

Temporary Foreign Worker (TFW) Program: Occupational Scope of the New Agriculture and Fish Processing Stream Discussion Paper

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1. Issue

This discussion paper seeks feedback on the proposed list of eligible occupations (“occupational scope”) under the proposed new Temporary Foreign Worker Agriculture and Fish Processing Stream. This information will inform future policy direction on the new stream and other Temporary Foreign Worker (TFW) programming.

2. Background

2.1 Benefits of the Proposed New Stream

The new stream is expected to generate key benefits for employers by providing priority processing, tailored source nation recruitment, a new market-based approach for wages and deductions, no cap on limit of temporary foreign workers employed and a new-refillable labour market impact assessment (LMIA) that supports re-occurring seasonal work over a proposed 2-year period, along with the ability to re-fill positions. Moreover, a network of employers or multiple businesses operating under one corporate entity will benefit from increased labour mobility.

For workers, the proposed new stream will require employers to provide accommodation to workers that has been inspected by a relevant authority prior to their arrival. The proposed new stream will also see the implementation of a new wage structure that will better reflect the salaries as those made by Canadians and permanent residents. In addition, the issuance of a new stream-specific work permit will provide temporary foreign workers with the ability to work in any occupation included under the new stream and move to another employer with an open LMIA, without having to apply for a new work permit.

To obtain more information on the benefits and proposed program requirements, please consult the instructions for stakeholder’s document.

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2.2 Current Programming and Primary Agriculture Considerations

The Federal 2022 Budget announced the creation of a New Labour Program for Agriculture and Fish Processing that would be designed to help strengthen worker protections and ensure that Canada's food producers have access to a stable and reliable supply of labour.

Section 315.2(4) of the *Immigration and Refugee Protection Regulations (IRPR)*, defines Primary Agriculture work as:

(4) For the purposes of paragraph (3)(b), work in the primary agriculture sector means, subject to subsection (5), work that is performed within the boundaries of a farm, nursery or greenhouse and involves

(a) the operation of agricultural machinery;

*(b) the boarding, care, breeding, sanitation or other handling of animals, **other than fish**, for the purpose of obtaining animal products for market, or activities relating to the collection, handling and assessment of those products; or*

(c) the planting, care, harvesting or preparation of crops, trees, sod or other plants for market.

This regulatory definition of primary agriculture work is used to determine eligibility under the TFW Program's four agricultural sub-streams, including the Seasonal Agricultural Worker Program (SAWP). Occupations that meet the definition of primary agriculture are currently exempt from LMIA processing fee, which is currently \$1,000 per position requested. The fee will remain in place for occupations that do not meet the definition of primary agriculture (e.g., seasonal fish and seafood processing).

2.3 Proposed Occupational Scope

The following positions are being proposed for inclusion under the proposed new stream:

Primary Agriculture:

- Seasonal* and full-year primary agriculture work in **all** primary agriculture commodities (i.e. no longer using ESDC's National Commodities list) in the following occupations:
 - [Livestock labourers](#) (NOC 85100)
 - [Specialized livestock workers and farm machinery operators](#) (NOC 84120)
 - [Nursery and Greenhouse Workers](#) (NOC 85103)
 - [Harvesting Labourers](#) (NOC 85101)

* For the purpose of administering the Temporary Foreign Worker Program, seasonal work is defined as 270 days or less a year.

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Seasonal Fish and Seafood Processing:

- Seasonal* fish and seafood processing jobs in the following occupations:
 - [Fish and Seafood Plant Workers](#) (NOC 94142)
 - [Labourers in Fish and Seafood Processing](#) (NOC 95107)

Seasonal Primary Fruit and Vegetable Processing:

- Seasonal* primary fruit and vegetable processing work that is time sensitive, i.e., for which the timely processing is important for preserving perishable fruit and vegetables and preventing spoilage. The work involves the minimal processing of raw fruits and vegetables and is generally located in fruit and vegetable processing plants.
- These jobs generally involve the processing of fruit and/or vegetable to create one or more of the following products:
 - frozen fruits and/or vegetable products, such as bags of frozen berries, corn, and peas
 - canned fruit and/or vegetable products, such as stewed tomatoes and tomato sauce
 - pickled vegetables, such as pickles and beets
 - dehydrated and/or freeze-dried vegetable and fruit
 - perishable fruit and vegetable products, such as ready to eat salads, peeled or cut vegetables and fruit
- These positions are classified as [Labourers in food and beverage processing](#) (NOC 95106) working in the Fruit and Vegetable Preserving and Specialty food manufacturing sector ([NAICS 3114](#)).
- Please note that only a precise selection of job titles and duties of NOC 95106, as well as specific subcategories of NAICS 3114, would qualify for inclusion in the proposed new stream. This is because these two codes include additional types of food processing work, which is considered to share different labour market conditions than the seasonal primary fruit and vegetable food processing and primary agriculture sector. Please refer to the attached Questions and Answers for additional information on scope selection criteria.

2.4 Selection Criteria

All positions being proposed for inclusion in the proposed new stream have been identified using a methodology and are identified as being critical to Canada's food security, economy, competitiveness, and experience on-going labour shortages. These occupations for example are all included in the 2022 [Canadian Occupational Projections System \(COPS\)](#) labour market shortage information.

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Employers hiring for these positions (i.e., section 2.3) have been identified as having experienced longstanding challenges recruiting Canadians and permanent residents, which has resulted in a longstanding reliance on hiring temporary foreign workers to fill said positions. This is evidenced by decades of dependence on program mechanisms that have included bilateral agreements with foreign countries to secure critical labour supplies in primary agriculture.

These positions were also selected based on similar characteristics and/or working conditions. For example, they are often time sensitive (i.e., harvesting), seasonal in nature, physically demanding, located in rural and remote areas, low pay, have unconventional work schedules and may necessitate living in shared worker housing, which often makes it difficult for employers to attract Canadians and permanent residents to fill these positions.

ESDC and IRCC are also proposing the inclusion of year-round work in the primary agriculture sector since many livestock-related sectors like the poultry or dairy commodities can provide stable year-round employment. In other areas such as greenhouses, technological advancements have led to longer production period that can go beyond the seasonal limit of 270 days. Moreover, as per the Canadian Agricultural Human Resource Council [Agriculture Labour Market Forecast for 2023-2030](#), “the greenhouse, nursery and floriculture industry [will account for] over one third of the labour gap in agriculture by 2030”[†].

In addition, these positions are generally occupied by temporary foreign workers who experience additional vulnerabilities, which can include having lower education levels and official language literacy and proficiency skills, and being required to live in isolated rural/remote regions.

The proposed scope of the new stream is currently limited to low-skilled work ([as defined by the National Occupational Classification system as TEER 4 and 5 positions](#)), which generally only require on-the-job training with no formal educational prerequisites. This requirement aligns with the planned work around the new stream-specific work permit, which proposes providing temporary foreign workers the ability to work in jobs included under the proposed new stream, without obtaining a new work permit and having to reassess the worker’s qualifications. In contrast, higher-skill occupations (as defined as TEER 0, 1, 2 and 3 positions) require a more specific assessment of qualifications, which limits the ability to offer the same degree of mobility.

[†] Canadian Agricultural Human Resource Council [Agriculture Labour Market Forecast for 2023-2030](#) – [CAHRC LMI Report English \(cahrc-ccrha.ca\)](#)

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This means that the following occupations would not be included under the proposed new stream:

- NOC 80020 – Managers in agriculture;
- NOC 80021 – Managers in horticulture;
- NOC 82030 – Agricultural service contractors and farm supervisors; and
- NOC 82031 – Contractors and supervisors, landscaping, grounds maintenance and horticulture services

It is being proposed that these occupations be processed under the Temporary Foreign Worker Program’s Low and High Wage Streams and will not be issued the new stream-specific work permit.

3. Proposal

ESDC is seeking written feedback on the proposed occupational scope of the proposed new stream, including feedback on other occupations that stakeholder would like to see included in the future. ESDC is also interested in receiving your comments around the potential impact that an occupational expansion could have on organizations and/or interest groups.

This discussion paper is also being used to seek input on high-skilled primary agriculture work and how best to support employers and temporary foreign workers in these jobs once the proposed new stream is implemented and the TFW Program’s existing four primary agriculture sub-streams are incorporated into the new stream.

4. Considerations

4.1 Potential Numbers of Workers and Employers Affected

Occupations Under the New Stream - Number of Positions and Unique Employers in 2023 by Sectors			
Occupations	Program Stream	Number of Employers	Number of Positions
Primary Agriculture	Seasonal Agricultural Worker Program	2,852	55,435
	Agriculture Stream	4,396	41,941
	High Wage	3	13
	Low Wage	95	1,243
Primary Fruit and Vegetable Processing	High Wage	1	45
	Low Wage	9	1,017
Fish and Seafood	Low Wage	101	4,735

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4.2 Seasonality of Position Outside Primary Agriculture

Number of Approved Temporary Foreign Worker (TFW) Positions and Employers, Fish and Food Occupational, Seasonal and Non-seasonal, 2023						
NOC	2023					
	Seasonal		Non-seasonal		Unique Total	
	Position	Employer	Position	Employer	Position	Employer
9463-Fish and seafood plant workers	3,744	77	843	50	4,587	108
9617-Labourers in food, beverage and associated products processing (NAICS 3114)	1,154	12	217	22	1,371	29
9618-Labourers in fish and seafood processing	1,573	42	248	21	1,821	57
Unique Year Total	6,471	118	1,308	89	7,779	177

Notes:

1. The source for all information in this report is Employment and Social Development Canada's (ESDC) LMIA System. File Extracted on 2024/08/05. File Reference Period, 01/01/2023 to 12/31/2023
2. Effective February 2024, LMIAs in support of 'Permanent Residence (PR) Only' are included in TFWP statistics, unless indicated otherwise. Dual-intent LMIAs and corresponding positions are included under their respective TFW Program stream (e.g., low-wage, high-wage, etc.) This may impact program reporting over time.
3. The LMIA System tracks temporary foreign worker positions only, not temporary foreign workers who are issued a work permit or who enter Canada. Not all positions approved result in a work permit or a temporary foreign worker entering Canada. For information on the number of work permits issued, please consult Immigration, Refugees and Citizenship Canada's (IRCC) Facts and Figures: <http://www.cic.gc.ca/english/resources/statistics/menu-fact.asp>.
4. The number of LMIAs appearing in this release may differ from those reported previously due to periodic updates.

4.3 Stakeholder Considerations

The table below provides information on some key elements being taken into consideration when contemplating an expanded occupational scope of the proposed new stream.

Key Stakeholder Considerations	
Stakeholders	Examples of Elements Being Taken into Consideration
Provinces and Territories	<p>The impact that occupational expansion could have on Provincial/Territorial delivered services and programs, including:</p> <ul style="list-style-type: none"> • The capacity to conduct housing inspections on a greater number of worker accommodations, along with different housing location types (i.e., farms along with housing provided to workers in the other sectors); • The delivery of worker support services, such as health care; and, • Provincial/Territorial Nominee and Immigration programs and worker eligibility criteria.

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Key Stakeholder Considerations	
Stakeholders	Examples of Elements Being Taken into Consideration
Workers	<p>It is important to consider the general experiences and vulnerabilities of temporary foreign workers currently employed in those positions as well as for the new cohort of temporary foreign workers that will come work to Canada under the new stream.</p> <p>The TFW Program has undertaken actions to strengthen worker protections to mitigate these vulnerabilities through a range of measures, including regulatory amendments, strengthening the LMIA application process and bolstering the compliance regime.</p>
Employers	<p>Whether there is general agreement from employers in the identified sectors, to have their positions be included in the proposed new stream, noting that once the new stream is implemented, it will be the <u>only</u> TFW Program stream available to obtain LMIAs for positions included in the new proposed stream. Additionally, employers will be required to meet new housing requirements, including providing workers with accommodations.</p>
SAWP Source Nations	<p>The interest of SAWP nations in expanding the occupational scope of country agreements to include additional occupations, along with the ability of Mexico and Caribbean participating nations to recruit a substantial number of workers to fill these positions.</p>
Worker Advocacy Groups	<p>Determine whether temporary foreign workers working in positions that could be included under the proposed new stream generally experience additional vulnerabilities when compared to other temporary foreign workers. This would make them good candidates for the new stream, particularly the stream-specific work permit.</p>
General Public	<p>The TFW Program is intended to support employers in situations where they are unable to fill labour shortage and skills gaps with Canadians and permanent residents. As such, new occupations will only be considered for inclusion under the new stream if there are systematic and chronic labour shortages in these sectors.</p> <p>Another key consideration is to ensure that temporary foreign workers have the same workplace protections under applicable federal, provincial, and territorial employment standards as Canadians and permanent residents.</p>

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After having reviewed the proposed scope and its rationale, your views on these questions will inform ESDC policy direction to ensure that program policies are adequately tailored to support an efficient and effective labour market.

5. Discussion Questions

5.1 General Questions

The discussion questions below are being used to guide stakeholder feedback on the occupational scope of the new stream and that your feedback can go beyond these questions and cover elements you deem of key importance for this topic-specific discussion paper. As such, the questions may not all be applicable to your organization and/or interest group. In addition, some stakeholders may be in a position to only provide feedback on certain occupations.

- 1) Please identify any issues and/or challenges you foresee arising because of the proposed scope of the new stream, including the issuance of a stream-specific work permit. As part of your response, please consider:
 - Any certification/licensing requirements of the position(s) (either mandatory or generally required by employers).
 - Any French/English language requirements, or a lack of language requirements for the position(s), including impacts on occupational health and safety (including training).
 - Are the new positions currently identified mostly seasonal in nature?

- 2) For the new occupations outside of primary agriculture, should the fish and seafood and primary fruit and vegetable processing occupations under the new stream be only for seasonal positions? Please provide data, evidence and any other considerations demonstrating a need for these occupations to be year-round.

- 3) Please identify any additional National Occupational Classification (NOC) position(s) you would like to see included in the stream. As part of your response, please:
 - Include a description of key duties of the position and identify which position duties (1) involve the use of machinery, and/or (2) carry occupational safety risks, and which require worker training.
 - Include information on whether the skills and competencies required are transferable to other occupations identified under the new stream.
 - Identify the prevailing wages generally offered.
 - Identify any mandatory licensing and/or training credentials, which are required for the position. As part of your response, please include details for each Province/Territory.

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- Identify any mandatory French and/or English language requirements or if any language proficiencies are highly recommended for this position.
 - Identify if your request pertains to seasonal work and/or year-round work. If seasonal work is identified, please explain the duration being requested and the reason(s) for this period.
 - Include examples of recent job bank or recruitment advertisements for this position.
 - Specify the opportunities and challenges related to the mandatory provision of employer-provided housing for these new occupations under the proposed new stream.
- 4) For each NOC occupation(s) being recommended in answer 3, please explain why this position would fit well within the objectives of the new stream. Where possible, please make linkages to the occupation selection criteria, as identified in section 2.3 of this paper. For example, if available, please submit evidence (i.e. reports, analysis, surveys, etc.) that demonstrates the existence of systematic and/or long enduring labour shortages in this position.
- 5) For each NOC occupation(s) being recommended in answer 3, please explain which challenges and obstacles exist with current Temporary Foreign Worker Program requirements and how the inclusion of this occupation under the new stream would help to address these challenges.
- 6) What would be the impact for your organization and/or interest group, if the Government of Canada was to expand the occupational scope of the new stream?

5.2 Optional Questions Concerning High-Skilled Primary Agriculture Work

Under the TFW Program, the following occupations are classified as high-skilled primary agriculture work:

- NOC 80020 – Managers in Agriculture (TEER 0);
 - NOC 80021 – Manager in Horticulture (TEER 0);
 - NOC 82030 – Agricultural service contractors and farm supervisors (TEER 2); and
 - NOC 82031 – Contractors and supervisors, landscaping, grounds maintenance and horticulture services (TEER 2).
- 1) What concerns do you have with the proposed removal of some occupations?
- a. In your experience, are these positions generally occupied by workers that share similar working and living conditions as low-skilled primary agriculture workers? If so, please explain.
 - b. Does the primary agriculture sector generally experience the same level of difficulties recruiting Canadians and permanent residents to fill high-skilled primary agriculture

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- work, as they do with low-skilled primary agriculture work? If so, please explain and, where possible, submit evidence (i.e., reports, analysis, surveys, etc.) which demonstrates that systematic and/or long enduring labour shortages exist in high-skilled primary agriculture work.
- c. Please provide the following details for each of the 4 high-skilled primary agriculture jobs as noted above:
- (i) A description of key job duties. As part your response, please identify which job duties (1) involve the use of machinery, and/or (2) carry occupational safety risks, including any that require worker safety training.
 - (ii) Identify the prevailing wages generally offered, and the criteria employed when determining individual wage rates.
 - (iii) Identify any mandatory licensing and/or training credentials required for the position. As part of your response, please include details for each of your respective province or territory.
 - (iv) Identify any mandatory French and/or English language requirements required and/or highly recommended for this position?
 - (v) Include examples of recent Job Bank postings or recruitment advertisements for this position.

Annex A: Accompanying Questions and Answers

Question 1: What are the proposed primary agriculture NOC occupations to be included under the new stream?

Answer 1: Seasonal* and full-year primary agriculture work in all primary agriculture commodities (i.e. no longer the use of ESDC's National Commodities list) in the following occupations:

- [Livestock labourers](#) (NOC 85100)
- [Specialized livestock workers and farm machinery operators](#) (NOC 84120)
- [Nursery and Greenhouse Workers](#) (NOC 85103)
- [Harvesting Labourers](#) (NOC 85101)

Question 2: What are the proposed NOC occupations, outside of primary agriculture, that are proposed to be included under the new stream?

Answer 2: The proposed occupations for seasonal fish and seafood processing are:

- Seasonal* fish and seafood processing jobs in the following occupations:
 - [Fish and Seafood Plant Workers](#) (NOC 94142)
 - [Labourers in Fish and Seafood Processing](#) (NOC 95107)
- Seasonal Primary Fruit and Vegetable Processing
 - Seasonal* primary fruit and vegetable processing work that is time sensitive and is important for preserving perishable fruit and vegetables and preventing spoilage.
- These positions are classified as [Labourers in food and beverage processing](#) (NOC 95106) working in the Fruit and Vegetable Preserving and Specialty food manufacturing sector ([NAICS 3114](#)).
- With that said, please note that not all food processing jobs classified under NOC 95106 and/or NAICS 3114 are eligible under the new stream, since these classifications include positions and sectors that can go beyond eligible food processing work.

Question 3: What is the Program definition of seasonality?

Answer 3: Seasonal work is defined as an employment duration that is no more than 270 days.

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Question 4: What is the rationale for including both seasonal and year-round primary agriculture work in the new stream, when SAWP is limited to seasonal work?

Answer 4: The decision to include both seasonal and year-round primary agriculture work in the new stream is based on the need to streamline TFW Program requirements to ensure all primary agriculture workers and employers' benefit from more consistent requirements. For example, agricultural workers are presently hired under the TFW Program's Primary Agriculture stream, which consists of four sub-streams, each with their own set of program requirements and benefits. At the same time, apart from the SAWP, which is limited to seasonal work, the remaining three sub-streams allow for both seasonal and year-round work. The need for year-round workers stems from the evolution of Canada's agri-food sector, which saw a transition to the use of year-round greenhouses.

Question 5: Why is the proposed occupational scope of the new stream currently limited to only seasonal fish, seafood and primary fruit and vegetable processing work?

Answer 5: The decision to limit fish, seafood and primary fruit and vegetable processing to only seasonal work aligns with ESDC's policy direction to ensure all positions in the stream share similar characteristics of the primary agriculture sector, which includes having a longstanding reliance on the hiring of temporary foreign workers.

Based on historical TFW Program usage, these sectors have primarily only relied on the employment of temporary foreign workers for seasonal work. Generally, the fish, seafood and primary fruit and vegetable processing work is seasonal in nature, with a strong time-sensitive component to the work (i.e., the work needs to be done quickly, to ensure products do not spoil).

Question 6: Why is the current scope of the eligible food processing work so limited, when labour shortages exist throughout the entire food and beverage processing sector.

Answer 6: While labour market information demonstrates that labour shortages exist in the broader food processing sector, including in the meat processing sectors, the rationale for not including additional occupations in the proposed new stream is that these positions generally operate year-round with multiple shifts schedule, offer a higher salary, and are producing ready for market products with mass production technologies. These characteristics generally differ from the seasonal fish and seafood processing work. Additional immigration pathways are also available to help support these sectors in hiring and sustaining their labour force, such as the Agri-Food Pilot, the Provincial Nominee Programs and the Quebec Immigration Programs.

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At the same time, in the case of more refined levels of fruit and vegetable food processing work (i.e., the preparation of frozen entrees and side dishes that include several ingredients) there is generally less of a time sensitive urgency to do the work, which makes these sectors less reliant on the hiring of temporary foreign workers to address their labour shortages.