

Insights, News & Events

# AGRICULTURAL EMPLOYERS' COMPLIANCE CHEAT SHEET: FALL 2025

Insights  
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Managing a farm workforce can be a heavy lift. That's because agricultural employers need to keep up with farm labor laws and workplace regulations that seem to constantly change. That's why we created this zero-waste resource for ag professionals and agribusinesses. Read on for the latest updates impacting farm labor management and HR compliance in your industry for Fall 2025.



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**Federal Government Shutdown.** The federal government shutdown which took effect October 1 and remains in effect as of the date of publication, is disrupting the agriculture industry and creating uncertainty during a critical harvest season.

In the workplace context, ag employers could face labor shortages and compliance risks due to delays in processing H-2A visas and other labor certifications. While US Citizenship and Immigration Services (USCIS) will process H-2A petitions during the shutdown, the Department of Labor (DOL) has suspended all foreign labor certification activities by its Office of Foreign Labor Certification (OFLC) and disabled access to OFLC's SeasonalJobs.dol.gov and the Foreign Labor Application Gateway.

To learn more about how the shutdown will impact employers across all industries, check out FP's [answers to your top questions](#).

## H-2A Program

### DOL Dramatically Reshapes the H-2A Program's Minimum Wage Policy

- **Snapshot:** The DOL will calculate the Adverse Effect Wage Rate (AEWR) for H-2A job orders submitted after October 1 using a new skill-based and occupation-specific wage structure that results in "more precise market-based price floors," according to the agency. The DOL's new interim final rule follows a federal court's August 25 decision that officially set aside the agency's 2023 wage rule opposed by local and national associations of agricultural employers.
- **Takeaway:** The new framework could significantly lower wage costs for H-2A agricultural employers and help prevent severe labor shortages across the farm industry.
- **FP Deep Dives:**
  - [DOL Issues Game-Changer Rule for H-2A Farmworker Wages: 8 Key Takeaways for Agricultural Employers](#) (the latest)
  - [In a Win For Agriculture Employers, H-2A Wage Rules Change Again – Answers to Your Top 5 Questions](#) (the August 25 court decision preceding the DOL's new interim final rule)

### USCIS Issues New Final Rule to Streamline the Filing Process for H-2A Petitioners



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- **Snapshot:** USCIS issued a [final rule](#) on October 2 that immediately allows H-2A petitioners to electronically submit a new form (Form I-129H2A – Petition for a Nonimmigrant Worker: H-2A Classification) after the DOL accepts the application for a temporary labor certification (TLC) but before the agency approves it. While this change will help streamline the application and filing process, the USCIS will still require an approved TLC before it adjudicates the H-2A petition.
- **Takeaway:** The new rule will help make the H-2A program easier to use and more efficient and is intended to help US agricultural producers meet urgent needs for temporary agricultural workers.

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### **Appeals Court Says DOL Administrative Law Judges Cannot Impose H-2A Fines**

- **Snapshot:** The 3rd Circuit US Court of Appeals ruled unanimously on July 29 that it is unconstitutional for DOL administrative law judges (ALJs) to impose civil penalties on agricultural employers for H-2A violations. The DOL can no longer rely on ALJs to fine employers in H-2A cases in New Jersey, Pennsylvania, and Delaware, and the agency may pause current enforcement actions or shift its tactics in these states. In addition, employers in other circuits may soon challenge ALJ decisions, citing the 3rd Circuit ruling as persuasive authority.
- **Takeaway:** H-2A employers have a new tool to fight back against government action, and the DOL may seek to restructure its enforcement process to avoid future constitutional challenges.
- **FP Deep Dive:** [Farm Employers Score Major Win in H-2A Dispute – How Your Business Should Respond to Federal Appeals Court Decision](#)

### **Other DOL Updates**

#### **Senate Approves New OSHA New Leader**

- **Snapshot:** OSHA officially has a new leader after the Senate approved David Keeling on October 7, so you can expect to see workplace safety policies, priorities, and regulations shift over the course of the next few years. However, states with their own OSHA plans (such as

California, Washington, and Oregon) may take the lead in implementing stricter safety rules.

- **Takeaway:** Stay tuned for potential OSHA rollbacks at the federal level, but make sure to track and adapt to a patchwork of state-specific compliance requirements.
- **FP Deep Dive:** [Senate Approves New Workplace Safety Agency Leaders: What Employers Can Now Expect From OSHA and MSHA](#)

## Senate Confirms New Administrator of the Wage and Hour Division

- **Snapshot:** The Senate confirmed Andrew Rogers to head the DOL's Wage and Hour Division (WHD), and he is expected to hit the ground running. The agency made multiple changes to the WHD's enforcement approach before Rogers took the helm.
- **Takeaway:** As Rogers settles into his new role, stay tuned for key developments in the federal wage and hour space.
- **FP Deep Dive:** [New DOL Wage and Hour Leadership is Coming: Employers Should Watch for Program and Rule Changes](#)

## DOL Releases Latest Semiannual Regulatory Agenda

- **Snapshot:** Secretary of Labor Lori Chavez-DeRemer says that the agency's latest agenda, which was unveiled on September 4, "focuses on flexibility, transparency, and common-sense reform." The DOL's current high-priority proposals include rescinding the 2024 farmworker rule (which the agency [ceased to enforce](#) in June) and determining how to move forward with [first-ever proposed national heat standard](#) (though we expect the Keeling-led OSHA to carefully review comments submitted through the post-hearing comment period, which was extended until October 30, and either significantly revise the rule or scrap it altogether).
- **Takeaway:** Stay tuned for updates on the DOL's key regulatory proposals. In any event, remember that states (such as California and New York) separately recognize agricultural employees' right to organize under state law, and that state-level heat standards (e.g., in California, Nevada, and Maryland) will continue to apply.

- **FP Deep Dive: [Employer Guide to Key DOL Proposals on Latest Regulatory Agenda](#)**

## California Ag Law Developments

Gov. Gavin Newsom recently signed several bills into law that will impact agricultural employers (in addition to a [heap of other new California workplace laws](#)):

- **AB 845** will require various state agencies to work together to make sure that complaints filed by agricultural workers gets to the appropriate entity for processing and investigation, while ensuring that the worker's identity and personal information stays private unless they give permission to share it. This new law, which takes effect **January 1**, will make it easier for ag workers to report problems like unsafe conditions or labor violations.
- **AB 1362** will increase compliance obligations for farm labor contractors that recruit foreign farmworkers through the H-2A visa program. Starting **July 1, 2027**, such farm labor contractors will no longer be exempt from California's oversight and accountability rules for foreign labor recruiters and could face enforcement actions for violations.
- **AB 288** will give California's Agricultural Labor Relations Board (ALRB) exclusive jurisdiction to administer the state's agricultural labor law – including determining who is subject to it – and allow the ALRB to shift away from federal labor law precedents. The National Labor Relations Board (NLRB) filed a federal lawsuit on October 15 challenging other provisions in AB 288 (which you can read about [here](#)) that significantly expand the state's power over labor disputes in the private sector.
- **SB 294** will require employers to provide employees an annual immigration-related rights notice, with the first one due by **February 1, 2026**. The state's labor department is expected to post a template notice by January 1, after receiving input from the ALRB and others. Learn more about SB 294 in this [FP deep dive](#).

However, Newsom vetoed AB 1336 ([veto message](#)), which would have created a presumption that farm workers' heat injuries are work-related (he rejected a [nearly identical bill](#) last year). He also vetoed AB 1136 ([veto message](#)), which would have required employers to provide workers with up

to five unpaid days per year to attend to matters dealing with immigration status or work authorization.

In addition, the Cal/OSHA Standards Board [issued a decision](#) on September 18 that denied a request for an emergency temporary standard that would have created new bird flu protections for workers at dairies and other establishments at increased risk of zoonotic infections – but directed Cal/OSHA to convene an advisory committee to evaluate the issues.

### Other State Ag Law Developments

- **New Jersey** employers will face [more wage hikes](#) in 2026, including an increased minimum wage for certain agricultural employees – from \$13.40 to \$14.20 per hour – starting January 1.
- **Pennsylvania's Allegheny County** is [ramping up worker protections](#) in response to federal deregulatory efforts – and exploring ways to expand the county's organizing rights for agricultural workers and other workers not currently covered by the National Labor Relations Act.

### Conclusion

We will continue to monitor workplace law developments impacting agricultural employers. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Agriculture Team](#).