

March 30, 2026

Lori Chavez-DeRemer
Secretary, U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C., 20210

Dear Secretary Chavez-DeRemer,

As representatives of agricultural producers of labor-intensive crops, we write today to request that the U.S. Department of Labor (DOL) immediately use its enforcement discretion to pause the certification of new H-2A prevailing wage determinations while the agency undergoes rulemaking to evaluate the integrity of the current prevailing wage methodology and ultimately the use of an H-2A prevailing wage.

Unsustainable increases in labor costs in recent years, driven by the terms and conditions of the H-2A program, are threatening the continued viability of U.S. agriculture. We thank DOL for taking a critical step in curbing this troubling and irreversible trend by reforming the Adverse Effect Wage Rate (AEWR) in the interim final rule (IFR) published on October 1, 2025. This IFR recognized many of the flaws in the AEWR wage methodology, realigning the AEWR to be more reflective of actual market conditions and properly determined that the updated AEWR methodology sufficiently protects U.S. farmworkers against any adverse effect.

However, the prevailing wage structure remains a loophole, preventing the IFR's objectives from being fully and consistently achieved nationwide. Prevailing wage surveys are conducted by states pursuant to lax standards revised and codified by the Biden Administration. These surveys are then presented to DOL for certification. Currently, growers in multiple states are impacted by H-2A prevailing wages that are higher than the AEWR. This includes growers in Washington state and Texas – the fourth and seventh largest users of the H-2A program – with a combined 13.8 percent of certified H-2A positions in FY 2025. We are aware of additional state surveys being conducted, which are expected to result in new wage determinations higher than the AEWR due to the shortcomings in the prevailing wage methodology.

The H-2A prevailing wage methodology shares many of the same shortcomings that DOL identified with the former AEWR methodology in the IFR, including:

- An arbitrary survey sample size requiring only 30 workers from at least five employers, often representing a significantly smaller percentage of the total population than the former AEWR methodology. (90 Fed. Reg. at 47929.)
- No requirement to survey farm labor contractors, who represent 42 percent of certified H-2A positions nationwide. (90 Fed Reg. at 47931.)

- Inclusion of overtime and all types of bonus pay, which DOL points out as contributing to “...producing artificially high wages” in the IFR. (90 Fed. Reg at 47931.)

In other ways, the prevailing wage methodology is even less representative of market wages than the FLS due to additional unique deficiencies, such as:

- Current DOL guidance recommends that states ask employers for data from the week in which they paid the highest wages for a particular crop activity rather than the pre-determined “reference weeks” as used in the USDA Farm Labor Survey or the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics. This “peak week” approach has led to the development of prevailing wage rates that are even more market-distorting than the AEW.
- While the AEW has always been hourly, prevailing wages are established as the method of payment used by the highest number of survey respondents. Non-hourly, incentive-based pay structures are impacted by a number of factors that make them unique to individual farms and therefore are not representative of the broader community of employers. Much like DOL’s “peak week” guidance, the establishment of non-hourly prevailing wages has been a key factor to the development of egregiously inaccurate prevailing wages.
- States can submit wage surveys to DOL for certification at any time, and DOL may issue new prevailing wage determinations without a set publication schedule, unlike the AEW. Stakeholders cannot anticipate when prevailing wages will take effect, making it difficult for growers to plan *and* has subjected growers to “prevailing” wage rates that are based on years-old data.
- States have broad discretion to define (and change definitions) of crop activities without federal oversight.

Overall, the prevailing wage methodology lacks quality control mechanisms and federal oversight that are intrinsic to the AEW methodology and essential to providing any degree of confidence in the results.

To prevent the continued and unnecessary ratcheting effect of the prevailing wage, we ask DOL to immediately halt the issuance of new H-2A prevailing wage determinations until the agency can complete rulemaking to reevaluate the use of an H-2A prevailing wage and ensure the integrity of the prevailing wage mechanism, if a prevailing wage continues to be required through regulations.

Once again, we greatly appreciate DOL’s recognition of the urgent need to reform the H-2A wage system by implementing the AEW IFR. Unfortunately, agricultural employers in a growing number of states nationwide continue to be subjected to unsustainable H-2A prevailing wage requirements that are not needed to protect against an adverse effect and are driving

American farms out of business. We look forward to working with DOL to continue to improve the H-2A wage system that protects domestic workers and keeps American farms in business.

Sincerely,

Northwest Horticultural Council
American Farm Bureau Federation
AmericanHort
International Fresh Produce Association
National Council of Agricultural Employers
National Council of Farmer Cooperatives
National Potato Council
North American Blueberry Council
U.S. Apple Association
USA Farmers
Western Growers Association
California Apple Commission
California Blueberry Association
California Blueberry Commission
California Cherry Growers and Industry Association
California Farm Bureau
California Pear Growers Association
California Sweetpotato Council
California Wild Rice Advisory Board
Grower-Shipper Association of Central California
Olive Growers Council of California
Olive Oil Commission of California
Florida Fruit and Vegetable Association
Florida Tomato Exchange
Louisiana Farm Bureau Federation
Georgia Agribusiness Council
Georgia Farm Bureau
Georgia Fruit and Vegetable Association
Georgia Pecan Growers Association
Cherry Marketing Institute
Michigan Asparagus Association
Michigan Apple Committee
Michigan Blueberry Advisory Committee
Michigan Farm Bureau
Michigan State Horticultural Society
Michigan Vegetable Council
Potato Growers of Michigan, Inc.
New York Farm Bureau
New York Horticultural Society
New York State Vegetable Growers Association

NC Chamber
NC Sweetpotato Commission
North Carolina Growers Association
Texas Citrus Mutual
Texas Farm Bureau
Texas International Produce Association
Texas Nursery and Landscape Association
Texas Vegetable Association
Columbia Gorge Fruit Growers
Worker and Farmer Labor Association (WAFLA)
Washington State Tree Fruit Association
Washington Blueberry Commission
Washington Farm Bureau

CC: Secretary Brooke Rollins, U.S. Department of Agriculture