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JOSEPH H. HUNT
Assistant Attorney General
JOSEPH H. HARRINGTON
United States Attorney
MICHELLE R. BENNETT
Assistant Branch Director
BRADLEY P. HUMPHREYS
ANDREW M. BERNIE
Trial Attorneys
Federal Programs Branch
U.S. Department of Justice, Civil Division
1100 L Street, N.W.
Washington, DC 20005
(202) 305-0878
Bradley.Humphreys@usdoj.gov
Counsel for Defendants

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT YAKIMA**

STATE OF WASHINGTON,

Plaintiff,

v.

ALEX M. AZAR II, in his official
capacity as Secretary of the United
States Department of Health and
Human Services; and UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

NO. 1:19-cv-3040-SAB

DEFENDANTS' REPLY IN
SUPPORT OF THEIR MOTION
FOR STAY OF THE COURT'S
PRELIMINARY INJUNCTION
PENDING APPEAL

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SUPPORT OF THEIR MOTION
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U.S. DEPARTMENT OF JUSTICE
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(202) 305-0878

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NATIONAL FAMILY PLANNING &
REPRODUCTIVE HEALTH
ASSOCIATION, FEMINIST
WOMEN’S HEALTH CENTER,
DEBORAH OYER, M.D., and
TERESA GALL, F.N.P.,

Plaintiffs,

v.

ALEX M. AZAR II, in his official
capacity as United States Secretary of
Health and Human Services, UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
DIANE FOLEY, M.D., in her official
capacity as Deputy Assistant Secretary
for Population Affairs, and OFFICE
OF POPULATION AFFAIRS,

Defendants.

1 For reasons explained in Defendants’ motion to stay this Court’s
2 preliminary injunction pending appeal, ECF No. 58, Defendants’ consolidated
3 opposition to Plaintiffs’ motions for a preliminary injunction, ECF No. 44, and
4 at the hearing on Plaintiffs’ preliminary injunction motions, Defendants
5 respectfully request that a stay of that injunction be granted pending appeal, and
6 that the court issue a ruling promptly. Nothing in Plaintiffs’ opposition refutes
7 Defendants’ arguments or warrants further response.

8 Defendants recognize that the Court may not be inclined to grant that
9 relief and again respectfully ask for a quick ruling on this motion. In the stay
10 motion, Defendants highlighted the urgency of this case to the Government and
11 requested an expedited ruling from this Court, specifically “ask[ing] that the
12 Court rule on the motion before May 10, 2019, at which time Defendants intend
13 to seek relief in the Ninth Circuit.” ECF No. 58 at 2-3. Defendants filed similar
14 motions in the two other Courts that issued injunctions against the Rule, and
15 both of those Courts quickly issued orders denying the stay motions. *See* No.
16 6:19-cv-00317 (D. Or.), ECF No. 152 (May 6, 2019); No. 3:19-cv-01195 (N.D.
17 Cal.), ECF No. 89 (May 8, 2019). Defendants have since sought a stay from the
18 Ninth Circuit in both this case and the two other cases. *See* Ninth Cir. Case Nos.
19 19-15974, 19-15979 (Northern District of California appeal); 19-35386 (Oregon
20 appeal); 19-35394 (Eastern District of Washington appeal). For reasons
21 Defendants have already explained, a stay pending appeal is warranted here and
22

1 Defendants are currently seeking that relief from the Ninth Circuit. Defendants
2 respectfully request that the Court grant their motion to stay and, in any event,
3 issue a decision on the motion as soon as possible.

4
5 Dated: May 21, 2019

JOSEPH H. HUNT
Assistant Attorney General

6 JOSEPH H. HARRINGTON
7 United States Attorney

8 MICHELLE R. BENNETT
Assistant Branch Director

9 /s/ Bradley P. Humphreys
10 BRADLEY P. HUMPHREYS
11 (DC Bar No. 988057)
12 Trial Attorney
13 United States Department of Justice
14 Civil Division, Federal Programs Branch
15 1100 L Street, NW
16 Washington, DC 20005
17 Tel: (202) 305-0878
18 Fax: (202) 616-8460
19 Email: Bradley.Humphreys@usdoj.gov

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22 *Counsel for Defendants*

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will send notification of such filing to the attorneys for all parties.

DATED this 21st day of May, 2019, at Washington, D.C.

/s/ Bradley P. Humphreys
BRADLEY P. HUMPHREYS
D.C. Bar No. 988057