

BIG WIN FOR AGRICULTURAL EMPLOYERS: COURT MAINTAINS DOL'S GAME-CHANGER RULE FOR H-2A FARMWORKER WAGES DESPITE UFW CHALLENGE

Insights
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Big Win for Agricultural Employers: Court Maintains DOL's Game-Changer Rule for H-2A Farmworker Wages Despite UFW Challenge

A federal court in California just delivered a major win to H-2A agricultural employers across the country. After the Department of Labor (DOL) issued an interim final rule in October that significantly changed how the Adverse Effect Wage Rate (AEWR) is calculated for H-2A job orders, the United Farm Workers filed suit to challenge the rule and asked the court to temporarily block it while the litigation plays out. The court officially denied that request on May 13, allowing the rule to stay in place for now. Here's everything H-2A agricultural employers need to know about this development.

Quick Background

The DOL issued an interim final rule in October that dramatically reshaped the H-2A program's minimum wage policy. Under this framework, the DOL calculates the AEWR for H-2A job orders using a new skill-based and occupation specific wage structure. Learn more here: [DOL Issues Game-Changer Rule for H-2A Farmworker Wages: 8 Key Takeaways for Agricultural Employers](#).

This new interim rule – which in some states and occupations lowers wage costs for H-2A agricultural employers and helps prevent severe labor shortages across

Related People



Rebecca Hause-Schultz

Partner

[916.210.0391](tel:916.210.0391)



Chris Schulte

Partner

[202.559.2440](tel:202.559.2440)

the farm industry – was challenged by the United Farm Workers (UFW) in a California federal lawsuit back in November. The UFW waited until December 22 to ask the court to temporarily set the rule aside while the lawsuit plays out. Since the US Department of Agriculture had already eliminated the survey used to calculate the AEWWR under the old DOL methodology, the UFW also wanted the court to implement an entirely new methodology that the union had created in the meantime.

The federal government opposed the UFW's request for a preliminary injunction, and Fisher Phillips attorneys filed a friend-of-the-court brief on behalf of the National Council of Agricultural Employers and the California Farm Bureau Federation in support of that opposition.

Court Denies UFW's Request to Put the Interim Final Rule on Ice

The court issued an order on May 13 denying the UFW's request for a preliminary injunction, ruling that the union and other individual plaintiffs failed to show that they are likely to suffer irreparable harm without it. In reaching this decision, the court noted that:

- Six of the individual plaintiffs did not indicate that there has been any reduction in their wage rates since the interim final rule took effect, and that one who did failed to show that they have "had any difficulties in paying for costs of living, or suffered any other irreparable harm, due to the wage reductions or IFR."
- The three-month delay between the interim final rule taking effect and the plaintiffs filing a request for the preliminary injunction weighed against finding irreparable harm.

What's Next?

The lawsuit will continue playing out until a court rules on the merits of the UFW's claims, and the October 2025 interim final rule remains in effect until further notice. Stay tuned for updates on this lawsuit and look out for the DOL to replace the interim final rule with a "final" final rule any day now.

It remains to be seen whether the ultimate final rule will reflect any of the comments submitted by worker advocates

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or industry groups late last year. In the meantime, H-2A employers must be extremely careful about how they construct their job orders for H-2A positions to ensure compliance with the new AEWB methodology. Under the new AEWB rule, new wage and housing data from federal agencies will result in the DOL publishing new H-2A wages effective July 1, 2026. If those "adjusted" wages are lower than those included in H-2A job orders already in effect, there will be no change in the wages paid, but if they are higher, then employers will need to be ready to increase their H-2A wages as of the July 1 effective date.

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](#).