

Chevron Overturned - Vive la Deference No More

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PRACTICES Chemical, AI and Technology, Employee Benefits and Executive Compensation, Energy, Power and Natural Resources, Environmental, U.S. Supreme Court, Government and Public Policy, Government Contracts, Labor and Employment

In [*Loper Bright Enterprises v. Raimondo, Secretary of Commerce*](#),¹ the Supreme Court overturned 40 years of precedent and fundamentally changed the way courts review federal agency action. The Court explicitly overturned the Chevron Doctrine, which required that courts give deference to agency interpretations of ambiguous statutes, instructing that courts should interpret those statutes de novo. By eliminating the deference given to an agency’s interpretation of law, the Supreme Court has increased the probabilities both that a challenge will be made and, if made, that it will prevail.

The Case

A group of commercial fishing enterprises brought suit to stop the National Marine Fisheries Service (NMFS) from forcing them to pay for the costs associated with NMFS observers on their ships. Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (the Act), regional fishery management councils developed management plans that authorized the NMFS to require that “one or more observers be carried on board’ domestic vessels ‘for the purpose of collecting data necessary for the conservation and management of the fishery.’”

The petitioners took issue with the costs associated with carrying the observers—up to \$710 per day—and argued that the Act does not authorize the NMFS to require operators to pay those costs. While a dispute over whether fishermen must cover the costs of their governmental monitors is not particularly noteworthy, petitioners framed their challenge to attack the Chevron Doctrine. Relying on Chevron, the district court granted summary judgement for the government and the D.C. Circuit affirmed. Petitioners’ appeal gave the Supreme Court the chance to reconsider the Chevron Doctrine.

Chevron Deference

Prior to *Loper*, courts used the Chevron Doctrine to guide their interpretation of federal enabling statutes related to federal agencies. The Chevron Doctrine, which originated in [*Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*](#),² required courts to use a two-step process to determine if an agency’s interpretation of a federal statute is correct. First the “court must assess ‘whether Congress ha[s] directly spoken to the precise question at issue.’ [] If, and only if, congressional intent is ‘clear,’ that is the end of the inquiry.” If the statute is silent or ambiguous, a court must “defer to the agency’s interpretation if it ‘is based on a permissible construction of the statute.’”

In *Loper*, the Court explicitly overturned Chevron, reasoning that the doctrine is not reconcilable with the Administrative Procedure Act (APA), which requires courts to decide “all relevant questions of law,” including those arising during review of an agency action. The Court asserted that “agencies have no special competence in resolving statutory ambiguities” and that it is “the province and duty of the judicial department” to interpret the law.

The Court also noted that an agency’s interpretation is not binding on a court, but “it may be especially informative ‘to the extent it rests on factual premises within [the agency’s] expertise’” and that “[c]areful attention to the judgement of the Executive Branch [Agency] may help inform [a court’s] inquiry.” The Court also clarified that when a statute “delegates authority to an agency consistent with constitutional limits, courts must respect the delegation.”

The Court’s decision to overrule *Chevron* will have broad and far-reaching implications in the regulatory arena. While courts may still look at an agency’s position on its statutory authority, *Loper* eliminates *Chevron*’s weight on the agency’s side of the scale. A regulated entity can now challenge an agency’s regulation by offering a competing interpretation, which can be weighed equally with the agency’s interpretation. This change will likely invite additional challenges and place additional burdens on administrative agencies.

Haynes Boone will continue to monitor how the *Loper* decision impacts our clients to ensure that our clients’ interests are appropriately represented in the regulatory arena. For more information, please contact one of the Haynes Boone attorneys listed on this page.

¹ *Loper Bright Enterprises et al. v. Raimondo, Secretary of Commerce, et al.*, 603 U.S. (slip op.) (2024). All quoted material was sourced from the *Loper* opinion. *Loper* was decided with a companion case, *Relentless, Inc., et al. v Department of Commerce, et. Al.*

² *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).