

***Note:** This unofficial translation has been prepared by the Brennan Center for Justice at NYU School of Law.*

Mexican Secretary of Labor and Social Promotion

Unit of International Affairs

Office of Hemispheric Affairs

Office No.: 114/2/DAJH/1196

Subject: Public Communication Mex 2005-1 (Rights of migrant workers with H2-B visas)

Mexico City, October 24, 2007

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I am writing in reference to the April 2005 Public Communication MEX 2005-1 and the March 29, 2006 addendum, presented by the Northwest Worker's Justice Project; Brennan Center for Justice at New York University School of Law and Andrade Law Office, other United States and Mexican organizations, and sixteen H2-B migrant workers, under the North American Agreement on Labor Cooperation (NAALC) in the National Administrative Office (NAO) of Mexico, who is in charge of this coordinating process.

In accordance with the National Administrative Office of Mexico Rule on the public communications that deal with article 16.3 of the NAALC, published in the Official Diary of the Federation on April 28, 2005, the petition makes several allegations about labor law, in particular about the NAALC labor principles regarding: the prohibition of forced labor (4); minimum conditions for workers (6); elimination of employment discrimination (7); preventing occupational injury and disease (9); indemnification in case of work-related injuries or diseases (10); and protection of migrant workers (11), in the United States, specifically in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming.

Under article 21 of the NAALC, on October 12, 2007, the NAO of Mexico asked the NAO of the United States to respond to the attached set of questions, in order to better understand the petitioners' allegations. The attached questions are based strictly on the principles, agreements, and obligations of the NAALC.

It will be useful for this NAO to know if the workers have obtained resources or proceedings to enforce the rights that are referred to in the petition, and what the result has been. I would also be grateful for any information that you consider relevant about the petition in order to ensure that this NAO has the necessary information to write a revised report that complies with articles 16.3 of the NAALC and 9 of the Rule referred to above.

With warm greetings.

Sincerely,

Claudia Anel Valencia Carmona, Esq.  
The Subcoordinator of Hemispheric Labor Politics

# **Cooperative Consultation Under Article 21 of NAALC**

Public Communication MEX 2005-1  
(Rights of migrant workers with H2-B visas)

## **H2-B Visa Programs**

According to the petitioners, the workers with H2-B visas hired to work in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee, and Wyoming were employed in agriculture and should have been admitted under the H2-A program. However, the employer claimed they would not be doing agricultural work and that is why they received H2-B visas. With these visas, they did not receive the workers' rights benefits that H2-A workers receive.

1. What is the local and/or federal legislation that describes the rights of workers with H2-A and H2-B visas? What is the legal foundation for making a distinction between H2-A and H2-B workers? Who determines this difference? How does the appropriate authority ensure that workers admitted with H2-B visas do not do the H2-A work?
2. What procedure should be followed by employers who want to register their companies as needing workers under the H2-A and H2-B programs? Did the Universal Forestry company in Idaho and the Mountain Fresh company in Colorado meet the requirements when registering as a company needing H2-A and H2-B workers? How closely does the federal and/or local labor authority review these companies? What procedure is employed if the employers do not follow the requirements that companies who employ H2-A and H2-B workers should follow?
3. What penalties do these companies face if they do not meet the requirements? According to the law, which government authority should impose these penalties? From 2003 to present, have these penalties been imposed on Universal Forestry in Idaho or Mountain Fresh in Colorado, or any of the other companies in the states of Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee, and Wyoming that employed H2-A and H2-B workers? If so, what did these penalties entail and how did the proper authority ensure that they were followed?
4. Under article 21.2 (b) of the NAALC, please provide information regarding any proposed changes to the procedures, policies, or practices related to the labor rights of H2-A and H2-B workers.

## **Article 4 of the NAALC, access to proceedings**

According to the petitioners, access to justice for H2-B workers is limited in comparison to national workers and H2-A workers, as the latter can receive free legal assistance from

organizations federally funded by the Legal Services Corporation (LSC), unlike H2-B workers.

5. What is the juridical nature of LSC? Is it federally or locally based? How is it financed? How does the LSC operate?

6. In conformity with article 4.2 (a) of the NAALC, in what way do the U.S., and the local governments of Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee, and Wyoming, guarantee that H2-B workers have access to proceedings to enforce their rights in the United States?

7. Under article 3.2 of the NAALC, what is the federal or state legislation that prohibits LSC-funded organizations from assisting H2-B workers? Through what other means can H2-B workers obtain free legal assistance from the U.S., if they cannot obtain it from LSC? How does the labor authority ensure the enforcement of labor rights if H2-B workers are unable to obtain legal assistance?

8. What are the differences in access to labor tribunals between workers who are citizens and H2-B workers? If it exists, why is there a difference?

#### **Article 5 of the NAALC, procedural guarantees**

The petitioners allege unjust delay and irregularities in the procedures employed by the USDOL and the Departments of Labor in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee, and Wyoming in investigating the complaints of the H2-B workers, in particular, with respect to the Universal Forestry company in Idaho.

9. What procedure is employed by USDOL and the Departments of Labor in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee, and Wyoming to investigate complaints by H2-B workers about federal or state labor violations?

10. From 2003 to the present, how many complaints by H2-B workers about state and federal labor violations have the aforementioned authorities seen, ? How long did it take these authorities to address the complaints? If penalties were imposed, who was penalized and what did it entail? How are these penalties enforced?

11. What are the differences between the procedural guarantees that workers who are citizens enjoy in comparison to H2-B workers? If it exists, why is there a difference?

#### **Principle 4, prohibition against forced labor**

Petitioners allege that in the case of the workers in Idaho, the employer's representative withheld their passports, forced them to work, and told them they would not get their passports back if they did not pay him \$150 each. According to the petitioners, this is a possible violation of the federal law against involuntary servitude. Petitioners quote the

employer's representative as saying that he withheld their passports to make sure that the workers would not search for a job anywhere else.

12. What state and/or federal legislation prohibits an employer from withholding H2-B workers' immigration documents and from charging to get them back? How can H2-B workers get their immigration documents returned? Who can H2-B workers file a complaint with if someone withholds their documents?

13. Are workers with H2-B visas prohibited from searching for a job with an employer other than the one who hired them? If the employer who hired them does not do what he promised, what alternatives does an H2-B worker have? With which department of labor, federal or state, can these workers file a complaint?

14. Is withholding immigration documents, thereby prohibiting H2-B workers from searching for a new job and forcing them to stay with the employer, considered forced labor or involuntary servitude in U.S.? What state and/or federal legislation addresses the prohibition against involuntary servitude and forced work? What governmental measures have been taken by the federal or state labor departments, to guarantee the observance and compliance with the prohibition against forced labor, particularly the prohibition on retaining immigration documents, on refusing to return the documents and forcing the migrant workers with H2-B visas to remain with an employer against their will?

15. Through what mechanism does the federal and/or state labor authority monitor compliance with the federal or state law prohibiting involuntary servitude and/or forced labor, particularly with regard to the prohibition on retaining immigration documents, on refusing to return the documents and forcing a worker with an H2-B visa to remain with the employer against his will?

16. From 2003 to date, how many inspections to impose sanctions in the event of noncompliance with the prohibition against forced labor and involuntary servitude have been carried out in work places that use workers with H2-B visas in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? If the abovementioned inspections resulted in penalties, what type and how many? How have the penalties been enforced?

17. Through what free legal mechanism and before which authority, state or federal, can H2-B workers in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming go to enforce their right not to perform forced labor, including not having their immigration documents withheld, getting the documents back and not being forced to remain with an employer against their will? What is the legal procedure and before which tribunal can workers with H2-B visas go to enforce their right not to perform forced labor, including not having their immigration documents withheld, getting the documents back and not being forced to remain with an employer against their will in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? From 2003 to date, how many complaints have workers with H2-B visas brought before the labor departments on this matter? How many proceedings have workers with H2-B visas

brought before the courts on this matter? How much time does it take the labor departments and courts to resolve the complaints? If these matters have been resolved, how have they been resolved? Of the total number of resolved complaints, how many have been favorable to the worker?

18. In which ways do the federal and state labor authorities ensure that workers with H2-B visas have access to the courts to make sure that they are able to enforce their right not to perform forced labor, including not having their immigration documents withheld, getting the documents back and not being forced to remain with an employer against their will in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? How do the labor authorities ensure access to these procedures? How do the labor authorities make sure that workers with H2-B visas know about the existence of these procedures to enforce their rights?

19. What are the differences between the treatment of workers who are citizens and H2-B workers regarding the prohibition against forced labor? What is the difference between workers who are citizens and H2-B workers with respect to access to the courts to enforce their rights? Why do these differences exist, if they do?

### **Labor principle 6, minimum working conditions**

#### ***Wages***

The petitioners argue that the amount of the wages received by workers with H2-B visas in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming is less than the wage promised by the recruiting agent, and is even less than the minimum wage, because of the deductions the employer takes for the cost of the tools they need to work (such as gasoline, oil, gloves, helmets, leather chaps (chaparreras), and chains), as well as for payment for the recruiter, costs for a passport, visas, and transportation.

20. What state and/or federal legislation protects the right of the workers with H2-B visas to receive the minimum wage?

21. Under state and/or federal legislation can employers take deductions from the wages of workers with H2-B visas? If they may, in what conditions and under what circumstances are deductions allowed?

22. What governmental measures have been implemented by the federal and/or state labor departments to guarantee the observance of and compliance with the law that protects the rights of workers with H2-B visas to receive the minimum wage?

23. How do the federal and state labor departments monitor compliance with this law, concerning the payment of the minimum wage to H2-B workers? How does the labor department ensure that with the deductions made by the employer, H2-B workers are not paid less than the minimum wage?

24. From 2003 to date, how many inspections to impose sanctions in the event of minimum wage violations have been conducted in workplaces that employ H2-B workers? If the inspections resulted in penalties, of what type and how many? Have the sanctions been enforced?

25. Through what free legal mechanism and before which federal or state department can H2-B workers enforce their right to receive the minimum wage in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? What is the legal procedure and before which courts can H2-B workers go to enforce their right to receive a minimum wage in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? From 2003 to date, how many complaints have been filed with the labor departments by H2-B workers related to the right to receive the minimum wage? How many of this type of complaint have been brought before the courts by H2-B workers? How much time does it take the labor authorities and the court to resolve these complaints and cases? If the complaints have been resolved, what were the outcomes? Of all of the complaints resolved, how many were favorable to the worker? What is the amount of the recovered wages?

26. How do the state and federal labor authorities ensure that H2-B workers have access to the courts to ensure that workers are able to enforce their right to a minimum wage? How do the labor authorities ensure access to the courts for this purpose? How do the federal and state labor authorities ensure that H2-B workers know about the existence of these procedures to ensure their right to the minimum wage?

27. What is the difference between the right of workers who are citizens and H2-B workers with regard to enforcing their right to the minimum wage? And with respect to their access to the courts to enforce these rights? If there is a difference, why does it exist?

### ***Housing***

The petitioners state that the housing provided to the H2-B workers by employers in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming lacked sufficient bathrooms and sleeping quarters, potable water, heating, telephone and cooking facilities. In some cases, the employers or their representatives sold the workers sleeping bags or charged them rent for lodging, which was deducted from the workers' wages. These deductions constitute a violation of local legislation in Idaho, because the employers did not have the written authorization of the workers to make these deductions.

28. Under state or federal legislation, can employers take deductions for rent from the wages of workers with H2-B visas?

29. What federal or state legislation provides H2-B workers with a right to decent housing? Must it be provided for free? If not, what is the legal basis for such impediment?

30. What measures have the federal and state labor departments to guarantee the observance of and compliance with rules governing H2-B workers' housing?
31. Through what measures does the federal or state labor department monitor compliance with the rules governing H2-B workers' housing?
32. From 2003 to date, how many inspections to impose sanctions in the event of a violation of the rules governing the right of H2-B workers to housing have been carried out in work places that use H2-B workers? If these inspections have resulted in penalties, what type and how many? How have the penalties been enforced?
33. Through what free legal mechanism and before what federal or state authority can H2-B workers enforce their right to free and decent housing in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? What is the legal process and before what court can H2-B workers go to enforce their right to free and decent housing in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? From 2003 to date, how many complaints have been brought by H2-B workers before the labor department with respect to violations of housing rules? What complaints have been filed with the courts by H2-B workers on this subject? How much time does it take the labor authorities and courts to resolve the complaints and proceedings? If the complaints before the labor authorities have been resolved, what have been the outcomes? Of the total number of resolved complaints, how many have been favorable to the worker?
34. How do the federal and state labor authorities ensure that H2-B workers have access to these court proceedings to ensure their housing rights? How do the federal and/or state labor departments ensure access to these procedures? How do federal and/or state labor authorities makes sure that H2-B workers understand the existence of these proceedings to enforce their labor rights?

### ***Transportation***

The petitioners state that the workers with H2-B visas in Idaho, like those in Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming, have to pay to get themselves to the place where they meet with representatives of their employer, in order to get transportation to their work place at their employer's expense. According to promises made to the workers, this transportation should be the responsibility of the employer. Nevertheless, the employer charged the workers up to \$150 dollars. Also, the vehicles used to transport the workers were not safe.

35. Under federal and/or state law, can employers take deductions from H2-B workers' wages for transportation to and from the work place?
36. What federal and/or state legislation provides H2-B workers with the right to free and safe transportation to and from the workplace? If there is none, what is the legal basis for

this? Does it provide for transportation from the H2-B worker's place of origin to the place of work and then back to the place of origin?

37. What measures have the federal or state labor departments implemented to guarantee the observance of and compliance with the law that provides H2-B workers with free and safe transportation to the work place?

38. What mechanisms do the federal and/or state labor departments use to monitor compliance with this law, with regard to providing free and safe transportation to H2-B workers?

39. From 2003 to date, how many inspections have been undertaken to impose sanctions in the event of violations of this law in workplaces that employ H2-B workers? If these inspections resulted in penalties, what type and how many? Have the penalties been enforced?

40. Through what free legal mechanisms and before what federal or state authority can H2-B workers enforce their right to not to have the costs of transportation to the workplace deducted from their wages in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? What is the legal proceeding and before which court can H2-B workers go to enforce their right to not have the costs of transportation to the workplace deducted from their wages in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? From 2003 to date, how many H2-B workers have filed complaints with the labor department regarding the violation of their right not to have the costs of transportation to the workplace deducted from their wages? How many proceedings have been brought in the courts by H2-B workers in this respect? How much time does it take the labor departments and courts to resolve the complaints and procedures that are brought? If the complaints brought before the labor departments have been resolved, what were the outcomes? Of the resolved complaints, how many have been favorable to the worker?

41. How do the federal and state labor departments make sure that H2-B workers have access to the courts to enforce their rights to free and safe travel? How do the federal and/or state labor departments ensure access to these procedures? How do federal and/or state labor departments make sure that the workers with H2-B visas know about the existence of these procedures to enforce their right to free and safe transportation?

### ***Work contract***

The petitioners state that when the workers with H2-B visas were contacted by the representative of Universal Forestry in Idaho, they did not receive a written offer of employment, which is to say that the details or conditions of the work had only been verbally communicated to them. This is a common situation so that, although the majority of the cases raised in petitioners' complaint took place in Idaho, the petitioners state that H2-B workers suffer the same problems in the states of Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming.

42. What federal and/or state legislation states that employers and workers with H2-B visas must sign a work contract? What minimum conditions must be addressed in the contract? When must the contract be signed?

43. Through what mechanism does the federal and/or state labor department monitor compliance with the requirements for minimum working conditions, with regard to ensuring that there is a work contract stipulating minimum conditions for H2-B workers and that it is signed appropriately?

44. From 2003 to date, how many inspections have been undertaken to impose sanctions in the event of a violation of the requirement of adequate work contracts in workplaces that use H2-B workers? If these inspections have led to penalties, what type and how many? Have the penalties been enforced?

45. Through what free legal mechanisms and before what federal or state authority can H2-B workers ensure that their right to a work contract is honored in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? What is the proceeding and before which court can H2-B workers ensure that their right to a work contract is honored in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? From 2003 to date, how many complaints have been filed by H2-B workers before the appropriate labor department with respect to the guarantee of a work contract that stipulates minimum work conditions? How many complaints have H2-B workers filed with courts in this regard? How much time does it take the labor departments and the courts to resolve the complaints and proceedings? If the complaints before the appropriate labor departments have been resolved, what were the outcomes? Of the total number of resolved complaints, how many have been favorable to the worker?

46. How does the federal or state labor department make sure that workers with H2-B visas have access to these proceedings to enforce their right to a work contract that stipulates their working conditions? How does that federal and/or state labor authority ensure access to these procedures? How does the federal and/or state labor authority make sure that H2-B workers know about the existence of these proceedings to enforce their right to a work contract that stipulates the conditions of work and to ensure that this right is fulfilled?

47. What are the differences between the treatment of workers who are citizens and H2-B workers with respect to the right a work contract? And with respect to access to the labor tribunals to enforce their rights? Why does this difference occur, if it does?

### ***Period of employment***

The petitioners argue that, contrary to the promises made to the H2-B workers at the moment of their recruitment that they would have work during the entire period of their H-2B visas, in many instances the workers in Idaho, Colorado, Arkansas, Texas, Florida,

Oregon, Tennessee and Wyoming, went several days or weeks without work and therefore did not receive income and still incurred expenses.

48. Under what federal and/or state law can employers end the work of workers with H2-B visas? If they can, under what circumstances and reasons?

49. What federal and/or state legislation provides for the right of H2-B workers to count on work with the employer they contracted with for the entire period of their H2-B visa?

50. What measures have the federal and/or state labor department implemented to guarantee the observance of and compliance with this law, regarding the right of H2-B workers to count on work for the entire period of use of their H2-B visa?

51. Through what mechanism does the federal and/or state labor department monitor the fulfillment of this law, regarding the right of H2-B workers to count on work for the entire period of their H2-B visa?

52. From 2003 to date, how many inspections have been conducted to impose sanctions in the event of a violation of this law in workplaces that use workers with H2-B visas? If these inspections resulted in penalties, what type and how many? Have the penalties been enforced?

53. Through what free legal mechanism, and before which federal or state authority, can H2-B workers enforce their right to have work for the entire period of their H2-B visa in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? What is the legal procedure and before which court can H2-B workers enforce their right to have work for the entire period of use of their H2-B visa in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? From 2003 to date, how many complaints have been filed by H2-B workers before the labor department, with respect to not having work for the entire period of use of the H2-B visa? How many court complaints have been filed by H2-B workers with respect to this issue? How much time does it take the labor departments and the courts to resolve these issues? If the complaints before the labor departments have been resolved, what has been the outcomes? Of the total number of resolved complaints, how many have been favorable to the worker?

54. How does the federal or state labor department ensure that workers with H2-B visas have access to court proceedings to enforce their right to have work for the entire period of their H2-B visa? How does the federal and/or state labor department ensure access to these procedures? How do federal and/or state labor authorities make sure that H2-B workers know about the existence of the procedures to enforce their right to have work for the entire period of use of their H2-B visa?

55. What are the differences between the treatment of national workers and H2-B workers regarding their ability to count on work for the entire period of a contract? And with respect to accessing the courts to enforce their rights? Why is there this difference, if it exists?

### **Labor principle 7, elimination of discrimination**

The petitioners argue that very few workers in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming, challenge violations of their rights because they fear that they will lose their jobs or that they will not be contracted with in the future. Many workers have feared being included on black lists.

56. What federal and/or state law provides for the prohibition against employer discrimination against H2-B workers and workers who are citizens? What employer conduct in this regard is specifically prohibited by law?

57. What governmental measures have been implemented by the federal and/or state labor departments to guarantee the observance of and compliance with the prohibition on discrimination against H2-B workers?

58. Through what mechanism federal and/or state labor authorities monitor the fulfillment of the prohibition on discrimination against H2-B workers?

59. From 2003 to date, how many inspections to impose sanctions in case of a violation of this rule have taken place in workplaces that employ workers with H2-B visas? How many inspections have resulted in penalties, what type and how many? Have the penalties been effective?

60. With what free legal mechanism and before which federal or state authority can H2-B workers enforce their right not to be discriminated against in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? What is the legal proceeding and before which court can H2-B workers go to enforce their right not to be discriminated against in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? From 2003 to date, how many complaints have been filed before labor departments by H2-B workers with respect to discrimination? How many court complaints have been filed by workers with H2-B visas on this issue? How much time does it take the labor departments and courts to resolve the presented complaints? If the complaints before the labor departments have been resolved, what were the outcomes? Of the total of the resolved complaints, how many have been favorable to the worker?

61. How do federal or state labor departments make sure that H2-B workers are not discriminated against? How do the federal and state labor departments ensure access to these procedures? How do federal and/or state labor departments ensure that H2-B workers know about procedures to enforce their rights not to be discriminated against?

### **Labor principles 9, prevention of work-related injuries and diseases; and 10, indemnification in the cases of work-related injuries or diseases**

The petitioners mention that one of the 16 individual petitioners was contracted to pack watermelons in the states of Arkansas and Texas. The worker operated a forklift,

although he had revealed that he did not have experience operating a forklift. In September of 2001, the worker suffered an industrial accident while operating the forklift, which resulted in one of his legs being amputated. Due to a lack of legal representation, the worker could not enforce his labor rights regarding occupational injuries and illnesses. This situation is a general one so that, although the majority of the cases raised in the petitioners' complaint took place in Idaho, the petitioners indicated that H2-B migrant workers encounter the same problems in the states of Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming.

62. What federal and/or state legislation provides H2-B workers with the right to have measures in place to protect them from injuries and diseases in their workplace?

63. What federal and/or state legislation provides H2-B workers with the right to count on indemnification for injuries and diseases in their workplace?

64. What governmental measures have the federal and/or state labor departments taken to guarantee the observance of and compliance with the laws that allow workers to count on protection from injuries and diseases in the workplace, such as indemnification in these cases?

65. Through what mechanisms do the federal and/or state labor departments monitor the fulfillment of this law, with regard to providing a safe work place to H2-B workers?

66. From 2003 to date, how many inspections have been conducted to impose sanctions in the event of a breach of an employer's obligation to establish a mechanism to prevent injury and disease in workplaces with H2-B workers? If these inspections resulted in penalties, what type and how many? Have the penalties been effective?

67. Through what free legal mechanism and before which federal or state authority can H2-B workers enforce their right to have mechanisms in place that prevent injury and disease and provide for indemnification in cases where the protections do not occur in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? Through what legal procedure and before which court can H2-B workers enforce their right to have mechanisms in place that prevent injury and disease and provide for indemnification in cases where the protections do not occur in Idaho, Colorado, Arkansas, Texas, Florida, Oregon, Tennessee and Wyoming? From 2003 to date, how many complaints have been filed by H2-B workers before the labor authority for violations of the prevention of injuries and occupational diseases and to provide indemnification in these cases? What court complaints have H2-B workers filed on this issue? How much time does it take the labor departments and the courts to resolve the presented complaints? If the complaints before the labor authorities have been resolved, what were the outcomes? Of all the resolved complaints, how many have been favorable to the worker?

68. How do the federal and/or state labor authorities make sure that H2-B workers have access to these court proceedings to enforce their rights regarding prevention and indemnification in cases of occupational injuries and diseases? How do the federal and

state labor departments pursue these procedures? How do the federal and/or state labor departments ensure that H2-B workers know of the existence of these procedures to enforce their right to the prevention of occupational injuries and diseases?

69. What is the difference in treatment that occurs between workers who are citizens and H2-B workers regarding the prevention of occupational injuries and diseases? And with respect to accessing the courts to enforce their rights? If there is a difference, why does it exist?