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THAT'S NEXT FOR TRUMP'S REGULATORY AGENDA:
A CONVERSATION WITH
OIRA ADMINISTRATOR NEOMI RAO

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Introduction and Moderator:

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P R O C E E D I N G S

MR. GAYER: Good morning, everybody, and welcome to Brookings. My name is Ted Gayer; I'm the Vice President and Director of Economic Studies here at Brookings and I also direct the Center on Regulation and Markets, which is hosting this event today. And I am delighted to welcome Neomi Rao to speak here today. She is the Administrator of the Office of Information and Regulatory Affairs for everybody in this room and in this town, commonly known as OIRA. Just if you don't know that, that's the lingo. Her appearance today is reminding me of one of the first events I ever did here at Brookings. I hosted -- it was probably eight years ago -- Cass Sunstein who was then OIRA Administrator. It was one of my first events. I was a little bit nervous, so I was walking around outside getting warmed up, and there was a group of protestors out front, one of whom was wearing a full on Oscar the Grouch costume with the trash can a, a sign, a face sign of Cass in front of him -- I think it was a him, it's hard to tell behind the Oscar costume. And they were singing a very creatively written song called I love Ash. For all of you Sesame Street watchers that was a play on Oscar's famous song, "I Love Trash." And it was incredibly creative and I will say it was effective because without that I would never have remembered the coal ash disposal rule. So there you go. (Laughter)

I'm going to say perhaps thankfully -- this is guardedly -- there is nothing so exciting happening outside the room today, which I think is well enough. But the story does highlight a serious point, which is that the job of OIRA administrator is almost always controversial and it is frequently contentious. OIRA oversees the regulatory process for the Executive Agencies. It's responsible for vetting the Agencies' tallies of the benefits and costs of federal regulations. It can sink a rule or turn it back to the Agencies for reconsideration. So it's an incredibly powerful position and office within the federal government.

The OIRA administrator is frequently called the regulatory czar, there again giving you a sense of the power of the position. And today, given the current administration and their emphasis and primary emphasis on deregulation, perhaps Administrator Rao's role is arguably more influential than ever.

Thankfully, she is exceptionally well qualified for the job. Before joining the Trump Administration, she was an Associate Professor of Law at the Antonin Scalia Law School at George Mason University. While she was there, she founded the Center for the Study of the Administrative State. Before joining George Mason, she served in all three branches of government. She was counsel to the Senate Judiciary Committee under Senator Orrin Hatch, she clerked for Supreme Court Justice Clarence Thomas, and she served as associate counsel and special assistant to President George W. Bush.

So, again, I'm delighted to have her here. The plan for today is she will speak for approximately 20 minutes, then I will join her on stage for some question and answers, and then we will turn to all of you for further questions and answers from her as well.

So, with that, please join me in welcoming Administrator Rao. (Applause)

MS. RAO: Great. Thanks so much to Ted for inviting me to be here with you today and to Brookings for hosting this event.

Every time I have a public appearance I ask my staff and my close advisors for jokes, (laughter) and I have to say, no one ever comes up with any. And I try to joke about the fact that we don't have any jokes. And, you know, my chief of staff has said to me, you know, Neomi, you're the administrator of the Office of Information and Regulatory Affairs, it's just not funny. (Laughter) So, sorry, I have no jokes for you today yet again. We'll see if I can do better next time.

But basically, my remarks today, I wanted to discuss the regulatory reform efforts of this Administration and to focus on three main points. I wanted to speak a little bit about what we've done in this past year, what we plan to do in the upcoming year, and then to give you some of the reasons, some of the principles why we believe so strongly in our regulatory reform efforts.

So, first, a little bit about what we've done. So, from my perspective, this past year was really a banner year for regulatory reform. You know, soon after taking office the president issued a very ambitious series of executive orders that directed agencies to eliminate two regulations for each new one and to impose zero regulatory costs in fiscal year 2017. And

when those executive orders came out there was a lot of skepticism, but I think when you look back on the past year I think what we see is that those executive orders focused attention on a very big problem of cumulative regulations. And the administration didn't go after the problem with little scissors but really with something much more like the big beautiful gold scissors that the president used to cut the red tape at his December speech.

So the president directed the agencies to deregulate and that's what they've been doing. And some of the ways we've done this -- I mean the administration has really slowed the production of new costly regulations. We issued only three significant new regulations in fiscal year 2017. We've tried to really redirect the regulatory inertia, and as part of our effort to change the culture around regulation we withdrew or delayed more than 1500 planned rules. Now, those are rules that are currently in process and rules that we're thinking about, but it demonstrates the magnitude of what has been halted or postponed. And I think it also shows that what the administration is doing is that we are carefully reconsidering the direction, the scope, and the content of many proposed regulations. Across the government, we've also eliminated 22 regulatory actions for every one new regulation, a ratio that far exceeds the two for one that the president called for. And we've kept the total cost of executive agency regulations to below zero for the first time in our records. In fact, according to OIRA's own, frankly quite conservative calculations, we've had a total net savings from these reductions of over \$8 billion.

And to provide some context about what this kind of reduction means, I mean historically over time regulatory costs have increased in administrations of both parties. And in the previous administration, during just their last eight months, they imposed annualized regulatory costs of over \$15 billion. And we're planning to continue this in 2018. For this fiscal year, agencies have committed to reducing regulatory costs even further, by more than \$10 billion. So how have we been doing this? You know, I've gotten a lot of questions about implementation and, you know, these are some really significant reforms that we've had to put in place, and we've been working with the OIRA staff to do this. I mean, as some of you may know, OIRA has really a quite small staff. We have about 45 career officials and they're really, really excellent. And they have

been working closely with the career civil servants in other agencies to implement the president's executive orders in a way that is both careful and responsible. And I think one thing to just highlight about what we've been doing is we've tried to be exceptionally transparent in how we have calculated two for one and the cost savings. We've really focused on developing a system that would meet the President's goals. We want real reduction in regulatory burdens and we wanted to incentivize agencies to eliminate and to streamline burdens of all sizes. And while we were doing this, we also wanted to maintain the very high standards of regulatory analysis that we expect from agencies.

At OIRA, we provided advance guidance of how we would be implementing the executive orders and we've shown all of our final work on our website. I think if you take a look there, you'll see that the numbers demonstrate a kind of fundamental reorientation of the regulatory system. As I've said, we've slowed the pace of new significant rules, but also frankly of many smaller rules. We have eliminated many costly regulatory actions, which includes rules but also guidance documents and information collections. And we have pushed agencies to be very open in their actions and not simply to redirect their regulatory activity to guidance or other sub regulatory forms of actions.

And I'd also like to say we welcome input about our system because we're continuing to implement these far reaching reforms and we're working on improving our process, both in working with agencies and informing the public.

So while we've been working through the requirements of these executive orders we've also sought to continue and to further institutionalize long standing good government regulatory practices. So again, on the theme of transparency, you know, as I'm sure many of you know, OIRA publishes annually a unified agenda of regulatory and deregulatory actions. And in this past summer when we updated the agenda, we released for the first time a list of inactive items. And this was a list that was long maintained by administrations that included items agencies were considering promulgating but that they didn't want to be on the agenda. And that list was never made public. We've now made that list public so people have information about all

of the different potential regulatory and deregulatory actions agencies might be considering.

And now that this information is all publicly available, it's all on our websites; we are working with agencies to remove stale items from the agenda. I mean I understand that there are some items in some agencies that are leftover from the George W. Bush administration. So we're really pushing to make sure that our agenda reflects real agency priorities and so the public can have a much better sense of what's coming.

We've also made a number of technical changes. The agenda is now searchable by regulatory and deregulatory actions. And my staff is also in the process of working on making some of these changes consistent with the federal register, with new rules going forward.

And so while there have been new reforms, there is also I think a lot of continuity in what we're doing. We're continuing at OIRA to follow long standing principles of centralized regulatory review that you can find in Executive Order 12866. That was issued by President Clinton. We're continuing with the same cost benefit standards that have been in OMB Circular A-4.4

So that's some about some of the technical parts of this. Our regulatory reform efforts too I wanted to note go beyond just some of the numbers that you can see on our website. They go beyond these individual deregulatory actions. We're also systematically trying to crack down on bad regulatory practices and make sure that agencies are proceeding in a manner that is consistent with law. And even when an agency has legal authority to proceed we want to make sure that they are working to solve an actual problem, right. We want to make sure there's some reason for the government to act, such as a substantial market failure. And we are pushing hard to demand a very fair analysis of both the costs and benefits of regulation. You know, too often in the previous administration the benefits were exaggerated and the costs downplayed. And we would like to have as fair an accounting of both of those as possible. And then even when we're satisfied that an agency has legal authority and regulation may be necessary, we want to make sure that agencies work to regulate in a manner that is giving fair notice to the public and in a way that respects due process. And this is the theme on which we've been working very closely with

the White House Counsel's Office to ensure that agencies are not proposing new regulatory requirements through guidance or letters or speeches or FAQs on the website. And we're striving to change the culture so that when an agency issues guidance it's truly a guidance about existing requirements and not a back door to imposing new regulatory requirements without the process and accountability that's necessary for a legitimate administrative system.

So that's some of what we've been up to in the past year, but this event has asked, you know, what's next for the president's regulatory agenda. So let me say a little bit about that. We are in part focusing on continuing with the momentum that we've built up over the past year with regulatory reform and in this second year we want to work closely with agencies to identify some very serious areas, serious and substantial areas for reform. And if you look at the fall Unified Agenda you will see that agencies are proposing some 448 deregulatory actions and 131 regulatory actions, which is a better than 3 for 1 ratio. And as we understand it, and I'm sure many of you understand as well, significant deregulation takes time. You know, reconsidering big rules requires new research, it requires new analysis, and of course, the full rulemaking process with notice and comment. And so agencies are working to identify areas where reform can have a big impact and produce significant benefits for the American people. And at OIRA, one of the ways we can assist with that is we work often with agencies in cross cutting areas; often-substantial regulatory regimes involve multiple agencies. And I think this is an area where OIRA can particular add value.

Another thing that we're doing, we've been doing and we're going to continue to do in the coming year is to look closely at some of the statutory authorities that OIRA has for promoting regulatory reform. So one of our main statutes is the Paperwork Reduction Act. Now, you know, paperwork reductions, burdens, are not funny and they often don't make headlines, but they are extremely costly and burdensome. You know, Cass Sunstein, one of my predecessors at OIRA, said that to me before I took this job, he said don't forget about the paperwork burdens. It often really can impact individuals and small businesses and there's lots of savings to be had in streamlining or sometimes eliminating paperwork burdens.

Also, OIRA has authority under the Congressional Review Act. As you know, the Congressional Review Act was used multiple times this past year to strike down regulations. The CRA requires that all agencies, including the independent agencies, submit their rules to OIRA for a major determination under the Act. So which that means basically that when there's a rule it has to come to OIRA and OIRA determines whether it imposes more than \$100 million in costs, and if it does then it's major under the meaning of the CRA. And so in part, of course, it's part of our obligation to make sure that agencies are complying with the CRA and, of course, failure to comply with the CRA can threaten the validity of rules. And we know that Congress takes this very seriously. Think also following the CRA can also promote cost benefit analysis because agencies at least have to explain whether their rule is above or below the \$100 million threshold.

And the another thing that we are considering at OIRA, and the speech in some ways is part of this, is sharing with the public a message of responsible and beneficial regulatory reform. We want to be quite clear that we are not dismantling important health and safety regulations. You know, we're proceeding with deregulation in a way that is careful and we're applying the same cost benefit standards to both regulatory and deregulatory actions. I sometimes hear from critics that well, you know, deregulation is just a way to help big business or special interests. But I think if you look closely, you'll see that many regulatory burdens are often put in place by big business or by powerful interest groups. You know, because regulation often creates barriers to entry, it can limit competition. And when it does that it can raise costs of ordinary goods and services, it can blunt and stifle innovation. And so what we're really focused on is lifting regulatory requirements that are no longer working for the American people.

So that's some of what we're thinking about for this coming year. And I also wanted to just say something about why we care so much about regulatory reform, you know, why are we doing this, why is it so important to the administration. And here I think that there are reasons that are both practical and principled. So let me just start with the practical. You know, lifting excessive government regulations can really stimulate the economy. You know, in the past few months there's been a lot of reporting about this. Many economists and commentators have

identified a link between this year's booming economic growth and the slowdown in regulatory activity. Even the New York Times ran a story drawing this connection. You know, other practical effects, of course, removing regulatory burdens can help create jobs and promote innovation. And I think just leaving individuals more free gives them the opportunity to work hard and to do great things.

So sort of to, in sum, one of the most important I think practical effects of this administration's initiatives has been to change the environment around this. You know, I think businesses frequently say to me, and individuals have said, that they're no longer fearing arbitrary new burdens being imposed by guidance documents or by new costly regulations. You know, recently, Mick Mulvaney said in the Wall Street Journal about the CFBP, I think what he said there applies to other agencies as well. You know, this administration is no longer pushing the envelope with regulations.

So what are some of the principles behind what we're doing? I think there are a lot of great practical effects, but the principles are also important. And from my perspective, maybe as a former law professor, regulatory reform is part of a larger effort to promote a more constitutional government and thereby to enhance individual liberty. I think our reform efforts help promote constitutional government in a number of ways. So first, I think that there is an important kind of democratic accountability when you have more presidential accountability. And regulatory reform is quite clearly a key component of this administration and the president has set a very ambitious regulatory policy across the government. And at OIRA and through a centralized review process, we can work with agencies to make sure that they are promoting presidential priorities to eliminate costly and unnecessary burdens.

Another way we promote more constitutional government is by highlighting and promoting due process and fair notice, which I mentioned earlier. By cracking down on sub regulatory guidance, or sometimes called regulatory dark matter, we're ensuring that when agencies impose new requirements they're following administrative procedures and giving the public notice and an opportunity to comment. I've always found it interesting that one of the ways

legal scholars often defend the constitutionality of a very expansive administrative state is that they say agencies can promote constitutional values, or that they follow something like an administrative constitution. Now, of course, by this they mean something quite different from the original constitution, but be that as it may, I think it's too often the case that agencies often have failed to follow even this much thinner version of constitutionality. And so at least by requiring agencies to follow administrative procedures we can ensure notice, public participation, and reasoned decision making.

It's also very important to us in our reform efforts to make sure that we in the Executive Branch respect the roles of the other departments of government. So we work with agencies to interpret statutes to mean what they say. And by doing that we respect the law making power of congress and we work not to expand the authority of the Executive Branch beyond what the law allows. Now, admittedly, statutory authority is often open ended, but agencies should not act as though they have a blank check from congress to make law. We also work hard to respect the role of the courts in reviewing administrative actions and are mindful both of judicial precedence and process.

But perhaps most importantly, I think lifting unnecessary regulatory burdens results in greater individual liberty. You know, government regulation of course can serve vital health and safety goals and, indeed, congress has ensured that we already live in a highly regulated society. But even against that backdrop, government intervention should still serve a purpose. It shouldn't be a solution in search of a problem. And there are many regulations on our books that are duplicative or outdated or ineffective. Regulations have simply piled on top of regulations, often resulting in a system that no one would have designed on a clean slate. So we are looking closely at those regulations and eliminating excess in order to restore more freedom. You know, when government acts it should do so in service of the people.

And really those are the principles that motivate us. A regulatory policy that works by promoting economic growth and innovation and the jobs and the prosperity that accompany greater freedom.

So thank you so much for your attention. I look forward to the conversation with Ted and questions from the audience.

Thank you. (Applause)

MR. GAYER: Well, thank you again for being here and for your thoughtful comments. I'm going to start off with some questions on the Executive Order that led the beginning of the Trump Administration and that you led with in your speech.

The Executive Order and a lot of the guidance surrounding it and the agency actions, there's a lot of focus on costs. And in your speech, you're focused on costs, the premise being we have too many regulations, it's too costly. Conceptually speaking, there's a risk if we focus on too much cost. There are regulations out there that might be costly but enormously beneficial. Now, you mentioned that OIRA's role is also to mention benefits, but the concern as I see it, if you focus too much on cost is that you might be foregoing very beneficial regulations that are totally consistent with the statute because of a budget essentially focused strictly on the cost side.

Can you speak to how that concern might be alleviated or whether or not you see it actually playing out?

MS. RAO: Sure. Well, one of the things that's important to keep in mind is we of course do think about benefits as well as cost. We have been focused on costs, but benefits of course are important to us. And I think that this in some ways is reflected in the ordinary OIRA process which requires that -- you know, for a deregulatory action to move forward it has to be more beneficial than costly, right. So we're getting rid of regulations that are not in fact benefitting the public. So, you know, I think that's an important first step. And I think you can see that we -- agencies are continuing to move forward with regulations that are required by statute or that they think are necessary to meet certain statutory goals, and I don't think that there's anything in our system that is really stopping that from happening.

MR. GAYER: It actually seems to highlight essentially a fundamental disagreement on what the role of net benefits are and whether or not we're seeing positive net

benefits from the regulatory process and regulations previous to this effort on deregulation. And every OMB does release essentially a list of an assessment of the costs and benefits of the regulations that they've overseen, and I think every year it's always net benefit positive. Should I be looking at those more skeptically? Is that what you're saying? Is the process as it exists previously, even though OMB and a lot of I presume your staff were involved with that, tabulated these as positive net benefits, that they were wrong?

MS. RAO: I think it is important to look more closely at some of those numbers. And because it's often very easy to overstate benefits or to overstate costs. And so we're trying to be much more rigorous about that. And so I think it is good to look at those a little bit skeptically.

MR. GAYER: And on the requirements themselves, the two for one requirement, which I think I should say is now a three for one requirement for the next year, for the --

MS. RAO: Well, it's a three for one projection I'll say.

MR. GAYER: Projection. All right. I don't know if that's a requirement or not. Well, that might get to my question. And a regulatory budget, which I think is going to be -- projection to be negative for the coming year. These seem to be process changes designed to constrain agencies from what you perceive as an over regulatory impulse. And my question is, I can see how they would work under different administrations perhaps, but if you look at the cabinet members of this administration, they don't seem to have that impulse in need of constraining. So if you look at the success of the first year, as you laid out, on achieving the deregulation, were these binding or maybe put a probability weight, was it more so because of the political appointees to head these cabinets or these agencies just being predisposed against regulation, or did these actually trigger you going back to the agencies and saying, no, no, no, you've got to meet these requirements. Take a look at your regulatory budget, where's your two for one, et cetera? So which is actually driving this more?

MS. RAO: You know, I think it's both, right. It's all in some ways part of a broader view of the Administration. I think the President appointed people to the cabinet because they were reform minded, right, and they were interested in getting rid of regulatory burdens. And I

think he has also, through his executive orders, made it very clear that this is an important administration priority. So I think that that is all reinforcing. And at OIRA, what we've done is work with the agencies to make sure that they are meeting the president's priorities and, you know, some agencies have an easier time with that than others. So we do have an important role in the accountability. But the regulatory reform ideas really come up through the agencies. We ask them to set their own cost caps. You know, we didn't impose a cost cap on the agencies, right. These are numbers that they have developed in consultation with OIRA and other components of the EOP.

MR. GAYER: Let me just ask on that because my understanding is they each did have a no net increase regulatory budget for the first year. Are you saying they did not, they arrived at it? Or this was some sort of dialogue process?

MS. RAO: Yeah, that's true. The executive order said for 2017 there should be zero new regulatory costs, and that was set in the executive order. But looking ahead for 2018 the agencies set their own substantially negative regulatory cost caps.

MR. GAYER: Okay. So I guess just a related question on that, getting into your day to day job a little bit, how much do you find these mechanisms in the role that you're playing to be assisting them along the way, but you kind of share the same philosophy, or how much do you find it being more kind of policing it? Maybe aggressively policing it and saying -- pushing back, maybe returning some rules as citing the executive order as the reason why?

MS. RAO: You know, we try to make it as cooperative as possible. And --

MR. GAYER: I guess I'm asking if you're succeeding. (Laughter)

MS. RAO: Am I succeeding? Yeah, well, in some context it's easier than others. And, you know, it's -- yeah, I mean we do work closely with the agencies. I mean I think sometimes agencies want to move more aggressively with deregulation, but for much of the first year they did not have their political appointees in place, right. It's been a very slow confirmation process. And so there have been a lot of vacancies, which has actually made it harder. But at OIRA, we have a lot of expertise, so we've worked with the agencies to generate ideas, to help

them with their analysis. And so I think that that's been very constructive. And there are areas where we can also maybe give them a little push to think more about the bigger deregulatory reforms that are sometimes harder to take on.

MR. GAYER: So you mentioned a few times that this process, and presumably, the executive order as well, is moving us towards an administrative state that's more consistent with the constitution and constitutional values. There is currently a suit that was being brought by a public citizen and I think NRDC essentially against the two for one rule and the regulatory budget, in their case citing it as unconstitutional. Can I infer that you disagree with that lawsuit then?

MS. RAO: Yes. (Laughter) I think that would be fair to say.

MR. GAYER: All right. Do you want to give an assessment of where things are with that lawsuit?

MS. RAO: I don't know if I really should speak to the lawsuit specifically, but the president's executive orders on two for one and the regulatory cost caps, you know, state -- I don't know -- many times throughout those orders that they have to be executed consistent with law. And of course, all executive orders must be consistent with both the constitution and with statutes. And you can see in the past year agencies move forward with some very costly rules that were required by statute. For instance, the Department of Energy moved forward with a walk in refrigerator rule on energy efficiency. A very costly rule. It caused them not to meet the zero regulatory cost cap and that's what happened, right. They had a positive cost allocation and we're working with them to try to offset that in the coming year, but it's not a rigid system, right. Where there's an important statutory requirement, agencies of course have to regulate, and we will work with them to be as consistent with the executive orders as possible under the law.

So I'm not overly concerned with that because of the way we're doing this is to be very mindful of legal requirements.

MR. GAYER: So, given the legal challenge to it, and then looping back to what I referred to before about the questioning, how binding are these requirements in this

administration. Is this something that you actually think -- "this" being the offset requirements, the regulatory budget. It seems to me that the likelihood of it persisting in future administrations where clearly on the democratic side -- if that suit is representative of the democratic side they're highly critical of it, and also, even on the republican side, nobody has ever tried this before, at least in the United States, or some evidence outside.

Is this something that is designed for the ages or is this you think a Trump Administration mechanism that when he's out of office will be the end of it?

MS. RAO: Well, it's always hard to predict what will happen. I mean it's interesting. I mean centralized regulatory review has persisted across administrations, although there have been challenges and concerns about the OIRA process generally. So I guess I would say that we hope that something like this can persist over time because I think it should be a bipartisan issue that agencies are regularly looking at existing burdens that they're imposing. And I think often they just move forward with new regulations without ever looking backwards. And in the Obama administration, President Obama issued an Executive Order encouraging agencies to do retrospective review. And so the two for one in some ways just gives more teeth to that idea that we should be regularly revisiting the regulatory burdens we're imposing on the public. And I think that that's something that democrats and republicans can support, because it's just a good government idea.

MR. GAYER: You said something in your speech that I found interesting. As I gave you in the introduction, OIRA's commonly known role is essentially in the benefits and costs and helping with the regulatory review process, mostly on the numbers and on the analysis. You had said, I wrote down, that one of your roles is to see that you're satisfied that it has legal authority.

So I'll start with just an example, which was the Clean Power Plan. So the Administration proposed essentially rescinding the Clean Power Plan, which was the regulation offered by the Obama Administration. Their proposal is strictly based, as far as I can tell, on the legal argument. Is that the purview of OIRA that you actually have to sit down and evaluate

whether or not their legally reasoning for rescinding a regulation like the Clean Power Plan is valid? And are you empowered to turn back such a proposal if you think it's not?

MS. RAO: I think it's absolutely part of OIRA's role. And I think it's a long standing part of the role. I mean if you look at Executive Order 12866, right, which President Clinton issued, it makes it clear that part of the review process is determining that a regulation is consistent with law. And, you know that's not just OIRA's determination; we put regulations through an interagency process. So regulations go to the Department of Justice and, of course, they look at the legality of rules from other agencies. We work with the rest of the executive office of the president, so White House Counsel is looking at regulations. So I think as part of the broader OIRA review process there is a check to make sure agencies are acting consistently with the law, which makes sense because if you think of part of the president's role to make sure that the laws are faithfully executed, that should be true in his regulatory policy as well, as in other policies.

MR. GAYER: So, this is my economist bias, I've worked in years past with OIRA so I know a lot of the economists and some of the scientists. Do you have a staff of legal -- aside from yourself -- other staff of lawyers and legal experts to evaluate the legality of the claim of a legal argument like, for example, with the Clean Power Plan? Or is that something that you rely on other agencies?

MS. RAO: I think it's both. I mean the front office at OIRA; the other political appointees are actually all lawyers in this Administration. And, you know, OMB has an Office of General Counsel which has a lot of regulatory legal expertise. And, as I said, rules also go to the Department of Justice and to the White House Counsel's Office. So we really have quite a broad bench for legal expertise that we can rely on.

MR. GAYER: So the Clean Power Plan, of course, reminds me of climate policy. And one of the things that the Obama administration did was set up an interagency working group to establish common estimate across all agencies to be used in the regulatory proposals and analysis on the social cost of carbon. What are the benefits of a regulation that reduces a ton of

carbon? The Trump administration essentially rescinded all those guidelines I think in March, early in the administration. So what is your view now -- because some of these regulations, certainly a lot of them from energy and EPA that you're going to be reviewing, have some impact on climate policy, on carbon emissions. How should they go about estimating the benefits? Can they arrive at different benefits for different agencies or even within agencies across different rules? Or is there some uniformity that you're trying to prescribe on how they approach this?

MS. RAO: Yeah, I know you've worked on this issue a lot. But so the president, as you said, in March issued an executive order directing a reconsideration of this. And I think one of the things the executive order -- a couple of the things that they said is that these types of effects need to be focused domestically, right, which I think is consistent with the statutory requirements, and also that agencies should be using a discount rate that's more consistent with the usual practice. And so that is in part what we're doing. And we're looking closely at that issue I think across a number of different areas.

MR. GAYER: And when you're looking closely on it you're looking closely to make sure that they're all applying those existing parameters and guidelines, or are you looking closely as a possibility of reevaluating what the appropriate discount rate is for climate change, for example?

MS. RAO: Well, I think in some ways it varies from context to context. So if you have any thoughts let us know. (Laughter)

MR. GAYER: Well, yeah, I have a few. I mean it is true, I think there's the circular eighth floor I think is what -- again we're getting as lingo as you can get here -- but those are the guidelines.

MS. RAO: Very wonky. It's not funny, it's just wonky.

MR. GAYER: Those are the guidelines that OIRA issued under Administrator John Graham, so we're talking -- when was that that he did it -- 2001, 2002? And so kind of our understanding of climate has changed since then, which would call for perhaps a reevaluation. Perhaps that I think was the spirit of the interagency review process on the Obama administration.

So it strikes me as something worth considering from an OIRA point of view, do those guidelines that were issued however many years ago, 16 years ago, still apply or should they be amended, especially on this issue in particular.

I want to just segue a little bit -- actually, one more question on the executive order and the three for one and the regulatory budget. I think if I'm getting you correctly, there's sort of this push-pull and it's mostly amicable and you're working with the agencies to meet these requirements. You mentioned energy. It didn't meet the budget requirements so you're figuring out what to do to work for them. What are -- and this might be a question if these mechanisms persist across administrations maybe even more pressing -- what are the consequences, what are the sticks perhaps that you can bring if an agency is proposing a regulation that is not in your mind being offset appropriately in a budget sense or in a two for one or three for one, depending on where it goes from here? What are the consequences to that agency?

MS. RAO: Well, I think in part the consequences are that they are -- I mean they're not meeting the president's priorities. I mean the president has spoken frequently about deregulation and deregulatory efforts at cabinet agencies, and I think that they're motivated by that. I mean do you want to -- at the end of the fiscal year when we release all the numbers, you know, do you want your agency to be last? (Laughter)

MR. GAYER: Peer pressure.

MS. RAO: Right, I think there is some peer pressure and I think that's been good, a little competition between the agencies to be the best at regulatory reforms. So I think that that's part of it. And we recognize that the system has to be a little bit flexible, right, in terms of because we have a whole statutory system we also have to respect while implementing the EOs. But most agencies have lots of cost savings they can go after. So if they need to do a big rule we can work with them to help identify more savings and encourage them to do that. Not necessarily to discourage them from taking the regulatory action that might be important or required by law, but really to push them to be more aggressive in finding other things that they can cut back on.

MR. GAYER: Well, one of the other things that the executive order did, which to

my mind I think has a greater chance of being long lasting, is they created these regulatory reform officers and regulatory reform task force, which is essentially someone in each agency with a group around him or her who is charged with actually essentially keeping track of compliance with the executive order, looking for regulations that might warrant deregulation or elimination. How is that mechanism working? Are these people working in concert with your team heavily, are they intergrowth with actual process of figuring out where the deregulatory opportunities are and keeping an eye on the regulatory budget? Have they been staffed up even across agencies? Where is that process right now?

MS. RAO: That's a fair question. I mean at OIRA we work with the regulatory reform officers. We don't keep tabs on the specific makeup or the work of the task forces, except through our ordinary check-ins with the regulatory reform officers. So we work closely with them. And I think it varies across agencies. Sometimes the ROs are senior political offices, in some cases they're career officials, so I think it's varied quite a bit how agencies have approached that process. And we work with all of them, you know, irrespective of who they are.

MR. GAYER: Okay. I want to shift a little bit on this to the scope of OIRA and the regulatory review process. You said something I need to clarify, among other things I learned from your speech, but I could use some help. The Congressional Review Act, I think what you said is independent -- that that Act requires that independent agencies submit to a determination about whether or not the regulation is designated a major regulation. Is that correct?

MS. RAO: That's correct.

MR. GAYER: I did not know that. So thank you for that.

MS. RAO: So, yeah, CRA applies to all agencies.

MR. GAYER: All agencies. And does that mean that -- but it does not require that those independent agencies submit their regulations for the standard interagency review spearheaded by your office?

MS. RAO: That is correct.

MR. GAYER: Okay. And to editorialize it a little bit or accommodate, is that

something you think should happen? What is the role? What do you think should be the -- and I know you've written about this in your past academic life -- what do you think should be the requirements of independent agencies? Does it vary by type of agencies, whether or not they're strongly regulatory or in the Federal Reserve perhaps a monetary policy? What should be the proper role vis a vis involvement with the Executive Office and the process that you spearhead at OIRA?

MS. RAO: Yeah, sure. So I mean this question, should the so called independent agencies be subject to a centralized review process, I mean has been one that's been around since President Reagan. When they did the initial setting up of regulatory review, they thought about this. There was an Office of Legal Counsel saying it would be constitutional. And I think each subsequent administration has fought about doing this. And even President Obama issued an executive order suggesting very strongly the independent agency should participate in this, at least voluntarily. So this is something that has been an ongoing thing.

And as I've written in my academic work I think that there's no at least constitutional reason to treat independent agencies as distinct from other agencies, at least insofar as they are issuing regulations. Sometimes independent agencies also adjudicate and do other things. But to the extent that they are regulating, there's no constitutional reason to treat them differently. And I think many people have argued I think across the spectrum that there are some important reasons to potentially bring the independent agencies into centralized review. I think the American Bar Association has supported this since mid '90s. The Administrative Conference of the United States has similarly supported it. And I think they support it for all the reasons why people often consider OIRA review to be good for other agencies, which is we can make sure that the regulations are consistent with law and that they meet rigorous cost-benefit standards. And those are good government practices, irrespective of where the regulations originate.

MR. GAYER: I guess the concern I have is you're focusing on regulation, I think understandably, but the legal argument would not in any way preclude -- if you go with that argument it would preclude more Executive Office and perhaps OMB or OIRA oversight of non

regulatory actions of independent agencies. So in particular in my head is the Federal Reserve. So the Federal Reserve Act essentially was established because the determination was in the setting of monetary policy we need some sort of protection from political influence. So it's essentially explicit in the design of the Federal Reserve Act. I think what I'm hearing you saying is there might be a constitutionality issue about that, that congress can create an office that is essentially an executive office that is precluded from oversight of the administration. Am I right?

MS. RAO: Well, you know --

MR. GAYER: Where does the fed fit in in your thinking on this?

MS. RAO: The question is always about the fed. (Laughter) Well, what about the fed. And I don't think anyone suggests that there should be White House review of monetary policy.

MR. GAYER: Okay.

MS. RAO: So, you know, I don't think anyone is suggesting that. And I mean, so no worries.

MR. GAYER: I think there's an interesting legal conversation about why that is. I think that's right determination.

MS. RAO: Well, I think independence has like a variety of components, right. Part of it is certain conventions. There are certain conventions against political interference of monetary policy. There are also statutory prohibitions. So there are I think both legal and traditional and pragmatic reasons for some of these features of independence. And I think they all kind of work together.

MR. GAYER: I'm humbly recognizing I'm debating a constitutional lawyer. But I do think that is the issue, as you just put it. There's an acknowledgement that there is under some conditions or circumstances a need for insulation from political influence and that congress establishes that, for example, monetary policy with the Federal Reserve. So now, I think we're in a debate about, okay, well there's a gray zone there and what falls on what side of it. So it's not to me a clear cut constitutional issue that you can't be independent from this kind of oversight. So

we can save that for another day.

But I do want to stick to the scope because this brings up another thing. We here at Brookings have a center called the Hutchins Center on Fiscal and Monetary Policy. So I just talked about monetary policy as it relates to you, so now I'm going to hit the fiscal policy --

MS. RAO: Okay.

MR. GAYER: -- and promote the work of my good friends at the Hutchins Center, which is IRS rules, which traditionally have been exempt from oversight and the regulatory process, the 12866 process that you oversee in OIRA. Is that something you see changing? There's been some discussion about that recently. Is that something you promote changing? I'll kind of come back to what I think are the challenges of doing that, but there again is a question of your scope. Should IRS tax rules, which they probably arguably would be more IRS tax rules than any other agencies' promulgating of rules, should that be under the purview of your office?

MS. RAO: That's a great question. And I think it's an issue that's been receiving a lot of attention. You know, you may recall that in April the president actually issued an executive order that required OMB and the Department of Treasury to rethink some of these exemptions. So that was issued in April. And we are thinking about this. It's an issue that actually has received a lot of attention in congress. I know Senator Hatch has held a number of hearings about this, the GAO has issued reports criticizing this exemption, and there was recently an article in the Wall Street Journal about it. So it is something that we are looking at closely under the executive order.

And I think in terms of some of the challenges, I mean OIRA never reviews particular matters or individual rulings. That's not what we do for any agencies. And so I think in the IRS context, when they are issuing generally applicable rules that are prospective I'm not sure that there's any challenge there.

MR. GAYER: It does strike me you would need a much bigger staff if you were looking at a lot of these rules in IRS. That's probably for later consideration if you'd need. But there's also I think just -- I would just suggest -- obviously you would do this, if you go down that line the cost-benefit analysis for a tax rule is a little bit different from when you're talking about

pollution reduction, for example. The goal of the tax is to raise \$1 billion. That's not a cost it's a goal and it's a transfer. You raise \$1 billion it gets spent somewhere. You can argue about whether or not it's spent well but that is the goal of the tax. Now, there's a public finance literature of what the economic costs are, but it's contained. The broader point is I think it does create some challenges at least, or reconsiderations of the standard, getting back to the document that's from 2001.

MS. RAO: Even Circular A-4 has a way of accounting for transfer rules. And so it's not totally different from rules we might see in other context where they're basically effectuating a transfer. And we have ways to account for that.

MR. GAYER: I'm going to turn to the crowd in a few minutes, but I wanted to just follow up with a few more questions on transparency since you mentioned that as one of the priorities there. I think the GAO just launched an investigation following the Wall Street Journal investigation on the prevalence of fake comments on proposed rules, finding that there a number of fake comments that are flooding actually the notice of comment process. Is this something that surprised you, is this something you've encountered, is this something that in light of this news that this exists you're on alert for? How are you responding to that?

MS. RAO: To be honest we were not aware of the extent of the problem previously. And I think since we've become aware of the problem we take it extremely seriously. My staff works very closely with eRulemaking, which is the website that takes in a lot of the comments, and so we are already working very hard to try to implement procedures that can cut back and eliminate these problems. So, no, it's something we take very seriously and are really trying to get on top of.

MR. GAYER: This is a slight good news story when I read that story for me. This is really making lemonade out of lemons. I was always skeptical of the role of public comments. I think it's a very important component of our regulatory rulemaking process, that the public gets a chance to comment. If you ask my brother or cousin or mother, they have no idea that such a thing exists, even when the regulations apply to them. And I wasn't quite sure how seriously

they're taken in the process. So the fact that somebody has gone through great pains to do fake comments, as much as I don't advocate that, suggests that someone sees value in the process. So that's my optimistic spin. (Laughter)

But that aside, or maybe related to that, how do you view that, the public comments process as it currently exists? I think you alluded to in your speech trying to improve it, and I wasn't quite sure exactly how. It's a hard thing to do, especially if you have to worry about fake comments, but just the sheer number of comments they get. How can we ensure that people are getting the information about proposed regulations that are affecting them, that their comments are taken seriously, assuming they're not comments from people who died 20 years ago, and how can the public better influence the regulatory process?

MS. RAO: I think those are great questions. And I think -- people often say like how can we get involved in the regulatory process and I think you're right, most people don't have any idea that they can actually file comments on line about rules that may be of interest to them. And people should be encouraged to do that. I think agencies take the comments very seriously. Someone reads all of the comments and they have to give some reasoned response. I mean not to every single comment, but to points that are serious that are raised in the comments. And so I think it is a very important aspect of our regulatory system. It's what gives it a legitimacy frankly.

And I think in terms of what can people do to make our comments more salient, I think when businesses and individual provide concrete evidence of how rules are impacting them, I think that that is really very useful to agencies.

MR. GAYER: Would you agree with me though that it's underutilized now?

MS. RAO: I guess it's hard for me to have a sense of that, you know, not reading all the comments that come in.

MR. GAYER: I want you to ask your father, uncle, brother, whether or not they've ever done public comments or even knew it was an option.

MS. RAO: That's right. I'm not sure I've ever done public comments.

MR. GAYER: Okay, I'm going to turn to questions. I ask that you wait for the

microphone once I call on you, state your name and please, please, please keep it to a question. We've got a lot of hands going up.

So, right here on the aisle. My right side. There you go.

MR. FLORKO: Hi, Nick Florko with Inside Health Policy. I was wondering if you could give us, your take on the FDA's current approach towards deregulation given FDA Commissioner Scott Gottlieb has taken what some may call an unconventional approach in saying the Agency can actually deregulate by promulgating new regulations. I was wondering if that fits with the Administration's push towards deregulation?

MS. RAO: Well, I think it's certainly the case that sometimes deregulation requires a new regulation, because you're undoing something that previously existed and so you need to promulgate a new regulation. Or, you know, sometimes certain forms of regulation can increase competition or innovation because they provide certain boundaries around a marketplace. And I think that can also be a kind of deregulatory action.

MR. GAYER: Right here on the second row. Wait for the microphone though; we've got a microphone coming right there.

MR. KNUTSON: Hi, I'm Ted Knutson. I guess this Ted day at Brookings.

MR. GAYER: (Laughing) Excellent.

MR. KNUTSON: I'm a blogger for *Forbes*. Neomi, what things do you plan to do to put the -- as you said -- so called independent financial regulatory agencies under OIRA's umbrella? What things are you planning to do? And then also I have a follow up question.

MR. GAYER: Just one, sorry. We've got a lot of --

MR. KNUTSON: Okay, let's make it a two part question then.

MR. GAYER: Very quickly. (Laughter)

MR. KNUTSON: The second part is part of the argument is that if you put the independent regulatory agencies under OIRA it makes rulemaking more susceptible to the whipsaw whims, all the public, which -- of investors, which means you can have more booms than busts.

MS. RAO: As I mentioned before, I mean with respect to the independent agencies it's something we're thinking about and considering. And so I guess that's what I'm able to say at this moment, so.

MR. GAYER: Let's go all the way in the back. I see a purple sleeve.

MS. BOLEN: Thank you. Cheryl Bolen with Bloomberg BNA. Agencies have been estimating costs and benefits for years. Why do you believe that benefits have been overstated and costs have been understated, and do you think the methodology needs to change?

MS. RAO: Well, if you consider looking, for instance, at the social cost of carbon, the effects of that was considered globally. So if you were taking a regulation that affects domestic producers of the energy and you were looking at the benefits across the world, you know, that's a particular choice, a choice that may not have been supported by the statute. I mean I think you just have to look very carefully at these things. It's often easy to overstate either the cost or benefits depending on what you're trying to achieve. And so we just want to be very scrupulous about that on both sides.

MR. GAYER: All the way in the back. Wait for the microphone please. We have a lot of questions.

MR. CONRAD: Jamie Conrad, Conrad Law & Policy Counsel. You threw some red meat to the audience when you said you were systematically trying to crackdown on bad regulatory practices. Could you identify what some of those are and how you're cracking down?

MS. RAO: Well, I mean some of the examples that I gave are largely related to the process of changing regulatory requirements through guidance documents or through letters. And I mean these are especially problematic because even if you support the policy that's happened it's occurred without any notice, it hasn't followed any process, the public hasn't had an opportunity to comment or weigh in. And so agencies we think shouldn't be able to change obligations on the public without following the proper administrative procedures. And agencies often want to do this because the proper procedures take time, they require a lot of analysis, and they may hear comments that they don't like, that push against what they want to do. So even

though this of course hampers our efforts to undo things, we're taking very seriously the idea that agencies should follow administrative procedures and give the public fair notice of the things that they plan to do.

MR. GAYER: Right here in the aisle. First him and then you, sorry.

QUESTIONER: Hi, Kevin Watkins, Competitive Enterprises. I was wondering if they're not going to just look at the cost and benefits of the changes to the regulations but also the cost and benefits of the entire regulatory scheme. Like CAFE standards. Often we look at the additional deaths that are caused by the change of CAFE standards and not the entire scheme for costs and benefits analysis.

MS. RAO: Yeah, you know, I mean I'm not sure exactly. I mean I think that type of question varies from context to context and it depends on the regulatory change that's being proposed. But I think in some cases where we're going to be looking at reforms, you know, we're going to have to kind of open up the costs and benefits of the larger regulatory scheme.

MR. GAYER: Before going back there just a quick point on that because it ties back to what I think we were talking about before. There is assessment of benefits and costs and in your case trying to limit the cost, but as you said, first and foremost is deference to the statute and to the constitution, but to the statutory authority. So it is entirely conceivable that you might have something like CAFE standards that you think are consistent with what the law is but you find are costly or even negative net benefits, but there's no action on your part at that point. Is that correct? In other words, everything has to be dictated by the law, whether or not you like the regulation or whether or not it's even a costly regulation. It's not presumed that it's going to always be a positive net benefit regulation.

MS. RAO: Well, I think that's right. I mean sometimes statutes will require regulatory actions that may not be beneficial based on some accounting of costs and benefits. And if that's what the statute requires, then.

MR. GAYER: But your role still is to assess those benefits and costs even if it's suggesting that they're costly on net?

MS. RAO: I think that's part of the role, yeah.

MR. GAYER: And I promised this gentleman next.

MS. RAO: At least then, the public has awareness of what the cost of the statute might be then in that situation.

QUESTIONER: Yeah, I'm Charlie Fleck, a reporter with Government Executive. It's a question about the expertise of career officials who have been balancing these decisions for decades. I'm just wondering, some critics feel that the current regulatory reform is driven by lobbyists who parachute in and pursuing their own interests. And the question is do the career bureaucrats feel that their expertise is being respected?

MS. RAO: Well, I can say for myself as the Administrator I very strongly respect the expertise of my career staff. And in my experience, I do not -- our reform efforts aren't being driven by people who are parachuting in and asking us for deregulatory reforms. I'll be honest, I mean my career staff often come forward with lots of great ideas because they know the rules that may not have really been net beneficial. They understand the limitations of previous regulatory impact analysis. And so they've been very helpful in coming forward with ideas for good government reform measures. And we've worked very closely with them.

MR. GAYER: Okay. Just related to that, previous OIRAs actually occasionally did what was called prompt letters, I believe it was. So coming from OIRA, where they thought there was a regulation that was either necessary, was net beneficial, but that was not being done and essentially prompted the agency to regulate instead of being reactionary as its usual role. Has that happened under your term?

MS. RAO: No. I haven't issued any prompt letters.

MR. GAYER: Right over here; the woman over here two in. And just wait for the microphone please.

QUESTIONER: Hi, I'm Kate Smeeny with Medel News. Sorry, going back to the woman from Bloomberg, I didn't understand your answer. How have you been evaluating the cost being overstated and the benefits being understated?

MS. RAO: Well, I mean I think there are some instances in which, you know, when you take a careful look at regulatory effect analysis it seems like we could do better on a fair statement of the costs and benefits.

MR. GAYER: I think this gets back to what I asked about the annual reporting of benefits and costs, where I think your answer was you're skeptical of those assessments.

MS. RAO: Well, in some cases perhaps, yes.

MR. GAYER: Let's go on this side of the room, with the yellow tie. It pays to wear a yellow tie if you want to be called on. (Laughter)

QUESTIONER: Hi, thank you for coming here this morning. My name is Andrew Johnny and I'm a graduate student in the Securities Studies Program at Georgetown University. This semester I'm taking a course in energy and security that I find fascinating. And I'm just wondering what you at OIRA and Administrator Pruitt, Secretary Zinke, and Secretary Perry are doing to sort of limit the compliance cost burden on natural gas and shale gas producers in the United States and what that means for the energy revolution in America.

MS. RAO: Well, I mean I think all of those agencies that you mentioned are working closely at a number of these issues. I'm not sure I can say specifically what's happening that right now. You can take a look at the Unified Agenda to sort of see what's coming up next, but I think that these are all things that they are considering seriously.

MR. GAYER: All right, here in the third row.

MR. KRUPNICK: Hi, I'm Alan Krupnick from Resources for the Future. We haven't talked too much about budgets at the agencies. And I'm wondering if you think there's any incompatibility -- and I worry about this -- between these pretty large cuts we're looking at in agency budgets and their ability to do the analyses that go deeper than they've ever gone before to look more carefully at benefits and costs.

MR. GAYER: And just to be clear, you're not talking about regulatory budgets, you're talking about --

MR. KRUPNICK: No, I'm talking about agency budgets.

MR. GAYER: That don't have the where wherewithal to do the analysis.

MR. KRUPNICK: They're cutting back staff and then the complaint -- your concern is that benefits and costs are somehow not been appropriately analyzed, but yet you're cutting back on the budgets at the agencies.

MS. RAO: I mean we haven't heard complaints that people lack the staff to do the analysis that's been required. And so I think that -- I mean that's something to look at if people raise that issue, but I have not heard that complaint.

MR. GAYER: Did you go already? All right, sorry. (Laughter) Right there.

QUESTIONER: Hi, I'm Paul Marion from Emlix and I wanted to ask you if your discouragement of guidance and letters extends to Treasury and IRS in interpreting the tax law. Would you rather see them come out with regulations no matter how long it takes than a notice or a letter?

MS. RAO: I think it's always hard to answer that question in the abstract. It depends on the particular issue. We're not opposed to guidance that's truly guidance, that's just simply explaining statutory or regulatory requirement. And often times guidance can be helpful because it gives people and businesses notice of what an agency believes that their laws or regulations mean. So there's certainly a role for guidance. And whether it's appropriate in a particular situation I think just depends on the context.

MR. GAYER: So this is an interesting issue. It ties back to what we were talking about before. There's a gray area here, right. You're opposed to guidance that you think is masking what is actually regulation but clearly there are some things that we shouldn't go through a regulatory process to clarify. Who should determine what side of the line something like an IRS guidance follows, or any guidance follows on that?

MS. RAO: I mean I do think the agency in the first instance is responsible for that. But under the executive order significant guidance documents also come through OIRA review. And so if there is a guidance document that imposes significant costs, right, it's economically significant or it's otherwise significant from a policy perspective, we should be taking a look at that.

And then we might push back if it's an area we think is better addressed through regulation. But of course, it's the agencies in the first instance need to make that call.

MR. GAYER: I think we have time for a couple more. Let's go back right there. Yes. Second in from the aisle; there you go.

MR. CURRY: Thank you. Jonathan Curry from Tax Notes. This is to follow up on the last question about the tax law. Have you coordinated with Treasury or IRS in any way as far as what you're looking for or what you want them to maybe shy away from in terms of issuing guidance?

MS. RAO: In terms of are we coordinating with them on that? Well, as I said, the President issued an executive order that is requiring us to revisit the Memorandum of Understanding between OIRA and Treasury on the extent to which we review their rules and that is an ongoing process. So we are in discussions with them about that.

MR. GAYER: We have time for two more. Why don't you just go with the gentleman right there?

MR. BECKER: Gary Becker, I'm Chief Economist at Catalyst but I used to also be a regulatory economist at about half a dozen agencies including a detail at OIRA. So my question is this, I know from my years of experience that industry used to get nowhere with regards to a petition for rulemaking when it came to a deregulatory action. Could you address or discuss the fact that industry and associations can now develop petitions of rulemaking for deregulatory actions and has OIRA developed new or modified guidelines for these petitions for rulemaking?

MS. RAO: Well, I think I mean as an administration we have been seeking deregulatory ideas from the public in a variety of ways. You know, agencies have been encouraging public comments on this. We certainly welcome petitions for deregulatory rulemakings. You know, there have been a number of comments submitted with deregulatory ideas. So we would like to engage with the public and with companies and with individuals on their regulatory reform ideas. So we absolutely encourage that and have done that in a variety of ways.

MR. GAYER: Right here in the light blue shirt, towards the back on the aisle.

MS. RAO: Thank you. Todd Ruben. Could you talk more about retrospective review? And specifically apart from the two for one requirement what OIRA could do to encourage agencies to not just look back at their rules a number of years after they've been passed, but to sort of think about retrospective review from the very outset, from the very planning of the rule.

MR. GAYER: Could you just hold the answer and take a couple of more and we'll close it with that? So let's move right up here in the plaid shirt.

QUESTIONER: Yes, I'd like to hear quite a bit more about the justification for that March ruling about saying that for the Clean Power Act that you would only be looking at costs and benefits domestically and not at all internationally. I mean if you think that benefits have been overstated in the past, I'm a little curious what is the justification for only considering U.S. costs and benefits when in fact when it comes to global warming this is something that impacts the entire world very heavily? And I'm thinking especially in terms of rising sea levels, which would certainly affect Bangladesh a whole lot more than anything -- even Florida in the U.S.

MR. GAYER: Okay, I think we got the question.

QUESTIONER: And we might have a benefit in terms of longer growing seasons, but what about drought throughout Africa and Latin America?

MR. GAYER: Okay. One more over here. Just can you move down three people? And we're going to close with that because I think three is enough to remember.

QUESTIONER: Hi, Chris Stein, a reporter with Argus Media. President Trump mentioned cutting the number of pages in the Code of Federal Regulations from 185,000 to 20,000 -- 1960 levels. Can you talk about how you guys decided 20,000 pages was a reasonable number? And, also, are you going to be able to meet that target in the next four years, eight years?

MR. GAYER: Okay. So, unfortunately, I know there's a lot more questions but we're running out of time. You have the question on retrospective analysis, on the Clean Power Plan using domestic versus global for social costs of carbon, and cutting the Code of Federal

Regulations to 1960 levels of 20,000 pages -- and not by changing the font. (Laughter) Because it's pretty small already.

MS. RAO: Right, it's pretty small already. So the retrospective review, you know, I think how can we encourage that more? I think one of the things that's so important about retrospective review is that when a rule is put into place there is an anticipated cost and benefits. It's a projection of what the rule might cost, but it's benefits might be it. So of course, retrospective review is so important because it allows you to see what were the actual costs and benefits of a rule.

And I know one thing that's been proposed, although I haven't really seen it done very often, is to build retrospective review into the rule itself. Just every rule has a provision that requires periodic review. You know, that's one possibility. But I do think everyone agrees retrospective review is good policy, but I do think the two for one gives some real teeth to it. Because if you have to find regulatory cost savings you're going to need to look at rules and assess which ones aren't working and generate cost savings that way. So I think while retrospective review has been supported for a long time I think we're giving some real teeth to that.

As for the Clean Power Plan, I mean those are all important concerns that were raised. I mean I was simply mentioning that the president's Executive Order talked about looking at domestic effects of CO2 emissions. And the administration is working through implementing how that is being done.

And then the final question was?

MR. GAYER: 20,000 pages.

MS. RAO: 20,000 pages, right. So the president did mention that. I think to get down to those levels you'd also have to have a lot of statutory reform because the growth from 1960 to today is largely based on a number of statutes that have required a lot of regulation. So you'd have to work with congress in order to get back to those levels.

MR. GAYER: Okay. With that unfortunately we're out of time. My apologies to those of you had questions and we didn't have time to answer. But please join me in thanking

Administrator Rao for being here today.

MS. RAO: Thank you. (Applause)

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I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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