and probable grounds, that:

a. A communicable disease exists or may exist or there is an immediate risk of an outbreak of a communicable disease in the health unit served by me;

b. The communicable disease presents a risk to the health of persons in the health unit served by me; and

c. The requirements specified in this order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

I am also of the opinion that, although there are seventeen (17) businesses known to ROWPHES within the Waterloo Health Unit that employ migrant workers, there is the potential of more. Therefore, notice shall be provided by personal delivery and/ or delivery by ordinary mail to the known class members in the Waterloo Health Unit / The
Regional Municipality of Waterloo and through the public media and the internet via posting at: https://www.regionofwaterloo.ca/en/public-health-and-emergency-services.aspx for any unknown or other class members.

TAKE NOTICE THAT each member of the class to whom this Order is directed is entitled to a hearing by the Health Services Appeal and Review Board if the member has delivered notice in writing to me (at the address below) and to the Health Services Appeal and Review Board (at 151 Bloor Street West, 9th Floor, Toronto, Ontario, M5S 1S4) requesting a hearing within 15 days after publication of this Order or otherwise in accordance with applicable law.

In the context of the COVID-19 outbreak:

All requests for review, submissions, materials, and inquiries should be sent to the Health Services Appeal and Review Board by e-mail to hsarb@ontario.ca or faxed to the Board at 416-327-8524.

AND TAKE FURTHER NOTICE THAT although a hearing may be requested, this Order takes effect when it is delivered to a member of the class or brought to the attention of a member of the class.

FAILURE TO COMPLY WITH THIS ORDER may result in further legal action being taken against you under sections 36(2), 35, 102 and other relevant provisions of the Health Protection and Promotion Act.

FAILURE TO COMPLY WITH THIS ORDER is an offence under section 101 of the Health Protection and Promotion Act for which you may be liable, on conviction, to a fine of not more than $5,000.00 (for a person) or not more than $25,000.00 (for a corporation) for every day or part of each day on which the offence occurs or continues.

If you have any questions about this Order, please contact the Waterloo Health Unit by telephone at 519-575-4400.

Dr. Hsiu-Li Wang
Medical Officer of Health
Region of Waterloo Health Unit
99 Regina Street South,
Waterloo, Ontario N2J 4V3
SCHEDULE “A”

COVID-19 Workplace Safety Plan

The plan must include, but is not limited to, the items noted below as well as those outlined within the following resource: [Develop your COVID-19 Workplace Safety Plan](#). You must provide a description of how the following will be addressed and implemented:

1. daily active screening of all migrant workers at the beginning of the day/shift, including any other persons on the farm or workplace
2. regular wellness checks of migrant workers
3. a COVID-19 testing process for any migrant worker where housing accommodations are provided by you
4. cohorting of workers to individual worksites to the greatest extent possible (in instances where multiple locations are operated by one employer) and separating temporary help agency workers (if utilized) from other existing cohorts of workers on the farm
5. maintenance of a list of all migrant workers and essential visitors (e.g. contractors, guests of employees) to the farm or workplace during the 2021 operating season, including names, telephone numbers, cohort details, housing location(s) (bunkhouse or off-site address) that can be made available to ROWPHES within 24 hours upon request to support case and outbreak management
6. education for migrant workers to ensure they understand their responsibility to follow public health guidelines including how you will provide COVID-19 information and educational material to all migrant workers in a language and medium (e.g. visual representations) they understand
7. a notification plan for migrant workers on how they will notify you as soon as possible should they become symptomatic
8. an isolation/quarantine plan for migrant workers (and their on-farm / workplace close contacts) should they become symptomatic or test positive for COVID-19 including how migrant workers that are under health unit supervision for case and contact management will have ongoing access to communication devices (e.g. cellphone or landline) and that contact information associated with a communication device is always available to enable migrant workers to reach ROWPHES. Shared communication devices must be disinfected between uses.
9. public health COVID-19 prevention requirements, including, but not limited to, physical distancing, mask/face covering use, cleaning and disinfection of high touch surfaces and how migrant workers will travel safely in vehicles during off-farm / workplace / housing accommodation shopping trips etc.
SCHEDULE “B”

Arrival/Quarantine Plan that includes, but is not limited to, the following:

a) the name and contact information of each arriving migrant worker; their
planned date of arrival, and location of quarantine site
b) transportation plans from port of entry to quarantine location (which
includes considerations on appropriate use of personal protective
equipment (PPE) and physical distancing of workers during
transportation)
c) details to ensure the health and safety of workers during the 14-day
quarantine period and implementation of public health measures to
prevent the potential transmission of COVID-19.