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March 6, 2024

VIA CM-ECF FILING

Ms. Molly C. Dwyer
Clerk of Court
United States Court of Appeals for the Ninth Circuit
James R. Browning Courthouse
95 7th Street
San Francisco, CA 94103

Re: Torres Hernandez, et al. v. United States Department of Labor, et al.
Case No. 23-35582

Dear Ms. Dwyer,

In their answering brief filed on November 20, 2023, Appellees United States Department of Labor and Julie Su (“DOL”) noted that DOL had proposed to amend the regulation at the heart of this appeal, 20 C.F.R. § 655.120(a), through notice and comment rulemaking. Br. 11–12 (citing *Improving Protections for Workers in Temporary Agricultural Employment in the United States*, 88 Fed. Reg. 63750, 63774–75 (Sept. 15, 2023)). DOL explained in its brief that the proposed revisions to § 655.120(a), if incorporated into a final rule, would afford Plaintiffs the forward-looking relief they sought in the district court and would render their arguments concerning the proper interpretation of the existing regulatory text moot. DOL therefore asked the Court to defer any ruling on Plaintiffs’ arguments until after the final rule has been published. Br. 2, 4, 18–19, 47–49.

DOL now wishes to advise the Court that the final rule was sent to the Office of Information and Regulatory Affairs (“OIRA”) for interagency review on February 26, 2024. OIRA’s website reflects that the final rule was received on February 26, 2024, and is “Pending EO 12866 Regulatory Review.” The landing page for the final rule is available at the following link: <https://www.reginfo.gov/public/do/eoDetails?rrid=419213>.

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Sincerely,

VANESSA R. WALDREF
United States Attorney

A handwritten signature in blue ink, appearing to read "John T. Drake". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Drake".

John T. Drake
Assistant United States Attorney